

IMPLEMENTATION OF BUILD-OPERATE-TRANSFER AGREEMENT IN BALI MANDARA TOLL ROAD DEVELOPMENT

Cokorda Istri Ida Andriani¹, Ni Luh Made Mahendrawati², I.B. Gede Agustya Mahaputra³

^{1,2,3}Master of Laws Study Program, Postgraduate Faculty, Warmadewa University, Indonesia

Corresponding author: Cokorda Istri Ida Andriani

E-mail: Cokordaidandriani@gmail.com

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Abstract:

The construction of the Bali Mandara Toll Road requires careful planning and considerable funding, making investment and private sector involvement essential. To solve this, the use of the Build Operate Transfer agreement is an interesting policy adopted by the Bali Provincial Government in the construction of the Bali Mandara Toll Road, but the validity of its implementation in 2011 needs to be analyzed in light of the enactment of Bali Governor Regulation Number 25 of 2021. This study aims to analyze the implementation of the Build Operate Transfer agreement in the construction of the Bali Mandara Toll Road in 2011, with the enactment of Bali Governor Regulation No. 25 of 2021. This research is empirical legal research conducted by examining primary data using legal theories and principles, as well as field data in the form of interviews. The research results show that the implementation of the Nusa Dua-Ngurah Rai-Benoa Toll Road Concession Agreement (PPJT) dated December 16, 2011, has complied with the provisions of Bali Governor Regulation Number 25 of 2021, both from the general principles and in the Implementation of Build Operate Transfer in the Management of Government Property. The government can implement the Build Operate Transfer agreement in the New Bali/North Bali International Airport Development plan, considering that this project is a massive investment that requires high efficiency without directly burdening the APBN/APBD. Based on this, appropriate policy-making is needed in every large-scale transportation infrastructure development to continue to realize sustainable tourism development.

INTRODUCTION

Infrastructure development plays a crucial role in supporting economic growth, particularly in tourism-dependent regions such as Bali. As one of the world's leading tourist destinations, Bali requires a reliable and efficient transportation infrastructure to sustain its competitiveness and ensure equitable regional development (Zhang, Feng and Zhang, 2018). However, the limitation of public funding has become a significant challenge for the government in providing large-scale infrastructure projects. In this context, alternative financing schemes such as Build Operate Transfer (BOT) have emerged as a strategic solution to bridge the gap between infrastructure demand and fiscal capacity (Aravind *et al.*, 2017; Radi Al-Aga and Burhan, 2022). The implementation of BOT agreements in infrastructure development is not only a matter of technical and financial feasibility but also closely related to governance, taxation, and auditing aspects, particularly in the context of public asset management. From a governance perspective, BOT arrangements require transparency, accountability, and effective regulatory oversight to ensure that public interests are safeguarded throughout the concession period. In terms of taxation, BOT projects involve complex fiscal implications, including revenue-sharing mechanisms and tax obligations arising from private sector



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participation. Meanwhile, from an auditing standpoint, the involvement of public-private partnerships necessitates rigorous monitoring and evaluation mechanisms to ensure compliance with legal frameworks and prevent potential misuse of public resources (Guo and Yang, 2009; Pramudya and Wibowo, 2022; Zhao *et al.*, 2023; Purwadita, Kurnia and Latief, 2024).

Despite the increasing use of BOT schemes in Indonesia, including in the development of the Bali Mandara Toll Road, there remains a lack of comprehensive legal analysis regarding their validity and implementation within the framework of regional regulations. Previous studies have primarily focused on the contractual aspects of BOT or its economic efficiency, but have not sufficiently addressed the alignment between BOT implementation and evolving regulatory frameworks, particularly after the enactment of Bali Governor Regulation Number 25 of 2021 concerning the utilization of regional assets. This gap highlights the need for a more in-depth examination of how BOT agreements are implemented in practice and whether they comply with applicable legal principles and governance standards (Song *et al.*, 2017). In addition, there is limited research that integrates the concept of sustainable development into the analysis of BOT-based infrastructure projects, especially in the tourism sector. The development of strategic infrastructure, such as the Bali Mandara Toll Road and the planned North Bali International Airport, demonstrates the importance of balancing economic efficiency with long-term sustainability objectives, including environmental protection and equitable development (Sheng and Wang, 2011; Arata, Petrangeli and Longo, 2017; Fauzan, Kuswanto and Utomo, 2023).

