COPYRIGHT LAW AND INVESTMENT IN INDONESIA: A LEGAL BRIDGE

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Abstract

The nexus between investment and intellectual property often intersects with the international movement of capital. A robust legal structure is essential in comprehending potential issues, particularly concerning copyrights, which is one of the most frequently utilized intellectual property rights systems within the Indonesian economy. Consequently, this study seeks to pinpoint the elements linking these two notions within the framework of copyright regulations. Findings indicate that specific challenges may result in protracted and intricate administrative processes, as revealed through normative legal research methodologies. Concurrently, a thorough analysis employing the statutory approach reveals that these challenges stem from normative constraints, which may deter investors from engaging in the Indonesian economic landscape.
Keywords: *Copyrights, Investment, Intellectual Property*

Intisari

Hubungan antara investasi dan hak kekayaan intelektual sering kali saling terkait dengan arus modal global. Struktur hukum yang kokoh sangat penting untuk memahami potensi masalah, khususnya terkait hak cipta, yang merupakan salah satu sistem hak kekayaan intelektual yang paling sering digunakan dalam ekonomi Indonesia. Oleh karena itu, penelitian ini bertujuan untuk mengidentifikasi faktor-faktor yang menghubungkan kedua konsep ini dalam konteks regulasi hak cipta. Temuan menunjukkan bahwa tantangan-tantangan tertentu dapat mengakibatkan

proses administratif yang panjang dan rumit, sebagaimana terungkap melalui metodologi penelitian hukum normatif. Sementara itu, analisis menyeluruh yang menggunakan pendekatan statutori menunjukkan bahwa tantangan-tantangan ini berasal dari pembatasan-pembatasan normatif, yang dapat menghalangi investor untuk terlibat dalam lanskap ekonomi Indonesia.

Kata Kunci*: Hak Cipta, Investasi, Kekayaan Intelektual*

A. Introduction

Investment is a crucial aspect of life that enables individuals to generate profits through different activities.[1] There are multiple forms of Investments, including capital, physical assets, and intellectual or human capital which are fundamentally intended to facilitate business growth and profit scaling in benefitting the market and stakeholders.[2] Therefore, investment is widely acknowledged as essential to the economic growth of any country.[3] It can lead to long-term productivity by enhancing economic competitiveness.[4] Investment is also interdependent on other aspects of the economy, and a prime example is the vicious cycle of poverty theory, which according to this theory, low income results in reduced savings, investment, and productivity.[5]

The significance of investment is multiplied in a developing country like Indonesia, which is close to realizing its potential after the success story of China's economy. There was a significant capital investment in China's economy, which led to its rapid growth through substantial domestic savings and foreign investment.[6] Currently, Indonesia is in a favorable position

1 Indanazulfa Qurrota A'yun, Rifki Khoirudin, and Suripto, "Increasing the Investment Capacity of the Indonesian Diaspora," *Asian Journal of Community Services* 1, no. 2 (2022): 71–74, https://doi.org/10.55927/ajcs.v1i2.1037.

2 Umanskyi, Illia. "Effectiveness of international investment projects (on the basis of Service Plus, LLC)," (PhD diss., Private Higher Educational Establishment-Institute "Ukrainian-American Concordia University"), 2022.

3 Hamid R Davoodi, Peter Montiel, and Anna Ter-Martirosyan, "Macroeconomic Stability and Inclusive Growth," *IMF Working Papers*, 2021.monetary, macroprudential, and exchange rate

4 Sigue Moussa, "Impact of Road Infrastructure Investments on the Structural Competitiveness of the Burkina Faso Economy," *International Journal of Economic Behavior and Organization* 8, no. 3 (2020), https://doi.org/10.11648/j.ijebo.20200803.13.

5 Chantel De Vos, Lawrence Ogechukwu Obokoh, and Babatunde Abimbola Abiola, "Determinants of Savings among Non-Ricardian Households in South Africa," *International Journal of Social Economics* 47, no. 11 (2020), https://doi.org/10.1108/IJSE-11-2019-0692.

6 Marcus Vinicius De Freitas, "Reform and Opening up: Chinese Lessons to the World," *Policy Center for the New South*, no. May (2019). Indonesia was one of the countries responsible for the rise of foreign investments in China during 1979-1996, which was encouraged by ancestral ties

compared to China, owing to its openness to foreign investment resulting from a non-aligned international stance. The stability obtained after Global Financial Crisis projects Indonesia as one of the first countries to experience economic growth.[7]

Numerous significant factors contribute to the growth of an economy and often encourage investment. The intersection of these factors highlights the pivotal role that investment plays in an economic system. From an economic perspective, investment provides capital and possibilities to several businesses. Meanwhile, from a developmental perspective, it encourages improvement in many aspects of businesses to enhance competition among businesses operating in the same market. It is crucial to adopt a holistic perspective and understand the intricacies of the economy in order to comprehend the significance of investment within its appropriate context. National and multinational firms can have an enormous impact, and owners of enterprises may be subjected to a wider range of obligations than private property.[8] To achieve this objective,

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of Chinese Indonesian investors and the appeal of long-term profits. *See* Haishun Sun, *Foreign Investment and Economic Development in China: 1979-1996*, *Foreign Investment and Economic Development in China: 1979-1996*, 2018, https://doi.org/10.4324/9780429452468, 26.

