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GAPS IN THE IMPLEMENTATION OF GOVERNMENT-PRIVATE PARTNERSHIPS (PPP) IN INFRASTRUCTURE DEVELOPMENT

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ABSTRACT
Infrastructure is one of the most important pillars in the development of a civilization, especially for archipelagic countries like Indonesia, which faces unique geographical challenges. The gap in the implementation of Government and Business Entity Cooperation (KPBU) in infrastructure development in Indonesia has become an increasingly pressing issue to address. This research discusses the importance of regulatory renewal in Government-Private Partnerships (PPP) to address existing gaps. The research utilized various data sources, including legislative texts, government regulations, legal documents, and policy papers relevant to PPP in Indonesia. The analytical approach allowed for a deeper exploration of the dynamics and implications of the existing regulations, focusing on their effectiveness and applicability in real-world scenarios. The author was able to articulate the challenges faced in the application of PPP regulations and propose targeted recommendations for regulatory renewal and improvement. This study could involve comparative analyses of best practices in regulatory frameworks from other countries that have successfully addressed similar infrastructure challenges, providing valuable insights for the Indonesian context. Ultimately, this research could contribute to creating a more responsive and adaptive regulatory framework that supports sustainable and equitable infrastructure solutions in Indonesia, ensuring that the needs of society are met while fostering a conducive environment for investment.

INTRODUCTION

Infrastructure is one of the important pillars in the development of a civilization, especially for archipelagic countries like Indonesia, which faces unique geographical challenges. The Indonesian government realizes the importance of enhancing connectivity between regions and ensuring equitable development, with particular attention to remote areas that are often neglected (Asnudin, 2009; Nugroho et al., 2022; Permatasari et al., 2021; Seymour et al., 2020; Stacey et al., 2021). In order to achieve the vision of Indonesia Maju 2045, infrastructure development has been identified as a primary priority in the current government policy agenda (Suriani & Keusuma, 2015). Various infrastructure projects proposed by the government include the construction of toll roads, the improvement of provincial roads, the construction of dams, and the development of transportation facilities such as airports, terminals, stations, and ports (Baporikar, 2016; Ramesh, 2017). All of these initiatives are designed to support economic activities and improve accessibility. However, the realization of this ambitious infrastructure development plan requires a substantial amount of funding. During the 2020-2024 state budget period, the government is estimated to be able to meet only about 30 percent of the total infrastructure budget needs, which exceed two thousand trillion rupiah, leaving a significant budget deficit (Jhingan, 2012).

To address the existing funding shortfall, the government has been seeking various innovations and new strategies for infrastructure financing. One approach taken is to involve business entities, both state-managed and private, through the Government and Business Entity Cooperation (KPBU) schemes and Non-Budget Infrastructure Financing (PINA) (Maulana, 2021). The KPBU scheme has become an increasingly popular choice, as it allows the government to provide infrastructure services that are more effective and efficient for the public. Although this scheme often requires higher costs, it also offers mechanisms for risk transfer and sustainable benefits for business entities, thereby creating advantages for all parties involved. Currently, there are around 50 projects funded through the KPBU scheme, involving a variety of sectors. These projects include sectors such as roads, water, energy, information and communication technology, and transportation. Additionally, the KPBU scheme also includes projects in the sectors of energy efficiency, waste management, industrial zones, and housing (Suriani & Keusuma, 2015). Although regulations governing the implementation of Public-Private Partnerships (PPP) are in place, challenges in practice on the ground remain issues that need to be addressed. To ensure that the implementation of PPP is effective and efficient, the government must tackle various obstacles that arise so that the goals of infrastructure development can be optimally achieved.

