LEGAL PROTECTION FOR FOREIGN INVESTMENT IN THE DISRUPTIVE ERA IN INDONESIA

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ABSTRACT

Objective: In this section, the primary goal and purpose of the discussion will be outlined. The objective is to examine the challenges and opportunities presented by the era of disruption, specifically in the context of foreign investment in Indonesia.

Methods: This section will detail the approaches and strategies used to address the challenges identified in the objective. It will cover government policies, legal frameworks, and collaborative efforts between different entities to create a conducive environment for foreign investors.

Results: Under this heading, the outcomes of the implemented methods will be presented. This may include the impact of government policies, improvements in investment security, and any notable changes in the investment landscape in Indonesia.

Conclusion: The conclusion will summarize the key findings and insights derived from the examination of the era of disruption and its implications for foreign investment in Indonesia. It will also highlight the importance of ongoing cooperation between the government, regional authorities, and local communities for sustaining a secure investment environment.

Keywords: legal protection, foreign investment, disruptive era.

PROTEÇÃO LEGAL PARA INVESTIMENTO ESTRANGEIRO NA ERA DISRUPTIVA NA INDONÉSIA

RESUMO

Objetivo: Nesta seção, serão descritos o objetivo principal e a finalidade da discussão. O objetivo é examinar os desafios e oportunidades apresentados pela era da perturbação, especificamente no contexto do investimento estrangeiro na Indonésia.

Métodos: esta seção detalhará as abordagens e estratégias usadas para enfrentar os desafios identificados no objetivo. Abrangerá as políticas governamentais, os quadros jurídicos e os esforços de colaboração entre diferentes entidades para criar um ambiente propício para os investidores estrangeiros.

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Resultados: Nesta rubrica serão apresentados os resultados dos métodos implementados. Isso pode incluir o impacto das políticas governamentais, melhorias na segurança do investimento e quaisquer mudanças notáveis no cenário de investimento na Indonésia.

Conclusão: A conclusão resumirá as principais conclusões e percepções resultantes da análise da era da perturbação e das suas implicações para o investimento estrangeiro na Indonésia. Destacará igualmente a importância da cooperação contínua entre o governo, as autoridades regionais e as comunidades locais para manter um ambiente de investimento seguro.

Palavras-chave: proteção legal, investimento estrangeiro, era disruptiva.

1 INTRODUCTION

Foreign investment is a leading sector and provides many benefits for the welfare of society. Investment in the tourism sector, especially in the hospitality sector, is open to foreign investors, both full and joint venture. The presence of foreign investment is not expected to advance industry towards modernization but can also increase state foreign exchange, local government income, economic growth, improvements in employment, knowledge and technology.

The large benefits of foreign investment also have negative impacts which can become a threat if not regulated and implemented properly, especially in this digital era. The digital era makes technology develop and develop more quickly so that business activities can adapt naturally. The provision of new digital platforms also disrupted traditional markets in Indonesia overnight. Digital technology and globalization mean that foreign investors cannot predict customer needs and market expectations. The problems of the era of disruption have made foreign investors more careful about investing in Indonesia. Foreign investors need safe investments to avoid capital loss and bankruptcy.

Safe investment requires legal protection from the government to carry out better business plans. Government policies that support investors for investment security will be a big attraction for investing in Indonesia. To attract investors who want to invest their capital, it is necessary to build a conducive environment, employment opportunities and permits that can be mutually beneficial. In protecting foreign capital, the Government of the Republic of Indonesia has stipulated in Article 5 paragraph (2) of Law Number 25 of 2007 concerning Investment which clearly regulates the legal form of foreign investment companies. Foreign investment must be in the form of a limited liability company. Foreign investment in Indonesia can be carried out by foreign parties/individuals or legal entities into a company that is 100 percent operated by a foreign party or by combining
foreign capital with domestic capital. Apart from that, the Government of the Republic of Indonesia has also regulated the closure and openness of business entities for investment as regulated in Presidential Regulation Number 44 of 2016 (Perpres No. 44 of 2016) which explains the list of business fields that are open or closed to foreign investment.

Even though the provisions regarding foreign investment have been clearly regulated, many problems are still found. These problems are of course very detrimental to the government, society and investors. Foreign investment in Indonesia still has great potential to be developed, especially in this digital era.

Indonesia's foreign investment protection rating is still the lowest in all subcomponents among peer countries. In addition, Indonesia has a low level of openness to trade in certain types of services. According to the Service Trade Restrictions Index (STRI) from the OECD, Indonesia scored below the average of several peer countries (Brazil, Chile, China, India, Mexico, Russian Federation, South Africa, Turkey) in 16 of the 18 service sectors covered by STRI. Many government regulations have been made to protect foreign investors, but investors are still afraid of investing their capital in Indonesia. This shows that the high level of attention from the government of the Republic of Indonesia in protecting foreign investment is still not enough. The Indonesian government needs a new grand strategy so that legal protection in Indonesia becomes better.

