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<b>The Dynamics of Funding for the Jakarta-Bandung High-Speed Rail Project in the Perspective of State Financial Law and Siyasa Muamalah</b>	
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<b>ABSTRACT :</b> <i>The Jakarta-Bandung High-Speed Rail Project is a national strategic infrastructure initiative in Indonesia that was initially structured under a Business- to-Business (B2B) financing scheme. However, during its implementation, significant cost overruns occurred, prompting a shift in funding policy through the involvement of the State Budget (Anggaran Pendapatan dan Belanja Negara / APBN) through the mechanisms of State Capital Participation (Penyertaan Modal Negara / PMN) and government guarantees. This transformation of the financing framework has generated legal, ethical, and normative debates, particularly regarding compliance with state financial governance and principles of Islamic public finance.</i>	
<b>Key words:</b> <i>Jakarta-Bandung High-Speed Rail, State Financial Law,</i>	

## INTRODUCTION

The Jakarta–Bandung High-Speed Rail Project (KCJB), also known as *Whoosh*, is one of Indonesia’s National Strategic Projects (Proyek Strategis Nasional/PSN) that plays a significant role in the development of national infrastructure. This project reflects the complexity of financing governance that involves state financial aspects while simultaneously undergoing substantial policy changes throughout its implementation. Initially, the KCJB project was designed to be financed under a Business-to-Business (B2B) scheme, namely a financing model between corporations without the direct involvement of the State Budget (Anggaran Pendapatan dan Belanja Negara/APBN). The government firmly stated that the financing of this project would not burden state finances. However, as the project progressed, significant cost overruns emerged, forcing the B2B financing scheme to involve the APBN, particularly through mechanisms such as State Capital Participation (Penyertaan Modal Negara/PMN) and government guarantees on debt.

The cost overruns were extremely substantial, exceeding initial estimates and reaching billions of US dollars. These conditions were triggered by technical constraints during construction as well as sharp increases in land acquisition costs. This situation raised serious concerns for the State-Owned Enterprises (SOEs/BUMN) involved as project partners, particularly PT Kereta Api Indonesia (KAI), which has faced a heavy financial burden. The President Director of KAI described this situation as a “time bomb” that could potentially erode the state’s financial performance, with estimated losses reaching IDR 4 trillion by 2025.

In response to this situation, the government issued Presidential Regulation (Peraturan Presiden/Perpres) Number 93 of 2021 to allow the use of the APBN and to provide debt guarantees to cover the cost overruns. This policy was further reinforced by the issuance of the Minister of Finance Regulation (Peraturan Menteri Keuangan/PMK) Number 89 of 2023, which also provides

government guarantees on consortium debt, effectively transferring financial risk from a corporation to the state budget. This shift has sparked widespread debate, as a project that was initially declared a purely B2B initiative has ultimately become a fiscal burden on the state. Moreover, the project's financing is dominated by interest-based commercial loans from the China Development Bank (CDB), which ethically and morally invites fundamental criticism from the perspective of *Siyasah Shar'iyah*, particularly concerning the principle prohibiting *riba* (interest). The complexity of these legal and ethical issues, combined with ongoing debt restructuring efforts being studied by KAI and BPI Danantara, underscores that this issue remains highly complex and urgent.

Based on previous studies, numerous scholarly works have examined various aspects of the Jakarta–Bandung High-Speed Rail (KCJB) project. One study conducted by Desi Marantika, Moch. Bayu Erwinsyah, Jati Utomo Dwi Hatmoko, and Riqi Radian Khasani focused on investment risk analysis from a financial perspective, identifying 31 risks affecting investment, ranging from construction costs to operational costs. Meanwhile, research by Denisa Fadilah Aribah and Denok Kurniasih analyzed the project from the perspective of public administration ethics, indicating that a lack of transparency and public participation in budget management and public communication may hinder project success and generate public distrust.

Although many studies have been conducted, a comprehensive analysis comparing this project from the perspectives of State Financial Law and *Siyasah Shar'iyah* has not yet been undertaken. Previous research has primarily examined aspects of financial risk, transparency, and SOE asset management, but no study has comprehensively analyzed the dynamics of KCJB project financing simultaneously from the perspectives of State Financial Law and *Siyasah Shar'iyah*. Therefore, this research is important as a comparative study aimed at providing public policy recommendations grounded in positive law and Islamic ethics.

