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Danantara Indonesia and investment policy disorientation

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Abstract: Investment is the backbone of economic growth. Unfortunately, the Indonesian government has never implemented appropriate regulations to promote investment as a strategy for achieving public welfare. This research employed a normative legal research method involving the examination of various documents based on secondary data sources. Data was obtained through a literature study of legal source materials consisting of primary and secondary legal materials. This research takes a prescriptive approach by addressing legal issues arising from the lack of consideration for the interests of the general public, who have not yet achieved prosperity, proposing that these interests serve as a paradigm in formulating all economic regulations, particularly in the investment sector. Due to this absence, the government faces disorientation in its efforts to promote public welfare. Therefore, recommendations are proposed as strategic solutions to initiate reforms in investment law, ensuring a more equitable framework that benefits all segments of society and supports the advancement of general welfare. This article inquires whether the establishment of Badan Pengelola Investasi Daya Anagata Nusantara or Danantara Indonesia by the government is the right step to encourage investment in order to advance public welfare. Using normative legal research methods, the research findings show that regulations pertaining to investment in Indonesia only favor the interests of large-scale businesses (corporations), thus ignoring the interests of the wider community. For this reason, it is recommended that the government carry out fundamental legal reforms to various regulations in the field of investment to realize public welfare.
Keywords: *BPI danantara, Investment, Legal reform, Public welfare.*

1. Introduction

On February 24, 2025, the President of the Republic of Indonesia, Prabowo Subianto, launched *Badan Pengelola Investasi* (Investment Management Agency) *Daya Anagata Nusantara* or Danantara Indonesia. This agency was established based on Law No. 1 of 2025 concerning the Third Amendment to Law No. 19 of 2003 concerning *Badan Usaha Milik Negera* (State-Owned Enterprises) or BUMN.

The term Daya Anagata Nusantara originates from Sanskrit, implying the strength of the archipelago's future. The government claims that the establishment of Danantara Indonesia is a real step in manifesting the mandate of Article 33 of the 1945 Constitution by optimizing state assets through strategic investments with the main mission to consolidate various assets and economic strengths of BUMN so as to optimize their management for the welfare of the community in the future.

The formation of Danantara Indonesia is grounded on the Indonesian economic growth target set by the government at 7.7% in 2028 and 8% in 2029. This is also in line with the objective of achieving the Vision of 2045 Golden Indonesia, as outlined in the 2025-2045 *Rencana Pembangunan Jangka Panjang Nasional* (National Long-Term Development Plan) or RPJPN 2025-2045.

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Amid the government's long-term efforts to boost investment, the establishment of the Danantara Indonesia certainly needs to be studied further [1]. Moreover, the government states that the agency has a similar role to the Indonesia Investment Authority (INA), previously founded by the government. Considered a real step in realizing Article 33 of the 1945 Constitution and thus an effort to promote public welfare, the question that arises is whether the formation of Danantara Indonesia is the right move.

2. Methodology

This research employed a normative legal research method involving the examination of various documents based on secondary data sources. Data was obtained through literature study of legal source materials consisting of primary and secondary legal materials. This research takes a prescriptive approach by addressing legal issues arising from the lack of consideration for the interests of the general public who have not yet achieved prosperity, proposing that these interests serve as a paradigm in formulating all economic regulations, particularly in the investment sector. Due to this absence, the government faces disorientation in its efforts to promote public welfare. Therefore, recommendations are proposed as a strategic solution to initiate reforms in investment law, ensuring a more equitable framework that benefits all segments of society and supports the advancement of general welfare.

The data processing techniques in this research involve a series of steps to analyze and interpret the collected data, both primary and secondary. This process includes data examination, organization, and analysis, which ultimately aims to draw relevant conclusions regarding investment policies in Indonesia.

3. Results and Discussion

3.1. INA and Danantara Indonesia

The term 'investment' originates from the English word 'invest', which means to allocate money or capital with the expectation of generating a profit [2]. Therefore, the equivalent meaning of 'investment' is often referred to as 'capital investment.' Having the same meaning, these two terms are often used interchangeably. Even so, the term 'investment' in some cases has a broader meaning, including direct investment and portfolio investment, while capital investment is more connotative of direct investment.

