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Local Government's Role in Bridging Investment Disparities in Indonesia: A Sustainable Development Goals Perspective

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Abstract
The decentralization within Indonesia's governmental system was established to facilitate equitable development and economic growth by devolving authority to local governments that better understand their region's potential and challenges. An integral aspect of achieving development and economic growth parity lies in investment, an arena still marred by disparities across various regions in Indonesia. This normative study, employing a legal approach to legislation, aims to analyze the legal issues influencing investment disparities, which in turn affect the implementation of SDGs in Indonesia. The analysis reveals limitations faced by local governments in providing incentives and support to attract investment due to their lack of authority in pioneering industries, which are also not linked to the local economy. Additionally, there exists legal uncertainty surrounding local government collaborations with external parties, particularly in the context of investment. These findings reflect a regulatory framework in Indonesia that fundamentally diverges from the spirit of decentralization enshrined in the constitution.

A. INTRODUCTION

Local Governments in Indonesia play a strategic role in achieving the Sustainable Development Goals (SDGs) 2030. Decentralization in Indonesia enables local governments to have a significant role in achieving SDGs related to environmental, social, and economic aspects. Local governments is expected to identify local needs and resources, develop partnerships with stakeholders, and implement policies and projects suitable for achieving SDGs(Masuda et al., 2022). These needs must then be aligned with sustainable economic growth to reduce development disparities in Indonesia, which have decreased synergy between urban and rural areas in Indonesia(Daulay, 2020). To achieve this, various regions in Indonesia need sufficient investment to stimulate economic growth and improve community welfare by utilizing their respective regional potentials(Kurniawan et al., 2018). Local governments play a crucial role in realizing this, not only by promoting investment opportunities in their regions but also by creating specific incentives to attract investors from both domestic and international sources (Sidauruk, 2015).

One of the root causes contributing to the development gap in Indonesia is the disparity in investment(Murdiono & Setiartiti, 2014). The lack of investment in certain regions signifies a lack of interest from both domestic and foreign investors, ultimately resulting in the sluggish progress across various sectors. This is attributed to the pivotal role investments play in development, a responsibility that cannot solely rest on the central government(Mutiarasari, 2019). The government plays a crucial role in facilitating growth in the private sector, thereby collaborating with local authorities to advance regional development. Addressing the investment gap at the local level aligns with the Sustainable Development Goals (SDGs), garnering attention from regional governments, and serving as a potential funding source for other SDG agendas(Barua, 2020). Diminishing the investment gap entails channeling resources to the most deprived regions, a pivotal step in mitigating economic disparities locally. The LOCALISE SDGs project, encompassing 30 Local Governments and 5 Government Association, launched in July 2018 to enhance the direct involvement of local governments in bolstering SDG efforts throughout Indonesia(Ferrazzi, 2022).

The enactment of the Regional Autonomy Law since 2001 has bestowed greater fiscal authority upon provincial and local governments. Research findings on local government capital expenditures and industrial development in Indonesia reveal a positive and significant correlation between capital expenditure and industrial growth, although a significant moderating effect between local capital expenditure and industrial investment on sector growth has yet to be identified (Wiryawan & Otchia, 2022). There is a pressing need for heightened efforts from local governments to foster investment interest within their regions, as a tangible manifestation of the decentralization envisaged in the concept of regional autonomy. However, Indonesia's decentralization process faces challenges, including corruption issues and insufficient institutional capacity at the local level. Local governments must be capable of crafting policies to address these challenges while concurrently offering incentives to attract domestic and foreign investors, thus realizing a more equitable development distribution across Indonesia. These policies should be designed thoughtfully without sacrificing regional interests or engendering conflicts with the central government. Additionally, a comprehensive mapping of existing regulations is imperative to identify avenues for policy development that local governments can pursue.