7 Lisa Tilley, “Extractive Investibility in Historical Colonial Perspective: The Emerging Market and Its Antecedents in Indonesia,” *Review of International Political Economy* 28, no. 5 (2021), https://doi.org/10.1080/09692290.2020.1763423.

8 Colin Mayer, “The Future of the Corporation and the Economics of Purpose,” *Journal of Management Studies* 58, no. 3 (2021), https://doi.org/10.1111/joms.12660.which has gained increasing attention from business academics, practitioners and policymakers. It argues that there are fundamental reasons for reconceptualizing the purpose of business in the future which derive from the changing nature of business and the market failures to which it gives rise. It suggests that regulation is proving increasingly inadequate at correcting market failures, and the traditional separation between economic efficiency and distribution that underpins policy formulation is untenable. Instead, the article sets out how appropriately defined notions of corporate purpose can help to promote not only better social outcomes but also enhanced functioning of firms and markets. It describes a set of principles that provide a comprehensive framework for reforming business around credible commitments to corporate purpose. The reformulation of the corporation has profound implications for the macroeconomic performance of economies as well as the microeconomics of firms and markets.”,”author”:[{“dropping-particle”:””,”family”:”Mayer”,”given”:”Colin”,”non-dropping-particle”:””,”parse-names”:false,”suffix”:””}],”container-title”:”Journal of Management Studies”,”id”:”ITEM-1”,”issue”:”3”,”issued”:{“date-parts”:[[“2021”]]},”title”:”The Future of the Corporation and the Economics of Purpose”,”type”:”article-journal”,”volume”:”58”},”uris”:[“http://www.mendeley.com/documents/?uuid=3b702e3f-d32b-3d1b-8c87-c2a200e98735”,”http://www.mendeley.com/documents/?uuid=58b098f5-8962-49e7-bf54-daa0d0361ed0”,”http://www.mendeley.com/documents/?uuid=22749dea-efd2-44a3-9974-f29a203b7eb1”]}],”mendeley”:{“formattedCitation”:”Colin Mayer, “The Future of the Corporation and the Economics of Purpose,” <i>Journal of Management Studies</i> 58, no. 3 (2021

it is imperative to conduct a thorough analysis using a robust investment activity management framework. This framework can aid in determining the appropriate directions, methods, means, and forms of investment to enhance production efficiency and increase an organization's profitability.[9] Investors can analyze critical factors that will influence their relationship with investees and the impact of investments on businesses through the utilization of the framework.

It is crucial to acknowledge that investment possesses certain limitations even though the academic consensus regarding the significance for economic growth is predominantly positive.[10] The main limitation comes from the investee, which is responsible for the formation of the investment. Therefore, it is important to determine the balance between the amount of investment received and the benefits for the businesses, by maintaining the responsibility of the investors and investees.[11] In addition, investment may be constrained by national security concerns or policy regulations. These limitations may not necessarily impede productivity and growth from the government's perspective since they are often justified by various legal justifications. The worsening investment climate in Indonesia has made it difficult to achieve programs to accelerate development and improve community welfare. At the same time, challenges in the digital era are also growing, where Indonesia can no longer be entangled in formal procedures for long. Based on this, the only way out is to simplify and uniformize regulations quickly. Therefore, the government wants to prepare a system to simplify and speed up the import-export process

9 Yuliia Aleskerova and Lidiia Fedoryshyna, "Analysis of Investment Activities of Enterprises of Ukraine," in *Economic System Development Trends: The Experience of Countries of Eastern Europe and Prospects of Ukraine*, 2018, https://doi.org/10.30525/978-9934-571-28-2_1.

10 Thomas Habanabakize, Daniel Francois Meyer, and Judit Oláh, "The Impact of Productivity, Investment and Real Wages on Employment Absorption Rate in South Africa," *Social Sciences* 8, no. 12 (2019), https://doi.org/10.3390/socsci8120330.a productive job is even more important, not only for employees, but also for employers. South Africa, being a developing country, is also facing the challenge of dramatically high levels of unemployment. This study's aim was to examine both the short- and long-term impacts of real wages, labour productivity and investment spending on employment absorption rates in South Africa. To establish the existing relationship between variables, the study applied several econometric approaches, such as an autoregressive distributed lag (ARDL

11 Ibid.

through the implementation of the National Logistic Ecosystem (NLE).[12][13]

Investment needs legal certainty to protect both the interests of investors and investees. It is imperative to ensure that individuals whose livelihoods depend on a specific topic can exercise their rights without infringing upon the rights of others. A constitutional state, also known as a *'rechtsstaat,'* is governed by the rule of law.[14] Indonesia is a *rechtsstaat* and this is reflected in the existing laws and regulations of the legal system, where almost all aspects of social life are regulated and governed. The government can utilize the law to regulate and impose discipline upon society, thereby promoting greater orderliness. It is imperative that legal implications arising from investments be governed with thoroughness, where businesses may benefit and the economy may not be negatively impacted.