Investment is indeed the backbone of a country's economic growth, although economic growth itself is not solely based on investment activities [3]. In general, standard economic models stipulate that apart from investment, national income is always supported by government spending, household consumption, and trade (exports-imports). However, when analyzed individually, these three sources of national income are intrinsically linked to investment activities.

Since its independence in 1945, Indonesia has undergone a long history in its efforts to boost investment, especially through the formation of regulations in the investment sector [4]. Starting from the issuance of Law No. 1 of 1967 concerning *Penanaman Modal Asing* or Foreign Investment (UU PMA) and later amended and supplemented through Law of the Republic of Indonesia No. 11 of 1970 concerning Amendments and Additions to Law of the Republic of Indonesia No. 1 of 1967 concerning Foreign Investment which was followed by the issuance of Law No. 6 of 1968 concerning Domestic Investment and later amended and supplemented through Law No. 12 of 1970 concerning Amendments and Additions to Law No. 6 of 1968 concerning *Penanaman Modal Dalam Negeri* or Domestic Investment (UU PMDN), Regulations in the investment sector progressed approximately forty years later with the enactment of Law No. 25 of 2007 on Investment (UUPM). Finally, investment regulations were consolidated through the *omnibus law* approach into Law No. 6 of 2023, which ratifies *Undang-Undang* or Government Regulation in Lieu of Law No. 2 of 2022 on *Cipta Kerja* or Job Creation (UUCK). This law is regarded as a significant milestone in shaping Indonesia's investment regulatory framework.

According to the UUCK, particularly Chapter X titled Central Government Investment and National Strategic Project Facilities, Part One on Central Government Investment, Paragraph 2 on Investment Management Institutions [5] Article 171 Paragraph (3) stipulates that the government establishes an Investment Management Institution, which will be further regulated through *Peraturan Pemerintah* or Government Regulations (PP). The government issued Government Regulation (PP) No. 74 of 2020 concerning Investment Management Institutions. Article 1 point 2 of this regulation defines the Investment Management Institution [6] hereinafter referred to as LPI, as a body granted special authority (*sui generis*) to manage central government investments as mandated by the Job Creation Law (UUCK). Furthermore, Article 74 of the regulation stipulates that LPI may operate under the name Indonesia Investment Authority (INA).

As far as its formation is concerned, INA is founded on a solid legal framework in accordance with the UUCK. Additionally, through Presidential Decree of the Republic of Indonesia No. 6/P of 2021, the president appointed the INA Supervisory Board, which holds the authority to appoint and dismiss the Board of Directors [7].

INA has been a full member of the International Forum of Sovereign Wealth Funds (IFSWF) since 2022. IFSWF itself was founded in 2009 through the Kuwait Declaration initiated by 23 international investors from world-leading countries as a voluntary organization of global sovereign wealth funds committed to fostering cooperation and strengthening the community through dialogue, research, and self-assessment.

According to Global SWF 2022 records, INA ranked among the top five sovereign wealth funds with the highest GSR (Governance, Sustainability, and Resilience) score growth [8] achieving an increase of 28% between 2021 and 2022. Global SWF also highlighted INA's strong commitment to transparency by consistently providing public information through its website, audited financial reports, investment portfolios, contributions from limited partners (LPs), codes of ethics, and risk management policies. Notably, just a few months after its establishment, INA had already onboarded environmental, social, and governance (ESG) experts to reinforce its dedication to sustainable investment practices.

INA operates under a two-tier board system, comprising a Supervisory Board and a Board of Directors [9]. The Board includes a mix of ex-officio members (such as the Minister of Finance and the Minister of State-Owned Enterprises) and professional members, who bring together government support and deep expertise across various fields. Additionally, INA has a direct reporting mechanism to the President and retains full independence in its decision-making processes [10]. This direct line of accountability also strengthens INA in maintaining its commitment to implementing transparent and responsible investment practices [11] and ensuring alignment with global standards in the sovereign wealth funds landscape.

