



The role of investment law in Economic growth in Indonesia

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Abstract

Economic growth is synonymous with social welfare. The preamble to the Constitution of the Republic of Indonesia states that social welfare is a noble ideal for the Indonesian people. One form of state responsibility for social welfare through investment will make a significant contribution to a country's economic growth, because investment will encourage the development of overall economic activity, both domestic and foreign investment serve as a reference or parameter in terms of income that can be obtained, especially for regions of the country that are experiencing development and can have a significant impact on the development process. This study aims to analyze the arrangement of investment regulations in Indonesia through the Omnibus Law, and to understand the role of economic law on national economic growth. The results show that the Omnibus Law, however, provides legal certainty from a regulatory perspective, but does not necessarily provide legal certainty from a law enforcement perspective. Therefore, it is necessary to examine that indeed if the omnibus law product can be comprehensive and cover all permits, it will greatly help change the investment climate in Indonesia. However, an equally important key is that these regulations are understood by the regions and implemented consistently. Investment has a broader impact than just the rules or regulations that govern it. Investment has a significant influence on various aspects of life, especially in the economic context. Investment plays a crucial role in economic growth and development, especially for developing countries. Foreign investment, in particular, has a significant impact on economic growth, while domestic investment may have a more limited impact.

Keywords: Economy, investment, law, welfare, growth

Introduction

Rapid economic development and technological and industrial advancements have resulted in a diverse range of goods and/or services, ultimately confronting consumers with a wide variety of choices. Every country strives to improve the development, welfare, and prosperity of its people. These efforts vary from country to country. In Indonesia, efforts to improve the welfare and prosperity of the people are outlined in the preamble to the Constitution of the Republic of Indonesia, which states: "By the grace of Almighty God and driven by the noble desire to live a free national life, the people of Indonesia hereby declare their independence. Further, to establish a government of the State of Indonesia that will protect the entire Indonesian nation and its entire homeland, and to advance the general welfare, educate the nation, and contribute to the establishment of a world order based on freedom, eternal peace, and social justice."

The purpose of the establishment of the State of Indonesia embodies the noble ideal of creating a just and prosperous society. The ideal of a just and prosperous society in Indonesian national life has been a fundamental issue throughout history. In this regard, justice and prosperity are inseparable from each other in the philosophy of society and constitute its life goals. Every investment will make a significant contribution to a country's economic growth, as it will drive the development of overall economic activity. In this regard, investment must be part of the national economic system and positioned as an effort to increase sustainable economic development, improve national technological capacity and capabilities, encourage the development of a people's economy, and realize the welfare of the community in a competitive economic system. The government has created a legal umbrella for regulations in

the investment sector, including Law No. 1 of 1967 in conjunction with Law No. 11 of 1970 concerning Foreign Investment, Law No. 6 of 1968 in conjunction with Law No. 12 of 1970 concerning Domestic Investment, which was later amended by Law No. 25 of 2007 concerning Investment.

When investing, investors will conduct a feasibility study on the prospects of the proposed business, including examining the legal provisions related to the investment. This will be problematic for investors if losses are not due to mismanagement of the company, but rather to the lack of legal protection for both the invested capital and the goods produced.

Investors require legal certainty in conducting their business. This means they need a standard to guide their investment activities. This standard is called a regulation, established by an authorized party, as legal certainty is a prerequisite for foreign capital to enter a country.

Legal certainty refers to the regulations of the host country that apply to investors, providing legal protection for the invested capital, the investor, and the investor's business activities. Legal certainty is manifested in regulations issued by the central government that apply generally throughout Indonesia. Local regulations, established by local authorities, may also apply only within their respective regions. If investors want to invest in Indonesia, one thing that must be prepared is the existence of clear legal instruments, meaning that one provision does not conflict with another. Therefore, the law in Indonesia should be able to create legal certainty so that it can play a role in economic development. Currently, the government continues to strive to encourage the entry of foreign investors into the country, this can be seen from the

