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# LAW AND FISCAL ETHICS IN INDONESIA: A JURIDICAL ANALYSIS OF THE WHOOSH PROJECT FINANCING THROUGH THE STATE BUDGET

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**ABSTRACT**

The financing of the Jakarta–Bandung High-Speed Rail (Whoosh) project has raised legal and ethical concerns regarding the use of Indonesia's State Budget (APBN) to support commercial debt within a Public–Private Partnership (PPP) framework and its compatibility with fiscal law and good governance principles. This article seeks to evaluate whether the involvement of the APBN in the Whoosh project is consistent with the provisions of the State Finance Law, the State Treasury Law, and the beneficiary-pays principle, which mandates that the financial obligations arising from commercial activities be assumed by their direct beneficiaries. A normative juridical method is employed to interpret and evaluate the legal boundaries of APBN financing based on Law Number 17 of 2003 on State Finance, Law Number 1 of 2004 on State Treasury, Law Number 19 of 2003 on State-Owned Enterprises, and Presidential Regulation Number 38 of 2015 on Public–Private Partnerships (PPP). The study finds that the use of APBN funds for a commercially operated infrastructure project may contravene principles of fiscal accountability and proportionality embedded in Indonesian public finance law. It also raises concerns about intergenerational justice, as future taxpayers could inherit present commercial risks.

## A. INTRODUCTION

States are increasingly forced to investigate ambitious financing mechanisms that mobilize both public and private resources due to the global imperatives of infrastructure development and economic growth.[1] In order to

[1] Selin Gundes, "Trends in global infrastructure investment and financial consequences," *European Journal of Sustainable Development* 11, no. 1 (2022): 66. See too, Imogen T. Liu, and Adam D. Dixon, "What does the state do in China's state-led infrastructure financialisation?" *Journal of Economic Geography* 22, no. 5 (2022): 965; Jiayin Meng, Zhen Ye,

boost growth, improve competitiveness, and signal national modernization, national governments in many emerging economies have been forced to use public budget funds or take on contingent liabilities in response to the demand for the quick deployment of large-scale infrastructure, particularly transport connectivity projects. But this trend also calls into question the ethics, accountability, fiscal restraint, and legal underpinnings of using state funds to fund infrastructure projects that appear to be for profit.[2] The conflict between growth-oriented investment and responsible public fund management persists in public finance and public law across all jurisdictions.

The financing of the Whoosh high-speed rail project connecting Jakarta and Bandung represents a salient illustration of this tension within the Indonesian context. Initially conceived as a landmark initiative to enhance intercity mobility, alleviate congestion, and stimulate regional development both in material and symbolic terms the project has since evolved into a contentious debate concerning the extent to which the State Budget (*Anggaran Pendapatan dan Belanja Negara/*APBN) should assume and absorb the associated project risks. A large portion of the project's funding was obtained through a consortium and foreign loans, and it was first presented as a public-private partnership and commercial venture. However, given cost overruns, slower-than-expected ridership, and more general fiscal concerns, public discourse and government statements have increasingly focused on the issue of whether the state budget should cover project debt.

One side of the argument, Finance Minister Purbaya Yudhi Sadewa has made a strong case on that the project's implementing business entity should pay Whoosh's debt rather than the state budget (i.e. and e. the consortium or the operator). He argues that since public funds should not be used to cover commercial risk, private parties must also bear the cost if they gain. For example, the minister said that the state budget should not be used as a safety net for losses and that the financing must be resolved within the operator's framework. In fact, he claimed that the distinction between the public and private sectors dissolves if profits go to the private sector while losses return to the government.[3]

and Ying Wang, "Financing and investing in sustainable infrastructure: A review and research agenda," *Sustainable Futures* 8 (2024): 100312.

[2] Wilma Silalahi, and Gladwin Wijaya, "Optimalisasi Pemanfaatan Pajak dalam Perspektif Hukum Keuangan Negara: Antara Prinsip Keadilan Fiskal dan Akuntabilitas Publik," *Jurnal Pustaka Cendekia Hukum dan Ilmu Sosial* 3, no. 3 (2025): 219. See too, Christian Von Hirschhausen, Thorsten Beckers, and Andreas Brenck, "Infrastructure regulation and investment for the long-term an introduction," *Utilities policy* 12, no. 4 (2004): 207.