Despite INA's impressive track record, why does the government deem it necessary to establish Danantara Indonesia? Does this suggest that INA has fallen short in promoting investment? Moreover, the government has stated that Danantara Indonesia was created as a concrete step toward fulfilling the mandate of Article 33 of the 1945 Constitution. Does this imply that INA's efforts have been inadequate in achieving the constitutional mandate?

3.2. The Formality of Incorporating Article 33 of the 1945 Constitution

Article 33 of the 1945 Constitution is part of Chapter XIV, titled *National Economy and Social Welfare*. As a fundamental norm enshrined in the constitution, it serves as the highest ethical and legal guideline for drafting economic regulations to fulfill the state's mission of promoting public welfare [12]. Consequently, all economic regulations in Indonesia should function as a driving force toward this goal. If public welfare is not achieved, it indicates that existing regulations have either deviated from or been deliberately misaligned with the constitution's mandate.

Article 33 of the 1945 Constitution is an imperative provision. It states that "the economy is structured as a joint effort based on the principle of kinship." The term "structured" implies that the economy is not left to develop freely or spontaneously according to market forces [13]. This formulation explicitly rejects the free-market mechanism, which is the driving force behind neocapitalism and neoliberalism. This article serves as the primary defense against the dominance of the liberal economic system (neoliberalism), which prioritizes individual interests over the common good. Given that Indonesia's Constitution includes Article 33, one must ask: why does prosperity still feel out of reach for many in society?

Jimly Asshidiqqie once noted that the mandate of Article 33 of the 1945 Constitution has never truly become the foundation of most economic laws and regulations, particularly in the field of investment. When it is mentioned, it often serves only as a formality.

His observation appears to be accurate, but why is that?

Foucault observed that neoliberalism has transformed economic activity into a social and political relationship centered on "competition" rather than "exchange." The distinction between the two is significant: neoliberals view exchange as a natural process, whereas competition is seen as an artificial construct that requires protection. Unlike a traditional market, which operates independently, competition necessitates constant state intervention to foster the broadest possible competitive environment.

INA was established based on the Omnibus Law on Job Creation (UUCK), which incorporates the Investment Law (UUPM) [14]. The liberal character of the UUPM is evident in the initial formulation of Article 4, Paragraph (2), Points (a) and (b), which essentially state that "in formulating fundamental investment policies, the government shall first ensure equal treatment for both domestic and foreign investors while guaranteeing legal certainty, business certainty, and security from the licensing process through to the completion of the investment activities." Furthermore, as stipulated in Article 4, Paragraph (2), Point (c), "the government facilitates growth opportunities and provides protection for micro, small, and medium enterprises (MSMEs) as well as cooperatives."

The formulation in Article 4, Paragraph (2) of the Investment Law (UUPM) suggests that the government prioritizes facilitating investors, regardless of their origin [15]. Only after providing these facilities—primarily benefiting large-scale businesses—does the government open opportunities for development and extend protection to small businesses and micro, small, and medium enterprises (MSMEs).

The indication of this liberal regulation is further reinforced by the fact that, to this day [16] the Indonesian government has never implemented any policies or regulations to establish a level playing field for businesses. A fair competitive environment is crucial, as it ensures that everyone has an equal opportunity to succeed. Without such a foundation, any efforts to promote societal welfare are bound to be futile.

The issue is indeed complex. On one hand, the government cannot simply allow a situation to unfold in the hope that it will naturally be organized by the market (*laissez-faire*) [17], as this free-market mechanism is the lifeblood of the neocapitalist and neoliberal systems. Furthermore, in agreement with Foucault, Polanyi also argued that there is nothing natural about *laissez-faire*; a free market can never emerge simply by letting things unfold on their own. On the other hand, drawing lessons from the *Great Depression* in the United States during the 1930s and 1940s, the phenomenon observed not only shows the existence of regulations that loosen various restrictions but also the growing role of the state with a centralized bureaucracy that ironically carried out the mission of liberalism's supporters.