The Sustainable Development Goals (SDGs) represent a highly relevant framework for development in the post-modern era, as asserted by Muthmainnah et al.'s research. They emphasize the crucial role of comprehensive ethical awareness and social responsibility across various developmental dimensions (Muthmainnah et al., 2020). Furthermore, Horn & Grugel's study underscores that, contrary to the assumption of central government predominance in SDGs, decentralization is an indispensable factor for the successful implementation of sustainable development policies across social and economic spheres(Horn & Grugel, 2018). These findings underscore the pressing need for decentralization, not only within governance structures and SDGs-related policy frameworks but also in the efforts towards SDGs implementation in Indonesia.

The issue of economic disparity poses a complex challenge in the literature of sustainable development, as uniform policy measures do not necessarily yield uniform results due to various influencing factors. For instance, Wan et al.'s research suggests that urbanization may alleviate income inequality(Wan et al., 2022). Conversely, Ha et al.'s study indicates that urbanization could exacerbate income disparities by shifting wealth concentration from rural to urban areas, thereby widening the rural-urban gap, particularly in the short term(Ha et al., 2019). However, these findings are somewhat constrained as they fail to account for the differential investment levels in urban and rural areas resulting from such urbanization, along with the role of local governments. Additional research by Gray & Barford elucidates that the discourse advocating for enhanced roles of local governments fundamentally stems from heightened economic disparities due to the limited roles and resources of local governments, driven by centralized government cost-saving initiatives(Gray & Barford, 2018). Despite briefly acknowledging the shortfall in investment as one consequence, the study falls short of explicating the direct link between local government actions and efforts to attract investment interest in the regions.

There exists a research gap in mapping the efforts of SDGs implementation, particularly in addressing the investment gap at the regional level. This study aims to fill this void, placing emphasis on local governments as crucial actors in sustainable development aligned with the SDGs 2030 agenda, currently hampered by investment disparities. Legal proficiency within the decentralization context serves as the primary analytical focus, reverting to the SDGs conception, and the maneuvering space for local governments to attract investments in their regions. This inquiry aims to delve deeper into how Regional Governments can actively reduce investment disparities in Indonesia through the analysis of SDGs 2030 implementation, and seek collaborative models between the central and regional governments to support the achievement of this objective.

B. RESEARCH METHOD

The methodology employed in this study is normative legal research, which focuses on analyzing existing positive law. Normative legal research involves examining and interpreting legal principles, statutes, regulations, and precedents to understand their implications and applications within a particular context. In this study, the researcher applies this approach to delve into the legal framework surrounding the subject matter, aiming to uncover insights into how the law operates and its potential impact on the issues under examination (Disemadi, 2022), to delve into the intricacies and challenges within Indonesia's legal framework. In substantiating the analysis, a legislative approach is utilized, drawing upon secondary data in the form of primary legal sources (Tan, 2021). The secondary data utilized comprises the Constitution of the Republic of Indonesia 1945, Law No. 23 of 2014 concerning Regional Government, Law No. 25 of 2007 concerning Investment, and Presidential Regulation No. 10 of 2021 concerning Investment Business Sectors.

C. RESULTS AND DISCUSSIONS

Ensuring Equitable Development in Achieving the SDGs 2030 Agenda

The economic growth in each region holds significant relevance in the SDGs agenda. Economic growth not only impacts the overall welfare of the society but also contributes to the sustainability of well-being and the formation of a conducive environment in the socio-economic dimension, thereby enabling the society to achieve sufficient welfare in the future. This dimension makes economic growth an integral part of the SDGs, which is the framework for development agenda in Indonesia, focusing not only on the welfare of the present but also on the welfare of the future(Trifita & Amaliyah, 2020). This framework then influences the government's policy-making in various fields relevant to the 17 SDGs to enhance societal welfare. Conceptually, one of the purposes of formulating the SDGs is to ensure that economic growth is evenly distributed, particularly in Indonesia, where most of its regions are separated by oceans(Louhenapessy, 2023). SDGs directly related to the dynamics of evenly distributed economic growth are SDG 8 on Decent Work and Economic Growth, and SDG 10 on Reduced Inequality.