Investment and copyrights are intricately interwoven, as enterprises that generate innovative works will undoubtedly desire to enroll their creations to ensure the security of proprietary privileges. In addition, investment can be manifested in the form of copyrights or any other type of intellectual property, regarded as valuable assets.[15] In this research, the focus of the discussion and analysis will be limited to copyrights as an intellectual property rights (IPRs) system and its linkages to the conception of investment from a legal perspective.[16] Even though both topics have their distinct legal frameworks, there is a pressing need for an analysis of the overlapping issues. Investment and copyrights laws govern different facets of economic activity, hence their interdependence is significant. This is because investment serves as a crucial catalyst for economic development and innovation. Therefore, this research

12 Muhammad Reza Syariffudin Zaki, *Pengantar Ilmu Hukum dan Aspek Hukum dalam Ekonomi*, (Jakarta: Prenadamedia, Divisi Kencana, 2022), 37

13 Muhammad Reza Syariffudin Zaki, David Petra Chendana and Marcelino Alfrediko Slaat, "National Logistic Ecosystem (NLE) as Indonesian Trade Strategy in ASEAN to Improve National Economic", *scitepress*, (2022): 249

14 Ahmad Munir, "Good Governance on Tax Amnesty," in Proceedings of the International Conference on Law, Governance and Globalization 2017 (ICLGG 2017)", *Atlantis Press*, (2017): 28–32, https://doi.org/https://doi.org/10.2991/iclgg-17.2018.5.

15 Moussa, "Impact of Road Infrastructure Investments on the Structural Competitiveness of the Burkina Faso Economy, 4." *MPRA Paper 96139,* (2019)

16 Hari Sutra Disemadi, *Mengenal Perlindungan Kekayaan Intelektual Di Indonesia* (Jakarta: Rajawali Pres, 2023).

explores the relationship between investment and copyrights laws, with a focus on their interaction to promote economic growth and protect the rights of creators and investors. Copyrights as one of the most common forms of intellectual property right, with its legal basis, can be analyzed to obtain the relation with the framework of investment, in the context of the Indonesian legal system.

This research employs the normative legal method to examine the intersection of investment and copyright laws, with the ultimate goal of establishing a cohesive link and creating a more conducive legal environment for growth. To facilitate the analysis, statutory approach is employed, which entails scrutinizing the current laws and regulations and formulating a framework of normative construction. This framework addresses the gaps in the Indonesian legal system by establishing a conceptual and normative connection between investment and copyright protection. Therefore, the present study employs secondary data, namely Law No. 25 of 2007 on Investment and Law No. 28 of 2014 on Copyrights.

B. Legal Implications of Investment and Importance of Legal Certainty

Indonesia is a country with ambitious economic plans influencing every governmental decision on governing the subjects. Its endeavors aim to emerge as a prominent economic powerhouse in Southeast Asia and strive to position as one of the world's largest economies in the foreseeable future. The term "Indonesia 2045" has gained popularity among the general public and within academia circles. Numerous studies have been conducted to analyze the country's potential in realizing these ambitious goals.

These ambitions may seem overwhelming to many people, but they are justifiable. Even though the expansion of the Indonesian economy is not an absolute indication of its success, valuable insights can be offered into the feasibility of the country's aspirations.[17] According to the Central Bureau of

17 Erdiwansyah Erdiwansyah et al., "Investigation of Availability, Demand, Targets, and Development of Renewable Energy in 2017–2050: A Case Study in Indonesia," *International Journal of Coal Science and Technology* 8, no. 4 (2021), https://doi.org/10.1007/s40789-020-00391-4.

Statistics (BPS), the policies made by the government to provide convenience for investors are commendable. This can be seen from the investment target set by the government in 2019 of IDR 792 trillion. It was successfully exceeded by The Investment Coordinating Board (BKPM) which was able to collect a total investment (both PMDN and PMA) of IDR 809.6 trillion. The investment originating from domestic sources was able to amass a considerable sum of IDR 386.50 trillion, marking an increase of 17.62 % from the preceding year. The 2019 results of domestic investment accounted for 47.7 % of the total investment collected, with the remaining 52.3 % comprised of foreign investment.[18] Despite the ongoing Covid-19 pandemic, BKPM had recorded an investment summed IDR 901.0 trillion in 2021. This accumulated investment value has surpassed the government's national medium-term development plan (RPJMN) target of IDR 858.1 trillion. Notably, the realization for PMDN in 2021 reached IDR 447.06 trillion, representing an 8.11 % increase compared to the previous year.[19] These statistics demonstrate the robust economic attractiveness of the Indonesian economic system, and the numbers are poised to grow even more significantly as Indonesia enters the post-pandemic era in 2023.