The government's role is undoubtedly essential in establishing a level playing field. However, in practice, society often faces the reality that the government remains "held hostage" by the interests of powerful business actors. These large-scale enterprises typically have superior access to legal systems, granting them better legal protections compared to smaller businesses [18]. As a result, competition within the market is left unregulated, with weak enforcement ensuring that all players do not fully comply with the rules. Consequently, the market becomes distorted and uncompetitive, leading to economic inefficiencies and widening the gap between societal welfare and its actual attainment.

3.3. Failure of UUCK

Based on data from the Central Statistics Agency (BPS), the issuance of the Omnibus Law (UUCK) has led to a 50.09% increase in domestic investment, rising from IDR 447,063.6 billion in 2021 to IDR 674,923.4 billion in 2023. Compared to the period before the issuance of the UUCK, from 2019 to 2023, the investment value surged by 74.6%, increasing from IDR 386,498.4 billion in 2019 to IDR 674,923.4 billion in 2023. The critical question is: Does this increase in investment value translate into an improvement in people's welfare?

It is insightful to examine *Laporan Neraca Pembayaran Indonesia Realisasi Triwulan III 2024* or Indonesia's Balance of Payments Report Third Quarter 2024 Realization, as released by Bank Indonesia (BI), which provides a clearer picture of investment trends:

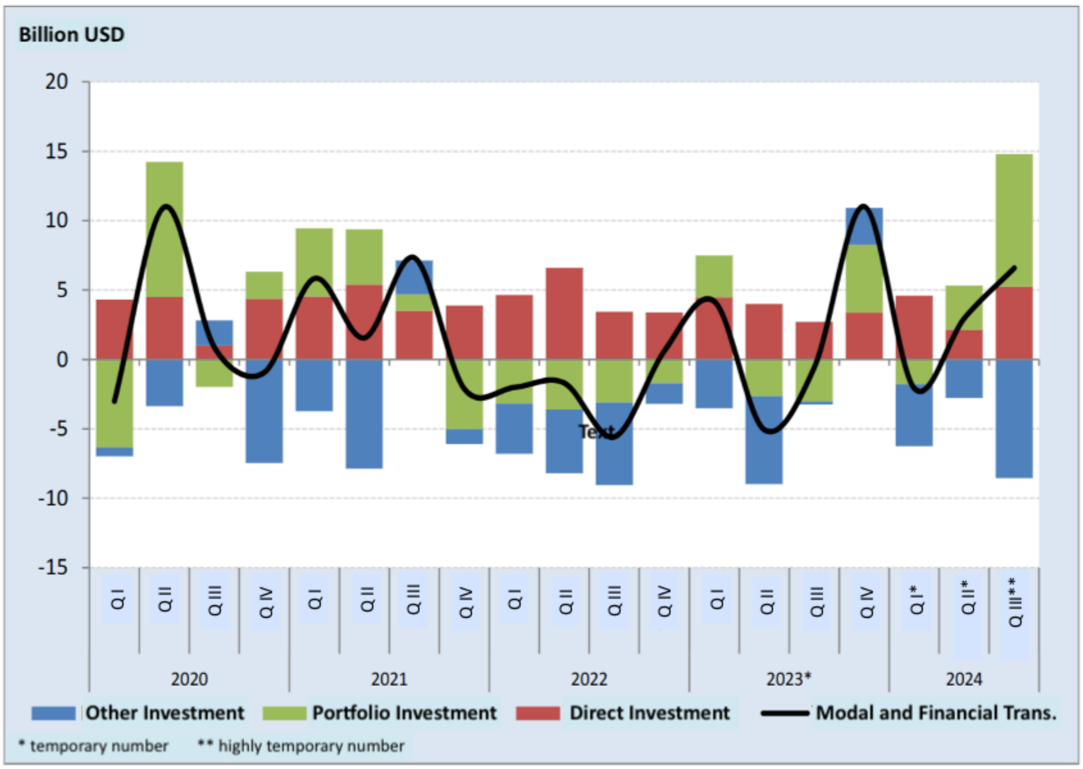

Figure 1.
Indonesia's Balance of Payments Report Third Quarter 2024 Realization.
Source: Bank Indonesia.