[3] Lisa Monica, Dhika Priambodo, "Purbaya: Whoosh Debt Is Danantara's Business, Not State Budget," *IDN Financials,* October 10, 2025.

Luhut Binsar Panjaitan, the chairman of the National Economic Council, on the other hand, emphasizes a more practical and growth-oriented approach, arguing that strategic infrastructure investments, even if they entail substantial allocations or state contingent liabilities, can speed up economic development, produce positive externalities (like better mobility, less traffic, and improved connectivity), and thus support a more active role for the public budget. In his opinion, the state ought to fund high-impact infrastructure even if doing so necessitates larger budgetary or quasi-budgetary commitments. In fact, he has been cited as saying that in order to maintain the project's strategic advantages, restructuring is preferable to completely reducing funding.[4]

A number of legal, financial, and moral concerns are brought up by this difference of opinion regarding Indonesia's public finance system. At the legal level, the central issue concerns the permissible scope of allocating APBN (State Budget) funds to infrastructure projects implemented through Public–Private Partnerships (PPP) or government–business cooperation schemes (in Indonesia referred to as KPBU *Kerjasama Pemerintah dan Badan Usaha*). Does the legal framework permit or restrict the use of budget funds to cover operating or debt-servicing costs of a commercial venture? From the perspective of fiscal discipline, how does this financing model adhere to principles like beneficiary pays; and how are taxpayers shielded from becoming de facto guarantors of commercial risk while the private partner benefits?

According to the beneficiary pays principle in public finance, benefits received by particular users or private parties should be internalized by them rather than externalized to the public coffers (Bird and Zolt, 2008).[5] In the case of Whoosh, anticipated ticket sales, increased land value, ancillary commercial development, and branding prestige directly benefit the operator and its shareholders. In the meantime, risk would be transferred from the private beneficiary to the public and future taxpayers if the state budget were to cover debt servicing or losses. The legal-normative perspective of Indonesian budget law (e.g. Law Number 17 of 2003 on State Finance)

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https://www.idnfinancials.com/news/57834/purbaya-whoosh-debt-is-danantaras-business-not-state-budget. Accessed on February 12, 2026.

[4] Yosepha Debrina Ratih Pusparisa, Dimas Waraditya Nugraha, "Luhut: Jakarta-Bandung High-Speed Rail Debt Requires Restructuring," *Kompas.id.,* October 17, 2025. https://www.kompas.id/artikel/en-lunasi-utang-kereta-cepat-jakarta-bandung-bahas-jalur-surabaya-kemudian. Accessed on February 22, 2026.

[5] Richard M. Bird, and Eric M. Zolt, "Technology and taxation in developing countries: From hand to mouse," *National Tax Journal* 61, no. 4 (2008): 793. See too, Laetitia B. Mulder, Tim Kurz, Annayah MB Prosser, and Miguel A. Fonseca, "The presence of laws and mandates is associated with increased social norm enforcement," *Journal of Economic Psychology* 101 (2024): 10273; Santiago Truccone-Borgogno, "Climate Justice and the Duty of Restitution," *Moral Philosophy and Politics* 10, no. 1 (2023): 207.

highlights the need for budget expenditures to serve the public interest and have a clear foundation.[6] Specifically, Article 12 of UU 17/2003 mandates that all state budget expenditures be justified and compliant.

The empirical literature on infrastructure financing in emerging economies has increasingly acknowledged the challenge of coordinating fiscal policies and legal frameworks. Atolia et al.[7] and Tayeng et al.[8] for example, examine public infrastructure investment choices in emerging markets, arguing that while growth impetus may push states to adopt large investment programs, the long-term sustainability of public finances is often overlooked. According to Sant'Anna et al.[9] and Rybnicek et al.[10] the fiscal risks embedded in infrastructure projects especially those financed via public-private structures are frequently underestimated and create contingent liabilities for governments. Research on the feasibility of high-speed rail and passenger demand in Indonesia specifically points to the demand side risk as a key factor in financial viability.[11] Land acquisition delays, cost overruns, and corporate governance weaknesses in State-Owned Enterprise (SOE)–led infrastructure projects are highlighted by other Indonesian studies.[12]

Nonetheless, a significant research gap still exists. The legal-normative and ethical-fiscal aspects of using state budget funds (APBN) for

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[6] Undang-Undang No. 17 Tahun 2003 tentang Keuangan Negara (Law No. 17 of 2003 on State Finance).