The promise of prosperity behind the positive statistics during the pandemic era underscores the remarkable resilience of Indonesia's economy. A noteworthy aspect of the data is the equitable distribution of domestic (PMDN) and foreign investment (PMA). This balance is indicative of Indonesia's economy being attractive to a diverse range of investors, irrespective of origin or nature. It is a reasonable assertion that investment ranks among the topmost priorities, particularly given the country's ambition to actualize the Indonesia 2045 agenda. This plan is extensively reliant on maintaining stable economic growth, which can be sustained by a substantial inflow of investments from both foreign and domestic sources.

One of the methods used by the Indonesian government to foster economic growth is by establishing a robust legal framework that safeguards

18 Badan Pusat Statistik, "*Laporan Perekonomian Indonesia 2022*" (Jakarta, September 16, 2022), 112.
19 Ibid, 113.

the interests of investors and investees. The provision of legal support for economic development entails a crucial component known as legal certainty. Furthermore, the significance of ensuring legal certainty for investment cannot be overstated. The concept denotes the principle that investors ought to be assured of the predictability and stability of the legal framework in the country of investment.[20] Therefore, investors should be able to rely on the laws and regulations of a country, as well as on the consistent application by the government and its agencies.

One of the primary justifications for the expediency of establishing legal certainty for investments is that it constitutes a crucial element in soliciting both foreign and domestic investment. Foreign investors, in particular, are more inclined to invest in a nation where they have assurance in the predictability and stability of the legal framework.[21] This holds particularly true for substantial and enduring investments, such as infrastructure projects or natural resource development. In the absence of legal certainty, foreign investors may exhibit reluctance to invest or may demand elevated returns to mitigate the augmented risk. Legal certainty assumes paramount significance for foreign investors since predicting all the variables that could influence their assets is challenging. Therefore, having legal certainty would undoubtedly augment the confidence of foreign investors in committing their capital to a specific country with a robust legal framework.

Regarding domestic investment, a dependable economy with robust purchasing power does not necessarily ensure an influx from the Indonesian economy.[22] Considering the evidence that Indonesian investors have showcased their potential to significantly contribute to the economic advancement of

20 Januari Nasya Ayu Taduri, "The Legal Certainty and Protection of Foreign Investment Againsts Investment Practices in Indonesia," *Lex Scientia Law Review* 5, no. 1 (2021): 119–38, https://doi.org/10.15294/lesrev.v5i1.46286.

21 Budiman Ginting et al., "The Role of Law in Economic Development: To Develop a Special Economic Zone in Order to Build a National and Regional Economy," in *Emerald Reach Proceedings Series*, vol. 1, 2018, 209–14, https://doi.org/10.1108/978-1-78756-793-1-00012.

22 Meliya Putri Asdiyana, "Analysis of the Factors Influencing Domestic Investment in Indonesia From 1990 to 2019," *Journal of Management, Accounting, General Finance and International Economic Issues (Marginal)* 2, no. 1 (September 2022): 254–66, https://doi.org/10.55047/marginal.v2i1.397.

other nations,[23] it is reasonable to uphold their current level of investment activity. As a result, Indonesia's economy must offer compelling incentives to domestic investors. The country must also engage in indirect competition with other nations vying for foreign investments, particularly those targeting Indonesian investors.

There is an additional imperative to provide legal certainty for investments to foster economic growth and development. By establishing a stable business environment, legal certainty enables companies to plan for the future and make long-term investments.[24] Furthermore, legal certainty can promote competition and innovation, as companies can invest with confidence, knowing that the legal framework will not change unexpectedly.[25] From this perspective, the interests of investors and investees can be safeguarded because legal certainty directly impacts how businesses are managed and affects the level of economic returns generated from an investment. This notion is reinforced by economic concepts such as Return on Investment (ROI) and Return on Equity (ROE).

Moreover, ensuring legal certainty for investments is crucial to safeguard the rights of investors. The laws and regulations of a country must be unambiguous and consistent, and they should be enforced impartially and fairly. Therefore, investors should be able to rely on the legal system to protect their rights and resolve disputes fairly and efficiently. Ensuring impartiality is especially crucial in the realm of significant and intricate investments, as disputes are likely to emerge. It is noteworthy to emphasize the term "impartial" in this context, as it underscores the paramount significance of equity in all legal proceedings on domestic or foreign investments.[26] Although foreign investments may offer additional capital, particularly in challenging economic conditions, it is imperative to recognize that domestic investments should not be deemed inferior.