The urgency of this research lies in the real and pressing financial risks faced by both the state and SOEs. Information regarding the project's debt burden, likened to a “time bomb,” serves as a warning regarding state financial governance. The decision to allocate APBN support to a B2B project has also generated debate about the boundaries of government intervention in corporate projects. Accordingly, this research is needed to provide a balanced and in-depth evaluation that measures success not only from physical or economic perspectives but also from the standpoint of justice and sustainability. The findings of this study are expected to serve as guidance for policymakers and the public in formulating a robust, transparent, and equitable framework for managing national strategic projects in the future.

The theoretical framework in this study functions as a conceptual foundation that assists the researcher in understanding the phenomenon of the financing dynamics of the Jakarta–Bandung High-Speed Rail Project from the perspectives of State Financial Law and fiqh muamalah. This framework structures the interrelationships among concepts and theories that serve as the basis for data exploration, particularly in identifying the legal foundations, implications for the state, and conformity with Islamic principles and ethics. There are two main theories employed in this study, namely the Theory of State Financial Law and the Theory of *Siyasah Shar'iyah*. These theories are complementary and serve as the foundation for analyzing the financing dynamics of the project.

Theory of State Financial Law State finance constitutes one of the fundamental aspects of governance, as it is directly related to the execution of state functions in delivering public services and achieving national objectives. From a legal perspective, state finance is not merely understood

as a technical matter of financial management, but rather as part of a public law regime that regulates the rights, obligations, authorities, and

responsibilities of the state. Therefore, an understanding of the concept and scope of state finance must be placed within the framework of constitutional law and administrative law. According to M. Subagio, state finance encompasses all rights and obligations of the state that can be measured in monetary terms, as well as all forms of money or goods that may become state property in connection with the exercise of such rights and obligations. This definition indicates that state finance includes all aspects of state wealth, both derived from revenues and arising from state obligations, thus covering state assets and liabilities comprehensively. Subagio's view emphasizes that state finance cannot be separated from the state's function in administering governance and providing services to society.

Meanwhile, M. Hadi views state finance as part of state financial administration related to the state's rights of management and obligations in the administration of government. According to him, state finance reflects the state's capacity to regulate and utilize financial resources in order to achieve national objectives effectively and responsibly. This perspective complements the juridical approach proposed by Subagio by emphasizing the aspects of management and implementation of state finance in governmental administrative practice. Furthermore, the definition of state finance under Law Number 17 of 2003 refers to all rights and obligations of the state that can be valued in monetary terms, as well as all assets in the form of money or goods that may become state property in connection with the exercise of such rights and obligations. The primary legal foundations of State Financial Law are the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2003 on State Finance, and related statutory regulations governing the management and accountability of state finances.

## **Methods**

In the study entitled "*The Dynamics of Financing the Jakarta–Bandung High-Speed Rail Project from the Perspectives of State Financial Law and Fiqh Muamalah*," this research employs a qualitative research design, which prioritizes the collection of data in the form of narrative descriptions derived from written documents, regulations, and relevant literature. This approach is chosen because the issues examined are complex in nature and require an in-depth understanding of legal and ethical contexts, rather than merely quantitative data. Within the context of this study, a qualitative approach is adopted as it allows the researcher to explore meanings, interpretations, and evolving narratives related to legal issues and public policy.

Normative juridical research, or doctrinal legal research, is conducted through the examination of library materials or secondary data. Such secondary data may include academic manuscripts of draft legislation relevant to secondary legal research, as well as other secondary legal materials such as the opinions of legal scholars contained in books, scientific journal articles, and other forms of scholarly writing related to the legal issues under examination. The purpose of this approach is to identify and reconstruct legal norms, legal principles, and legal doctrines that can be used to address and resolve the legal issues being studied.

## Discussion

### Policy and Legal Context of the Jakarta–Bandung High-Speed Rail Project

The Jakarta–Bandung High-Speed Rail (KCJB) project is one of Indonesia's National Strategic Projects (Proyek Strategis Nasional/PSN), designed to accelerate national economic transformation and enhance interregional connectivity, particularly on the island of Java. This project was conceived as a solution to reduce traffic congestion, carbon emissions, and pollution, one of the primary strategies being the shift from private vehicles to public transportation powered by electricity and non-fossil renewable energy sources.