[7] Manoj Atolia, Bin Grace Li, Ricardo Marto, and Giovanni Melina, "Investing in public infrastructure: roads or schools?," *Macroeconomic Dynamics* 25, no. 7 (2021): 1894.

[8] T. Tayeng, K. H. Assumi, S. Khaiyum, and R. Amin, "Assessing the Impact of Infrastructure Financing on Economic Growth in Emerging Markets," *Journal of Infrastructure Policy and Development* 8, no. 15 (2024): 9560.

[9] Rodrigo Lopes Sant'Anna, Luiz Eduardo Teixeira Brandão, Carlos de Lamare Bastian-Pinto, and Leonardo Lima Gomes, "Liability cost of government guarantees in highway concession projects: Case of the Salvador–Itaparica bridge," *Journal of Infrastructure Systems* 28, no. 2 (2022): 50223.

[10] Robert Rybnicek, Julia Plakolm, and Lisa Baumgartner, "Risks in public–private partnerships: A systematic literature review of risk factors, their impact and risk mitigation strategies," *Public Performance & Management Review* 43, no. 5 (2020): 1178.

[11] Mohammed Ali Berawi, Samidjan Samidjan, Perdana Miraj, Andyka Kusuma, and Mustika Sari, "Determinants of High-Speed Train Demand: Insights from the Jakarta—Bandung Corridor in Indonesia," *Urban Science* 9, no. 8 (2025): 308. See too, Jian Jin, and Haoran Zhou, "A Demand-Side Inoperability Input–Output Model for Strategic Risk Management: Insight from the COVID-19 Outbreak in Shanghai, China," *Sustainability* 15, no. 5 (2023): 4003; Budi Sitorus, "Strategi Kompetitif Penyediaan Angkutan Lanjutan Kereta Cepat Jakarta-Bandung dalam Peningkatan Minat Pengguna (Competitive Strategies for Providing Jakarta–Bandung High-Speed Rail Feeder Transportation to Increase User Interest)," *Jurnal Perkeretaapian Indonesia (Indonesian Railway Journal)* 8, no. 2 (2024): 436.

[12] Kyunghoon Kim, "Analysing Indonesia's infrastructure deficits from a developmentalist perspective," *Competition & Change* 27, no. 1 (2023): 117. See too, Nectaria Putri Pramesti, and Imam Basuki, "Challenges and Opportunities in Managing Large-Scale Infrastructure Projects: The Case of Indonesia's New Capital Nusantara," *Jurnal Teknik Sipil* 25, no. 2 (2025): 1934.

commercial infrastructure projects via PPP in Indonesia have received relatively little scholarly attention, despite the fact that demand risk, cost overruns, and financing costs have received a lot of attention. In the Whoosh case, in particular, the relationship between budget law, the beneficiary pays principle, and the developing KPBU regime as well as the accountability mechanisms for state financial exposure has not been thoroughly investigated. Furthermore, while practitioners argue over whether or not public funds should be used, little research has been done on how such interventions fit with constitutional budgetary restrictions, the rule of law, and fiscal ethics.

Therefore, the legal-juridical and ethical-fiscal analysis of the Whoosh project's financing through the APBN is the main focus of this study. Specifically, it examines how the use of public budget funds for a project with commercial characteristics complies with Indonesian budget law, fiscal accountability standards, and the beneficiary pays principle. This study explores the interplay between legality, morality, and efficiency in the management of public funds by employing a normative legal (yuridis normatif) approach complemented by an analysis grounded in fiscal ethics. Through this framework, the research seeks to contribute to the existing scholarship on public finance law, infrastructure financing, and fiscal governance in Indonesia. Furthermore, it aims to generate policy-relevant insights concerning the appropriate role of the State Budget in the implementation of large-scale infrastructure projects.

This article is guided by a central legal problem: To what extent is the use of the State Budget (APBN) to finance or absorb the commercial risks of the Jakarta–Bandung High-Speed Rail (Whoosh) project legally and ethically justifiable under Indonesian public finance law?