23 Sun, Foreign Investment and Economic Development in China: 1979-1996, p. 26.

24 Monica Alessi, Jorge Núñez Ferrer, and Christian Egenhofer, "Suspended in Legal Limbo: Protecting Investment in Renewable Energy in the EU," *CEPS Policy Insights*, 2018.

25 Magali Eben, "Fining Google: A Missed Opportunity for Legal Certainty?," *European Competition Journal* 14, no. 1 (2018): 129–51, https://doi.org/10.1080/17441056.2018.1460973.

26 Farouq Mohammadf, "Effect Judicial Independence on the Foreign Direct Investment in South and South-East Asian Countries," *Research Square*, (February 2021), 1–21.

Moreover, legal certainty is also important in the context of international investment based on the principle of reciprocity. Therefore, a country should provide the same level of protection and treatment to foreign investors. This principle is reflected in the many bilateral and multilateral investment agreements signed on a global scale. This notion also highlights the significance of impartiality within a legal system concerning investment frameworks. It is crucial to ensure that foreign investors do not perceive any bias towards policies that may favor domestic investments, leading to asset nationalization.

The matter of ensuring legal certainty for investments holds significant relevance for the Indonesian economy. According to the data provided by BPS, foreign direct investment (FDI) has served as a crucial funding source for the country's economic growth. In 2020, the overall FDI inflow amounted to IDR 489.1 trillion (equivalent to approximately 34.5 billion USD), representing 2.9% of Indonesia's GDP. However, this figure experienced a 1.6% decline as compared to the preceding year, primarily attributable to the impact of the Covid-19 pandemic.

Indonesia has also implemented several policies and laws to attract foreign investment, such as Law Number 25 of 2007. This law aims to provide a more conducive investment climate by simplifying the procedures for investment, as well as protecting the rights of investors. Furthermore, it establishes the Investment BKPM which serves as a one-stop service for investors and simplifies the process of obtaining the necessary permits and licenses.

Despite these endeavors, the investment climate continues to confront several challenges, including legal uncertainty. As highlighted in a report by the Organisation for Economic Co-operation and Development (OECD), legal uncertainty represents one of the numerous constraints that affect investment.[27]

27 Organisation for Economic Co-operation and Development," OECD Economic Surveys: Indonesia 2021" (OECD, 2021): 10, https://doi.org/10.1787/fd7e6249-en.although large-scale fiscal stimulus and monetary support limited its depth and impact. The approval of an ambitious package of structural reforms, covering labour laws, taxes and ease of doing business, testifies of the authorities' commitment to attract high-quality investment that will enhance wealth and well-being. This is key at a time when Indonesia embarks in trade and investment liberalisation through the Regional Comprehensive Economic Partnership with East Asia and Oceania partners, with new opportunities and challenges. Nevertheless, the pandemic leaves behind strong headwinds.

This is due to several factors, including a lack of consistency in regulations and policies, as well as transparency in the decision-making process. These problems are seen as an obstacle by many investors, both domestic and foreign, and will eventually affect their investment decisions.

To tackle the issues, the government of Indonesia must take measures to enhance legal certainty on investments. Specifically, a robust conceptual framework should be developed to simplify and streamline investment-related regulations. This can be achieved through enacting new legislation or revising existing laws and regulations. The processes can facilitate the country's economic growth and attract capital from both domestic and foreign sources.[28] Additionally, the government also needs to take steps to improve the transparency and predictability of the decision-making process, by publishing regulations and policies promptly and providing clear explanations.

The issue of providing legal certainty for investments is particularly relevant for the Indonesian economy in attracting foreign investment during the post-pandemic era. Despite the efforts in enacting the omnibus law (Law No. 11 of 2020 on Job Creation), there remains a pressing need to comprehensively analyze all aspects impacting the investment climate. Therefore, the government needs to improve the legal certainty for investments and address the constraints to support economic growth and development in Indonesia.

The COVID-19 impact compounds pre-existing challenges, notably a very high incidence of informality and relatively low levels of skills. Uncertainty surrounds the vaccination roll-out and the resumption of a normal life, especially for children who have been deprived of school for an unprecedentedly-long period. The crisis will have a lasting effect on some vulnerable socio-economic sectors and therefore requires improvements in the delivery of social services.”,”author”:[{“dropping-particle”:””,”family”:”Organisation for Economic Co-operation and Development”,”given”:””,”non-dropping-particle”:””,”parse-names”:false,”suffix”:””}],”id”:”ITEM-1”,”issued”:{“date-parts”:[[“2021”,”3”]]},”publisher”:”OECD”,”title”:”OECD Economic Surveys: Indonesia 2021”,”type”:”book”},”uris”:[“http://www.mendeley.com/documents/?uuid=6165f5c1-222f-3eff-a267-74a5bf63dda7”,”http://www.mendeley.com/documents/?uuid=467cc459-c37e-443b-bbf9-d3bbcc17e066”,”http://www.mendeley.com/documents/?uuid=41632657-1c4b-4564-9154-044c5cc073f7”]}],”mendeley”:{“formattedCitation”:”Organisation for Economic Co-operation and Development, <i>OECD Economic Surveys: Indonesia 2021</i> (OECD, 2021

