

Perspective of Development Law on the Impact of Investment in the Mandalika Circuit Project in Indonesia

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DOI: 10.23917/jtl.v5i2.1921

Submission Track:

Received:
31 May 2023

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ABSTRACT

The Mandalika circuit project is a development project for international standard sports facilities and of course is also supported by the various advantages that Lombok, West Nusa Tenggara has. In fact, for the first time after the Mandalika project was built, it will be used in world level competitions, namely Superbike (WSBK), Grand Prix (MotoGP). The development of the project has of course attracted attention both nationally and internationally, so it is not surprising that it will attract investors to invest their capital in Indonesia, especially for the Mandalika Circuit Development Project, Lombok. So that these investment activities will have impacts for and on Indonesia and the surrounding population. So, through this article, the author seeks to find out what impacts are caused and then elaborates on the views of Prof. Dr. Mochtar Kusumaatmadja's concept of development law. This writing uses a normative juridical approach which refers to statutory regulations, legal norms, and literature study. The concept of development law advocated by Prof. Mochtar is to make law (various investment regulations in the Mandalika project) a means/tool for societal renewal (change). Through the application of rules or regulations (law as a tool of social engineering) for continuity of activity direction the desired community in development. The role of law in the development of the Mandalika project is expected to ensure that these changes take place in an orderly manner with the aim of achieving order which is one of the classic functions of law.

Keywords: Capital Investment;Mandalika;Impact;Development Law Concept.

INTRODUCTION

Lombok, West Nusa Tenggara in March 2022 is becoming a public conversation because of the existence of an international MotoGP Indonesia Grand Prix (MotoGP) event which will be held from March 18-20, 2022. MotoGP is a Superbike (WSBK) world championship event that takes place in 2022 located at the Mandalika International Circuit. After so long the Mandalika circuit and non-circuit basic infrastructure project was handed over from the contractor to PT. Pengembangan Pariwisata Indonesia (Persero) or Indonesia Tourism Development Corporation (ITDC), finally the Mandalika circuit can operate and generate economic value for Indonesia. This championship event is an opportunity for Indonesia to introduce local wisdom, natural beauty,

including increasing Indonesia's domestic income, especially in the area around the Mandalika Circuit, Lombok.

Indonesia Tourism Development Corporation (ITDC) is part of a State-Owned Enterprise (BUMN) engaged in the development and management of integrated tourism complexes, furthermore also handles tourism projects The Nusa Dua, Bali and Special Economic Zones (KEK) one of which is Mandalika Tourism, Lombok, West Nusa Tenggara. The project was worked on in collaboration between various parties including PT Wijaya Karya Tbk and PT Bunga Raya Lestari KSO as contractors.

The Mandalika project is also a showcase for Indonesia in the eyes of the world as a country in Southeast Asia that is able to organize an international level activity. This is also a lure for investors to invest in Indonesia, especially in the Mandalika project. Confirmed by ITDC Director of Operations and Business Innovation Arie Prasetyo that the total investment plan is IDR 9.3 trillion and has been realized IDR 5.4 trillion which will be allocated to the construction of circuits, star hotel business fields, provision of utilities such as public refueling stations, water distilleries and so on (*Siaran Pers, Menteri Bahlil Tinjau Langsung KEK Mandalika Dan Jajal Sirkuit Mandalika*, n.d.). This project succeeded in luring investors to invest in Indonesia, both domestic investors and foreign investors, including investors from the United States EDB Paragon who prepared Rp1.2 trillion for the construction of Paramount Resort and Residence, a number of State-Owned Enterprises through the Association of State-Owned Banks (Himbara) invested with a syndicated credit facility of IDR 550 billion for the construction of a special area road (JKK) OR Street Circuit with a limit of IDR 400 billion, working capital credit for WSBK and MotoGP preparation reaches a limit of IDR 150 billion, non-cash loan / SBLC facilities with a limit of up to IDR 247 billion, besides that State-Owned Enterprises such as PT Wijaya Karya Tbk, PT PP Tbk, PT Adhi Karya Tbk, and PT Waskita Karya Tbk also became investors in the Mandalika project (Rachmahyanti, 2022).