From this principal issue, four interrelated research questions are formulated: (1) What legal limitations do the State Finance Law, the State Treasury Law, and the PPP regulatory framework impose on APBN involvement in commercially operated infrastructure projects?, (2) How should the beneficiary-pays principle be interpreted in the allocation of financial risks within the Whoosh PPP/KPBU scheme?, and (3) To what extent does the transfer of commercial risk to the APBN conflict with principles of fiscal ethics, intergenerational justice, and distributive fairness?

## B. RESEARCH METHODS

This study employs a normative juridical method focusing on statutory interpretation and legal principles relevant to state finance. The method is relevant because the dispute over Whoosh financing concerns the legality of budget allocation, the limits of governmental authority, and the distribution of responsibility between the state and corporate actors. By examining legal norms, doctrines, and institutional mandates, the research evaluates whether APBN involvement can be justified within existing law.

Primary legal materials examined in this study consist of Law Number 17 of 2003 on State Finance, Law Number 1 of 2004 on State Treasury, Law Number 19 of 2003 on State-Owned Enterprises (SOEs), and Presidential Regulation Number 38 of 2015 on Public–Private Partnerships (PPP). These instruments are selected on the grounds that they delineate the scope of authority, limitations, and responsibilities governing state financial intervention. Secondary materials consist of academic literature, audit reports, and international guidelines on PPP risk allocation and fiscal ethics. They are used to interpret statutory meaning, compare practices, and assess normative consistency.

Through this approach, the article seeks to answer the legal questions formulated above by linking statutory interpretation with ethical evaluation. The method ensures that conclusions regarding APBN eligibility, risk transfer, and accountability are derived from authoritative legal norms rather than political preference.

## C. DISCUSSION

### 1. Legal Foundation for Infrastructure Financing through the State Budget (APBN)

To answer whether APBN financing of Whoosh debt is legally permissible, this section examines the statutory limits imposed by Indonesian public finance law. The State Budget (APBN) in Indonesia is governed by a robust legal and constitutional framework. Article 3(1) of Law Number 17 of 2003 on State Finance, the APBN serves as a tool for controlling state revenues and expenditures in order to accomplish the goals of the state, which are prosperity and the welfare of all citizens.[13] Nonetheless, Article 12(1) clearly states that all APBN expenditures must be justified by law and serve the public interest. Accordingly, the use of public funds must be both legal and justified in terms of promoting the common good.

The legal justification for involving the APBN in the Jakarta–Bandung High-Speed Rail (Whoosh) project has been the subject of considerable debate. Implemented by PT Kereta Cepat Indonesia China (KCIC) a consortium composed of Chinese investors and Indonesian State-Owned Enterprises (SOEs) the project is structured under a Public–Private Partnership (PPP) scheme. The project's operational model is commercial, with direct revenue

[13] Tri Laksono Kurniawan, "Kebijakan Efisiensi Dalam Pengelolaan Anggaran Negara Indonesia Tahun 2025 Ditinjau Dari Undang-Undang Nomor 17 Tahun 2003 Yang Berkeadilan," *Unizar Law Review* 8, no. 1 (2025): 138.

from ticket sales and associated services, even though it is classified as strategic infrastructure. Thus, the main question is whether it satisfies the legal requirement of serving the "public interest."

The Presidential Regulation Number 38 of 2015 on PPP in Infrastructure Provision states that PPP programs seek to maximize private sector involvement in infrastructure financing, with a proportionate risk sharing between public and private organizations.[14] Additionally, the regulation mandates that state financial support be restricted to certain mechanisms, such as government guarantees that protect against regulatory risks rather than commercial losses, or the Viability Gap Fund (VGF), which helps make economically viable but financially unfeasible projects more appealing to investors. To put it another way, private or semi-private operators' commercial debts and capital deficiencies shouldn't be covered by APBN involvement.

This interpretation is consistent with the fiscal law principle of proportionality, which mandates that the level of public benefit be balanced with the use of public funds.[15] The proportionality principle may be broken when the government uses APBN funds to pay off the debts of a business-oriented project like Whoosh because private companies keep the profits while the public bears the risks. Additionally, in order to avoid misallocation of public funds, the Supreme Audit Agency (*Badan Pemeriksa Keuangan*/BPK) has emphasized time and time again that fiscal interventions in SOE projects must adhere to transparent and accountable procedures.[16]

In short, while infrastructure development is a legitimate goal of public finance, the legal boundaries for state involvement must remain clear. The Whoosh financing model, if reliant on the APBN for commercial debt repayment, risks contravening the statutory mandates of fiscal prudence and public benefit enshrined in Law Number 17 of 2003 and Presidential Regulation Number 38 of 2015.[17]

[14] Cut Zulfahnur Syafitri, Prita Amalia, and Yuki MA Wardhana, "Preparation of Regional Regulations in the Context of Implementing the Content of Presidential Regulation Number 38 of 2015 concerning Cooperation Agreements between Government and Business Entities in the Provision of Infrastructure," *Journal of Law, Politic and Humanities* 4, no. 4 (2024): 656.