In realizing equitable development, the identification of the realities of nation-building in Indonesia is crucial. To discern this, a fundamental distinction between development and economic growth must be understood. Development is a broad and multidimensional concept, encompassing not only economic aspects but also social, educational, health, and environmental dimensions (Jiang et al., 2018) . This differs from economic growth, which emphasizes the increase in output of an economic system and, in a broader sense, national income (Angrist et al., 2021). Equitable development holds particular relevance for Indonesia, a nation comprised of diverse socio-cultural backgrounds and significant geographical disparities (Kharisma et al., 2021). The multitude of disparities within Indonesian society presents a formidable challenge for the government in achieving equitable development. Therefore, development in Indonesia must be designed to distribute economic benefits to communities across the nation without exacerbating disparities. In this regard, identifying existing forms of inequality is also necessary to address the root causes that may impede equitable development throughout the country.

It is imperative to define the concept of equitable development and how it is crystallized within the framework of the Sustainable Development Goals (SDGs). Equitable development refers to endeavors aimed at ensuring that development and its attendant benefits are not monopolized by certain regions but are justly disseminated across all areas. The metric for measuring equitable development is fundamentally linked to the concept of distribution, where uneven distribution signifies inequality, whereas even distribution indicates that each element receives an equal share (Pulungan, 2015). This yardstick can be leveraged to scrutinize various aspects, uncovering societal disparities, including economic growth sectors. Such distribution pattern analysis can be instrumental in SDGs implementation as it can pinpoint issues such as inequality, which can impact economic growth, poverty rates, and employment opportunities (Panjaitan et al., 2020). In the context of SDGs, equitable development paints a vision to attain equal access to various fundamental rights, such as education, health, decent work, and a healthy environment for all citizens.

In the context of SDGs, achieving equitable development must be distinguished from ensuring equitable access to SDGs. Equitable access to SDGs entails a broader concept compared to equitable development, although ultimately, equitable development significantly impacts the efforts to achieve equitable access within the SDGs framework (Reyes Plata & Galindo Pérez, 2020). Equitable access, as conceptualized within the SDGs framework, embodies the equal access to various rights advocated within the SDGs, encompassing not only socio-economic rights and various forms of justice but also the rights of future generations to inherit a conducive environment. In contrast, equitable development solely pertains to socio-economic aspects such as income, employment, and equitable wealth distribution. Nevertheless, equitable development serves as a crucial foundation for attaining equitable access to all SDGs, as policies fostering equitable development determine the extent to which basic rights can be enjoyed by all strata of society and future generations.

While not explicitly included in the SDGs framework, investments play a crucial role in development, including efforts to achieve more equitable development (Febriyani & Anis, 2021). Equitable development essentially entails striving for an improvement in quality of life and equalizing opportunities for all residents of a country or region (Gifari, 2023). Both domestic and foreign investments play a central role in driving economic growth that can benefit society (Bontot, 2022). Investments across various sectors can create jobs, enhance productivity, and support sustainable economic growth (Haq & Imamudin, 2018). Moreover, investments that adhere to sustainability and environmental principles also support the concept of equitable development. Through sustainable investments, local governments can maximize their region's potential, reduce economic disparities, and create a more prosperous society overall.

Economic growth in each region is crucial for achieving the SDGs, as it directly influences societal welfare and the creation of a conducive socio-economic environment. This importance is reflected in the SDGs framework in Indonesia, guiding government policies to enhance present and future welfare. The SDGs aim to ensure that economic growth is evenly distributed, particularly in a geographically diverse country like Indonesia. Goals such as SDG 8 on Decent Work and Economic Growth and SDG 10 on Reduced Inequality are directly related to this objective. Achieving equitable development requires a clear distinction between development and economic growth, recognizing that development encompasses broader dimensions, including social, educational, health, and environmental aspects, beyond just economic output.