The Jakarta–Bandung High-Speed Rail (KCJB) project involves cooperation among four State-Owned Enterprise (SOE/BUMN) consortium members, namely PT Kereta Api Indonesia (KAI), PT Wijaya Karya (WIKA), PT Perkebunan Nusantara VIII (PTPN VIII), and PT Jasa Marga, which are consolidated under PT Pilar Sinergi BUMN Indonesia (PSBI). PSBI holds 60% of the shares in PT Konsorsium Kereta Cepat Indonesia–China (KCIC), while the remaining shares are owned by a consortium of Chinese companies. KCIC acts as the holding company responsible for implementing the KCJB construction project. The project financing is sourced from a loan provided by the China Development Bank (CDB) amounting to IDR 78 trillion (at an exchange rate of IDR 14,200 per US dollar), with a tenor of 50 years and an interest rate of 2% per annum. However, during its implementation, the project financing experienced cost overruns, resulting in an increase in the loan value to IDR 84 trillion.

Initially, the project did not involve the State Budget (APBN) at all and was fully financed through a Business-to-Business (B2B) scheme between the Indonesian and Chinese parties. However, as the project progressed, policy changes occurred due to cost overruns and construction delays. The government ultimately involved the APBN through the mechanism of State Capital Participation (Penyertaan Modal Negara/PMN) in PT KAI, as the majority shareholder on the Indonesian side, and provided government guarantees for foreign loans from the China Development Bank (CDB).

These policy changes have generated debate from both legal and public policy ethics perspectives, as they are considered to contradict the government's initial commitments and raise concerns regarding state financial governance. Such policies mark a shift in the state's role in the KCJB project. Whereas in the initial stage the state functioned merely as a facilitator, in subsequent stages the state became more actively involved through fiscal policies and regulatory interventions. This policy shift constitutes an important context for understanding the dynamics of the relationship between the KCJB project, government policies, and the legal framework governing it.

### Analysis of the Jakarta–Bandung High-Speed Rail Project from the Perspective of State Financial Law

Constitutionally, the management of state finances is grounded in the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), particularly Article 23 paragraph (1), which states that *“the State Budget (APBN) as a manifestation of state financial management shall be determined annually by law and implemented in an open and accountable manner for the greatest prosperity of the people.”* This provision affirms that all fiscal policies and development financing must be directed toward public interest and the achievement of social welfare. This constitutional mandate forms the basis for the enactment of Law Number 17 of 2003 on State Finance, which establishes the principles of orderliness, efficiency, economy, transparency, and accountability in the use of state finances. Accordingly, any expenditure sourced from the APBN or State Capital Participation (Penyertaan Modal Negara/PMN), such as in the Jakarta–Bandung High-Speed Rail (KCJB) project, must comply with these constitutional principles.

Article 3 of Law Number 17 of 2003 stipulates that state financial management must be conducted in an orderly manner, in compliance with statutory regulations, and based on the

principles of efficiency, economy, effectiveness, transparency, and accountability, while also taking into account fairness and propriety. In the context of the KCJB project, this provision requires that all stages of financing—from budget allocation and PMN disbursement to the utilization of foreign loans—be implemented in accordance with the principles of efficiency and transparency. However, in practice, the KCJB project has experienced cost overruns exceeding initial estimates, indicating a significant increase from the original cost projections. This condition raises legal questions regarding the extent to which the principles of efficiency and compliance with state financial management norms have been upheld by the project’s implementing entity, namely PT Kereta Api Indonesia (Persero).

Furthermore, Law Number 19 of 2003 on State-Owned Enterprises (BUMN) also plays a crucial role in determining legal responsibility in the KCJB project. Based on Article 1 paragraph (1) and Article 4 paragraph (1), a BUMN is defined as a business entity whose capital is wholly or predominantly owned by the state through direct investment derived from separated state assets. This means that although a BUMN operates as a limited liability company, government capital participation remains categorized as state finance, as stipulated in Article 2 letter (g) of Law Number 17 of 2003. Therefore, the use of PMN in the KCJB project by PT KAI (Persero) remains subject to the principles of public accountability as regulated under the 1945 Constitution and the State Finance Law. Violations of these principles may give rise to legal consequences, either in the form of administrative sanctions or criminal liability in state financial law if elements of deviation or inefficiency in the use of public funds are identified.

From a legal analysis perspective, the use of the APBN in the KCJB project must also be examined in relation to Law Number 1 of 2004 on State Treasury. Article 3 of Law Number 1 of 2004 emphasizes that the implementation of the APBN must be based on the State Budget Law approved by the House of Representatives (DPR). This provision underscores that any use of public funds must go through a legitimate budgetary procedure, not merely through presidential or ministerial decisions. However, when PMN was allocated to the KCJB project, questions arose as to whether this allocation was formally proposed and approved through the APBN deliberation mechanism by the DPR. If such allocation did not receive legislative approval, then normatively the use of the APBN could raise legal concerns regarding state treasury governance. Consequently, conformity with Law Number 1 of 2004 becomes a central point of evaluation in determining the legal validity of the PMN policy.