[15] Ana Fauziah Pangestuti, Hardiyanto Wibowo, Iwan Fakhruddin, and Selamet Eko Budi Santoso, "The Effect of Capital Expenditure, Balancing Funds, and Special Financial Assistance (BKK) on the Welfare of the People of Central Java Post COVID-19 (2020–2022)," *East Asian Journal of Multidisciplinary Research* 3, no. 1 (2024): 28. See too, Tina Sever, "Public Benefit and Public Interest in the Slovenian Legal System-Two Sides of the Same Coin?" *Cent. Eur. Pub. Admin. Rev.* 22 (2024): 164; Mardiasmo, *Akuntansi Sektor Publik* (Yogyakarta: Andi Offset, 2018), 24.

[16] BPK RI, *Laporan Hasil Pemeriksaan atas Pengelolaan Keuangan Negara Tahun 2022* (Jakarta: Badan Pemeriksa Keuangan Republik Indonesia, 2023), 12.

[17] Presidential Regulation No. 38 of 2015 on Public–Private Partnership in Infrastructure Provision (Perpres No. 38 Tahun 2015 tentang Kerjasama Pemerintah dengan Badan Usaha dalam Penyediaan Infrastruktur). See too, Tri Laksono Kurniawan, "Kebijakan Efisiensi Dalam Pengelolaan Anggaran Negara Indonesia Tahun 2025 Ditinjau Dari Undang-Undang Nomor 17 Tahun 2003 Yang Berkeadilan," *Unizar Law Review* 8, no. 1 (2025): 139.

## 2. Analysis of the Beneficiary Pays Principle

In relation to the main legal issue, this section evaluates whether shifting financial burdens from operators to the APBN is compatible with the beneficiary-pays doctrine recognized in fiscal governance. Infrastructure law and contemporary fiscal ethics are based on the beneficiary pays principle. According to the OECD,[18] the person who directly gains from a service or infrastructure project should be responsible for paying for it. Fairness, effectiveness, and accountability in the administration of public funds are guaranteed by this principle. The project operator (PT KCIC) and the users who benefit from quicker transit between Jakarta and Bandung are the main direct beneficiaries of the Whoosh project. As a result, these organizations rather than the general public should bear the project's cost.

By shifting the risk from private investors to taxpayers, the project's commercial debts are transferred to the APBN, which goes against both fiscal ethics and the rule of law. A situation known as moral hazard is created by this change, which encourages private organizations to take excessive risks with the knowledge that the state will cover any losses. The World Bank[19] explicitly warns that excessive government assumption of commercial liabilities in PPP projects may distort risk allocation and weaken private-sector discipline, thereby creating long-term fiscal vulnerabilities and moral hazard. Similarly, the OECD[20] emphasizes that unclear boundaries between public guarantees and private responsibilities in infrastructure partnerships can reduce accountability and incentivize inefficient financial behavior among project operators. These international standards reinforce the principle that commercial risks in PPP arrangements should remain primarily with the entities that directly benefit from the project. Legally, such a practice is inconsistent with the PPP framework's requirement that risk allocation remain equitable, transparent, and performance-based.[21]

From an ethical perspective, this problem also raises questions about intergenerational equity, a crucial concept in fiscal ethics.[22] The financial

