Political Reform of National Economic Law (Analysis of the Impact of Globalisation on National Investment Law)

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Abstract

The objective of this study is to investigate the relationship between investment law and state sovereignty, and subsequently formulate a framework for future national investment law policies aimed at promoting economic growth and safeguarding sovereignty. The present study is characterized as normative in its methodology, employing both a statutory and conceptual approach. The findings indicate that investment plays a significant role in enhancing both the economy and employment expansion. Governments globally are engaged in a competitive effort to establish an improved business climate that facilitates investment activities. However, it is imperative to restrict this endeavor and prioritize domestic capital, as evidenced by the 1966 MPRS Decree. This directive provides guidance to Indonesian policymakers that foreign investment or aid should not be disregarded for its role in developing the struggling Indonesian economy. Nevertheless, it is crucial to first rely on the potential of domestic resources as a means of generating development funds. This approach ensures that the availability of foreign funding sources does not lead to dependence on external parties. Furthermore, foreign sources of funds must be utilized for the benefit of the domestic economy. Foreign investment in Indonesia must also be subjected to limitations in this context.

1. Introduction.

This paper diverges from the perspectives articulated by Hikmahanto Juwana during his Professor Inaugural Address in 2001 at the Faculty of Law,

University of Indonesia. In the realm of economic law discourse, it is commonly observed that international law is inclined to be influenced by the priorities of developed nations. International economic agreements tend to incorporate a greater number of principles that have been adopted by developed nations. International agreements negotiated between developed and developing countries provide significant protection to business actors in developed nations.[1]

Many countries categorized as "developing" contend that international law is a creation of Western nations that have since attained developed status. The premise of this argument is that international law had its origins as a legal system that governed the interactions between nations within the confines of Continental Europe.[2] Hence, it is unsurprising that international law is predominantly focused on the occurrences in Europe (Euro-centric).[3] It is they who determine the shape and course of international law".

Antonio Cassase, an expert in international law, posits in his publication titled 'International Law in a Divided World' that there exists a disparity in the approach of Western nations and developing countries towards international law. Western nations exhibit a strong reverence for international law, rooted in their legal customs, and enforce it as a mandatory principle in their inter-state dealings.[4] Nonetheless, Cassese cautions against placing excessive emphasis on Western perspectives regarding international law, as he states that":[5] "*… law was moulded by Western countries in such a way as to suit their interests; it was therefore only natural for them to preach lawabidance and to attempt to live up to legal imperatives which had been forges precisely to reflect and protect their interests*".

[1] lihat dalam pidato pengukuhan guru besar, "hikmahanto juwana. 2001. *hukum internasional hukum internasional dalam konflik kepentingan ekonomi negara berkembang dan negara maju*, jakarta: universitas indonesia. hlm 2"

[2] "istilah yang juga sering digunakan, antara lain, adalah utara (*north*) dan selatan (*south*), negara ketiga (*third world*) dan negara pertama (*first world*)"., lihat dalam stephen gill dan david law, *the global political economy: perspectives, problems, and policies*, (baltimore: the john hopkins university press, 1988), hlm. 280.

[3] "sebagai contoh dalam *textbook* standar hukum internasional ketika membicarakan tentang topik wilayah negara selalu disebutkan cara-cara mendapatkan wilayah berupa pendudukan (*occupation*), penaklukan (*conquest*), aneksasi (*annexation*), akresi (*accretion*), daluwarsa (*prescription*) dan sesi (*cession*). cara perolehan wilayah ini hanya berlaku pada masa kerajaan di eropa dan tidak begitu relevan dalam membicarakan perolehan wilayah oleh negara berkembang". lihat: "jg starke, *introduction to international law*, 11th ed. (dipersiapkan oleh ia shearer), (london: butterworth & co. ltd., 1994), 144-154";

[4] "antonio cassese, *international law in a divided world*, (oxford: oxford university press, 1986), hlm. 106-107"

[5] *ibid*. hlm. 108

Cassese argues that the legal system has been designed by Western nations to align with their interests, leading to a tendency to advocate for legal conformity and pursue legal obligations that are tailored to safeguard and promote their interests. This is the essence of his statement when translated. In contrast, Cassese discloses that in the case of Developing Countries:[6] "*… international law is relevant to the extent that it protects them from undue interference by powerful States and is instrumental in bringing about social change, with more equitable conditions stimulating economic development.*" Cassese asserts that international law plays a crucial role in safeguarding weaker states from unwarranted intervention by dominant states, and serves as a means to effect social transformation by establishing fairer conditions that foster economic progress.