Equitable development within the SDGs framework emphasizes the fair distribution of development benefits across all regions. This involves analyzing distribution patterns to identify and address inequalities, ensuring that all communities receive equal opportunities and access to fundamental rights such as education, health, decent work, and a healthy environment. Equitable development is foundational to achieving equitable access to these rights, impacting how basic rights are enjoyed by all societal strata and future generations. Investments, both domestic and foreign, play a vital role in driving economic growth and supporting sustainable, equitable development by creating jobs, enhancing productivity, and reducing economic disparities, ultimately leading to a more prosperous society.

The Urgency of Policy Making to Attract Investment Interest in Regions

One of the roles assumed by local governments in the spirit of post-reform decentralization is the endeavor to bridge regional disparities (Surya et al., 2021). Decentralization bestows greater authority upon local governments to manage resources and policies at the grassroots level (Sumatri Ms, 2021). This enables them to better comprehend the issues and needs of local communities (Fadhil Rachmad et al., 2023). Local governments possess the capacity to identify specific challenges and potentials within their jurisdictions, which may differ from other regions in Indonesia. Consequently, they can devise and implement more targeted policies, including investments in infrastructure, education, healthcare, and local economic development (Saprianto et al., 2023). Moreover, local governments can forge partnerships with the private sector and local communities to support development endeavors while enhancing public welfare (Al Hamid et al., 2021). These efforts aim to mitigate economic and social disparities among regions, foster equitable opportunities for all citizens, and ensure that the benefits of economic growth are uniformly experienced across Indonesia. Thus, local governments play a pivotal role in advancing the vision of inclusive development under the ethos of post-reform decentralization.

The role of economic growth is paramount in addressing regional disparities, representing a tangible manifestation of the benefits of decentralization. In the post-reform era in Indonesia, economic growth, particularly in its equitable distribution, stands as a cornerstone in reducing inter-regional fiscal gaps (Afrianto, 2023). With greater authority in managing resources and policies at the local level, regional governments can devise targeted growth strategies tailored to regional potentials. Investments in infrastructure and various industries can generate employment opportunities, enhance productivity, and propel economic growth across different regions. Moreover, equitable economic growth provides income opportunities for local populations, thereby enhancing their overall welfare (Nyoman & Murjana Yasa, 2017). Consequently, government-driven economic growth stands as a tangible avenue through which decentralization contributes to addressing regional disparities, providing economic opportunities and benefits to local communities, while fostering a conducive environment for the development of lagging regions(Mira et al., 2017).

The government derives its mandate from the Constitution of the Republic of Indonesia of 1945 (UUD NRI 1945), which, through Article 33 paragraph (4), stipulates that "The national economy is organized based on the principles of economic democracy with the principles of togetherness, efficient justice, sustainable, environmentally friendly, self-reliance, and by maintaining a balance of progress and national economic unity." This article forms the basis of the government's obligation to realize even development throughout Indonesia (Amalia, 2023), striving to address issues related to development disparities. However, as previously explained, this concept of welfare is not always reflected in the reality of nation-building in Indonesia. Additionally, it has been elucidated that conceptually, citizens cannot fully rely on the government. Therefore, the private sector plays a crucial role in achieving equitable welfare in Indonesian society. This equitable welfare harks back to the fundamental concept of societal welfare, as outlined in the fourth paragraph of the UUD NRI 1945, which aims to advance the common welfare. However, it is important to underline that the goal of common welfare, as described in the fourth paragraph of the UUD NRI 1945, also mentions the "Government of the Indonesian State," which associates the government's role in realizing this objective. In the context of private sector development, it can be interpreted that the government is also responsible for facilitating private sector growth, one of which must be supported by adequate investments.

