

Audit Board of Indonesia's Supervision Duty Reviewed from Islamic Law Perspective for Acceleration of Sustainable Development

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Article Info	Abstract
Keywords: <i>BPK, Mazhalim Region, Islamic Law.</i>	<i>This paper examines the State Financial Auditing Board (BPK) of Indonesia and its parallels with the Mazhalim Region, an institution in Islamic state administration focused on safeguarding state property. Both entities share the fundamental principle of protecting wealth from excessive ambition or greed, emphasizing the Islamic concept of amar ma'ruf nahi munkaras a guiding principle for achieving a balanced life. The study explores the BPK's role in accelerating sustainable development within the framework of Islamic governance, highlighting the significance of its supervisory functions. By conceptualizing law as a social norm that governs behavior, this research focuses on compiling positive law, principles, and doctrines, as well as exploring legal discovery in concrete cases, systematic law, synchronization, legal comparisons, and legal history. Ultimately, this normative legal research seeks to provide insights into the intersection of financial auditing and Islamic principles of governance.</i>
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A. Introduction

The State Audit Board (*Badan Pemeriksa Keuangan* or *BPK*) is a governmental agency tasked with examining the management and accountability of state finances. The *BPK* operates as an independent institution responsible for overseeing the implementation of the state budget, which has been ratified by the public through the House of Representatives (*Dewan Perwakilan Rakyat* or *DPR*). In fulfilling its duties and exercising its authority, the *BPK* collaborates with the *DPR* to ensure effective government

performance and to monitor the execution of the state revenue and expenditure budget, as this supervisory function is inherently linked to the DPR. The results of the financial audits conducted by the *BPK* are subsequently communicated to the DPR for appropriate follow-up actions.¹

The role of the *BPK* within the framework of state administration is underscored in the 1945 Constitution of the Republic of Indonesia, specifically in Article 23, paragraph (1), which mandates that the audit of state financial management and accountability be performed by a free and independent State Audit Board (*BPK*).² The Third Amendment to the 1945 Constitution in 2001 reaffirmed the organizational structure and authority of the *BPK*, albeit with a fundamentally altered purpose for this provision. The *BPK* performs three essential functions in its supervisory role³: operative, judicial, and advisory. In addition to these primary functions, the *BPK*'s responsibilities are delineated in Law Number 15 of 2006, Chapter III. The authority of the *BPK* is similarly grounded in the aforementioned law.

The *BPK*'s supervisory mandate aligns with the Islamic principle of *amar ma'ruf nahi mungkar*, which advocates for the promotion of good and the prevention of wrongdoing, thereby contributing to a better life. In Islamic governance, regulations are typically designed to protect public wealth from those who might exploit it. The *Mazhalim* Region, an institution in Islamic state administration, is responsible for investigating matters related to state property. In the context of a modern constitutional system, such as that of the Republic of Indonesia, the *BPK* serves the function of examining the management and accountability of state finances.

In Islamic teachings, financial auditing institutions are charged with addressing corrupt practices among government officials regarding assets acquired from the public. To effectively tackle this issue, *mazhalim* officers require just laws governing state accounting records and prior regulations concerning levies. They are also responsible for scrutinizing employees tasked with collecting zakat and state assets to prevent fraudulent behavior.⁴ This paper examines the role of the *BPK* within both the Indonesian and Islamic state administration frameworks in relation to sustainable development, as well as the *BPK*'s oversight functions from an Islamic perspective.

This research adopts a normative legal approach, employing normative case studies that focus on legal behavior products, including the analysis of laws. Law, in this context, is conceptualized as a social norm or rule that

¹ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme*, Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006, 153p.

² Regulation of BPK RI No.1 2007 "*Standar Pemeriksaan Keuangan Negara*", Jakarta: Pustaka Pergaulan, 2007.

³ Jimly, Asshiddiqie, *Perkembangan dan Konsolidasi Lembaga Negara Pasca Reformasi*, Jakarta: Konstitusi Press, 2006.

