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The Influence of Legal Politics in the Implementation of Government Cooperation of Small-Scale Enterprises of Local Government

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Abstract: The implementation of infrastructure development in the regions continues to experience obstacles despite the conception of PPP. Obstacles as contained in PPP in the regions can occur considering the cost of PPP in the regions is not as large as PPP in the central government and in connection with this, a conception of Small Scale PPP is needed that can be implemented by the Regional Government so that later development in the regions can be carried out with the PPP mechanism. The implementation of small-scale PPP in the regions is certainly inseparable from legal politics because it is legal politics that can determine the direction of policy. In connection with this, the author wants to conduct an analysis with the formulation of the problem in the form of How is the Influence of Legal Politics in the Implementation of Small-Scale Business Entity Government Cooperation of Local Governments? The results of this study are that small-scale PPP is strongly influenced by legal politics where legal politics in this case not only directs the course of infrastructure development with the PPP scheme, but also serves as a safeguard for the interests of all parties involved, including contractors, investors, and affected communities.

Keyword: PPP, KPBU, Small-scale Enterprises

INTRODUCTION

Indonesia is a country that strives to continue to develop in various aspects of national life in order to improve the standard of living of its people. The government has made efforts to improve various aspects of life ranging from social aspects, cultural aspects to economic aspects (Hayati & Yulianto, 2020). Efforts in various aspects as described require the existence of adequate infrastructure because with the existence of adequate infrastructure, mobilization will be easier to do, and this convenience will correlate with the implementation of improving the standard of living of the Indonesian people. In connection with the need for adequate infrastructure, unfortunately in its implementation in the field it is not easy to do, this is closely

related to the need for large funds in the provision of infrastructure. In addition to the need for large funds, the provision of infrastructure is also often hampered by government bureaucracy which further delays the implementation of infrastructure development, especially infrastructure development in the regions.

The need for infrastructure in the region itself can simply be divided into two types of infrastructure needs, which are social infrastructure and economic infrastructure. What is meant by economic infrastructure here itself can be interpreted as infrastructure that can be seen physically which is deliberately built in order to support the economic activities of a region, such as roads, electricity networks to ports. This economic infrastructure has a very vital role in facilitating the flow of goods and services and increasing economic efficiency and productivity. For example, good roads will facilitate the distribution of goods from one place to another, so that logistics costs can be reduced. Similarly, a stable and reliable electricity network will support industrial and business operations, and an adequate port will facilitate international trade (Gultom & Tini, 2020).

Meanwhile, social infrastructure is infrastructure whose presence is intended as a means of meeting the basic needs of human resource development in an area. Social infrastructure includes various facilities such as hospitals, schools, learning parks and city parks. Hospitals function as health service providers that are indispensable for maintaining public health and improving their quality of life (Brilyawan & Santosa, 2021). Schools are places to educate and develop the potential of children and young people so that they can become quality human resources in the future. Learning parks and urban parks provide spaces for people to learn, interact and rest, all of which contribute to social well-being and quality of life.

In other words, social infrastructure here can be defined as infrastructure that functions as a provider of social services essential for human development. These two types of infrastructure, both economic and social, are complementary and equally important in promoting sustainable regional development. Economic infrastructure drives economic growth, while social infrastructure ensures that such growth contributes to improving the overall quality of life of the community. Therefore, a balanced investment between economic and social infrastructure is necessary to achieve inclusive and sustainable development (Maulana, 2021).

PPP and infrastructure are actually two things that are very difficult to separate. This itself can occur because the existence of PPP is one of the means of financing that can be used in the context of implementing infrastructure development. Without the existence of PPP, infrastructure development would certainly not run as fast as it is now. This itself can be seen from the many cases where regions place infrastructure development as the main program or priority program, but the program cannot be implemented optimally because the budget allocated to the program is not too large. For example, in West Aceh, although infrastructure development is included in the priority program, the budget allocation is only 10% of the total Regency Budget (APBK), which in this case is only around 130 billion on average from a total ceiling of 1.3 trillion. The small allocation of funds in the area is certainly a major problem of infrastructure development.