Based on these considerations, this study aims to analyze the implementation of the Build Operate Transfer agreement in the construction of tourism transportation infrastructure, focusing on its legal validity, governance implications, and contribution to sustainable development (Simamora, 2018). This study also seeks to position BOT as a policy instrument that not only addresses financial constraints but also supports transparent and accountable public asset management. The research problem in this study is formulated as follows: how is the implementation of the Build Operate Transfer agreement in the development of the Bali Mandara Toll Road viewed from the perspective of legal validity and governance? Furthermore, to what extent does the BOT scheme contribute to sustainable tourism development in Bali?

Accordingly, the research questions are:

1. How is the legal validity of the Build Operate Transfer agreement in the development of the Bali Mandara Toll Road in relation to applicable regulations?
2. How is the implementation of BOT agreements in supporting governance, taxation, and auditing aspects in infrastructure development?
3. How does the BOT scheme contribute to sustainable tourism development in Bali?

This study contributes to the existing literature by providing a state-of-the-art analysis that integrates legal, governance, and sustainability perspectives in evaluating BOT agreements. Unlike previous studies that tend to focus on contractual or economic dimensions, this research emphasizes the multidimensional role of BOT in public infrastructure development, thereby offering a more comprehensive understanding of its implications within the broader framework of public policy and sustainable development.

METHODS

This study employs a qualitative legal research design combining normative and empirical approaches to examine the implementation of the Build Operate Transfer (BOT) agreement in tourism transportation infrastructure development. The research was conducted in Bali Province, with a focus on the Bali Mandara Toll Road project as the main case study. The sample consists of



key informants selected through purposive sampling, including government officials, legal practitioners, and representatives from the private sector involved in the BOT agreement, as well as relevant institutional documents. Data were collected through document analysis, interviews, and observation of regulatory practices. The analytical tool used is qualitative descriptive analysis, which involves interpreting legal norms, examining regulatory frameworks such as Bali Governor Regulation Number 25 of 2021, and comparing them with empirical findings to assess the validity, governance implications, and practical implementation of the BOT scheme.

RESULT AND DISCUSSION

Legal Validity of the Build-Operate-Transfer Agreement. The results of the study indicate that the implementation of the Build Operate Transfer (BOT) agreement in the Bali Mandara Toll Road project fulfills the legal requirements stipulated under Indonesian law (Suseno, Wibowo and Setiadji, 2015). The Toll Road Concession Agreement (PPJT) signed on December 16, 2011, is considered legally valid as it complies with the fundamental principles of contract law, including consent, capacity, a specific object, and a lawful cause. Furthermore, the agreement aligns with the provisions of Bali Governor Regulation Number 25 of 2021 concerning the utilization of regional assets, which strengthens its legal standing in the current regulatory framework. From the field data and document analysis, it is evident that the BOT scheme applied in this project has followed the procedural and substantive requirements for public-private partnership agreements. This finding is consistent with previous studies that emphasize that BOT agreements in infrastructure development remain legally binding if they adhere to general contract principles and applicable regulations. However, this study extends prior research by demonstrating that even agreements established before newer regulations can remain valid if their implementation is aligned with updated legal frameworks.

Theoretically, the validity of BOT agreements can be explained through the principle of legal certainty and *pacta sunt servanda*, which obligates the parties to honor agreements made in good faith. The findings suggest that the Bali Mandara BOT agreement not only meets formal legal standards but also reflects adaptive compliance with evolving regulations. It highlights the importance of harmonizing existing agreements with new policies to maintain their legal legitimacy over time.