Cassese's observation is highly relevant when examining the presence of international law in the context of economic conflicts between developed and developing nations. Developed nations aim to safeguard their economic interests by advocating for the preservation of international law without any alterations. They have a tendency to uphold the status quo of established norms within the realm of international law. (status quo). Developing countries exhibit a reformist stance, necessitating fundamental alterations in international law to accurately reflect the values embraced by the majority of the global populace.

Drawing from the aforementioned perspectives, it can be posited that international law is perceived as a political tool utilized by developed nations to exert influence over developing nations.[7] International treaties carry an inherent obligation for the state party to incorporate the provisions outlined in the treaty into its domestic legislation. Consequently, it is imperative that the domestic legislation of a nation aligns with and does not oppose the international agreements that it has ratified.

In the context of international law, developed countries employ it against developing countries for two purposes. One strategy is to engage with the domestic policies of developing nations. Secondly, there is a tendency to exert pressure on developing nations to align their actions with the policies of developed nations. Developed nations frequently employ international agreements as a means of intervening in the internal affairs of developing

[6] *ibid*. hlm. 119

[7] hikmahanto juwana, "hukum internasional sebagai instrumen politik: beberapa pengalaman indonesia sebagai studi kasus. *arena hukum* volume 6, nomor 2, agustus 2012. hlm. 108-109"

nations. The national interests of the concerned parties are inextricably linked to the intervention. Many developed nations, predominantly those in the Western hemisphere, tend to cloak their interests within the framework of international law.

The transfer of resources from developed nations to developing nations, as described above, constitutes an intervention that does not contravene international legal norms. The reason for this is that when a state becomes a party to an international agreement, it voluntarily assumes the responsibility to fulfill the obligations stipulated in the said agreement. One of the duties entails the conversion of international legal regulations into domestic legislation.[8]

As a result, it can be argued that developed nations possess the ability to exert influence on developing nations in order to mold policies and legislation to their advantage, particularly in cases where a dependency relationship exists. Even if compliance with a demand is carried out due to a sense of powerlessness, it cannot be deemed a breach of international law. Indonesia's response to the International Monetary Fund's (IMF) request for the amendment of the Bankruptcy Law and the establishment of an Anti-Monopoly Law was limited. The Asian Development Bank (ADB) has expressed its willingness to offer grants to Indonesia on the condition that the country implements a Money Laundering Law.[9]

The advent of globalization brought with it the matter of neoliberalism, which indisputably made its way into Indonesia. Following the collapse of the New Order regime, the prominence of neoliberalism increased in Indonesia, coinciding with the arrival of global financial institutions, including the International Monetary Fund and the World Bank. This statement aligns with the perspective expressed by Lampros Vassiliou. According to Vassiliou, the provision of aid by the IMF to Indonesia in the aftermath of the 1997 Asian financial crisis was contingent upon Indonesia's commitment to legal reform. The involvement of multilateral institutions, such as the International Monetary Fund (IMF), in the process of reforming bankruptcy laws has encountered certain challenges. Entities such as the International Monetary Fund (IMF) have

[8] "janedjri m gaffar, sikap kritis negara berkembang terhadap hukum internasional, *jurnal konstitusi*, volume 10, nomor 2, juni 2013. hlm. 446"
[9] *ibid.*

acknowledged their significant capacity to shape attitudes and conduct in accordance with their objectives.[10]

According to Kukuh Fadli Prasetyo, the matter of Neoliberalism and Globalisation in the National Economy can be observed through various indicators, such as the deregulation and implementation of market rules, privatisation, and the removal of the concept of public goods, as well as the reduction of public spending. The author's discussion on Deregulation and Market Rules pertains to Indonesia's limited response to the International Monetary Fund's (IMF) mandate to revise the Bankruptcy Law and establish an Anti-Monopoly Law. The Asian Development Bank (ADB) has expressed its willingness to offer grants to Indonesia, contingent upon the establishment of a Money Laundering Law.