The role of PPP in accelerating infrastructure development in its implementation does have a significant impact. For example, in the Medium-Term Government Plan for the 2015-2019 period, the government targets various developments such as the construction of 2,650 km of new roads, 1,000 km of toll roads, 46,770 km of road improvements, BRT construction in 29 cities, 24 new seaports, development of 59 seaports, 15 new airports, 2,159 km of rail lines and 1,099 km of commuter lines. The development of various infrastructure as contained in the Medium-Term Government Plan itself is estimated to cost Rp. 6000 trillion and of the entire development 36.5% of its financing sources are allocated from the PPP scheme with the rest being taken from the APBN and also funds from BUMN (Amelia, 2023).

The implementation of development using the Government and Business Entity Cooperation (PPP) scheme itself is increasingly successful with the existence of Presidential Regulation Number 38 of 2015 and also Minister of Finance Regulation Number 260 of 2016 which regulates Availability Payment. Availability Payment is a payment scheme made by the government to business entities based on the availability of agreed infrastructure services, so as to increase revenue certainty for business entities and encourage private participation in infrastructure development (Sriwidodo, 2022).

The existence of these regulations and also the implementation of PPP that has occurred today actually have similarities, namely that the implementation is carried out by the Central Government and not initiated by the Regional Government. Whereas in its implementation, the Regional Government better understands the specific needs of infrastructure development in its area. This is a challenge in itself because each region has different characteristics and needs, so a more local approach in planning and implementing infrastructure projects can produce more optimal results.

In connection with this, the implementation of PPP can actually use the conception of small-scale PPP. Small Scale PPP can be defined as a PPP program whose project value is not more than 200 billion rupiah. The concept of Small-Scale PPP allows Local Governments to play a more active role in initiating projects that are in accordance with local needs and priorities. With Small Scale PPP, smaller but vital infrastructure projects for the region, such as the construction of village roads, clean water installations, or health and education facilities, can be more easily realized.

In addition, the implementation of Small-Scale PPP can also help increase the capacity and independence of Local Governments in managing infrastructure projects, so that they are not always dependent on the Central Government. It can also open wider opportunities for the participation of local companies and improve local competitiveness. Thus, Small Scale PPP not only has the potential to accelerate infrastructure development in the regions, but also to encourage sustainable and inclusive local economic development (Indrawati et al., 2024).

The implementation of Small-Scale PPP for now can actually be said to still not have a legal basis that is too strong, so that in the context of implementing the Small-Scale PPP program, the role of legal politics in the implementation of PPP is needed. The existence of legal politics is certainly not something new considering that both regulations at the central level and regulations at the regional level are all inseparable from the influence of legal politics. Legal politics has a fairly important role because it is actually legal politics that determines the direction, form and also the applicable law in a country in order to achieve a certain goal, which in this case the goal is the implementation of infrastructure development with the PPP scheme.

Departing from the various explanations above, the author wants to discuss the influence of legal politics in the implementation of Small-Scale PPP by crystallizing these problems by raising them in a research title. In this context, the author feels the need to examine more deeply how policies and regulations issued by the government affect the implementation of small-scale PPP schemes, especially by local governments. Various regulations issued, such as Presidential Regulation No. 38/2015 and Minister of Finance Regulation No. 260/2016, have indeed provided a clear framework for the implementation of PPP, but often do not accommodate specific needs at the regional level.

In this study, the author will further explore how the existing legal political policy affects the effectiveness and efficiency of small-scale PPP implementation. This study will look at the extent to which existing regulations support or may actually hinder Local Government initiatives in implementing infrastructure projects through small-scale PPP schemes. This is important given that Local Governments have a deeper understanding of the infrastructure needs and priorities in their respective regions. This research will also highlight how the role

of political actors and legal policies at the central and local levels interact with each other and influence the successful implementation of small-scale PPP.

The research title that the author wants to raise in connection with these issues is "The Influence of Legal Politics in the Implementation of Small-Scale PPP by Local Governments." With this title, the author hopes to make a real contribution in understanding the dynamics of legal politics and the implementation of small-scale PPP. In addition, this research is expected to provide constructive policy recommendations for policymakers at the central and regional levels, so that the implementation of small-scale PPP can be more optimal and targeted, supporting sustainable and equitable infrastructure development in all regions of Indonesia.

Departing from the background explanation as mentioned above, in this study the authors want to discuss the existing problems by realising them in the identification of problems as follows:

1. How is the Influence of Legal Politics in the Implementation of Government Cooperation of Small-Scale Business Entities of Local Government?