[18] OECD, *Public Integrity Indicators and Fiscal Accountability Frameworks* (Paris: OECD Publishing, 2023), 24.
[19] World Bank, *Public-Private Partnership Legal Frameworks and Risk Allocation* (Washington, DC: World Bank Group, 2022), 98.
[20] OECD, *Public Integrity Indicators and Fiscal Accountability Frameworks* (Paris: OECD Publishing, 2023), 25.
[21] Modestus Alozie, "Risk Allocation and Performance Monitoring Frameworks for Construction Contracts to Enhance Project Delivery Efficiency and Sustainability Outcomes," *International Journal of Science and Engineering Applications* 14, no. 10 (2025): 8. See too, World Bank, *Public-Private Partnership Legal Frameworks and Risk Allocation* (Washington, DC: World Bank Group, 2022), 99.
[22] Abeer Al Yaqoobi, and Marcel Ausloos, "An intergenerational issue: the equity issues due to public–private partnerships; the critical aspect of the social discount rate choice for future generations," *Journal of Risk and Financial Management* 15, no. 2 (2022): 52. See too, Eliana

burden is transferred to future generations, who may not experience comparable benefits when public debt is used to fund initiatives that primarily benefit a small number of people. Each generation must responsibly manage public resources in order to avoid limiting the welfare of future generations, according to the intergenerational justice principle. In this way, using APBN for a commercial infrastructure project goes against both financial responsibility and ethical caution.

Additionally, under Law Number 1 of 2004 on State Treasury, government spending must adhere to the values of accountability, efficiency, and legitimacy.[23] By guaranteeing that beneficiaries rather than taxpayers fund the portion of a project that serves private or limited interests, the beneficiary pays principle upholds these requirements. Failure to implement this principle compromises fiscal transparency and erodes public confidence in financial governance.[24] In summary, utilizing the APBN to cover the Whoosh project's financial risks goes against the beneficiary pays principle, creates fiscal moral hazards, and compromises the fairness of public burden-sharing.

### 3. Fiscal Ethics and the Principle of Justice

Beyond legality, the principal legal problem also requires ethical justification; therefore, this section measures APBN involvement against standards of fairness, proportionality, and intergenerational responsibility. In public finance management, fiscal ethics is a new multidisciplinary field that links economics, law, and moral philosophy. Legitimacy, accountability, and responsibility are its three main tenets.[25] According to these principles, all public funds must be used responsibly, openly reported, and justified by the public good. Applying fiscal ethics to the Whoosh project entails determining whether the funding is just and fair in addition to being legal.[26] Fiscal justice, which requires equity in allocating the costs and benefits of public spending,

Díaz-Cruces, Camilo Zamora-Ledezma, and Simone Belli, "Intergenerational Equity in International Climate Law as a Legal Criterion for the Interpretation of State Climate Obligations According to the ICJ," *Laws* 15, no. 1 (2026): 10.

[23] Undang-Undang No. 1 Tahun 2004 tentang Perbendaharaan Negara (Law No. 1 of 2004 on State Treasury).

[24] Gabriel Caldas Montes, Júlio Cesar Albuquerque Bastos, and Ana Jordânia de Oliveira, "Fiscal transparency, government effectiveness and government spending efficiency: Some international evidence based on panel data approach," *Economic modelling* 79 (2019): 213. See too, Gede Adi Yuniarta, and I. Gusti Ayu Purnamawati, "Key elements of local government transparency in new public governance," *Problems and Perspectives in Management* 18, no. 4 (2020): 98; Joachim Delventhal, "Legitimacy, Institutions, and Practical Responsibility," In *Handbook of Business Legitimacy*, edited by J. D. Rendtorff (Cham: Springer, 2020), 34.

[25] Antonio Prencipe, "Accountability between Compliance and Legitimacy: Rethinking Governance for Corporate Sustainability," *Sustainability* 17, no. 20 (2025): 9305. See too, Mardiasmo, *Akuntansi Sektor Publik* (Yogyakarta: Andi Offset, 2018), 25.

[26] Mawar Ardiansyah, and Surya Sukti, "Fiscal and Monetary Policy Ethics as Principal of Islamic Economy Regulation in Indonesia," *Et-Tijarie: Jurnal Hukum dan Bisnis Syariah* 9, no. 2 (2024): 96.

may be violated by using APBN to fund commercial infrastructure without proportionate public benefits. Instead of supporting profit-driven businesses, fiscal justice demands that public resources benefit as many citizens as possible, particularly those who are in need.