⁴ Imam Al mawardi, *Hukum Tata Negara dan Kepemimpinan dalam Takaran Islam*, Jakarta: Gema Insani Press, 2000.

guides individual behavior. Thus, normative legal research is dedicated to compiling positive law, legal principles, doctrines, concrete case law, systematic legal frameworks, levels of legal synchronization, legal comparisons, and legal history⁵.

The normative legal research method was used as the primary legal research approach to fit the theoretical framework necessary for this investigation. By incorporating various approaches in legal research, the author aims to gather information from multiple perspectives concerning the issues at hand. The research predominantly employs a statutory approach⁶, as it encompasses a range of legislative provisions. Furthermore, data analysis in this study is conducted using a qualitative approach, enabling the researcher to comprehensively articulate the data (legal materials) collected, thereby enhancing the clarity of the issues addressed. A qualitative approach allows for an in-depth exploration of the data, resulting in more robust and accountable descriptions.

B. Discussion

1. BPK's Position in the Indonesian and Islamic Constitutional System in Accelerating Sustainable Development

The State Audit Board is an independent institution tasked with examining the accountability of state finances, operating without being subordinate to the government. As a high-ranking authority, the *BPK* possesses the jurisdiction to oversee all state assets, which include those of the central and regional governments, state-owned enterprises (*BUMN*), regional state-owned enterprises (*BUMD*), and other state institutions. Headquartered in Jakarta, the *BPK* also has representatives in various provinces.

In its operations, the *BPK* essentially adopts and inherits the functions of the *Algemeene Rekenkamer*. It draws upon the *Indische Comptabiliteitswet (ICW)* and *Indische Bedrijvenswet (IBW)* as reference points for its work until the enactment of Law Number 17 of 2003 concerning State Finance and Law Number 1 of 2004 concerning State Treasury. Notably, Soepomo explicitly stated that this institution was previously known as the *Rekenkamer*.⁷

As an independent entity, the *BPK* operates free from governmental influence and authority; however, it does not position itself above the government. Additionally, while the *BPK* is required to submit its audit findings to the House of Representatives (*DPR*), it is not subordinate to this

⁵ Abdulkadir Muhammad. *Hukum dan Penelitian Hukum*. Edition 1. Bandung: PT. Citra Aditya Bakti. 2004. 52p.

⁶ Peter Mahmud Marzuki, *Penelitian Hukum*. Edition 2, Jakarta: Kencana. 2008. 29p.

⁷ Ibid

legislative body. This dynamic mirrors the historical working relationship between the *Algemeene Rekenkamer* and the *Volksraad*.

a. BPK as the Holder of Power of Auditive

The *BPK* is entrusted with the supervision of state financial management. Through this oversight, it aims to prevent irregularities and the emergence of corrupt practices. Consequently, the *BPK* plays a crucial role in reporting its audit findings to relevant institutions responsible for combating corruption. Law enforcement agencies can utilize the *BPK*'s data as preliminary evidence for investigating suspected corruption, and accurate *BPK* reports serve as credible evidence in court. This illustrates the *BPK*'s significant influence in prosecuting corruption cases; delays in completing *BPK* audits can impede various legal processes.

Upon completing its investigations regarding state financial responsibilities, the *BPK* submits its findings to the House of Representatives, the Regional Representative Council, and regional legislative councils, in accordance with their respective authorities. The *BPK* examines the implementation of the State Revenue and Expenditure Budget based on statutory provisions.

Thus, the position of the *BPK* can be summarized as follows:

1. *BPK* is an independent body that investigates accountability concerning state finances, free from governmental influence, yet does not operate above the government.
2. As the highest state institution, *BPK* executes its duties independently of government power, without positioning itself above the government.