government's intensive actions, including the Omnibus Law regulations and policies. The Omnibus Law became known in Indonesia after the President of the Republic of Indonesia delivered it in his state address at his inauguration as President before the People's Consultative Assembly (MPR) session on October 20, 2019. The Omnibus Law has become a focus of the president with the aim of resolving the problem of overlapping regulations and bureaucracy. It is hoped that the omnibus law will provide good services to the public and attract foreign investors to invest in Indonesia. However, policymakers must not only create regulations that can provide legal certainty for foreign investors and these regulations but also must organize mental reform of bureaucrats. Indonesia is a country in the developing stage of development, so it has great potential to attract investment, both from domestic investors and international investors who want to allocate their funds in Indonesia^[1]. Therefore, changes in legal regulations related to investment are needed to address the impact of economic growth, which is one component that can change the legal framework within the economic context. By monitoring the annual growth rate, we can assess the country's performance and success in regulating economic activity in the short term, as well as efforts to improve economic progress in the long term. In the context of comparison with other countries, we can measure Indonesia's success in managing and advancing its economy by referring to evidence of achievements in regulating and developing the economic sector compared to those achieved by other countries. In the context of economic development, we hope that this development will stimulate economic growth by increasing national income per capita and community income. Through this economic development process, we hope to see an increase in the production of goods and services within the community's economic activities. The resulting economic growth is expected to be the key to success in managing the economy, especially within the context of development. According to the Harrod-Domar theory, investment activity is a crucial requirement for achieving strong and sustainable economic growth in the long term.

This investment can take the form of capital investment, whether originating domestically or internationally. According to Law No. 25 of 2007 concerning Investment, the primary objective of investment, whether domestic or international, is to increase national economic growth, with a focus on sustainably improving public welfare, often referred to as economic development. This investment activity, whether domestic or international, serves as a benchmark or parameter for potential revenue generation, particularly for developing regions and capable of significantly impacting their development processes^[2].

Based on the background described above, the objectives of this study are: (1) to analyze the arrangement of investment regulations in Indonesia through the Omnibus Law, and (2) to understand the role of economic law in national economic growth.

Method

This paper uses a normative research method through a literature study and uses a legal approach to the regulations in force in Indonesia (statutory approach), through a review of the laws and regulations related to the issues being discussed.

Result and discussion

1. Arranging Investment Regulations in Indonesia through the Omnibus Law

Conceptually, the Omnibus Law is a well-established legal product that has been implemented in several countries worldwide, including the United States, Ireland, Singapore, and Canada. Therefore, its material implementation is no longer a problem because the references are sufficient for its application. For example, the implementation of the omnibus law in Ireland successfully eliminated 3,225 laws and reduced them to just one law^[3].

If we examine its etymology, or origin, the word "omnibus" comes from the Latin "omnis," meaning "many." In the United States, this omnibus law is better known as the "omnibus bill." According to Henry Campbell Black in Black's Law Dictionary, an omnibus bill is "In legislative practice, a bill including in one act various separate and distinct matters, and particularly one joining a number of different subjects in one measure in such a way as to compel the executive authority to accept provisions which it does not approve or otherwise defeat the whole enactment." The omnibus law represents a breakthrough in efforts to simplify existing regulations in Indonesia^[4]. The omnibus law seeks to reduce the diversity of laws into a single law. Asshidiqie explained that the omnibus law can be used in three situations: when the laws to be amended are directly related, when the laws to be amended are not directly related, and when the laws to be created are not related but overlap in practice^[5].

The substance of the omnibus law will ultimately cross-sectoral legal sectors. This is clearly in contrast to the formation of laws in a civil law system, where the substance is strictly and rigidly limited to the title of the law. The omnibus law is a comprehensive format for creating laws that also regulates the material of other laws that are interrelated with the substance regulated by the law being amended or created.

With this format for creating an omnibus law, the creation of a single law is carried out by simultaneously considering all directly and indirectly related provisions regulated in various other laws. This was also emphasized by Mirza Satria Buana, as quoted by Sulasi Rongiyati, that an omnibus law can be considered a "broom law" that can be used to replace several legal norms within several laws. In the civil law system, the concept of an omnibus law is unheard of because the civil law system prioritizes the codification of regulations to address overlapping and partial regulations^[6].