28 Gift Mugano, "*Regulatory and Institutional Framework of Special Economic Zones," in Special Economic Zones"* (Cham: Springer International Publishing, 2021), 59–78, https://doi.org/10.1007/978-3-030-82311-5_3.

C. Bridging the Concept of Investment and Intellectual Property

The concept of investment and intellectual property (IP) are closely intertwined, as both are important for promoting economic growth and development. Investment refers to the allocation of resources, such as capital, time, and effort to the production of goods and services. On the other hand, intellectual property is the legal rights that protect the creations of the mind, such as patents, trademarks, and copyrights. The combination of investment and IP plays a crucial role in promoting innovation, creativity, and competitiveness in the global economy. Therefore, Protection is one of the essential means of safeguarding the interests of investors who have invested in the development or creation of a product.

The linkage between investment and IP is primarily through the protection of IPRs. IPRs establish the legal framework enabling individuals and corporations to invest in the development, production, and commercialization of new products and services.[29] For example, patents provide exclusive rights to inventors and innovators, to recoup their investments and earn a return on research and development (R&D) efforts.[30] Similarly, trademarks and copyrights provide exclusive rights to the creators and owners of brands and creative works to monetize their investments in these areas. Legal systems worldwide must carefully examine these links between investment and IP to develop appropriate regulations that support both the investors and investees involved in the trade. The relationship is more relevant when legal proceedings are considered.[31]

Moreover, investment and IP also play a role in promoting innovation and competitiveness. Investments in R&D and innovation are essential for the development of new products and services, and for the improvement of

29 Hari Sutra Disemadi, "Contextualization of Legal Protection of Intellectual Property in Micro Small and Medium Enterprises in Indonesia," *Law Reform* 18, no. 1 (2022): 89–110, https://doi.org/10.14710/lr.v18i1.42568.

30 Jorge A. Heredia Pérez et al., "Impact of Competition from Unregistered Firms on R&D Investment by Industrial Sectors in Emerging Economies," *Technological Forecasting and Social Change* 133 (2018): 179–89, https://doi.org/10.1016/j.techfore.2018.03.028.

31 Nikolaos Papageorgiadis et al., "The Characteristics of Intellectual Property Rights Regimes: How Formal and Informal Institutions Affect Outward FDI Location," *International Business Review* 29, no. 1 (February 2020): 101620, https://doi.org/10.1016/j.ibusrev.2019.101620.

existing ones.[32] Intellectual property rights provide an incentive for companies and individuals to invest in R&D and innovation to recoup their investments through the exclusive rights provided by IPRs. Furthermore, IP also aids companies in safeguarding their investments in R&D and innovation from being replicated by others, thus encouraging competition and innovation. It ensures that all parties involved in the creation, including investors, receive the deserved benefits through the respective IPR regime.[33]

It is important to once again recognize the pivotal role of investment and intellectual property rights within the framework of the global economy. Industries that are heavily reliant on intellectual property, such as the pharmaceutical, software, and entertainment sectors, have been consistently demonstrated to serve as catalysts for economic growth and progress. The nature of these industries necessitates substantial investment in research and development, as well as in the realm of innovation, and the protection of intellectual property rights must be secured to recoup these investments and foster further growth. Moreover, industries that highly value intellectual property have been shown to demonstrate higher levels of productivity.[34] This increased productivity can result in higher wages for workers and a broader range of economic opportunities.

Investment and IP also play an important role in the context of international trade. Intellectual property rights are an important aspect of international trade agreements to promote the protection and enforcement of IPRs. This is particularly important for countries seeking to attract foreign investment and promote exports of IP-intensive products and services. Furthermore, IPRs also play an important role in the protection of foreign investments by providing a legal framework for the protection of investments from unauthorized use or

32 Pérez, Jorge A. Heredia, Martin H. Kunc, Susanne Durst, Alejandro Flores, and Cristian Geldes. "Impact of competition from unregistered firms on R&D investment by industrial sectors in emerging economies." *Technological Forecasting and Social Change* 133, (2018).