From an Islamic perspective, the *BPK*'s existence is primarily motivated by its functional mandate to carry out supervisory duties regarding state financial management in an orderly manner, in compliance with laws and regulations, and with efficiency, economy, effectiveness, and transparency, while upholding a sense of justice.⁸ In Islam, the pursuit of justice is fundamental to the legitimacy of all state institutions and instruments, guiding the enactment of legislation, law, and all regulations, as well as the overarching goals of state and societal activities.⁹

As stated in the Quran, "Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice" (An-Nisa: 58). State assets are considered the property of Allah, while government officials are entrusted with the responsibility to manage and supervise these assets fairly and appropriately.

⁸ Ridwan HR, *Fiqh Politik*, Yogyakarta: FH UII Press, 2007, 280p.

⁹ Samir Aliyah, *Sistem Pemerintahan Peradilan dan Adat Dalam Islam*. Translated by H.Asmuni Solihan Zamakhsyari, Lc. Edition 1st, Jakarta: Khalifa, 2004, 96p.

To maintain financial stability, the state must not only regulate the global economic and political systems but also establish a systematic and effective framework for supervision¹⁰, protection, and management. Financial supervision and inspection can be categorized into two types: internal and external. Internal supervision stems from personal faith and individual awareness of accountability before God for all actions taken in this life. This internal control fosters an attitude of vigilance against fraud, abuse, and corrupt practices.

External supervision is conducted by a state institution endowed with authority by the constitution of the respective country. In Islam, an institution must meet several criteria to be considered legitimate:¹¹

- a. It must be in accordance with Islamic law and not contravene it.
- b. It must uphold the principle of equality of all individuals before the law and the government.
- c. It must foster a sense of justice within society.
- d. It must generate benefits for the community.
- e. It must not impose undue burdens on those responsible for its implementation.

I In Islamic governance, the principle of separation of powers is recognized, encompassing the legislative (*al-sulthah al-tasryi'iyah*), executive (*al-sulthah al-tanfidiyah*), and judiciary (*al-sulthah al-qadha'iyah*). Historically, the judiciary has included the domains of *al-Hisbah*, *al-qadha*, and *al-Mazhalim*.

Judicial power is distinct from the executive branch, maintaining complete autonomy. The role of justice is fully independent and not subject to the influence of other governmental officials.¹²

The judicial functions performed by the *BPK* are quasi-judicial in nature, producing decisions that embody concrete norms and possess individual characteristics akin to court rulings. The supervision conducted by the *BPK* aligns with the overarching goal of ensuring an orderly administration of state finances. This encompasses regulatory frameworks, methods of control, governance structures, distribution of authority, and effective, efficient supervision, as well as accountability measures aimed at preventing corruption and the manipulation of state finances.¹³

¹⁰ Gunawan Widjaja, *Pengelolaan Harta dan Kekayaan Negara*, Jakarta: PT. Raja Grafindo Persada, 2002, 20p.

¹¹ Muhammad Iqbal, *Fiqh Siyasah: Kontekstualisasi Doktrin Politik Islam*, Jakarta: Gaya Media Pratama, 2001, 7p.

¹² Muhammad Iqbal, *Fiqh Siyasah....Ibid....*36p.

¹³ Moh. Mahfud MD, *Dasar dan Struktur Ketatanegaraan Indonesia*, Jakarta : Rineka Cipta, 2001,118p.

2. *BPK's Task of Supervision in Islamic Perspectives in Accelerating Sustainable Development*

Article 23 E, paragraph (1) of the 1945 Constitution of the Republic of Indonesia designates the *BPK* as an institution recognized as an official authority responsible for examining the management and accountability of state finances. The *BPK* is the sole authorized institution with the competence and legal basis to determine state losses.

This authority was further reinforced by a ruling from the Supreme Court of Indonesia on July 27, 2012, which affirmed that the *BPK* has the power to assess and determine the extent of state losses resulting from unlawful acts. Moreover, the *BPK* is responsible for establishing the amount of state losses that must be taken into account in judicial proceedings.