According to the Big Indonesian Dictionary (KBBI), codification means (1) the collection of various regulations into a law; the process of compiling a statute book; (2) the classification of laws and regulations based on certain principles in a standard statute book; (3) the recording of norms resulting from standardization in the form of a grammar book, such as pronunciation guidelines, spelling guidelines, terminology guidelines, or a dictionary; (4) the assignment of numbers or symbols to postal estimates, journals, invoices, or other documents that serve as a means of distinguishing one item from another within the same category. Indonesia could adopt an omnibus law to create legal instruments for investment that could boost investment interest in the country. This is because the issues regulated by investment law are highly complex. They are not simply about attracting investors and investing their capital, but are

closely related to various aspects such as employment, infrastructure, fiscal and non-fiscal incentives, and so on^[7]. The complexity of this issue is what the Investment Law has not yet addressed. Regulations have only recently been considered and issued in the form of a Government Regulation (PP), Presidential Regulation (Perpres), or Ministerial Regulation (Permen). Furthermore, the author believes this is an urgent matter that requires a swift but precise process. The Omnibus Law could be the answer because its process prioritizes time efficiency in deliberating laws. Moreover, in Indonesia, members of the House of Representatives (DPR) are often busy with political campaigns in the regions. This certainly further limits the time available to work optimally on deliberating the Omnibus Law, which President Jokowi explained has a broad scope and requires a more in-depth study and trial process. Furthermore, the Omnibus Law will repeal approximately 72-74 articles deemed problematic in the employment and taxation sectors^[8].

Therefore, the central government, both the President and the DPR, need to take appropriate steps before implementing the Omnibus Law as a legal umbrella. The first step is to submit a judicial review to the Supreme Court and the Constitutional Court regarding Law No. 12 of 2011 concerning the formation of legislation. If this law is not amended immediately, the creation and implementation of the Omnibus Law will be difficult, as it will inevitably deviate from established legal principles. However, it appears the government has already taken this step, as stated^[9].

A team of accredited legal experts is also needed to explain the concept of implementing the Omnibus Law to both local governments and the public to avoid misunderstandings. The expert team will also ease the burden on the task force established by President Jokowi in developing materials and strategies for implementing the Omnibus Law. This will make the drafting of the Omnibus Law more efficient, given the involvement of many stakeholders, including policymakers, academics, government officials, and legal practitioners^[10].

According to Andre Rahadian, the expert team's task is to consolidate the public's definition of the Omnibus Law as a legal product aimed at harmonizing the law so that its benefits are more fully felt by the public. The government must be able to convince the public that the Omnibus Law was created to create legal harmony so that the public's interests can be accommodated above those of the government or other parties who intentionally do not side with the public^[11].

Therefore, the principle of the benefits of this legal product must be clear and conveyed to the public. For example, people who own businesses can obtain permits more easily and without being constrained by complicated regulations. The Omnibus Law could also allow people to have businesses that are jointly owned, resulting in profit sharing. The regulation of investment regulations, starting from its enactment through the omnibus law, will be prepared in 2020. However, it can provide legal certainty from a regulatory perspective, but not necessarily from a law enforcement perspective. Investment growth is not only determined by regulatory arrangements, but is also influenced by a conducive climate for investment, including security, ease of doing business, incentives, and a country's economic conditions^[12].

2. The Role of Economic Law in National Economic Growth

National development is one of the goals of economic activity within a country. The goal of national development is to create a just and prosperous society and to provide a benchmark that can be used as a reference in assessing whether economic activities in a country comply with legal norms and principles, thereby creating legal certainty, order, and truth^[13].

National economic development requires the creation of regulations that will create legal certainty in the implementation of the economy within a country. The presence of legal regulations in the economy can provide impetus, competitiveness, and resilience in national economic development. National economic development requires the contribution of many parties, particularly from the government and the public, which are largely derived from taxes and investment.

Investment activity is a key factor that plays a significant role, particularly as a component influencing economic growth. Economic growth, based on investment, is closely linked to a country's income. A country that achieves high income from investment is required to provide facilities for investment. The presence of investment can influence the size of a country's production, which in turn increases its capital stock. In the context of economic development based on democratic principles, this is a manifestation of an economy based on the principle of popular sovereignty, as stipulated in Article 33 of the 1945 Constitution, which serves as the philosophical basis and guideline for the formation of Law No. 25 of 2007 concerning Investment. Investment is a crucial element in a country's economic growth, as a country seeking to grow requires sufficient capital resources. With per capita income growth still relatively low, Indonesia has succeeded in accumulating capital rapidly, enabling the country to catch up economically and increase its income. However, to meet the needs of investment activities, a number of supporting factors must also be addressed, such as expanding coordination between central and regional government institutions, efficient bureaucratic implementation, guaranteeing legal certainty, particularly in the context of investment, high economic cost competitiveness, and conducive conditions in the fields of employment and protection and security. Investment plays a very important role in driving a country's economic growth, as it forms capital that can increase production capacity, support increased national income, and create new jobs, which in turn increase employment opportunities. Investment activities can also be viewed as expenditures on industrial capital, including the purchase of equipment and supplies to increase the capacity to produce goods and services, which are integral to the economic ecosystem^[14].