The Investment Law, also known as Law Number 25 of 2007 concerning Investment, is a significant legislation in the field of investment. It incorporates the principle of non-discrimination in Indonesian investment and investment products. The Investment Law was enacted during a period of ongoing debate regarding the necessity of a more stringent regulation of investment implementation in Indonesia, which had been in operation for four decades. (1967-2007). Nevertheless, it is worth noting that there exists resistance towards the extension of the investment legislation, as it is perceived to exert pressure on the country's economy by regulating and appropriating its natural resources. The UUPMA and UUPMDN laws, which governed foreign and domestic investment in Indonesia, respectively, were replaced by the UUPM law due to Indonesia's membership in the World Trade Organization (WTO). The ratification of the WTO Agreement with Law No. 7 of 1994 eliminated discrimination between domestic and foreign capital, rendering the previous laws obsolete.[11]

It is indisputable that legal mechanisms and institutions are imperative for the realization of national economic development objectives as intended. The act of disregarding legal regulations in order to achieve expediency has ultimately resulted in entangling us in a self-created web of complications.[12] Currently, the rice has undergone a transformation into porridge, while the Investment Law in

[10] "lampros vassiolou. *the dynamic between the role of the court and informal workouts*. http://www.oecd.org/dataoecd/7/42/1874132.pdf".

[11] *ibid.*

[12] "sunarya hartono. *polik hukum menuju satu sistem hukum nasional*. bandung: alumni. 1991, hlm. 30".

Indonesia has been revised to align with the WTO Agreement, indicating Indonesia's commitment to compliance.

The regulatory framework governing foreign investment in the banking sector has a considerable impact. For instance, in Indonesia, foreign investors are permitted to hold up to 99% of shares in commercial banks, exemplifying the aforementioned regulation. The regulatory measures pertaining to the financial sector were further reinforced and formalized through the enactment of Law No. 7/1992 on Banking. The regulation known as PP No. 29/1999, which is derived from Law No. 7/1992 on Banking, unambiguously specifies that foreign entities are permitted to possess a maximum of 99% of shares in commercial banks.[13]

The Investment Law, comprising 40 Articles, does not establish any provisions pertaining to the boundaries of foreign investment in Indonesian economic law. This is exemplified by the Gojek Company, which is registered under the name PT. Aplikasi Karya Anak Bangsa, Tbk and is celebrated as a source of national pride due to its association with Nadiem Makarim. However, it is noteworthy that the majority of shares in the company are held by external parties, with Nadiem himself possessing a mere 4.81% stake in the enterprise. The Investment Law, comprising 40 Articles, does not establish any regulations pertaining to the boundaries of foreign investment in Indonesian economic law. A case in point is the Gojek Company, which is registered under the name PT. Aplikasi Karya Anak Bangsa, Tbk and is celebrated as a source of national pride. Notably, the company's majority shares are held by external parties, with Nadiem Makarim, the driving force behind the company, owning only 4.81% of shares in the enterprise.[14] This paper aims to explore the correlation between investment law and Indonesia's sovereignty, as well as the political implications of national investment law for the country's economic development and maintenance of state sovereignty. It departs from the views and arguments presented by the author in the preceding discussion.

2. Research Methods

[13] lihat dalam https://www.neraca.co.id/article/114013/kepemilikan-saham-perbankan, diakses pada tanggal 13 februari 2021.

[14] lihat dalam https://infokomputer.grid.id/read/121892845/berapa-kepemilikan-saham-nadiem-makarim-di-gojek?page=all, diakses pada tanggal 13 februari 2021

This research is a normative legal research with a methodology based on statutes as well as a conceptual approach.[15] The investigation is carried out by investigating all national legal instruments pertaining to investment, most notably foreign investment. These legal instruments are put to the test using data and facts, and the results are analyzed in light of the concept of state sovereignty.[16] The Law Number 25 Year 2007 on Capital Investment and the Law of the Republic of Indonesia Number 10 Year 1998 on the Amendment to the Law Number 7 Year 1992 on Banking are two examples of the laws and regulations that have been enacted