METHOD

This research uses normative juridical legal research methods, also known as library legal research. The normative juridical legal research method involves analyzing existing literature, such as laws, regulations, court decisions, and other legal documents. This research aims to understand the legal framework governing the implementation of Public-Private Partnerships (PPP), especially on a small scale, and evaluate whether the existing regulations are adequate and effective in supporting the implementation of PPP.

The use of normative juridical legal research methods is due to the fact that PPP regulations already exist but need to be explored further in their implementation in the field. Analysis of existing regulations will help identify whether there are gaps or discrepancies that need to be corrected to ensure that the regulations can support the implementation of PPP effectively. The analyzed regulations include aspects such as PPP implementation procedures, financing mechanisms, risk management, as well as institutional aspects that regulate the roles and responsibilities of the various parties involved. In addition, normative research will also look at how the regulations are aligned with applicable legal principles and whether they provide a strong legal basis for PPP implementation (Benuf & Azhar, 2020).

The purpose of this research is to gain an in-depth understanding of the legal framework governing PPPs, particularly in the context of small scale, and to provide recommendations for improvements or enhancements to existing regulations. As such, this research is expected to make a significant contribution to the development of PPP policies and practices, as well as improve the success of infrastructure projects in various regions. By supporting regulatory improvements and balancing the interests of all parties involved, small-scale PPP implementation can become more effective and have a positive impact on local infrastructure development and regional economic growth.

The implementation of this research itself uses several types of problem approaches where the use of these problem approaches can later help the author in order to explain the legal problems to be studied in this study, namely legal issues regarding the Influence of Legal Politics in the Implementation of Small-Scale Government Cooperation of Local Governments. The research approaches used are as follows:

1. *Statute approach*

The statutory approach is one of the methods used in research to examine regulations related to the legal issues being discussed. In the context of this research, the regulation that is considered is Presidential Regulation Number 38 of 2015 concerning Government Cooperation with Business Entities in the Provision of Infrastructure. This regulation has a

relationship with the legal issues that are the focus, namely the Influence of Legal Politics in the Implementation of Small-Scale Business Cooperation of Local Governments.

In analyzing this regulation, the statutory approach will involve reading and interpreting the regulatory text itself. This includes understanding the purpose, scope, and provisions contained therein. This analysis will pay attention to critical aspects such as definitions, authorities, implementation mechanisms, and clauses relating to the role of the Regional Government in cooperation with small-scale enterprises.

In addition, the legislative approach will also include a review of the context in which the regulation was formed, including the background, objectives, and consultation processes carried out in the process of formulating and passing it. An analysis of the regulation formation process can provide additional insights into the political, economic, social, and legal considerations behind the regulation. In addition to Presidential Regulation No. 38/2015, this research will also refer to other related regulations, such as regional regulations, government policies, and other relevant legal instruments. This is important to understand the broader legal framework governing the implementation of cooperation between the government and small-scale enterprises at the regional level.

With a comprehensive legislative approach, this research aims to provide an in-depth understanding of the regulations governing cooperation between local governments and small-scale enterprises in infrastructure provision. An in-depth analysis of these regulations is expected to identify the strengths, weaknesses, and gaps that exist in the existing legal framework, so as to contribute to the improvement and refinement of regulations that support the implementation of such cooperation more effectively and efficiently.

2. *Conceptual approach*

Conceptual approach is a method of analyzing a problem based on views that develop in the field of law. The purpose of this approach is to provide a deeper understanding of ideas by explaining legal concepts or principles that are relevant to the issues being discussed in the research. In this research, the concept of PPP, the concept of infrastructure, and the concept of cooperation between the government and business entities are used.

The concept of Public Private Partnership (PPP) is the main focus in this conceptual approach. PPP refers to cooperation between the government and business entities in the provision of infrastructure, where the government entrusts part or all of the development, management, and maintenance of infrastructure to business entities. In this context, the conceptual approach will consider aspects such as objectives, forms of cooperation, rights and obligations of each party, as well as regulatory mechanisms and dispute resolution related to PPP.