The continuity for investors in making their investments in Indonesia must of course be in accordance with the provisions of the applicable rules and regulations following the existence of a positive law (*ius constitutum*) in an area including in Indonesia. The regulation is Law Number 25 of 2007 concerning Investment and Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation. Seeing so much enthusiasm from various parties for the Mandalika project through the Indonesian Grand Prix (MotoGP) MotoGP event, encourages the author to examine the views of the Investment law (investment) on the Mandalika project as well as analyze

the impacts caused by the presence of domestic and foreign investors on the development of the Mandalika project seen from the point of view of legal analysis of the concept of development law Prof. Dr. Mochtar Kusumaatmadja.

PROBLEM STATEMENT

1. What are the impacts of investment on the development of the Mandalika project in Lombok seen from the perspective of positive law (*ius constitutum*) investment in Indonesia?
2. How does the development law of Prof. Dr. Mochtar Kusumaatmadja view the impacts of investment that occur in the Mandalika project?

RESEARCH METHOD

This writing refers to a normative juridical approach in which the legislation and legal norms that are in force become the benchmark for the development of the researcher's analysis (Ali, 2009). Positive law (*ius constitutum*) on the policy of an investment law regulation in positioning investors and regulating various investment activities which will then trigger various impacts on the actions of investments entering Indonesia through the Mandalika project, Lombok, West Nusa Tenggara. Legal materials that will be used include primary legal materials and secondary legal materials consisting of concepts from the legal theory of Prof. Dr. Mochtar Kusumaatmadja and elaborated on the impacts arising from the Mandalika project investment (*Depri Liber Sonata, Metode Penelitian Hukum Normatif Dan Empiris : Karakteristik Khas Dari Metode Meneliti Hukum, Fiat Justisia Jurnal Ilmu Hukum, Vol 8, 2014*). With this research method, the formulation of the problem to be studied will produce a conclusion.

DISCUSSION

Investment is any form of business to invest in Indonesia that can be done by domestic investors and foreign investors in conducting business activities. The term investment is known as "investment" which in positive law (*ius constitutum*) is regulated in Law Number 25 Year 2007 on Investment. In addition, there is also a novelty to several articles previously regulated in Law No. 25 of 2007 now contained in article 77 of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation.

In *lex specialis*, Law Number 25 of 2007 concerning investment is the main reference for investors (both domestic and foreign investors) in all sectors in the territory of the Unitary State of the Republic of Indonesia to carry out / invest their capital, including the Mandalika project

(*Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation*, 2022). The development of the Mandalika project certainly should not necessarily dredge or change the existence of the natural order of Lombok, but must also estimate the purpose of the existence of investment in the territory of Indonesia. This is described in article 3 paragraph 2 of Law No. 25 of 2007 that in the implementation of investment must have objectives including:

- a. increasing national economic growth;
- b. creating employment opportunities;
- c. increasing sustainable economic development;
- d. increasing the competitiveness of the national business world;
- e. increasing the capacity and capability of national technology;
- f. encouraging the development of the people's economy;
- g. processing the potential economy into real economic power by using funds originating, both from within the country and from abroad; and
- h. improving the welfare of the community

In the scope of investment activities, the government is responsible for establishing a basic policy on investment activities which is to encourage the creation of a national business climate conducive to investment to strengthen the competitiveness of the national economy, and accelerate the increase in investment. These basic policies include providing equal treatment for domestic investors (PMDN) and foreign investors (PMA) while taking into account national interests, ensuring legal certainty, business certainty, and business security for investors from the licensing process until the end of investment activities in accordance with the provisions of laws and regulations, as well as opening opportunities for development and providing protection to micro, small, medium, and cooperative businesses.

The objectives and basic policies carried out in investment activities both carried out by the government and domestic investors and foreign investors, both directly ordered from the law and those that occur in the field will certainly have an impact on Indonesia, especially the residents around Mandalika, Lombok. Then the impacts that occur can be in the form of positive and negative impacts. The following are the impacts caused by investment activities in the construction of Mandalika project.