Additionally, transparency in decision-making is a component of fiscal ethics. Cost-benefit analyses, expected returns, and risk assessments must all be publicly available in order for APBN funds to be allocated for projects such as Whoosh. In addition to eroding public confidence, a lack of transparency also compromises institutional accountability.[27] Fiscal decisions must be in line with the principle of distributive justice from an ethical governance standpoint, guaranteeing that public funds are allocated in ways that benefit society as a whole rather than special interests.[28] The ethical underpinnings of state finance are violated when APBN allocations are utilized to pay for a consortium's commercial obligations because this is a misalignment of public and private interests.

Finally, putting fiscal ethics into practice in infrastructure policy requires striking a balance between efficiency and morality. Economic growth is a legitimate goal, but it must not come at the expense of fiscal fairness and transparency. Sustainable economic policy combines efficiency with social justice, as Joseph Stiglitz[29] and Judijanto et al.[30] note, ensuring that fiscal decisions promote both progress and equity. Based on the legal and ethical analysis above, it can be concluded that the use of APBN funds to finance or guarantee the Whoosh project's commercial debts is inconsistent with Indonesian fiscal law and ethical governance principles. In terms of law, such financing contradicts the Public Finance Law (Law Number The State Treasury Law (Law Number 17/2003).[31] 1/2004), as well as the PPP Regulation (Presidential Regulation Number 38/2015), which collectively limit the APBN's role to public-oriented expenditures.[32] In terms of ethics, it violates the

[27] Gábor Szalay, "The Impact of the Lack of Transparency on Corporate Governance: A Practical Example," *Corporate Law & Governance Review* 1, no. 2 (2019): 24. See too, OECD, *Public Integrity Indicators and Fiscal Accountability Frameworks* (Paris: OECD Publishing, 2023), 27.

[28] Johanna Stark, "Tax Justice beyond National Borders—International or Interpersonal?" *Oxford Journal of Legal Studies* 42, no. 1 (2021): 134. See too, Bruno Verbeek, "Isolationism, Instrumentalism and Fiscal Policy," *Economics & Philosophy* 41 (2025): 81.

[29] Joseph E. Stiglitz, *People, Power, and Profits: Progressive Capitalism for an Age of Discontent* (New York: W.W. Norton & Company, 2020), 12.

[30] Loso Judijanto, Mega Arum, Annuridya Rosyidta Pratiwi Octasylva, and Eko Sudarmanto. "The Role of Fiscal Policy in Supporting Sustainable Economic Growth," *West Science Journal Economic and Entrepreneurship* 3, no. 4 (2025): 517.

[31] Tri Laksono Kurniawan, "Kebijakan Efisiensi Dalam Pengelolaan Anggaran Negara Indonesia Tahun 2025 Ditinjau Dari Undang-Undang Nomor 17 Tahun 2003 Yang Berkeadilan," *Unizar Law Review* 8, no. 1 (2025): 136.

[32] Cut Zulfahnur Syafitri, Prita Amalia, and Yuki MA Wardhana, "Preparation of Regional Regulations in the Context of Implementing the Content of Presidential Regulation Number 38

beneficiary pays principle, undermines intergenerational justice, and poses a moral risk to fiscal management.

As a result, any APBN participation in the Whoosh project should be strictly restricted to legally acceptable methods, such as viability gap funding or particular government guarantees, and it must be backed by open documentation, public accountability, and parliamentary oversight. Indonesia can only guarantee that infrastructure development stays in line with the principles of justice and accountability as well as the rule of law through such ethical and disciplined fiscal management.

As per Law Number 19 of 2003 on State-Owned Enterprises (SOEs), every state enterprise has financial and legal autonomy.[33] According to Article 4 of the law, SOEs are corporate entities that are accountable for their operations and liabilities, unless there are specific government guarantees. The distinction between corporate debt and state fiscal obligations is emphasized by this clause. Therefore, the government runs the risk of erasing the boundaries of fiscal accountability if it chooses to use APBN funds to repay PT KCIC's commercial loans without a clear legal basis.

This circumstance undermines the idea of fiscal prudence from the standpoint of governance. The rule of caution (as stated in Law Number 17 of 2003) mandates that financial choices be carefully considered and grounded in quantifiable benefits and risk assessments.[34] This prudence is compromised when public funds are used to pay off private debts, creating a risky precedent for PPP projects in the future. Additionally, it could result in institutional moral hazard, in which project managers neglect to practice financial restraint because they anticipate government intervention in the event of losses.