In terms of its supervisory role, the Financial and Development Supervisory Board (*Badan Pengawas Keuangan dan Pembangunan* or *BPKP*) also has the capability to assess state finances. However, should any deviations be identified, *BPKP* is required to report these findings to the *BPK*, as *BPKP* no longer possesses the authority to conduct special audits. This limitation of *BPKP* is outlined in Presidential Decree Number 31 of 1983 concerning the Financial and Development Supervisory Agency, which states that *BPKP* is not authorized to issue products such as opinions, findings, or conclusions regarding state financial losses but may only provide recommendations.

The legal framework governing *BPKP* clarifies that its functions and authorities reside within the executive domain, coordinating with the Minister of State Apparatus or the Minister of Finance regarding state treasury matters prior to reporting to the President. Additionally, *BPKP* is obligated to report to the *BPK* for further examination, allowing the *BPK* to determine the results of inspections for inclusion in its official reports.

In cases where deviations are found, the results of these examinations should serve as a reference for law enforcement agencies in taking action against offenders, grounded in a solid legal basis. According to Aswanto, *BPKP's* audits are limited to internal assessments and include administrative recommendations. Even if regulations exist to support *BPKP's* actions, such attempts would ultimately fail, as the law exclusively grants the *BPK* the right to audit state losses in relation to legal proceedings, particularly concerning corruption cases.

In practice, the workloads of *BPKP* and *BPK* are nearly identical¹⁴, leading to a "chaotic" inspection system in Indonesia, as noted by Baharudin Aritonang. To clarify, *BPK* is established as a direct mandate of the 1945 Constitution, while *BPKP* was created under Presidential Decree No. 31 of

¹⁴ Baharudin Aritonang, *Orang Batak Memandang BPK*, (Jakarta: Kepustakaan Populer Gramedia, 2009), 106p.

1983, which holds a legal standing inferior to that of constitutional provisions. This situation suggests that *BPKP* is a product of government action, specifically the New Order regime.

In addition to the overlapping responsibilities between *BPK* and *BPKP*, *BPKP* operates directly under the President and has assumed all the duties and functions previously held by the Directorate General of State Financial Supervision (*Direktorat Jenderal Pengawasan Keuangan Negara or DJPKN*) within the finance department. This authority designates *BPKP* as a Non-Departmental Government Institution (*Lembaga Pemerintah Non-Departemen or LPND*), a status reaffirmed by Presidential Decree No. 9 of 2004 following the dissolution of the New Order government.

The ambiguous status of *BPKP* exists not only at the legal level but also at the managerial level. As stipulated in Law No. 17 of 2003 concerning state finances, the President does not directly oversee state finances, as this authority has been delegated to the leaders of various state institutions, departments, non-departmental government institutions, and regional governments. Consequently, there is no need for an internal monitoring body like *BPKP*. This managerial principle is not unique to Indonesia but aligns with international standards, such as those outlined in the 'Declaration of the Five.'

The managerial principle emphasizes that enhancing the quality of an agency cannot be achieved through the dualism of audit authority. Instead, internal supervision should be designed to operate cohesively, integrating with all agency activities.

The dualism of examination processes and their implications between *BPK* and *BPKP* is evident in efforts to combat corruption. The presence of conflicting evidence of state losses from various entities, particularly *BPK* and *BPKP*, creates confusion and inconsistency, necessitating careful and proportional resolution to avoid legal uncertainty within the community.¹⁵

In 2003, World Bank report highlighted weaknesses in public expenditure auditing and noted partial duplication of functions between *BPK* and *BPKP*, as well as between *BPKP* and the Inspector General. This report suggests that *BPK* should evolve to become the sole external audit body, thereby encompassing the responsibilities currently assigned to *BPKP*.\