A. Impacts of Investment Activities on the Mandalika Project

Positive Impacts:

- a. Tourism Sector

Government Regulation Number 52 of 2014 concerning Mandalika Special Economic Zone is becoming increasingly massive. Data from the Central Bureau of Statistics recorded that tourist visits to Central Lombok since 2017 have continued to increase (Indraswari & MotoGP, 2022). Central Lombok presents various types of tourism, namely the handicraft industry, culinary, folk games, art attractions, geology, natural tourism, marine tourism, cultural tourism, historical tourism, water tourism and even now added to the existence of sports tourism or sportainment through the construction of the Mandalika circuit.

This impact reflects Article 3 paragraph 2 letters f, g, and h of the Investment Law, which encourages the development of the people's economy through the management of the potential economy using the flow of investment funds both domestically and abroad so as to become/achieve real economic power. Through this, it also encourages an increase in the welfare of the community.

b. Providing Job Opportunities

Labor absorption through the construction of Mandalika project, both absorption of skilled labor and manual labor. Through this development, employment is created as the goal to be achieved from article 3 paragraph 2 letter b of the Investment Law. The implementation of the MotoGP event also makes the surrounding residents get the opportunity to make a living either by selling, utilizing their labor / services to become a tour guide.

c. Construction of an International Circuit

The development of the international Mandalika circuit makes Mandalika surroundings in Lombok, West Nusa Tenggara have the potential for increased population growth due to population migration. Then the more the population, the various facilities of life both economy, health, education, and so on also have the potential to grow bigger in West Nusa Tenggara. This can reflect the situation in Bali as a Tourism location, as well as Jakarta as the center of Government and Business. That way it can encourage Lombok to become a potential location to have a competitive business world both nationally and internationally.

d. Increased State Revenue

The various potentials that develop and have an impact on the Mandalika project will certainly affect the lives of local residents including economic income. The opportunity to increase the per capita income of the surrounding population will also affect the country's national income which can have an impact on the pace of development in Indonesia, especially Lombok. As the purpose of investment in article 3 paragraph 2 letter c of the Investment regulation to increase sustainable economic development.

Negative Impacts:

a. Depletion of Living Natural Resources

Biological natural resources (article 1 paragraph 1) are biological elements in nature consisting of vegetable natural resources (plants) and animal natural resources (animals) which together with the surrounding non-living elements as a whole form an ecosystem (Number 5, 1990). The use of natural resources owned by Lombok on the other hand will be utilized for development, but on the other hand it will also result in damage and destruction of various purity of natural resources in Lombok. Utilizing natural resources that are not balanced with proper countermeasures will result in the destruction of nature in Lombok.

b. Environmental Pollution (Khalid, 2021)

The development of projects that will encourage increased population migration naturally increases environmental pollution. In addition to natural damage, there is also air, sound, water and soil pollution. This pollution can affect the beauty of Lombok's natural resources and can trigger sustainable impacts on health, and land subsidence.

B. View of the Concept of Development Law on the Impact of Investment

Prof. Mochtar Kusumaatmadja is one of Indonesia's legal thinkers who is synonymous with his ideas on the role of law in development, Indonesian international law par excellence, and an expert on Indonesian maritime law. According to Mochtar, the law is a whole of rules and principles that not only regulate but also include institutions and processes needed to realize the enactment of the law in reality (Kusumaatmadja, 2006). The terms law and development are synonymous with Mochtar because of two aspects: Mochtar introduced and convinced that law not only can but must play a role in development, which means affirmation of the function of law in development. The second reason is the situation when Mochtar brought up the term "development" which was also a new order political terminology that was sacred and sacred and must be applied to every field of life, including legal development. However, the essence of "development" according to Mochtar is change (Latipulhayat, 2014).