Furthermore, this practice undermines the system of checks and balances between the legislature (*Dewan Perwakilan Rakyat*/DPR), the executive branch, and oversight organizations like BPK. Clear divisions between the roles of policy-making, implementation, and auditing are necessary for fiscal accountability. Government organizations undermine democratic oversight and raise the possibility of fiscal mismanagement if they

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of 2015 concerning Cooperation Agreements between Government and Business Entities in the Provision of Infrastructure," *Journal of Law, Politic and Humanities* 4, no. 4 (2024): 658.

[33] Undang-Undang No. 19 Tahun 2003 tentang Badan Usaha Milik Negara (BUMN) (Law No. 19 of 2003 on State-Owned Enterprises). See too, Makruf, and Murni Murni, "Analisis Efisiensi Dan Rasionalitas Dalam Pengelolaan Badan Usaha Milik Negara (BUMN) Berdasarkan Undang–Undang Nomor 19 Tahun 2003 (Prespektif Ekonimi Konvensional Dan Ekonomi Syariah)," *Inicio Legis* 6, no. 1 (2025): 17.

[34] Tri Laksono Kurniawan, "Kebijakan Efisiensi Dalam Pengelolaan Anggaran Negara Indonesia Tahun 2025 Ditinjau Dari Undang-Undang Nomor 17 Tahun 2003 Yang Berkeadilan," *Unizar Law Review* 8, no. 1 (2025): 139. See too, Suryadin, Ramadoni Ramadoni, Mustamin Mustamin, and Erham Erham, "Analisis Prinsip–prinsip Umum Pengelolaan Keuangan Negara dan Daerah berdasakan UU No. 17 Tahun 2003," *SENTRI: Jurnal Riset Ilmiah* 4, no. 12 (2025): 4679.

unilaterally choose to cover project losses without parliamentary approval or open reporting.[35]

In PPP projects, the chain of accountability needs to be transparent. The government's role is restricted to facilitating regulations and offering limited guarantees when necessary; the private or corporate operator is responsible for project performance and financial obligations. The state may face legal challenges and financial instability as a result of the blurring of these roles, which is against the accountability doctrine in public finance. Concerns regarding the public trust doctrine the moral and legal obligation of the government to manage state resources on behalf of its citizens are also raised by this issue in the larger context of governance.[36] Public trust may be damaged and the integrity of fiscal governance jeopardized if public funds are utilized to support businesses.

## D. Conclusion

Referring back to the main legal problem whether APBN funds may lawfully absorb the commercial risks of the Whoosh project this study finds that such involvement lacks strong justification within existing statutory limits. The State Budget (APBN) financing for the Whoosh project is examined in terms of fiscal ethics and legality. It shows potential deviations from the beneficiary pays principle and the principle of fiscal accountability under the State Finance Law and the State Treasury Law. The use of public funds to cover a commercial project's debts creates both legal and ethical issues, blurring the boundaries between state responsibility and corporate obligations. This kind of funding raises questions about fairness and transparency in the management of public resources. To prevent misuse of public funds for private gain, the government must ensure that any APBN support for private or semi-private infrastructure follows legitimate, proportional, and just mechanisms, such as viability gap funding or regulated guarantees.

This study recommends strengthening the legal boundaries of corporate responsibility within PPP regulations to ensure that project operators bear commercial risks unless specific state guarantees are lawfully authorized. Clearer legal limitations are necessary to prevent the transfer of private commercial liabilities to the State Budget (APBN) without proper statutory justification.

The study also recommends enhancing fiscal oversight by institutions such as the Supreme Audit Agency (BPK) and the House of Representatives

[35] Pia J. Raffler, "Does political oversight of the bureaucracy increase accountability? Field experimental evidence from a dominant party regime," *American Political Science Review* 116, no. 4 (2022): 1445.

[36] OECD, *Public Integrity Indicators and Fiscal Accountability Frameworks* (Paris: OECD Publishing, 2023), 28.

(DPR). Stronger parliamentary supervision, transparent reporting mechanisms, and stricter public accountability are essential to ensure that state expenditures remain aligned with the national interest and principles of fiscal prudence. Ultimately, maintaining a clear distinction between public finance obligations and private business responsibilities is essential to protect fiscal integrity, uphold public trust, and ensure that state funds are managed fairly, transparently, and consistently with the principles of fiscal justice and accountability.

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