3. Discussion

3.1. The present study aims to examine the correlation between Investment Law and State Sovereignty.

The implementation of GATT/WTO principles within a nation as a result of the economic globalization process is not a value-neutral occurrence. Globalization not only facilitates the elimination of national boundaries through advancements in communication and information technology, but also disseminates the principles and concepts of capitalism and free markets to all nations.[17] The statement posits that globalization is a perpetuation of colonialism and developmentalism.[18] Several centuries ago, European countries expanded their territories into the regions of Asian and African countries. Colonization refers to the act of forcefully occupying a nation's territory through the use of military force. (military). Globalisation refers to the phenomenon of foreign goods, services, or labor penetrating the boundaries of a nation's territory. This perspective aligns with the stance of Antonio Cassase, a specialist in international law, as presented in his publication titled "International Law in a Divided World."

The Indonesian policymakers took into account the divergent perspectives of economists on the presence of Foreign Direct Investment (FDI) in a nation

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[15] Rian Saputra and Silaas Oghenemaro Emovwodo, 'Indonesia as Legal Welfare State : The Policy of Indonesian National Economic Law', *Journal of Human Rights, Culture and Legal System*, 2.1 (2022), 1–13 <https://doi.org/10.53955/jhcls.v2i1.21>.

[16] Rian Saputra, 'Development of Creative Industries as Regional Leaders in National Tourism Efforts Based on Geographical Indications', *Bestuur*, 8.2 (2020), 121–28 <https://doi.org/10.20961/bestuur.43139>.

[17] "r. hendra halwani, *ekonomi internasional & globalisasi ekonomi*, jakarta: ghalia indonesia, 2002", hlm. 225-226.

[18] acep rohendi, *op.cit.* hlm. 400

while formulating the initial foreign investment legislation in 1967, in the context of Indonesia's economic growth. Article 10 of the MPRS Decree No. XXIII/MPRS/1966, which pertains to the Renewal of the Foundation Policy of Economic Finance and Development (TAP MPRS 1966), constituted the fundamental framework for Indonesia's economic progress during that period.

The TAP MPRS of 1966 suggests to Indonesian policymakers that in order to contribute to the development of Indonesia's declining economy, foreign investment or foreign aid should not be minimized. Instead, reliance should be placed on domestic potential as a source of development funds. The potential reliance on external entities due to the presence of foreign funding should be avoided, and instead, such funding should be utilized to enhance the domestic economy for the betterment of the populace. The 1966 TAP MPRS appears to suggest that Indonesia's economic development should be carried out independently, while also emphasizing the importance of maintaining the country's sovereignty in relation to foreign funding inflows. The statement posits that economic development need not come at the cost of a state's sovereignty or the economic interests of its citizens. According to Sunarya Hartono, the 1966 TAP MPRS serves as a reference point for the government's economic policy, particularly with regards to foreign investment.[19]

The TAP MPRS 1966 serves as a legal foundation for the establishment of investment regulations in Indonesia, specifically the Foreign Investment Law. (hereinafter UUPMA). Subsequently, the Domestic Investment Law, also known as UUPMDN, was enacted to govern investments in Indonesia's economic growth that originate from domestic capital.[20] The implementation of UUPMA and UUPMDN was a measure taken by the New Order regime to revive the Indonesian economy, which had experienced a decline during the transition from the Old Order to the New Order. One of the challenges that hinders the achievement of sustainable economic development is the constraint of insufficient investment.[21]

The UUPMA and UUPMDN, along with their respective amendments, have been deemed incompatible with the requirements of rapid economic growth and national legal development, particularly in the realm of investment,

[19] "sunarya hartono, *beberapa masalah transnasional dalam penanaman modal asing di indonesia*, bandung: binacipta, 1972, hlm. 29"
[20] acep rohendi, *op.cit.* hlm 401
[21] *ibid*

and have therefore been replaced.[22] The revised Investment Law pertaining to capital no longer makes a distinction between domestic and foreign capital. This results in the equitable treatment of both domestic and foreign investors. The domestic investors involved in the Indonesian economy comprise of State-Owned Enterprises (SOEs)/Regional-Owned Enterprises (BUMDs), the private sector, and cooperatives. Private enterprise associations may encompass a range of business entities, including but not limited to large corporations, medium-sized enterprises, small businesses, and micro-enterprises.[23]