In addition, the concept of infrastructure is important in the context of this discussion. Infrastructure refers to the facilities needed to support various economic, social and public activities, such as roads, electricity networks, clean water and public transportation. In the conceptual approach, it will be analyzed how infrastructure becomes the foundation for the development and economic growth of a region, and how cooperation between the government and business entities can improve the efficiency and quality of the infrastructure provided. In addition, the concept of cooperation between the government and business entities will also be the focus of this conceptual approach. In this cooperation, it will be analyzed how the role of each party is regulated in the cooperation contract, how the allocation of risks and profits is shared between the government and business entities, and how this cooperation can provide benefits to the community and regional economy.

Using a conceptual approach, this research aims to explore a deeper understanding of the legal concepts underlying cooperation between the government and business entities in the provision of infrastructure. A comprehensive conceptual analysis is expected to identify

relevant legal principles, clarify the relationship between these concepts, and provide a strong theoretical foundation for this research.

RESULTS AND DISCUSSION

The Influence Of Legal Politics In The Implementation Of Government Cooperation Of Small-Scale Enterprises Of Local Governments

Legal politics can be defined as a policy on law whose existence determines the direction, form, and content of a legal product which in this case is also directly related to the formation, application and enforcement of law in order to achieve a social goal or state goal, all of which are realized in various legal products (Anggoro, 2019). The politics of law itself in its implementation can be understood as a *legal policy* or an official policy line that will be enforced in order to achieve a goal and the enactment of the law itself can be in the form of making changes to existing laws or creating a new law that regulates certain matters in order to achieve a legal goal.

Because legal politics has a strong role in a legal product, legal politics also has a significant influence on the implementation of PPP, especially Small-Scale PPP carried out by the Regional Government. The implementation of PPP by the Local Government must of course be based on a legal product created by the authorized party. This legal product includes various regulations and policies governing how PPP projects should be carried out, including provisions regarding the selection of private partners, financing mechanisms, and other technical and administrative requirements.

In simple terms, it can be explained that legal politics has an influence on the implementation of PPP because it is legal politics that determines the regulations that must be followed by PPP implementers. For example, regulations regarding institutions will determine the organizational structure and responsibilities of the various parties involved in the PPP project. These regulations ensure that there is good and transparent governance in every stage of the project, from planning, implementation, to monitoring and evaluation.

In addition, the political and legal framework established through the political-legal process also plays a role in creating a conducive investment climate. Policies that support PPP, such as fiscal incentives, guarantees against political risks, and ease of licensing, can attract investors to participate in infrastructure projects in the region. Thus, legal politics affects not only the legal aspects of PPP implementation, but also the broader economic and social aspects.

Risk sharing between local governments and the private sector is also determined by legal policies that result from the political process of law. Clear and firm regulations on risk sharing can help reduce uncertainty and increase trust from the private sector. For example, regulations governing who is responsible for financial risk, construction risk, or operational risk will greatly affect the success of a PPP project. Local governments need to follow these guidelines to ensure that these risks are managed properly and fairly, so that the project can run smoothly and according to plan (Puteri et al., 2022).

Overall, legal policy is a fundamental foundation for the implementation of Small-Scale PPP by Local Government. With the right legal policies in place, Local Governments can implement infrastructure projects more effectively, efficiently and transparently. This not only helps in achieving infrastructure development goals, but also improves the welfare of the people in the area through the provision of adequate and quality public facilities. Legal politics in relation to the implementation of Small Scale PPP can be said to be a factor that will affect the success of infrastructure project development with the PPP financing scheme because if legal politics does not support the implementation of Small Scale PPP, various regulations produced by the authorities will limit or even hinder the implementation of Small Scale PPP by the local government. In order to ensure that legal politics supports the implementation of

Small-Scale PPP itself, several political management methods can actually be carried out, which are as follows (BPK Kabupaten Jember, 2020):

1. Local Government in implementing PPP must have the ability and political support in determining the location of infrastructure development. This includes technical and managerial knowledge, as well as a deep understanding of local needs and priorities. Political support is essential because infrastructure projects often involve various interests and different stakeholders, ranging from local communities, government officials, to private parties involved in PPP. To gain strong political support, the Local Government needs to communicate effectively with all stakeholders and ensure that all parties understand and support the project.

In order to get such support, what the Local Government can do is to have comprehensive and accurate supporting data. This data should be able to explain in detail why the location chosen for infrastructure development is the right location according to regional infrastructure needs. This supporting data can be in the form of feasibility studies, environmental impact assessments, demographic data, economic needs, and projected social and economic benefits of the project. The feasibility study will provide an overview of the benefits and costs of the project, while the environmental impact analysis will ensure that the project will not damage the surrounding environment.