Implementation of BOT in Governance, Taxation, and Auditing. The implementation of the BOT agreement in the Bali Mandara Toll Road project demonstrates significant implications for governance, taxation, and auditing practices. From a governance perspective, the study finds that the involvement of the private sector enhances efficiency in project financing and management, while the government retains regulatory control and oversight during the concession period. It reflects the principles of good governance, particularly transparency, accountability, and efficiency in public asset management (Kurnia, Latief and Rarasati, 2025).

In terms of taxation, the BOT scheme generates fiscal benefits through revenue-sharing mechanisms and tax contributions from the private operator. The study reveals that such arrangements help optimize regional revenue without requiring substantial initial government expenditure. This finding aligns with previous research indicating that public-private partnerships can improve fiscal sustainability by distributing financial risks and benefits between stakeholders. From an auditing perspective, the study highlights the necessity of continuous monitoring and evaluation throughout the BOT lifecycle. The involvement of multiple stakeholders requires a structured auditing framework to ensure compliance with contractual obligations and regulatory



standards. Field data suggest that effective auditing practices are essential to prevent potential governance risks, such as mismanagement or lack of transparency.

Theoretically, these findings are supported by governance and public finance theories, which emphasize the role of institutional control mechanisms in ensuring accountability in public-private collaborations. Compared to previous studies, this research provides a more integrated analysis by linking governance, taxation, and auditing aspects within the BOT framework, demonstrating their interdependence in achieving successful infrastructure development.

Contribution of BOT to Sustainable Tourism Development. The findings of this study show that the BOT scheme contributes significantly to sustainable tourism development in Bali. The Bali Mandara Toll Road serves as a strategic infrastructure that improves connectivity, reduces travel time, and enhances accessibility to key tourism destinations. It directly supports economic growth in the tourism sector while also promoting regional development. In addition, the study finds that the BOT scheme enables the government to implement large-scale infrastructure projects without imposing a heavy burden on public finances. By transferring the initial investment risk to the private sector, the government can allocate resources more efficiently to other development priorities. It is particularly relevant in the context of sustainable development, where economic, social, and environmental considerations must be balanced.

Furthermore, the planned development of the North Bali International Airport under a similar BOT scheme demonstrates the potential for expanding tourism development to less-developed regions, thereby reducing regional disparities. It supports the concept of sustainable tourism, which emphasizes inclusive and equitable development. From a theoretical perspective, the contribution of BOT to sustainable development can be explained through the sustainable development framework, which integrates economic efficiency, social equity, and environmental sustainability. The findings of this study confirm that BOT schemes can serve as effective instruments for achieving these objectives when supported by strong regulatory oversight. Compared to previous research, this study offers a novel contribution by explicitly linking BOT implementation with sustainable tourism development, highlighting its role not only as a financial mechanism but also as a strategic policy tool for long-term regional growth.

CONCLUSION

This study concludes that the implementation of the Build Operate Transfer (BOT) agreement in the development of the Bali Mandara Toll Road is legally valid and consistent with applicable regulatory frameworks, including the principles of contract law and regional asset management policies. The findings confirm that BOT serves as an effective governance instrument, enabling collaboration between the public and private sectors while maintaining accountability, transparency, and regulatory control. Furthermore, the BOT scheme demonstrates significant contributions to governance, taxation, and auditing practices. It supports efficient public asset management, generates fiscal benefits through private sector participation, and requires robust auditing mechanisms to ensure compliance and minimize risks. These aspects highlight the multidimensional role of BOT beyond financing, positioning it as an integrated framework for managing infrastructure development. In addition, the study reveals that BOT contributes to sustainable tourism development by enhancing infrastructure quality, improving accessibility, and promoting balanced regional growth without imposing excessive financial burdens on the government. The scheme aligns with the principles of sustainable development by integrating economic efficiency, institutional governance, and long-term development objectives.



Future research is recommended to explore the comparative implementation of BOT schemes in different regions and sectors, as well as to examine the long-term socio-economic and environmental impacts of such agreements. Further studies may also incorporate quantitative approaches to measure the effectiveness of BOT in improving governance performance and regional economic outcomes.

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