The table above demonstrates that from the issuance of the Omnibus Law in 2020 through the third quarter of 2024 [19] there was a significant increase in the value of indirect or portfolio investments, rather than direct investments, including foreign direct investment (FDI). However, this surge in portfolio investment cannot be considered a success resulting from the UUCK, as this type of investment typically does not generate widespread economic benefits. Its impact is primarily limited to profits for portfolio investors, through dividends on the shares they own [20].

In line with the BI data presented above, it is also important to consider additional indicators that suggest a sluggish national economy [21]. Firstly, Indonesia has experienced consecutive months of deflation, continuing through the end of 2024. This mirrors the economic crisis of 1997/1998, which also saw consecutive months of deflation in the period leading up to the crisis. Moreover, in early October 2024, BPS reported a decline in the Consumer Price Index (CPI), which tracks the average price of goods and services consumed by households, showing a 0.12% deflation on a month-to-month basis.

Second, P.T. Pegadaian reported a net profit of IDR 2.9 trillion in the first half of 2024, marking a 37.9% increase compared to IDR 2.11 trillion in the same period of 2023. This growth in net profit reflects a rise in pawn transactions, as more individuals are leveraging their property to meet daily financial needs.

Third, there has been a significant decline in the average savings of the public. According to Indonesia's *Lembaga Penjamin Simpanan* or Deposit Insurance Corporation (LPS), the average balance of public savings has steadily decreased from IDR 3 million per person in 2019 to just IDR 1.4 million per person in April 2024. This represents a drop of over 50% in the average savings over the past five years.

Fourth, the Ministry of Manpower of the Republic of Indonesia reported that between January and August 2023, 149,227 workers were affected by layoffs. In the same period in 2024, this number rose to 190,639, reflecting an increase of 28% in layoffs. BPS has predicted that this rising unemployment rate will be a key factor in the decline of public purchasing power—a prediction that has proven accurate. One example is the case of P.T. Sri Rejeki Isman Tbk. (Sritex), a major Indonesian textile company. After being declared bankrupt by the Supreme Court, Sritex was forced to lay off 10,665 employees at the beginning of 2025.

Fifth, in September 2024, the BPS reported that the Gini coefficient, which measures income inequality in Indonesia, stood at 0.381. This marks an increase from the 0.379 recorded in March 2024. Interestingly, this figure mirrors the Gini coefficient of Pakistan in the 1960s, which was also 0.381 and became one of the factors contributing to Bangladesh's declaration of independence from Pakistan in 1971.

These observations appear to contradict the BPS's report of 5.05% economic growth in the second quarter of 2024. However, the table below provides further insights and helps explain this apparent discrepancy in the growth figures:

Table 1.
GDP Growth Per Segment.

Year on Year Growth	2023	Q1 2024
Consumption	4.9%	4.9%
Government Expenditure	2.9%	19.9%
Investment	4.4%	3.8%
Exports	1.3%	0.5%
Imports	-1.6%	1.8%

Source: processed from P. T. Mandiri Securities.

Table 1 above highlights a component that saw significant growth in the first quarter of 2024, driven primarily by government spending. This expenditure was largely due to the procurement of social assistance (bansos) for vulnerable and low-income individuals, with a budget allocation of up to IDR 496.8 trillion. As a result, the observed economic growth does not reflect the performance of the real sector, but rather the government's intervention through bansos, which, while crucial in the short term, does not contribute to sustainable long-term economic growth.

The conclusion drawn from the presentation above is that the Omnibus Law has failed to advance the welfare of the community [22]. This failure primarily stems from its lack of focus on underprivileged community groups, who largely rely on small-scale businesses or MSMEs. As a result, it can be said that the Omnibus Law primarily "rolls out the red carpet" for large-scale business actors. Its policy approach is predominantly centered on economic development, often overlooking the social aspect, particularly social justice [23].

As previously explained, BPI Danantara was established under the BUMN Law, which also considers Article 33 of the 1945 Constitution [24]. It is important to note that the BUMN Law is part of the regulations encompassed within the Omnibus Law [25]. Given that this law has proven ineffective in promoting the welfare of society, what can we reasonably expect from BPI Danantara, an entity formed under such a law?