In addition, local governments also need to involve communities in the planning and decision-making process. Through public consultations and community participation, the Local Government can gather inputs and obtain consent from the communities that will be directly affected by the infrastructure development. This not only increases the legitimacy of the project but also ensures that the project is truly in line with the needs and desires of the local community.

By having strong supporting data and involving the community in the planning process, the Local Government can more easily obtain the necessary political support for PPP implementation. Solid political support will ensure that the project can run smoothly without significant obstacles, both in terms of regulation and implementation in the field. This will also increase the confidence of investors and private parties to participate in PPP projects, as they see a clear commitment and support from the Local Government. Thus, the synergy between technical capabilities, political support, and community participation is the key to successful PPP implementation in the regions.

2. The Local Government must have the capacity as well as political support with respect to the selection of the Implementing Enterprise. In this regard, the enterprise selected must be appropriate to the standard needs of the project and not based on anything other than the established professional and technical criteria. This includes an in-depth understanding of the selection process that is transparent, objective and based on the principles of good governance. Local governments need to ensure that the selection process of the implementing business entity is conducted competitively and fairly, taking into account the experience, technical capacity, track record, and financial capability of the business entity concerned.

To gain political support, the Local Government must demonstrate that the selection of the implementing enterprise is based on a transparent and accountable process. This can be done by establishing an independent selection team and involving various stakeholders in the evaluation process. Involving a third party, such as an independent consultant or audit institution, to verify the selection process can also increase credibility and public trust. In addition, the Local Government needs to effectively communicate to all stakeholders the rationale and criteria used in the selection of the implementing enterprise, so that there is no doubt about the integrity of the process.

Thus, the Regional Government will have a strong reason if the authorities ask for an explanation of why it used a particular implementing enterprise. These strong reasons should be supported by official documents that show the selection process that has been carried out, including the assessment and scoring of each candidate implementing business entity based on predetermined criteria. Local governments also need to prepare a comprehensive report on all stages of the selection process, including how the selected enterprise was able to meet the required project standards.

Having the ability and political support in the selection of the implementing entity not only ensures that the project will be managed by competent parties, but also enhances government accountability and transparency. This is important to maintain public and investor confidence, and to avoid potential conflicts of interest or allegations of corrupt practices. In addition, by ensuring that the selected executing entity is the best one for the project, the Local Government can minimize project risks, ensure high quality outcomes, and achieve infrastructure development goals more effectively and efficiently (Maulana, 2021).

3. The Regional Government must have the ability and also political support in terms of paying back the financing made by the Regional Government. In this case, the Local Government before carrying out development with PPP, the Government must first calculate the various costs that will have to be incurred and these costs must be compared with the quality and criteria specified in the implementation of the PPP Agreement (Maulana, 2021).
4. Local Government must have the ability and also political support in terms of managing political risk. Political risk in this context includes various potential obstacles that can arise from local, regional, and national political dynamics, which can affect the successful implementation of Small-Scale PPP. One important aspect of political risk is restrictions on transfers and currency convertibility. These restrictions can affect the cash flow and liquidity of the project, especially if it involves foreign investment or payments in foreign currency. Therefore, the Local Government needs to have an effective risk management strategy to anticipate and address these issues.
5. Political risk management also includes the ability to negotiate and communicate with various stakeholders, including the central government, financial institutions, investors, and the community. The Local Government must be able to explain and convince all parties that the Small-Scale PPP project is safe and profitable and have clear mechanisms to address political risks. Strong political support is also needed to gain the trust of investors and private partners, who may be concerned about political uncertainty and regulatory risks.

In addition, the Local Government should ensure that there is a supportive and stable regulatory framework that can provide legal guarantees to all parties involved in the PPP project. This includes clear regulations on currency convertibility, taxation policies, and incentives for infrastructure investment. By having clear and stable regulations, the Local Government can reduce uncertainty and political risks that may arise.

Political risk management capability also means being prepared to deal with changes in policy or political leadership that may affect the project. Local governments need to build good relationships with the legislature and executive to ensure continued support for PPP projects. This also includes the ability to conduct political advocacy and lobbying to gain support and overcome obstacles that may arise.