33 Disemadi, *Mengenal Perlindungan Kekayaan Intelektual Di Indonesia* (Depok: Rajawali Pers, 2023).

34 Xiaotian Hu and Xiaopeng Yin, "Do Stronger Intellectual Property Rights Protections Raise Productivity within the Context of Trade Liberalization? Evidence from China," *Economic Modelling* 110 (2022): 1–16, https://doi.org/10.1016/j.econmod.2022.105791.

infringement.[35]

However, it must be acknowledged that the relationship between investment and intellectual property rights is not free of challenges. One of the most significant challenges lies in striking an equilibrium between providing incentives for innovation and guaranteeing access to the fruits of these endeavors for the general public.[33] This balance is of utmost significance regarding matters of public health for access to life-saving medicines. The sector is not the sole domain subject to significant impact resulting from the protection of intellectual property. However, the criticality, which serves the public underscores the pressing need for an improved intellectual property rights framework. The implementation and enforcement of these rights can pose a formidable challenge, particularly in nations that are still in the process of development, where the legal and institutional infrastructure may be insufficient or inadequate. [36] Therefore, the challenges require ongoing examination, attention, and remediation, to ensure that the delicate balance between investment and intellectual property rights is maintained and the interests of all stakeholders are properly served.

The relationship between the concepts plays a crucial role in promoting economic growth and development. Investment in R&D and innovation, along with the protection of IPRs, provide incentives for companies and individuals to invest in the development, production, and commercialization of new products and services. Furthermore, the emphasis placed on safeguarding the concepts frequently overshadows the significance of protecting creations that may not necessarily be innovative. These issues call for a holistic approach to improve the legal framework, especially to protect the diverse aspects of the Indonesian economic system relying on manufacturing and innovation, as well as other parts of the creative industry to enter the global market.[37]

35 Ghulam Murtiza, "Intellectual Property Organization of Pakistan (IPO-Pakistan): An Analysis of Its Performance from 2014-2017," *Pakistan Languages and Humanities Review* 2, no. 2 (December 2018): 36–46, https://doi.org/10.47205/plhr.2018(2-II)2.4.

36 Paul Noon, Glauco De Vita, and Lindsey Appleyard, "What Do We Know About the Impact of Intellectual Property Rights on the Foreign Direct Investment Location (Country) Choice? A Review and Research Agenda," *Journal of Economic Surveys* 33, no. 2 (2019): 1–24, https://doi.org/10.1111/joes.12292.

37 Wiwiek Harwiki and Achmad Choiron, "Batik Creative Industry: Creativity, Innovation and

Additionally, IP also plays a role in promoting innovation and competitiveness within the Indonesian and global economies.

D. Legal Problems in Indonesia on Bridging the Concept of Investment with Copyrights

The connection between investment and copyrights is an essential component of economic development, particularly in the creative industries. The Indonesian legal framework, as governed by Law No. 25 of 2007 and Law No. 28 of 2014 on Investment and Copyrights, imposes several normative restrictions. Therefore, this study examines the normative restrictions in the Indonesian legal framework limiting the connection between investment and copyrights and analyzing the relevant articles or clauses in both laws.

One of the normative restrictions is the lack of legal certainty around the basic conceptualization of intellectual property rights in Investment Law. This requirement is specified in Article 8 paragraph (3), where "Investors are given the right to make transfers and repatriations in foreign currency. This includes payments made in the context of technical assistance, fees related to engineering and management services, disbursements under project contracts, and remuneration for intellectual property rights. Despite the mention of intellectual property, this legal obstacle proves rather complicated for investors as it fails to provide any clarity on the relationship between IP and investments. The issue is particularly important when Article 18 of the Copyrights Law is considered. Article 18 stipulates that the copyrights of book creations, written works, songs, and music, with or without text, which are sold or transferred indefinitely, shall revert to the creator after 25 (twenty-five) years from the agreement date. Payments through foreign exchange do give more flexibility for investors,[38] but the missing aspect of this mechanism

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Competitiveness to Encounter Global Market," *Journal of Business & Finance in Emerging Markets* 1 (November 2018): 89–196, https://doi.org/10.32770/jbfem.vol1189-196.

38 Pawan Kumar Gupta, "The Impact of Foreign Investment on India Economy," *International Journal of Technical Research & Science* 4, no. 5 (2019): 45–49, https://doi.org/10.30780/ijtrs.v04.i05.007.Investment is its blood and sometime body needs adequate blood for being healthy, we have to bring it from other body, means if an economy need to run with well health, investment is necessary for it and has to bring from other countries, which is called Foreign Investment. In the era of globalization and financial integration, Foreign Investment has emerged as one of the most

is royalty and the benefit derived from intellectual property. The lack of an explanation for utilizing the same mechanism for royalty payments may impede foreign investment into the creative industries and curtail potential growth. Additionally, it may also limit the ability of Indonesian companies to access international markets, as they may lack the resources and expertise to compete on a global scale.