The government has no other option but to undertake a legal reform of investment regulations [26]. This reform must begin with the government's willingness to acknowledge the significant influence of large-scale corporations, which continue to "hold hostage" the government's authority in shaping various regulations [27]. At the same time, the general public must build a collective strength to pressure the government into implementing this reform promptly [28].

Although it may seem like a cliché, Daniel S. Lev once noted that the widespread efforts of non-governmental organizations (NGOs) and community self-help organizations (LSMs) have demonstrated the ability to build momentum [29] pushing the government to engage with movements advocating for meaningful constitutional renewal. While the process may be long, the hope remains that the push for compromise, adaptation, and accountability in Indonesia's political evolution is still achievable [30].

3.4. Negative and Positive Impacts of Danantara on the Indonesian Economy

The programs and policies implemented by the government regarding investment aim to enhance global competitiveness, both nationally and internationally [31]. The role of investors greatly impacts national economic growth. The trust that a country seeks to attract investors to invest must be based on legal certainty that guarantees the investment will have a positive impact on the investors [32]. The establishment of Danantara Indonesia aims to strengthen the national economic competitiveness by managing state assets and investments outside the state budget (APBN) in a more coordinated and strategic manner. However, this policy will have both positive and negative impacts on the national economy [33]. The positive impacts of Danantara Indonesia are as follows:

a) Improvement of Transparency and Governance of State-Owned Enterprises (SOEs): Danantara is expected to bring positive changes in terms of transparency and governance of SOEs, which in turn can enhance accountability and efficiency. The management of SOEs currently needs to undergo reforms both in structure and company management to achieve optimal results with improved transparency and good governance, so that the objectives of SOEs as state-owned enterprises can provide welfare for the people [34];
b) Optimization of Government Investment: Danantara is tasked with consolidating and optimizing government investments, which are expected to drive national economic growth. With policies that can optimize investment funds and align with national economic goals, the country's economy will improve [35];
c) Transformation and Improvement of SOEs: Danantara is expected to be a catalyst for the transformation and improvement of SOE management quality in Indonesia. Effectiveness and efficiency in the management of SOEs will enhance investor confidence to allocate part of their investments in Indonesia [36];

The policy of establishing an institution aimed at managing investment funds has a negative impact on the system and businesses in Indonesia [37]. The negative impacts of Danantara Indonesia are as follows:

a. Potential Barriers to Creativity and Innovation: With the introduction of a new layer of management, there are concerns that the freedom to create and innovate in state-owned enterprises (BUMN) will be hindered. Internal conflicts in the management of BUMN may occur, potentially obstructing creativity and innovation [38];
b. Focus on Defensive Aspects: Some experts argue that the benefits of Danantara are more defensive (maintaining stability) than offensive (driving growth and innovation). The existence of Danantara Indonesia can become a passive institution in creating new ideas and concepts to drive quality and production outcomes [39];
c. Risk of Function Duplication: There is a potential for function duplication between Danantara and other government investment institutions, such as the Investment Management Institution

(LPI) or INA (Indonesia Investment Authority). There may be policy conflicts regarding several Investment Institutions in Indonesia [40].

4. Conclusion

The regulations in the investment sector in Indonesia still have a liberal character, reflected in the liberal investment policies that prioritize the interests of large-scale business players. This happens due to the dominance of the interests of large-scale business players who can influence the formation of regulations that are solely designed to serve their interests. Therefore, the mandate outlined in Article 33 of the 1945 Constitution has never been substantially present in every regulation in the investment sector.

This situation can only be overcome by carrying out fundamental legal reforms in the investment sector by making the large groups of society that are not yet prosperous as the paradigm within it. This legal reform will never happen by relying solely on initiatives from the government. The general public must still seriously build strength to push for and oversee the implementation of this legal reform. If this fails to be done, Indonesia will never become a prosperous nation.

Transparency:

The authors confirm that the manuscript is an honest, accurate, and transparent account of the study; that no vital features of the study have been omitted; and that any discrepancies from the study as planned have been explained. This study followed all ethical practices during writing.

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