The overlapping authority between *BPK* and other supervisory institutions, such as *BPKP*, the Inspectorate General (IG), Deputy Supervisory, Internal Supervisory Unit, and the Regional Supervisory Board (now known as the Regional Inspectorate), presents significant challenges in Indonesia's financial management and accountability oversight. This chaotic situation has resulted in a dualism of multi-layered management and supervision, leading to confusion and inefficiencies in the audit process. There is a pressing need for a regulatory framework that clearly delineates the functions and authorities of

¹⁵ 2003 World Bank report, "Fighting Corruption in Indonesia".

each institution involved in financial supervision. This framework should establish specific roles and responsibilities, thereby preventing overlaps and conflicts. The idea is that *BPKP*, in particular, should be evaluated for its effectiveness and necessity in the current supervisory landscape. This assessment can help determine whether it should continue to exist or be dissolved to streamline the audit process. Overlapping authority can lead to friction and competition between institutions, potentially undermining their effectiveness and the overall integrity of the financial oversight system.¹⁶

To address these issues from an informal perspective, each institution must clearly understand its duties and responsibilities. *BPK* should actively engage in supervising other similar organizations, serving as a higher authority in cases where different audit results arise. Therefore, *BPK* can help resolve legal uncertainties and discrepancies in financial reporting. Furthermore, *BPK* should adopt a more active role in supervising not only the external financial audits but also internal audits across various institutions. This could involve coordinating efforts with *BPKP*, IG, SPI, and regional inspectorates, establishing a more integrated oversight mechanism that ensures compliance and accountability at all levels of governance. Encouraging collaboration among the various supervisory bodies can also be beneficial. *BPK* can serve as a catalyst for this cooperation, fostering communication and collaboration to promote a cohesive approach to financial oversight, reducing redundancies, and enhancing overall efficiency.

Proposed solutions include the merger of *BPK* and *BPKP*, which could eliminate redundancy, streamline operations, and create a single authority responsible for overseeing state finances. This merger would simplify the auditing process and reduce potential legal hurdles in corruption cases. Additionally, creating comprehensive legislation that defines the roles and responsibilities of each oversight body would minimize confusion and prevent jurisdictional disputes. This framework should include mechanisms for conflict resolution and accountability. Training and capacity building for personnel in these institutions could help clarify their roles and improve collaboration. Ensuring that all parties understand their responsibilities and the importance of cooperation can foster a more cohesive approach to financial management. Lastly, establishing regular communication between *BPK*, *BPKP*, and other supervisory entities can facilitate the sharing of information, best practices, and lessons learned, ultimately strengthening the oversight process. By addressing the dualism in authority and promoting a more integrated approach to financial oversight, Indonesia can enhance the effectiveness of its auditing and accountability mechanisms, thereby improving governance and reducing corruption risks.

¹⁶ Baharudin Aritonang, *Op. Cit.*, 107p.

In an Islamic perspective, supervision is fundamentally rooted in the concept of *amar ma'ruf nahi munkar*¹⁷, which translates to ordering virtue and preventing illicit behavior. This principle underscores that all authority in Islam is ultimately directed towards promoting good and preventing evil, as articulated by scholars like Ibn Timiyah.¹⁸ The practice of *amar ma'ruf nahi munkar* serves as a reminder for individuals to encourage one another in pursuing righteousness and maintaining patience on the path of truth. It is regarded as *fardlu kifayah*, meaning a communal obligation that must be fulfilled. Consequently, all forms of power—whether held by the amir al-mu'minin, kings, ministers, or state treasury officials—are expected to embody the principles of *ma'ruf* (virtue) and *nahi munkar* (prohibition of vice).

Every individual on this earth is bound to adhere to divine commands and prohibitions, with the expectation that they will actively promote good and discourage wrongdoing.¹⁹ This obligation persists even if one finds themselves alone in the world, emphasizing the importance of self-regulation and accountability. Human beings, by nature, tend to exercise freedom in their actions, often neglecting the supervision of Allah. The Quran emphasizes that God is ever-watchful over the deeds of His servants, as illustrated in Surah Al-Fajr (14)²⁰, which states, "Truthfully, your Lord truly watches."