Mochtar emphasized that the role of law in development must be able to ensure that the changes run regularly with the intention of achieving order, which is one of the classic functions of law. *"Change, which is the essence of development, and order, which is one of the important functions of law, are the twin goals of a developing society"* (Mochtar Kusumaatmadja, 1975:3). Through the existence of the role of law, Mochtar wants to build a law that provides focus / orientation as well as solutions to the course of development, so that the law is not just giving legitimacy to power but that power must be subject to law and at the same time dismiss accusations

of Mochtar's concept of legal development as a tool to legitimize New Order power (Kusumaatmadja, 1975).

Mochtar saw that the function of law in the development of Indonesian society was deemed insufficient to ensure certainty and order. Therefore, with the concept of law as a means/tool of reform (change) of society, the law is expected to be a rule or regulation (law as a tool of social engineering) that channels the direction of human activity to what is desired by development and reform (Kusumaatmadja, 1986). R.Pound also said law as a means of realizing changes in the social field with the term law as a tool of social engineering, namely by applying law in the form of decisions of the United States Supreme Court in realizing equal rights for black citizens. The example presented shows that an orderly way is needed for the changes we want (Kusumaatmadja, 2013).

The above impacts caused by the construction of the Mandalika project in Lombok, are clear evidence of the involvement / influence of positive law on the development processes of the Mandalika Circuit in Lombok and surrounding areas. The role of law in the construction of the Mandalika project is expected to ensure that these changes run regularly with the intention of achieving order, which is one of the classic functions of law. Not only that, but also through various regulations related to the Mandalika project development is forced to be able to provide changes that occur and are desired to be done in an orderly manner. Because basically the concept of development law echoed by Prof. Mochtar is to make law (various investment regulations in the Mandalika project) as a means / tool of renewal (change) of society. Through the application of rules or regulations (law as a tool of social engineering) for the continuity of the direction of community activities desired in development.

Certainty, protection, order, and usefulness are the main keys for Indonesian law in every life activity including development. So, it becomes familiar with what Prof. Mochtar said about the concept of development law for Indonesia. Whether the impact arising from the tourism sector, employment, opening up jobs, increasing foreign exchange, to the negative impact on the environment, is a clear example of the need for law on development in order to become a director, supervisor, and enforcer in achieving the desired development of the nation. Therefore, every party, especially the government, in carrying out the basic investment policy and a project must not forget the values contained in the preamble of the 1945 Constitution and Pancasila.

CONCLUSION

The Mandalika International Circuit Project is a collaborative project between the Indonesian government through State-Owned Enterprises in collaboration with various parties, both communities and investors. The initiation of the project development attracted the eyes of the domestic to international scene, thus encouraging various investors both domestic investors and foreign investors to conduct their business in the territory of Indonesia, and as the definition contained in the Investment Law, the business effort is carried out with the cooperation between investors and the government. The legal legitimacy that regulates investment policy is regulated in Law Number 25 of 2007 concerning Investment and Article 77 of Law Number 11 of 2020 concerning Job Creation.

The project, which has a track length of 4.31 km, has caused various impacts, both positive and negative impacts, which are also based on the positive law that is currently in force in a particular area (*ius constitutum*). So that from some of the impacts described in this paper, then the author tries to elaborate on these impacts with the perspective of Prof. Mochtar Kusumaatmadja's concept of development law.

The concept of development law echoed by Prof. Mochtar is to make law (various investment regulations in the Mandalika project) as a means / tool of renewal (change) of society. Through the application of rules or regulations (law as a tool of social engineering) for the continuity of the direction of community activities desired in development. The above impacts caused by the construction of the Mandalika project in Lombok, are clear evidence of the involvement / influence of positive law on the development processes of the Mandalika Circuit in Lombok and surrounding areas. The role of law in the construction of the Mandalika project is expected to ensure that these changes run regularly with the intention of achieving order, which is one of the classic functions of law. Not only that, but also through various regulations related to the development of the Mandalika project is forced to be able to provide changes that occur and are desired to be carried out in an orderly manner. In addition, the impacts that occur are a concrete manifestation of the renewal of an order of life of the community, especially the people of Lombok so that the renewal process requires legal certainty, order, protection, and usefulness. And every party, especially the government, in carrying out the basic investment policy and a project must not forget the values contained in the preamble of the 1945 Constitution and Pancasila.

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