Terms or definitions related to investment law are translations of the English term "Investment of Law." In legislation, there is no official definition of investment itself. To understand how investment law is interpreted, we need to explore the sources of the concept of investment from various expert perspectives and legal literature. Investment law refers to a set of legal norms or regulations that govern the possibility of making investments, their conditions, and provide protection, primarily with a focus on improving public welfare. In general, the term "investment" or "capital investment" is commonly used to

describe various activities regulated by law. Although these terms are widely used in the business world, in the context of law, "investment" or "capital investment" are often used. However, both essentially refer to the same concept. Investment regulations cover the legal relationship between investors and recipients of capital. Investors can be divided into two categories: foreign investors (those who invest from abroad) and domestic investors (those who invest from within the country). Various sectors, particularly in the business world, are types of activities that allow for investment. The procedures and requirements that investors must comply with in carrying out their investments are also regulated by law. In many cases, the host country for investment is a developing country. Law No. 25 of 2007 concerning Investment does not differentiate between domestic and foreign investors. Therefore, this law covers regulations regarding investment activities by both domestic and foreign investors, without any specific law separating the two, as was the case in previous laws, namely the Foreign Investment Law and the Domestic Investment Law [15].

In practice, the continued inflow of investment into a country, both domestic and international, has a positive impact on economic growth and development, particularly in terms of development. This demonstrates the crucial importance of investment for developing countries. Regulations regarding investment are stipulated in Law No. 25 of 2007, which explicitly regulates individuals who wish to invest their money or capital in companies or countries with the hope of achieving substantial returns. This investment law has a significant impact on both investors who provide capital and those who receive it. From another perspective, this investment provides benefits to many parties, both those who provide capital and those who receive it, provided the investment is implemented successfully. This investment law also impacts the economy as a whole. One characteristic of successful investment is equitable infrastructure development, which contributes to rapid economic growth and development, even reaching the national level. Therefore, investment has a significant impact on economic growth and development. Given Indonesia's current developmental situation, there are several reasons why investment is crucial

1. Developing areas experiencing development delays. Foreign investment or capital is expected to provide the necessary funding to accelerate infrastructure development.
2. Providing employment opportunities. Currently, employment opportunities are crucial for earning the income needed for daily life. Therefore, foreign investment is expected to create as many jobs as possible to accelerate economic growth.

Some views emphasize the benefits of foreign capital for national economic growth, including

1. Foreign investment can establish new companies or expand market share.
2. Foreign capital can increase competitiveness in the export industry sector.
3. Foreign investment contributes to increased tax revenues and regional or national income and maintains currency stability by reducing the need for imports.
4. Many developing countries, including Indonesia, rely on foreign capital to meet development financing needs.

Therefore, investment should not only be understood from a legal perspective but also from an economic perspective. Foreign investment has a significant impact, especially for developing countries like Indonesia, where foreign capital is crucial due to limited local resources that are often insufficient. Therefore, the influence of investment on economic growth and development is crucial.

Conclusion

The Omnibus Law, however, provides legal certainty from a regulatory perspective, but it does not necessarily provide legal certainty from a law enforcement perspective. Therefore, it is worth examining whether a comprehensive omnibus law covering all permits would significantly improve Indonesia's investment climate. However, equally important is that these regulations are understood by the regions and implemented consistently.

Investment has a broader impact than just the rules or regulations that govern it. Investment has a significant influence on various aspects of life, particularly in the economic context. Investment plays a crucial role in economic growth and development, particularly for developing countries. Foreign investment, in particular, has a significant impact on economic growth, while domestic investment may have a more limited impact.

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