Historical examples from the early Islamic period further highlight the principle of supervision among leaders. After his coronation, Abu Bakr famously stated, "If you see that I am above evil²¹, then straighten me." Similarly, Umar bin Khatab remarked, "If you look at me crooked, then straighten me." These statements encapsulate the responsibility of Islamic leaders to accept oversight and correction from the community.²²

Joint responsibility in the political realm, especially in legislation conducted by *Ulil Amri*, is critical to ensuring governmental accountability. Supervision goes beyond merely protecting the populace from arbitrary authority; it is essential to actively monitor the actions of those in power. Given human nature's inclination toward wrongdoing and error, supervision is vital in maintaining moral integrity.²³ The Quran supports this notion, stating in Surah Ali Imran (104), "And let there be among you a group of people who call for virtue, order to *ma'ruf*, and prevent from evil; they are the lucky ones."

¹⁷ Ibnu Taimiyah, *Tugas Negara Menurut Islam*, diterjemahkan oleh Arof Maftuhin Dzofir, 1st Edition, Yogyakarta: Pustaka Pelajar, 2004, 34p.

¹⁸ Ni'matul Huda, *Problematisasi Pembatalan Peraturan Daerah*, Yogyakarta: FH UII Press, 2010, 47p.

¹⁹ Ibnu Taimiyah, *Tugas Negara.....Ibid.....*165p.

²⁰ Inspektorat Jenderal Departemen Agama RI, *Petunjuk Pelaksanaan....Op Cit....* 51p.

²¹ Ni'matul Huda, *Problematisasi Pembatalan Peraturan.....Ibid.....* 53-54p.

²² Ni'matul Huda, *Problematisasi Pembatalan Peraturan....Op Cit.....* 48p.

²³ Inspektorat Jenderal Departemen Agama RI, *Petunjuk Pelaksanaan....Op Cit.....* 104p.

This idea is reflected in the function of institutions like *BPK* (the Audit Board of Indonesia), which has the authority to conduct audits of state finances. *BPK* collaborates closely with the DPR (People's Consultative Assembly) in overseeing government financial management. After conducting examinations, *BPK* issues recommendations aimed at improving governance, emphasizing that the effectiveness of its oversight is contingent upon the government's ability to implement these suggestions.

As Muslims, adherence to sound advice and guidance is paramount, as opposed to the disbelievers who remain indifferent to warnings, as highlighted in Surah Al-Baqarah (6): "Indeed, the disbelievers are the same for them; you give warning or you do not give warning, they will not believe." Ultimately, *BPK*'s supervisory findings must be reported to the DPR, and any identified issues or recommendations for improvement should be promptly addressed to enhance governance and accountability within the state.

C. Conclusion

In the Indonesian constitutional system, the Supreme Audit Board (*BPK*) serves as a key authority for auditing and ensuring the financial accountability of state institutions. Its role emphasizes transparency, efficiency, and legal compliance in managing state finances. In an Islamic constitutional context, the *BPK*'s functions are similarly guided by principles of justice, legality, and ethical governance.

The *BPK* aims to achieve orderly financial administration through regulatory procedures and effective governance, which are essential for preventing corruption. This mirrors the Islamic concept of *amar ma'ruf nahi munkar*, which encourages good behavior and discourages wrongdoing. Both frameworks recognize the necessity of dedicated institutions to fulfill these supervisory roles. In Islam, functional oversight bodies align with the ethos of *amar ma'ruf nahi munkar*, highlighting the importance of supervision for maintaining ethical standards and accountability. Thus, whether through the *BPK* in Indonesia or analogous mechanisms in Islamic governance, the primary objective is to ensure responsible management of state finances and foster a just, transparent society.

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