In the midst of increasing issues regarding national debt and controversies surrounding the use of debt that is considered not to provide welfare for the people, the government is striving to convey a positive message about the development efforts being made across Indonesia. It is crucial to clarify misconceptions about national debt and its urgency. Currently, Indonesia is undergoing a process of development transformation, making every effort to enhance the availability of infrastructure across various regions. In the Medium-Term Development Plan (RPJMN) 2015-2019, the government estimated that the need for basic infrastructure development would reach IDR 4,796 trillion. However, in practice, in 2015, the budget allocated in the National Budget (APBN) was only IDR 189.7 trillion, which then increased to IDR 313.5 trillion in 2016 and IDR 387.3 trillion in 2017. Although the percentage of infrastructure expenditure allocation experienced a significant increase—averaging around 104.2% from the 2015 budget to 2017—this amount is still inadequate. With Indonesia's Gross Domestic Product (GDP) around IDR 12,406.8 trillion in 2016, infrastructure spending only contributed about 2% of GDP. According to data from McKinsey, countries with stable economic growth amid a declining global market between 1999 and 2011 allocated an average of more than 4% of their GDP for infrastructure spending. For example, India allocated about 4.7% of its GDP for infrastructure, while Japan budgeted around 5%. China stood out with the highest allocation, reaching 8.5% of GDP for infrastructure spending. These figures illustrate the importance of infrastructure investment for sustainable economic growth (Khmel & Zhao, 2016).

In the face of high infrastructure needs and limited available resources, the Indonesian government needs to shift away from reliance on funding through the National Budget (APBN) and Regional Budgets (APBD) for infrastructure (Vasilescu et al., 2009). Therefore, the government has taken strategic steps to seek alternative funding, one of which is through the Government and Business Entity Cooperation (KPBU) scheme, also known as Public-Private Partnership (PPP). In the Medium-Term Development Plan (RPJMN) 2015-2019, the government targeted approximately 36.5% of the total funding needs for infrastructure to be fulfilled through private funds. Presidential Regulation Number 38 of 2015 on Government Cooperation with Business Entities in Infrastructure Provision serves as a new foundation for the KPBU paradigm. This regulation is an improvement over Presidential Regulation Number 67 of 2005 and its amendments. By expanding the scope from eight infrastructure sectors to 19 sectors that can be developed through the KPBU mechanism, the government aims to provide broader opportunities for the private sector to participate in infrastructure projects. In addition, the government has also prepared various facilities and legal support to assist in the implementation of KPBU, including Project Development Facility, Viability Gap Fund to support part of the construction costs, infrastructure guarantees, and availability payment schemes. Through these measures, the government hopes to create effective collaboration between the public and private sectors in efforts to meet national infrastructure needs.

The gap in the implementation of Government and Business Entity Cooperation (KPBU) in infrastructure development in Indonesia has become an increasingly pressing issue to address. Although KPBU is expected to be a solution to significant infrastructure funding challenges, in practice, there are several obstacles that hinder its effectiveness. One of the main issues is the lack of understanding and clear communication between the government and business entities. Uncertainty regarding regulations, procedures, and the responsibilities of each party often leads to confusion that hampers project execution. This results in delays in decision-making processes and ultimately has the potential to slow down the very much-needed infrastructure development.

In addition, there are challenges in risk management. In the KPBU scheme, risks are expected to be shared between the government and business entities. However, business entities often feel burdened with excessively high risks without guarantees from the government (Su et al., 2022; Walker et al., 2021). For example, in infrastructure projects that require significant upfront investment, uncertainties related to future revenues can make business entities reluctant to participate. If risks are not well-managed, it can lead to projects being stalled or even failing altogether, ultimately harming all parties and worsening infrastructure conditions in Indonesia. Furthermore, bureaucratic factors also pose obstacles to the implementation of KPBU. Lengthy approval processes and complex administrative provisions can slow down the progress of infrastructure projects. Many projects are hindered by lengthy and complicated procedures, where business entities must go through various time-consuming stages of verification and approval. This not only makes the process inefficient, but can also increase overall project costs, which can ultimately harm consumers.

On the other hand, the lack of community and stakeholder involvement in the planning and implementation processes of infrastructure projects also contributes to this gap. Without support from the community, infrastructure projects often face opposition that can lead to conflicts and delays. Therefore, it is important for the government to adopt a more inclusive approach by involving the community at every stage of the project, from planning to evaluation. By enhancing communication and transparency, as well as involving the community in the decision-making processes, the gaps in the implementation of KPBU can be reduced.