2 RESEARCH METHOD

Legal research is an effort to seek the development of legal science. Cohen and Kent C. Olson emphasize that legal research is the process of discovering law, explaining and analyzing law (Cohen and Osln, 2000: 1). Soerjono Soekanto (1986:51) explains that there are two (2) types of research methods, namely normative legal research and sociological research or empirical research.

In this research (Legal Protection Against Foreign Investment in Indonesia's Disruptive Era) normative legal research or doctrinal research was used. Most doctrinal research is carried out in libraries or documentary studies. This research is mostly carried out on legal materials in libraries (Waluyo, 1991: 31). This type of normative research in this context is used to answer problems related to legal protection for foreign investment in Indonesia's era of disruption.
Sources of legal materials used in this research include primary legal materials and secondary legal materials. The primary legal materials are the 1945 Constitution, Law Number 25 of 2007 concerning Investment which has clearly regulated the legal form of foreign investment companies. Secondary legal materials include related books and legal journals related to legal protection in Indonesia.

The processing and analysis technique for legal materials is carried out by processing and analyzing the collected primary legal materials and secondary legal materials which are then categorized and qualified based on the researcher's problem and arranged systematically according to the template that has been prepared. At the analysis stage, legal materials that have been categorized and meet the requirements are interpreted using legal hermeneutics (Irianto, 2009:181). In principle, legal hermeneutics is a method of interpreting legal texts in relation to their context. Legal hermeneutics is used to reveal the meaning and ideas implicit in legal texts or norm texts. The results of the overall analysis are then presented descriptively, namely by completely describing all the problems related to the problem under study accompanied by providing a critical review.

3 FINDINGS AND DISCUSSION
3.1 LEGAL PROTECTION COOPERATION.

The concept of legal protection is explained by several experts such as: first, Satjipto Raharjo explains the concept of legal protection as an action to provide guidance to the law and those who have been harmed and whose rights have been violated and the protection given to the community so that they can enjoy their rights given by law. law (Rahardjo, 1983:121).

Philipus M. Hadjon (1987: 38) also believes that legal protection is the protection of dignity and recognition of human rights. Hadjon further added that legal protection is a collection of regulations or rules that can protect other things. Therefore, it can be concluded that legal protection is not limited to what is contained in the law but has a very broad scope. Legal protection also contains information about how a subject obtains protection in society as well as written or written rules.

Law Number 25 of 2007 concerning Capital Investment in Article 30 mandates that Regional Governments be more empowered both in developing potential in each region and in terms of coordinating promotions regarding tourism services and investment. Law Number 10 of 2009 concerning Tourism in Article 23 paragraph (1a)
states: "The Government and Regional Governments are obliged to provide tourism information, legal protection as well as security and safety to tourists".

Protection of foreign investment requires a strong role from provincial and district governments. Apart from that, the role of village communities is also very important in ensuring the security of foreign investment in Indonesia. The uniqueness of the diverse cultures of each region in Indonesia apart from being an attraction for investors also has a negative impact, namely the uncertainty in the application of legal protection to foreign investment.

Cooperation between the central government, regional governments and village communities is the key to protecting foreign investment in Indonesia and reducing negative impacts, especially in this digital era. Society must be prepared to face global competition. If society is still not ready, not only will foreign investors suffer losses but also local communities will have difficulty facing global society's competition.

Community life in the investment sector has many roles in supporting existing foreign investment. The role of local communities influences investment in the region directly and indirectly. Foreign investors must support development in local communities. The development of an area with the presence of investors is also inseparable from the support of local communities who contribute to progress and increase the welfare of local communities.

In this era of disruption, foreign investors' fears have changed drastically. Economic and political areas that can cause crises. The economic crisis conditions are very detrimental to investment, especially foreign investment. Local governments must prepare communities to face the global economic crisis. Apart from that, the government is providing guidance to the community so that they are not easily provoked by domestic political shocks.