Article 6 of Law Number 1 of 2004 further stipulates that any state expenditure must be based on the availability of an approved budget and must not be carried out without a clear APBN legal basis. This provision is essential to ensure that the government does not allocate state funds based on political considerations without accurate fiscal calculations. In the KCJB case, the use of the APBN as a solution to cover medium- and long-term funding shortfalls must be tested for compliance to avoid potentially burdening the state budget. Moreover, if foreign loans are utilized and debt repayment is carried out through the APBN, the resulting long-term fiscal burden could pose a serious threat to national fiscal stability. Therefore, the government is obligated to provide detailed explanations in accordance with state treasury regulations.

In the context of BUMN as project implementers, the use of the APBN in the form of PMN must also be assessed under Law Number 19 of 2003 on State-Owned Enterprises. Article 4 paragraph (1) explicitly states that BUMN capital originates from separated state assets, meaning that state capital participation in BUMN may only be conducted through formal mechanisms established by Government Regulations. Accordingly, the allocation of PMN to KCIC must normatively be embedded within regulations at the level of Government Regulation (Peraturan Pemerintah), and not solely based on a Presidential Regulation (Perpres). If PMN is allocated without a Government Regulation specifying the amount, timing, and detailed objectives, such allocation may be deemed legally non-compliant with statutory requirements. This norm is crucial, as state capital participation constitutes a high-risk financial policy decision that may affect fiscal stability.

Additionally, Article 2 of Law Number 19 of 2003 states that the purpose of establishing BUMN is to provide high-quality goods and services to meet public needs while generating profits to prioritize public welfare. In the KCJB case, the use of the APBN must be evaluated to determine whether the promised public benefits are truly proportional to the fiscal sacrifices borne by the state. If the project primarily benefits certain groups while burdening the APBN, the use of state funds within the BUMN framework may be inconsistent with the mandate of the BUMN Law. Therefore, the government must ensure that the public benefits of the KCJB project are measured and disclosed transparently through official analyses.

From a regulatory implementation perspective, Presidential Regulation Number 107 of 2015 initially stipulated that the KCJB project would not utilize the APBN. However, with the issuance of Presidential Regulation Number 93 of 2021, the government officially altered this position, allowing the use of the APBN through PMN and fiscal guarantees. Such changes may be deemed lawful insofar as they do not conflict with higher-ranking laws within the statutory hierarchy. Nevertheless, a fundamental policy shift enacted through a Presidential Regulation, rather than through formal legislative approval in an amended APBN, may indicate a deviation from the principles of budgetary democracy. Consequently, the use of a Presidential Regulation as the legal basis for APBN utilization raises legal questions concerning compliance with legislative budgetary procedures.

Although the use of the APBN for financing the KCJB project through PMN and fiscal guarantees may be formally justified under Presidential Regulation Number 93 of 2021, normatively this action continues to raise serious legal issues when examined in light of Law Number 17 of 2003, Law Number 1 of 2004, and Law Number 19 of 2003. If the principles of transparency, accountability, efficiency, economy, and public interest are not fulfilled, the use of the APBN may be considered a deviation from the constitutional objectives of state financial management. Therefore, oversight, auditing, and information disclosure are essential to ensure that the state is not harmed by unmeasured or inadequately justified fiscal decisions.

## **Conclusion**

Cost overruns from IDR 78 trillion to IDR 84 trillion necessitated a shift from a pure B2B model to APBN involvement via PMN in PT KAI and CDB loan guarantees, raising compliance issues with UUD 1945 Article 23(1), Law No. 17/2003 on State Finance (efficiency, transparency principles), Law No. 19/2003 on BUMN (public accountability), and Law No. 1/2004 on State Treasury (budgetary approval). Presidential Regulation No. 93/2021 enabled this pivot but bypassed full DPR deliberation, potentially undermining budgetary democracy.

While formally permissible, the policy lacks full adherence to statutory hierarchies, risking administrative sanctions or fiscal instability from long-term debt burdens without proportional public benefits.

Strengthen oversight through mandatory BPK audits, DSN-MUI-style Sharia-compliant fiscal reviews adapted for state finance, and legislative amendments requiring Government Regulations for high-risk PMN to ensure alignment with constitutional welfare mandates.

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