This research discusses the importance of regulatory renewal in Government-Private Partnerships (PPP) to address existing gaps in infrastructure development in Indonesia. It identifies key principles that should be applied, such as transparency, accountability, and inclusiveness, and emphasizes the need for a participatory approach involving all stakeholders. The research contributes to the discourse on infrastructure development in Indonesia by highlighting the critical need for regulatory renewal in Government-Private Partnerships (PPP). It identifies significant gaps in current regulations and underscores the importance of key principles such as transparency, accountability, and inclusiveness in fostering effective partnerships. By advocating for a participatory approach that involves all stakeholders, the study emphasizes the necessity of collaborative engagement in regulatory processes. This contribution not only informs policymakers about the essential elements required for improving PPP frameworks but also provides a foundation for future discussions on enhancing infrastructure development through more effective and inclusive regulatory practices. Ultimately, the research aims to promote sustainable and equitable infrastructure solutions that align with the diverse needs of the Indonesian population.

METHODS

The research utilized a normative legal method that emphasized the study of applicable legal norms within a legal system. In this context, the investigation involved analyzing legislation, legal documents, and relevant policies related to the topic. The aim was to explore existing legal regulations and understand the legal principles underpinning their implementation. By employing this method, the researchers identified pertinent legal provisions, evaluated their consistency, and offered recommendations for improvement where necessary.

The legislative approach within the normative legal method involved examining and analyzing regulations governing the legal issue at hand. This included studying laws, government regulations, and associated policies that form the basis for legal application in a specific context. Meanwhile, the analytical approach served to delve deeper into the data obtained from the legislative analysis, enhancing the understanding of the dynamics and implications of the existing regulations. By combining these two approaches, the research was able to formulate robust arguments regarding the challenges in legal application and propose more effective and sustainable solutions.

The research utilized various data sources, including legislative texts, government regulations, legal documents, and policy papers relevant to Government-Private Partnerships (PPP) in Indonesia. Data generated from these sources included legal norms, regulatory frameworks, and policy implications that illustrated the current state of infrastructure development and partnership dynamics.

The author analyzed the data through a qualitative approach, employing both legislative and analytical methods. The legislative approach involved systematically reviewing and examining relevant laws and regulations to identify key provisions and principles. This analysis provided insight into the existing legal landscape and highlighted gaps or inconsistencies.

The analytical approach allowed for a deeper exploration of the implications of these regulations, focusing on their effectiveness and applicability in real-world scenarios. By synthesizing findings from both approaches, the author was able to articulate the challenges faced in the application of PPP regulations and propose targeted recommendations for regulatory renewal and improvement. This comprehensive analysis aimed to contribute to more effective and sustainable infrastructure solutions in Indonesia.

RESULTS

Factors Causing the Gap in the Implementation of Government Cooperation with Business Entities (KPBU) in Infrastructure Development in Indonesia

Government Partnership with Business Entities (KPBU) is an important strategy for infrastructure development in Indonesia, given the immense need for investment and the limited budget available. Although this scheme is designed to enhance collaboration between the public and private sectors, various challenges and gaps in its implementation frequently arise. These gaps can hinder the effectiveness of infrastructure projects that are expected to provide maximum benefits to society. Therefore, it is important to identify and analyze the factors that cause these gaps so that corrective measures can be taken.

A significant factor contributing to the gap in the implementation of Government Cooperation with Business Entities (KPBU) is the lack of understanding and communication between the government and business entities. In many cases, both parties have different perceptions regarding the goals and expectations of this collaboration. The government often has a broader, long-term vision for infrastructure development, while business entities may be more focused on financial gains and project sustainability. Lack of clarity in communication can create the impression that both parties are not on the same page, which can lead to confusion and dissatisfaction. For instance, if the goals of a project are not agreed upon clearly from the outset, it may spark conflicts later regarding what constitutes the success or failure of a project. Therefore, fostering effective communication and mutual understanding between the government and business entities is crucial to create harmonious cooperation.

Additionally, complicated bureaucracy often constitutes a significant barrier in the execution of KPBU projects. Lengthy and complex administrative processes can slow progress, resulting in wasted time and resources. Many business entities complain about the lengthy approval processes they must navigate before starting a project. They often have to meet various administrative requirements and prepare numerous documents that may not always be relevant or necessary. This prolonged process not only reduces efficiency but can also result in cost overruns, which ultimately impacts the sustainability and success of the infrastructure project itself. Delays in project execution can lead to lost opportunities, both for business entities and for the society that is meant to benefit from the constructed infrastructure. Thus, streamlining and improving bureaucratic processes are crucial to ensure that KPBU projects can run smoothly and effectively.