As such, political risk management not only covers technical and operational aspects, but also involves effective communication and negotiation strategies. Local Government must be able to predict and mitigate risks that may arise from political changes, as well as ensure that all steps taken are in accordance with applicable laws and regulations. With strong

political support and effective risk management, the Local Government can ensure that the implementation of Small-Scale PPP runs smoothly and achieves the expected infrastructure development goals.

In addition to the above, legal politics also affects the implementation of PPP, what is meant by legal politics affecting the obligations of PPP implementation itself is that the legal politics of its existence will also regulate the obligations arising from the implementation of PPP such as payment obligations to the obligations that must be carried out by each party if there is a violation of the law on the implementation of the cooperation. In other words, in this case legal politics also plays a role in order to provide protection to the various parties involved in the implementation of PPP through legal mechanisms and also other mechanisms regulated in legal products produced by legal politics. In addition, legal politics can also affect PPP obligations through changes in laws and regulations that are contrary to human rights (HAM), as well as changes in the human rights paradigm at the highest level of basic law.

From the various explanations above, it can be explained that legal politics actually has a very significant influence on the implementation of Public Private Partnership (PPP). Legal politics not only determines the direction of infrastructure development with the PPP scheme, but also plays a role in protecting the interests of all parties involved in the implementation of PPP, including contractors, investors, and affected communities. Strong regulations and fair dispute resolution mechanisms are key in creating an environment conducive to long-term investment and sustainability of PPP projects.

Political law directs the making of policies that support the PPP framework, from the preparation of regulations governing partnership procedures to the application of technical and operational standards that must be adhered to by all parties. This policy must be able to create transparency and accountability in every stage of project implementation, so as to minimize the risk of irregularities and increase public and investor confidence in the project. In addition, legal politics must also be able to balance the interests of the various parties involved, provide adequate legal protection, and ensure effective monitoring and law enforcement mechanisms.

In addition, regulations issued based on good legal politics must also be able to adjust to the dynamics and developments that occur in the field. This includes flexibility in dealing with changing economic and social conditions, as well as the ability to respond quickly to new challenges that may arise during the implementation of PPP projects. Thus, adaptive and responsive regulations will be able to support the sustainability of PPP projects in the long run.

A fair and efficient dispute resolution mechanism is also an important component of legal politics in the implementation of PPP. Dispute resolution procedures must be designed in such a way as to provide fairness to all parties involved, and to resolve disputes quickly and effectively. This is important to avoid project delays that can negatively impact implementation costs and schedules.

Therefore, good and consistent legal political arrangements are very important to ensure the success and sustainability of PPP project implementation in the future. With the right legal policy, the Regional Government can encourage private participation in infrastructure development, increase the efficiency of resource use, and provide optimal benefits for the wider community. The success of PPP projects is not only measured in terms of technical and financial aspects, but also from the positive impacts generated on the welfare of the community and sustainable development in the region.

CONCLUSION

Departing from the various explanations above, it can be concluded that legal politics has a very important role in the implementation of Public Private Partnership (PPP). Legal politics not only directs the course of infrastructure development with the PPP scheme, but also serves as a safeguard for the interests of all parties involved, including contractors, investors, and

affected communities. In this context, legal politics plays an important role in creating a clear and fair framework for all stakeholders, which is the main foundation for the success of PPP projects. Strong regulations and fair dispute resolution mechanisms are key in creating an environment conducive to long-term investment and sustainability of PPP projects.

Not only that, but legal politics also plays a role in determining the overall policy direction and strategy of infrastructure development. Policies based on sound legal political considerations will be able to accommodate the interests of all parties in a balanced manner, thus minimizing potential conflicts and increasing trust in the implementation of PPP projects. In addition, legal politics can also play a role in facilitating dialogue between the government, business entities, and communities, allowing for a better understanding of the needs and expectations of all parties involved.

Therefore, it is important to ensure that sound and consistent legal and political arrangements are implemented to ensure the successful and sustainable implementation of PPP projects in the future. This includes establishing regulations that are responsive to changes in the economic and social environment, as well as ensuring transparency, accountability and fairness in every stage of the PPP project. Thus, legal politics is not only a tool to achieve infrastructure development goals, but also an instrument to create a more inclusive and sustainable society as a whole.

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