Another normative restriction in the Indonesian legal framework is the requirement for companies operating in the creative industries to register their works with the Indonesian Copyright Office through a complicated mechanism. This requirement is specified in Article 18 of the Copyright Law, "In the event that an application is filed by an external applicant, the application must be made through an intellectual property consultant registered as a Proxy." This mechanism of registration can be time-consuming, complex, and may also incur additional costs, which can be a deterrent for companies to invest in the creative industries. Furthermore, the lack of clear and effective enforcement mechanisms may also discourage investment.

In addition, there are also cultural and economic factors that may limit

important forms of capital flows to developing countries. The main objective of present study is to see the impact of Foreign Investment on Indian economy. The study is based on the period of 1991-92 to 2017-18. To analysis the data line graph, correlation and Regression with Newey-West standard errors are used. To check problem of unit root Interpolated Dickey-Fuller test has been also used. Evidences are collected from Reserve Bank of India: handbook of statistics on Indian Economy. In the result we found that there is positive impact on Indian economy and other variable such as Total Debt, Foreign Exchange Reserve, India's' Foreign Trade are playing statistically significant positive role to improve economy except NRI's Deposits which impact is not statistically significant. Although, in the analysis, the result is also found that in the one hand; economy, Total Debt, Foreign Exchange Reserve and NRI Deposits are positive correlated but in the other hand; India's foreign trade is negatively with other variables. In the conclusion, foreign investment is not only an option of domestic investment, but can also improve the balance of payment of host country. The flow of foreign investment in an economy benefits the economy in terms of investment capital, technology transfer, management skills and job creation. At present, many developing and at least developed countries depend on foreign investment inflows due to less domestic investment and lack of resources.","author":[{"dropping-particle":"","family":"Gupta","given":"Pawan Kumar","non-dropping-particle":"","parse-names":false,"suffix":""}],"container-title":"International Journal of Technical Research & Science","id":"ITEM-1","issue":"5","issued":{"date-parts":[["2019"]]},"page":"45-49","title":"The Impact of Foreign Investment on India Economy","type":"article-journal","volume":"4"},"uris":["http://www.mendeley.com/documents/?uuid=bb3764cd-ffa6-30a0-a709-cc1309cc659a","http://www.mendeley.com/documents/?uuid=e294850e-0e36-4d62-b8be-2aaf5bb89c3c","http://www.mendeley.com/documents/?uuid=72d521ab-102f-47ab-9f4c-0e3a363c9db5"]}],"mendeley":{"formattedCitation":"Pawan Kumar Gupta, "The Impact of Foreign Investment on India Economy," <i>International Journal of Technical Research & Science</i> 4, no. 5 (2019

the connection between investment and copyrights in Indonesia. For example, there is a lack of recognition for the value of copyrights, which may result in widespread piracy and the undervaluation of creative works.[39] There may also be limited access to capital and other resources, such as technology and skilled labor, which may constrain the connection. The legal culture for copyrights still faces problems due to the lack of regulations concerning the digital world, particularly in e-commerce, which is one of the most crucial elements of the economy.[40]

E. Conclusion

The connection of investment with copyrights in the Indonesian legal framework is a multifaceted and complex issue due to normative restrictions. The current legal framework contains provisions that hinder the harmonization of investment and copyright laws. Therefore, investing in the creative industries poses a significant challenge, such as the complicated mechanism for registering copyrights from other countries, which may be challenging for foreign investors who are unfamiliar with the Indonesian legal system. The lengthy and bureaucratic process of registering copyrights can be a deterrent to investment and result in significant delays in the commercialization of creative works. To address these issues, there is a need for a comprehensive review of the current legal framework. This should include a thorough examination of the provisions in Law No. 25/2007 and Law No. 28/2014, to reconcile any conflicting provisions in line with international standards. Furthermore, the government can also play an important role in this process by providing clear guidance and information to investors, and by ensuring that the laws are effectively enforced. It is essential to increase awareness among stakeholders of the importance of copyright protection for investment through education and training programs and by promoting best practices. The government can

39 Muhammad Deovan Reondy Putra and Hari Sutra Disemadi, "Counterfeit Culture Dalam Perkembangan UMKM: Suatu Kajian Kekayaan Intelektual," *Krtha Bhayangkara* 16, no. 2 (2022): 297–314, https://doi.org/10.31599/krtha.v16i2.1151.

40 Awaludin Marwan, Diana Odier-Contreras Garduño, and Fiammetta Bonfigli, "Detection of Digital Law Issues and Implication for Good Governance Policy in Indonesia," *Bestuur* 10, no. 1 (August 2022): 22–32, https://doi.org/10.20961/bestuur.v10i1.59143.

also provide incentives for investment in the creative industries, such as tax breaks and grants. Therefore, there is a need for a concerted effort from all stakeholders to address the normative restrictions that hinder the connection between investment and copyrights in the Indonesian legal framework. By prioritizing harmonization and consistency, it is possible to create a legal framework that serves the needs of the creative industries and contributes to the economic development of Indonesia.

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