In the domain of decentralization, the pivotal role of local governments in fostering equitable development and economic advancement is outlined in Article 258 paragraph (1) of Law No. 23 of 2014 concerning Regional Government

(Regional Government Law) (Susanto, 2016). This provision mandates regions to engage in development activities aimed at augmenting community income, expanding employment opportunities, diversifying business sectors, enhancing public service accessibility and quality, and bolstering regional competitiveness. Such objectives underscore the profound interconnection between government initiatives and economic progress, highlighting the profound impact of investments in strategic sectors.

Moreover, this legal framework is reinforced by Article 278 paragraph (2), which delineates that local government authorities have the prerogative to offer incentives and facilities to individuals and investment entities to foster community and private sector participation. This regulatory provision underscores Indonesia's commitment to fiscal decentralization, granting local administrations the autonomy to propel regional development through incentivizing investment inflows. By empowering local governments to provide incentives, the law aims to stimulate economic activity, attract investment interest, and catalyze growth in various sectors crucial for regional prosperity. Overall, these legal provisions underscore the fundamental principles of decentralization in Indonesia, emphasizing the pivotal role of local governments in steering development agendas and nurturing economic expansion. By aligning regulatory frameworks with economic imperatives, Indonesia aims to create an enabling environment for investment, innovation, and sustainable growth at the regional level, thereby fostering equitable development and prosperity across the nation.

Normative Challenges in Local Government Efforts to Attract Investments in the Region

The successful implementation of fiscal decentralization, particularly in the context of regional governments' efforts to attract investment, is contingent upon the establishment of legal certainty. In this capacity, the government assumes the role of a catalyst for economic growth, working in tandem with potential investors to stimulate development. Various incentives are provided by the government to attract investment, ranging from exemptions and reductions to tax waivers and local fee exemptions, as well as through the facilitation of public-private partnerships, as noted by (Andini & Ma'rif, 2021). These incentives serve as critical tools in incentivizing investment and fostering economic activity within regions. It is imperative that all forms of incentives offered by regional governments adhere to the principles of investment delineated in Article 4 of Law No. 25 of 2007 concerning Investment (Investment Law). This legal framework sets out guidelines for the governance of investment activities, ensuring that regional governments consider externalities, accountability, and efficiency in their decision-making processes, as stipulated in Article 30 paragraph (3). By aligning with these principles, regional governments can effectively balance the interests of investors with the broader objectives of sustainable economic development and social welfare.

Moreover, the implementation of governance in the investment sector, which falls under the purview of regional governments, necessitates careful consideration of various factors. These include the potential externalities associated with investment activities, ensuring accountability in governance structures, and striving for efficiency in the allocation and utilization of resources. By upholding these principles, regional governments can foster an environment conducive to investment, promoting economic growth while safeguarding the interests of local communities and ensuring the sustainable development of their regions.

Article 30 of the legal framework governing investment delineates the role of regional governments in facilitating investment activities within their respective jurisdictions. However, this role is circumscribed by paragraph (2), which specifies that regional governments are responsible for investment affairs within their jurisdiction, except in cases where such matters fall under the purview of the central government. This delineation of responsibilities ensures clarity and delineates the boundaries of authority between regional and central governments, fostering effective governance and coordination in the investment sector. Nevertheless, Article 30 paragraph (7) letter a grants the central government authority over governance in investment matters related to non-renewable natural resources with a high level of environmental risk. While this provision aims to address environmental concerns associated with resource extraction activities, its broad scope may inadvertently encompass activities beyond mining processes, such as petroleum processing or oil storage businesses, which may not always pose significant environmental risks. Such a broad interpretation could lead to inconsistencies and regulatory overreach, necessitating a more nuanced approach to delineating authority in investment governance.