The liberalization of investment entails affording comprehensive protection to foreign investment owners or multinational corporations, while significantly limiting the regulatory authority of host country governments over the inflow of foreign capital. The liberalization or globalization of international trade and foreign investment has the potential to increase the marketability of Indonesian products on a global scale, provided that a greater proportion of the components used in products, which are currently patented by multinational corporations, can be produced within Indonesia. Conversely, an inquiry emerges as to whether Indonesia possesses the capacity to function as a participant in worldwide commerce, given that the primary contenders are multinational corporations. The presence of multinational corporations investing in Indonesia may lead to a number of issues arising from divergent interests between said corporations and Indonesia's domestic economic growth.[24]

The topic of discussion pertains to multinational companies, also known as Multinational Corporations (MNCs), which possess a global network. The presence of multinational corporations (MNCs) is not a recent phenomenon. During the period when developing nations were still under colonial rule, multinational corporations were already engaged in various operations. The existence of multinational corporations (MNCs) gives rise to a concern among Developing Countries regarding the potential threat to their sovereignty and existence posed by the dominant power of these corporations.[25] Multinational corporations (MNCs) frequently exert pressure on developing nations to enact laws and regulations that are advantageous to their interests. Multinational

[22] "lihat pertimbangan butir e undang-undang nomor 25 tahun 2007 tentang penanaman modal"

[23] "lihat pasal 1 angka (1) angka (4) undang-undang nomor 20 tahun 2008 tentang usaha mikro, kecil, dan menengah"

[24] "an-an chandrawulan, *hukum perusahaan mulnasional, liberalisasi hukum perdagangan internasional dan hukum penanaman modal*, bandung: alumni, 2011, hlm. 15"

[25] *ibid*

corporations (MNCs) employ the strategy of issuing threats to relocate their operations in order to attain their objectives. Multinational corporations have the ability to exert influence over their respective domestic governments and international organizations, in order to prompt them to take measures against governments of Developing Countries that are perceived to be harmful to their interests.[26]

Furthermore, multinational corporations have the ability to advocate for their interests in global forums through government intervention. One aspect pertains to the establishment of global agreements. At least three categories can be identified for international agreements established to safeguard the interests of multinational corporations (MNCs). Initially, international accords that endeavor to safeguard multinational corporations from one-sided measures taken by regional administrations.[27] Conversely, it is imperative for Indonesia to establish regulatory frameworks or provisions that facilitate the investment of multinational corporations within its borders. Conversely, it is imperative that any regulations promulgated do not run counter to the fundamental principles of the Indonesian economy enshrined in Article 33 of the 1945 Constitution and Pancasila.[28]

The alignment of the liberalisation principles of the World Trade Organization (WTO) Agreement with the legislation governing economic development in Indonesia, specifically the Investment Law, is incongruent with the fundamental principles of Pancasila and the 1945 Constitution. The primary objective of Indonesia's economic development is to achieve social justice for all citizens of Indonesia by implementing the principles of Pancasila and the 1945 Constitution. According to Syamsul Hadi's evaluation, the Investment Law comprises several provisions that prioritize foreign interests over those of the Indonesian populace. These include provisions that grant foreign entities the right to own land for extended periods and the freedom to transfer assets to preferred parties.[29] The evaluation made by Syamsul Hadi regarding the Investment Law articles appears to be in opposition to the fundamental goals of Pancasila and the 1945 Constitution, which aim to achieve social justice for the

[26] hikmahanto juwana, 2001. *op.cit.* hlm 19-20

[27] "contoh perjanjian internasional yang masuk dalam katagori ini adalah *convention establishing the multilateral investment guarantee agency, dan agreement on trade related investment measures. ibid.* hlm. 20"

[28] *ibid.*

[29] "syamsul hadi (et.al), *kudeta putih: reformasi dan pelembagaan kepentingan asing dalam ekonomi indonesia*, jakarta: indonesia berdikari, 2012, hlm. 2"

entire population of Indonesia.