Regulatory uncertainty is another significant challenge faced in implementing Government Cooperation with Business Entities (KPBU) in Indonesia. Frequent changes in policies and regulations create an unstable environment for business entities seeking to invest in infrastructure projects. This instability can generate hesitance among private investors, who are critically needed to support large-scale infrastructure funding. When regulations frequently change, business entities must spend time and resources to adapt to new policies, diverting their focus away from project development to compliance with fluctuating regulations. Consequently, this uncertainty not only diminishes investment interest but can also increase operational costs, ultimately impacting the financial viability of projects.

Moreover, ineffective risk management within the KPBU scheme is another factor contributing to gaps in its implementation. In this context, risks should be managed proportionally between the government and business entities, with each party assuming certain responsibilities. However, in practice, business entities often feel burdened with risks that outweigh the rewards they receive. For instance, in complex infrastructure projects, risks related to delays, additional costs, or revenue fluctuations are often borne more heavily by business entities, while the government does not provide adequate guarantees. Unclear delineation of responsibility for specific risks can exacerbate this situation. If issues arise during project execution, such uncertainty can lead to disputes between the government and business entities, further impeding the progress and success of infrastructure projects.

Additionally, minimal community involvement in the planning and execution of infrastructure projects is a contributing factor to the gap in the implementation of Government Cooperation with Business Entities (KPBU). In many cases, project planning processes are conducted without considering the input of the affected community. Lack of community involvement in the early stages of projects can lead to dissatisfaction and resistance later on (Duignan et al., 2022; Kwangsawad & Jattamart, 2022; Moreira et al., 2022). Without active support and participation from the community, infrastructure projects risk facing opposition, both directly and through legal mechanisms. For example, communities that feel excluded from decision-making may organize protests or demonstrations, which can significantly hinder progress and result in delays. Furthermore, projects that do not take into account the needs and desires of the local community risk being less relevant and effective in delivering the expected benefits.

On the other hand, inadequate evaluation and monitoring also pose a serious challenge in the implementation of KPBU projects. Without an effective system for evaluating and monitoring ongoing projects, potential problems can be overlooked until they grow larger and become difficult to address. Complex infrastructure projects require careful oversight to ensure that all aspects, from budgets to construction quality, are proceeding as planned. A lack of periodic evaluations can result in undetected errors that disrupt the execution phase and diminish the quality of the final outcomes. Without a strong monitoring mechanism, both the government and business entities may lack the information needed to make timely improvements. This not only undermines project efficiency but also risks diminishing public trust in both the government and business entities, which in turn may exacerbate community engagement and support for future projects.

Regulatory Reform in Reducing Gaps in the Implementation of Government Cooperation with Business Entities (KPBU) in Infrastructure Development in Indonesia

Regulatory reform in the context of Government Cooperation with Business Entities (KPBU) is crucial to enhance the effectiveness of infrastructure development in Indonesia. As a developing country with significant infrastructure needs, Indonesia faces major challenges in attracting private investment. Clear and supportive regulations are essential to create a conducive investment climate. Legal uncertainty and ambiguity in regulations are often primary deterrents for business entities in making investment decisions. Thus, regulatory reform aims not only to address existing gaps but also to provide assurance to investors that the projects they undertake will be protected and guaranteed by a strong legal framework.

The existing gaps in the implementation of KPBU in Indonesia reflect various challenges that need to be addressed. Although several projects have been successfully implemented through the KPBU scheme, many others have been hindered by various factors, including insufficient understanding of the applicable regulations, complicated bureaucratic processes, and uncertainty regarding the allocation of risks between the government and business entities. Moreover, lack of community involvement in project planning and execution often results in resistance that can impede progress. Therefore, comprehensive regulatory reform is needed to effectively tackle these challenges and enhance stakeholder participation in infrastructure development processes.

Current regulations governing KPBU in Indonesia, such as Presidential Regulation No. 38 of 2015, provide a basic framework for collaboration between the government and business entities in infrastructure provision. While this regulation is a positive step, evaluations of existing regulations indicate several significant weaknesses and challenges. One major weakness is the convoluted administrative process, through which many business entities feel trapped in a long and inefficient bureaucracy. This often results in delays in project execution, directly impacting costs and the feasibility of projects. Additionally, current regulations often fail to respond to market dynamics and rapid technological developments. Weaknesses in risk management also raise concerns, as ambiguities surrounding the allocation of risks between the government and business entities frequently lead to dissatisfaction and uncertainty. Furthermore, the lack of effective monitoring and evaluation systems results in challenges for early detection and resolution of issues that arise during the project execution phase.