To address this issue, authority over investment affairs related to non-renewable natural resources could be delegated to regional governments based on feasibility and investment risk analyses conducted by professional and independent analysts. This approach, as stipulated in provisions regarding the establishment of subsidiaries by regional governments in Article 341 of the Regional Government Law, would ensure that decision-making regarding investment activities is informed by rigorous assessment and analysis, promoting efficiency, accountability, and alignment with regional development objectives. By leveraging the expertise of professional analysts and empowering regional governments to make informed decisions, Indonesia can achieve a more balanced and effective governance framework in the investment sector.

The subsequent issue lies within Article 18 paragraph (5) of the Investment Law, which inadequately considers regional nuances and primarily favors investments of substantial magnitude. This provision elucidates that exemptions or reductions in corporate income tax, within specified amounts and time frames, may solely be granted to new investments falling under the category of pioneering industries. These pioneering industries encompass sectors with significant impacts, high value-added contributions, external factor contributions, introduction of new technologies, and possess strategic importance to the national economy. A critical aspect to underscore here is the strategic value to the national economy, inherently necessitating substantial capital. However, within this regulation, pioneering industries can be associated with regional nuances, by linking the strategic value of such industries to the regional economy. Normative boundaries on the conceptualization of pioneering industries ultimately constrain the role of local governments in incentivizing prospective investors eyeing the potential of these regions. These normative constraints are also reflected in the provisions of Presidential Regulation No. 10 of 2021 concerning Investment Areas, which solely defer to the central government in all its regulations, including Articles 4 paragraphs (4), (5), (6), and (7) governing fiscal and non-fiscal incentives. Given the significant potential and role of pioneering industries in the economic system, this issue paradoxically demonstrates a reality contrary to the implementation of SDGs, particularly SDG 8 and 10.

Furthermore, there is a lack of clarity regarding the legality of public-private partnerships, especially in sectors regulated under Article 30 paragraph (7) of the Investment Law, which limits the role of local governments in investment matters in specific fields. Collaboration between local governments and private entities in the form of investment falls under the jurisdiction of local governments regulated in Article 328 of the Regional Government Law, granting local governments the authority to invest their capital in the short term, with the profits becoming regional revenue. Normative conflicts arise when private entities receiving investment from local governments are engaged in collaboration with the central government, in fields beyond the jurisdictional boundaries of local governments. The same issue may also arise in investment cooperation between local governments and other parties, as stipulated in Article 363 paragraph (3) and Article 366 paragraph (1) subparagraph c.

When analyzed through Gustav Radbruch's theory of legal certainty, the implementation of fiscal decentralization in efforts to attract investment by local governments must be supported by legal certainty. The government acts as an economic growth catalyst by providing various incentives to prospective investors, including tax breaks and public-private partnerships. However, there are limitations and normative conflicts regarding the legality of investments and incentives provided, such as overly general regulations regarding pioneering industries in the Investment Law and Presidential Regulation on Investment that predominantly defer to the central government. This reflects challenges in achieving optimal justice and legal certainty in the context of fiscal decentralization and local economic development.

D. CONCLUSION

Conceptually, it is evident that the government plays a crucial role in realizing the equitable development and economic growth, which ultimately impact the enhancement of societal welfare. This role is further underscored by the constitution, subsequently embodied in the Local Government Law. However, within the normative reality of Indonesia's legal system, the role of local government remains significantly constrained. Although pioneering industries are often cited by legislation as having significant implications for the national economy, this is not normatively linked to efforts to enhance local economic growth. This normative conflict is inconsistent with the spirit of decentralization enshrined in the 1945 Constitution of the Republic of Indonesia. Moreover, legal certainty regarding local government cooperation with other parties in the form of investment partnerships remains unclear, especially in areas beyond the jurisdiction of local government but still subject to central government regulation. There is a need to reconsider the role of local government and recontextualize the meaning of decentralization in the field of investment promotion, allowing local governments to drive economic growth and equitable development by attracting investment interest to implement SDG 8 and SDG 10 agendas.

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COMPETING INTEREST

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