Apart from economic and legal interests, there exist two additional interests that are in conflict with each other, namely the interests of multinational investors and those of the Indonesian state, which is currently pursuing economic development. The presence of foreign investment in developing nations yields both advantages and drawbacks. Foreign investment in developing countries offers the advantage of narrowing the "savings-investment gap in the economy" and providing supplementary resources such as technology, management expertise, and entry to export markets.[30] On the other hand, it is worth noting that foreign investment can have adverse impacts on the political, cultural, and economic aspects of a country. These impacts may include interference in domestic affairs, cultural transformation, technological reliance, displacement of domestic capital, industry dominance, marginalization of local products, tax incentives, environmental degradation, and instability in the balance of payments.[31]

3.2. The Urgency of Experts in Handling Cases with Victims with Disabilities

Economic agents, comprising individuals and firms, engage in ongoing and transparent economic pursuits with the aim of generating financial gain.[32] The purpose of incorporating Indonesian law in economic activities is to establish a society that is equitable and prosperous, rooted in the principles of Pancasila, the notion of a family-based economy, and the concept of a populist economy that safeguards the welfare of the populace.[33] Thus, it can be argued that legal frameworks pertaining to the economic domain necessitate consistent reform in alignment with the progress of society. The term "legal reform" refers to the process of creating or amending laws in order to adapt to shifts in societal norms and values.[34] The process of implementing legal reform involves legal development, encompassing aspects such as substance, structure, and legal culture. The advancement of legal systems is contingent upon the presence of well-defined objectives and aims within the realm of legal politics.

In general terms, the concept of the welfare state pertains to an idealized framework of progress that centers on enhancing welfare by endowing the state

[30] "h.s. kehal, *foreign investment in developing countries*, new york: palgrave macmillan, 2004, hlm. 1"
[31] *ibid.*, hlm. 40.
[32] "sri rejeki hartono. *hukum ekonomi indonesia*, (malang: bayumedia publishing, 2007), hlm. 40"
[33] *ibid.*
[34] "adi sulistyo. *reformasi hukum ekonomi indonesia*, (surakarta, lpp uns dan uns press, 2008), hlm. 69"

with a greater degree of responsibility in furnishing all-encompassing and universal social services to its populace. According to Spiker, the concept of the Welfare State embodies an advanced ideal wherein the state provides comprehensive welfare services at the highest possible level. A welfare state is commonly defined as a political entity that ensures equitable allocation of fundamental resources essential for sustaining a satisfactory quality of life for all members of society.[35] The primary aims of the Welfare State encompass the control and utilization of socio-economic resources for the betterment of the public, ensuring equitable distribution of wealth, poverty reduction, provision of social insurance for the underprivileged in terms of education and health, subsidies for fundamental social services for the disadvantaged, and the provision of social protection for all citizens.

The notion of welfare in Indonesia pertains to the notion of social welfare advancement, encompassing a sequence of deliberate and institutionalized endeavors that strive to enhance the level and caliber of human existence.[36] The term "welfare" in the context of national development refers to a range of policies and programs that are implemented by the government, private sector, and civil society to tackle social issues and fulfill the basic needs of individuals through economic advancement.

Regarding this matter, the notion of the Welfare State centers on societal well-being and financial progress, which James Midgly characterizes as incompatible with certain nations. The field of economic development pertains to the expansion of capital accumulation and economic profit, whereas social welfare pertains to the principles of altruism, social rights, and asset redistribution. The process of economic development involves the augmentation of financial resources and enhancement of the overall quality and standard of living.[37] The achievement and enhancement of welfare is contingent upon the implementation of economic development within the framework of the Welfare State. This necessitates the acceleration, refinement, and advancement of economic development through the national economic agenda, in accordance with the constitutional mandate that national economic development must be founded upon democratic principles that facilitate the actualization of Indonesia.

[35] "paul sipcker, *social policy : themes and approaches*. (london:, prentice, 1995), hlm. 82"

[36] "di beberapa negara, konsep welfare state mencakup segenap proses dan aktivitas mensejahterakan warga negara dan menerangkan sistem pelayanan sosial dan skema perlindungan sosial bagi kelompok yang kurang beruntung"

[37] "dhaniswara k. haryono, *hukum penanaman modal* (jakarta: raja grafindo persada, 2007), hlm. 69".