3.2 INCREASING FOREIGN INVESTMENT SECURITY

Cooperation between the central government, regional government and local communities in increasing the security of foreign investment must refer to indicators that can increase the security of foreign investment in Indonesia. Based on the investment security index, it is explained that there are 5 important factors that influence the security of foreign and domestic investment, namely: ²

² Index Keamanan Investasi Indonesia 2016. IKII, hal 16.
a. Law enforcement

Law enforcement is an effort to realize ideal ideas related to the implementation of justice, legal certainty and social benefits. Therefore, law enforcement is essentially an effort to ensure that legal norms become guidelines in social and state life.³

There are several important points to make law enforcement better, such as:
1) Guaranteed access to the use of resources by investors.
2) Implementation of asset protection mechanisms.
3) Strict sanctions for property rights violators.
4) Security of vital objects in industrial areas by state apparatus.
5) Implementation of copyright protection.
6) Confirmation of obligations and sanctions for intellectual rights violators.
7) Prevention of monopolistic practices.
8) Effectiveness of monopoly sanctions

b. Political stability

In the world of investment, one of the basic requirements for supporting elements of economic development is political stability. Political stability is closely related to citizen participation and state institutional activities. These two elements can determine whether the country's political situation is stable or not. Apart from that, according to Plano, political stability is the condition of a political system whose components and elements do not change from the agreed boundaries. (Plano, 1989).

There are several important points to make political stability better, such as:
1) Continuity of investment plans before and after the change of government at the central level;
2) Continuity of building investment plans before and after the change of government at the regional level.
3) Reducing and anticipating national political elite conflicts that affect the investment climate.
4) Reducing and anticipating conflicts between regional political elites fighting over the APBD.
5) The effectiveness of government policies in encouraging increased investment.
6) The role of the government in controlling the implementation of capital investment.

7) Cooperation between the central government and regional governments in managing investment opportunities.
8) Supervision by the central government in drafting regulations or revoking regulations that hinder it.
9) Accelerating investment in the regions.

c. Social Stability

Indonesia as a developing country still faces many problems or social dynamics such as crime, thuggery, terrorism, disturbing media reports and demonstrations. This problem can still be found easily, even on a small scale, but it has spread to all regions in Indonesia. These actions can be directed vertically at the government or companies or horizontally at fellow community groups themselves.

There are several important things to increase social stability, such as:
1) Reduce damage to infrastructure by individuals and groups in industrial areas.
2) Reducing asset theft by individuals and groups in industrial areas.
3) Reducing logging carried out by individuals or groups in industrial areas.
4) Reducing murders committed by individuals or groups in industrial areas.
5) Reducing acts of terrorism against the state.
6) Reducing religious and ethnic conflicts that threaten public order.
7) Controlling media reports that cause economic turmoil.
8) Reducing the withdrawal of property rights for the public interest.
9) Anticipate community rejection of the factory establishment.
10) Anticipate demonstrations that hamper the production process and threaten government stability.
11) Stop threats and violence carried out by companies and officials against the community.

d. Institutional Accountability

Bureaucracy plays an important role in maintaining investor comfort regarding investment security conditions. Because if investors do not get a satisfactory guarantee of security, it can make them rethink their investment by immediately looking for another, safer area to move their investment.

There are several important things to increase social stability, such as:
1) Eradicating corrupt practices carried out by the bureaucracy at the central and regional government levels.
2) Stop illegal levies carried out by government officials.
3) Financial transparency.
4) Provide a check and balance mechanism

e. Disaster mitigation

Disasters are aspects that occur due to natural factors and the accumulation of human actions. Because disasters come unexpectedly, it is necessary to receive attention from a comprehensive research study so that every investor does not experience losses if a disaster occurs.

There are several important points to provide disaster mitigation, such as:
1) Anticipate the vulnerability of changes in the earth's surface (earthquakes)
2) Anticipate soil structure against landslides.
3) Preparing flood mitigation infrastructure
4) Complete map of disaster-prone areas.

Resolving the challenges of these 5 indicators requires cooperation from various elements which must receive government attention, especially when Indonesia enters the digital era. In this era of disruption, increasing cultural interaction through the development of mass media (especially television, film, music, news transmission and international sports. Today, we can consume and experience new ideas and experiences about things that are cross-cultural, for example in the fields of fashion, literature and food, large-scale fashion developments such as clothing, film, tourism and tourism, immigration from one country to another, global scale events, such as the Olympics, and so on.

The spread of the principles of multiculturalism, and ease of access for individuals to other cultures outside their own. Increased common problems, for example in the environmental sector, multinational crises, regional inflation and others. This era of disruptive phenomena can be faced with good preparation and perfect cooperation from the government and society.
4 CONCLUSION

Cooperation between the central government, regional government and local communities in increasing the security of foreign investment must refer to indicators that can increase the security of foreign investment in Indonesia. There are 5 important factors that influence the security of foreign and domestic investment, namely law enforcement, political stability, social stability, institutional accountability and disaster mitigation. The spread of the principle of multiculturalism, and easy access for individuals to other cultures outside their own. Increased common problems, for example in the environmental sector, multinational crises, regional inflation and others. This era of disruptive phenomena can be faced with good preparation and perfect cooperation from the government and society.
REFERENCES