Regulatory reform in the context of Government Cooperation with Business Entities (KPBU) must adhere to several fundamental principles to ensure its success. One primary principle is transparency, which requires that all parties involved have clear and open access to information regarding processes, rules, and decisions made. Through transparency, business entities and the community can better understand and follow project developments, which can, in turn, enhance trust in the government. Accountability is also significantly important. Each party, whether the government or business entities, must be responsible for actions and decisions made during the KPBU process. This will help establish a stronger culture of responsibility and ensure that projects are executed to the standards set.

Furthermore, inclusiveness is another crucial principle. Regulatory reform should involve all stakeholders, including local communities, in the planning and execution of projects. Community involvement will not only produce more relevant and appropriate projects but can also reduce potential resistance and increase support for infrastructure projects. To achieve this, a participatory approach is essential. This approach allows the community to provide valuable input and feedback throughout the reform process, ensuring that the resulting regulations reflect their needs and expectations. Through the implementation of these principles, the regulatory framework is expected to be strengthened, creating a more conducive environment for investment in infrastructure.

The scope of regulatory reform should encompass key aspects that present obstacles to current KPBU implementation. First, the approval process needs improvement to become more efficient and responsive to project needs. Procedures that are overly complex and lengthy can hinder progress and diminish investor interest. New regulations should allow for quicker processes while maintaining the necessary quality standards and compliance. Additionally, risk management should be regulated more clearly, including a fair allocation of risks between the government and business entities. Better regulations will create certainty for all parties regarding who is responsible for specific risks, thus reducing potential conflicts down the line. Furthermore, regulations must define community involvement mechanisms at every project stage. New regulations should establish clear procedures for engaging local communities, including transparent consultation and participation processes. Additionally, the regulation of financing and incentives for private business entities needs to be clarified. The government should create attractive incentive schemes for private investors, such as funding guarantees, tax reductions, or simplified licensing. Therefore, the updated regulations will better facilitate and encourage private investment in the much-needed infrastructure projects.

Analysis of case studies from other countries that have successfully updated KPBU regulations can provide valuable insights for Indonesia. For instance, some countries such as India and Brazil have implemented more inclusive and transparent KPBU regulations that engage all stakeholders in the planning process. In India, the government has developed a digital platform to facilitate better access to information for investors and communities. Additionally, clear risk management and attractive financing arrangements have successfully attracted many private investors to infrastructure projects. Learning from these best practices can be adopted to the Indonesian context, with adjustments according to local conditions.

To effectively implement regulatory reform, a structured plan and steps are required. First, the government must conduct an in-depth analysis of existing regulations and identify aspects that need modification or improvement. Next, it is important to engage stakeholders in this process, including business entities, communities, and academics, through discussion forums or public consultations. This involvement will ensure that all perspectives are considered and that the resulting regulations are comprehensive. Furthermore, a working team comprised of representatives from various parties should be formed to draft new regulations and develop an implementation plan. This team should have a solid understanding of global best practices and be able to translate those concepts into the Indonesian context. To ensure sustainability, monitoring mechanisms must be established that allow for periodic evaluation and reform of regulations. With these steps, it is hoped that regulatory reform within KPBU can succeed and positively impact infrastructure development in Indonesia.

CONCLUSION

Regulatory reform in Government Cooperation with Business Entities (KPBU) in Indonesia highlights the need for a comprehensive and inclusive approach to address gaps in infrastructure project implementation. Key principles such as transparency, accountability, and inclusiveness must guide reform efforts, with active involvement from all stakeholders, including local communities, in the planning and execution processes. Enhancements in regulatory aspects like the approval process, risk management, and business incentives aim to create a more favorable investment climate and accelerate necessary infrastructure development. Effective implementation of these reforms requires careful analysis, engagement from relevant parties, and learning from best practices in other countries. Future research should focus on developing a detailed framework for KPBU reforms, exploring stakeholder roles and perspectives, and assessing the impact of regulatory improvements on investment and infrastructure outcomes. This research could help build a more responsive and adaptive regulatory framework that fosters sustainable and equitable infrastructure development in Indonesia, aligning with societal needs and enhancing the investment environment.

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