The implementation of democratic principles in economic development is a tangible expression of the people's economy, as outlined in Article 33 of the 1945 Constitution, which serves as the philosophical and normative foundation of the economic system of the people.[38]

The enhancement of economic development holds significant importance in the betterment of societal welfare. Thus, to enhance the welfare of Indonesia, it is imperative to achieve consistent income growth, which primarily stems from augmentations in labor input, capital input, and productivity enhancements within the economy. Enterprises serve as engines of capital accumulation, driving the expansion of factor utilization and productivity improvement. The augmentation of capital stock, which is synonymous with investment, constitutes a crucial means of fostering economic expansion. Investment should be incorporated into the implementation of the national economy as a means of promoting national economic growth, generating employment opportunities, fostering sustainable economic development, enhancing national technological capacity and capabilities, promoting populist economic development, and ultimately, achieving community welfare in a competitive economic landscape.[39]

The significance of investment in stimulating economic growth and employment expansion is an undeniable fact. Governments across the globe are actively engaged in a competitive pursuit to establish an optimal business environment that can effectively facilitate investment endeavors. The advantageous impact of both foreign and domestic investment on economic growth is often underestimated. In this section, the author will provide a critical analysis of the foreign investment sector. The objective is to uphold Indonesia's sovereignty and ensure its status as a sovereign state. The author argues that deviating from the 1966 MPRS Decree provides guidance to Indonesian policymakers that foreign investment or aid should not be disregarded as a means of developing the struggling Indonesian economy. However, it is crucial to prioritize the utilization of domestic resources as a primary source of development funds.

The utilization of foreign sources of funds for economic benefit of the

[38] "ekonomi kerakyatan adalah suatu sistem ekonomi yang berbasis pada kekuatan ekonomi rakyat, di mana ekonomi rakyat itu sendiri merupakan kegiatan ekonomi atau usaha yang dilakukan oleh rakyat kebanyakan (popular) yang dengan secara swadaya mengelola sumber daya ekonomi apa saja yang dapat diusahakan dan dikuasai oleh ukm yang ditujukan untuk memenuhi kebutuhan dasarnya dan keluarganya tanpa harus mengorbankan masyarakat lainnya".

[39] dhaniswara k. haryono, *op.cit*, hlm. 68

populace does not lead to reliance on external entities. The 1966 TAP MPRS appears to suggest that Indonesia's economic development should be carried out independently, while also emphasizing the importance of maintaining the country's sovereignty in relation to foreign financial inflows. The pursuit of economic development does not inherently entail compromising the state's sovereignty or subordinating it to the economic interests of its populace. According to Sunarya Hartono, the TAP MPRS 1966 ought to serve as a standard for the government of that era when formulating its economic strategies, particularly with regards to foreign investment.[40]

In this context, it is pertinent to consider the limitations associated with foreign investment or investment in Indonesia. For instance, allowing foreign capital ownership in the national banking system up to 99% raises concerns as it may lead to dependence on foreign capital and potentially erode the national economy. This is due to the fact that profits may ultimately be enjoyed by foreigners rather than the Indonesian people themselves. Nationalist activists may perceive the current foreign ownership of approximately 40% of national banking assets as a form of foreign control over national banking. The significance of banking institutions should be acknowledged. Banking institutions play a predominant role in Indonesia's financial system, accounting for over 80% of its composition. The Politics of Indonesian Investment Law in the future pertains to the prioritization of domestic investment, as outlined in the TAP MPRS 1966. Additionally, there is a necessity to establish boundaries on foreign capital inflows into Indonesia.

4. Conclusion

Investment is a significant contributor to the enhancement of the economy and the expansion of employment opportunities. Governments globally are engaged in intense competition to establish an improved business environment that can facilitate investment activities. However, it is imperative to restrict this competition and prioritize domestic capital, as evidenced by the 1966 MPRS Decree, which guides Indonesian policymakers to recognize the significance of foreign investment or foreign aid in the development of the declining Indonesian economy. Nonetheless, the decree emphasizes the need to rely primarily on

[40] "sunarya hartono, *beberapa masalah transnasional dalam penanaman modal asing di indonesia*, bandung: binacipta, 1972", hlm. 29.

domestic potential as a source of development funds, to prevent dependence on foreign parties. Foreign sources of funds must be utilized for the benefit of the people's economy. In this particular context, it is imperative to provide limitations pertaining to Foreign Investment or Investment in Indonesia.

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