

# NORMATIVE INCONSISTENCIES IN INDONESIAN INVESTMENT LAW: IMPLICATIONS FOR LEGAL CERTAINTY AND THE INVESTMENT CLIMATE

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## Abstract

**How to cite this paper:** Iriansyah, & Yalid. (2026). Normative inconsistencies in Indonesian investment law: Implications for legal certainty and the investment climate. *Corporate Law & Governance Review*, 8(1), 88–99. <https://doi.org/10.22495/clgrv8i1p7>

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**ISSN Online:** 2664-1542  
**ISSN Print:** 2707-1111

**Received:** 19.09.2025  
**Revised:** 20.11.2025; 05.12.2025; 05.01.2026  
**Accepted:** 19.01.2026

**JEL Classification:** K15, K20, K220  
**DOI:** 10.22495/clgrv8i1p7

A conducive investment climate is essential for attracting both domestic and foreign investors. In Indonesia, legal certainty remains one of the most critical yet problematic elements, primarily due to normative inconsistencies across multiple layers of legislation. This article examines the impact of such inconsistencies on investment licensing procedures and legal certainty. The study employs a normative juridical method with statutory, conceptual, and comparative approaches. Findings reveal that overlapping regulations — particularly between the Investment Law, the Job Creation Law, and sectoral regulations — generate procedural uncertainty, excessive bureaucratic discretion, and high transaction costs for investors. Comparative analysis with Vietnam, Malaysia, Singapore, Thailand, the Philippines, South Korea, India, Brazil, and South Africa demonstrates that regulatory harmonization and centralized licensing authority are key to reducing legal risks and improving investor confidence. This article argues that Indonesia must urgently pursue regulatory harmonization, strengthen the Online Single Submission — Risk-Based Approach (OSS-RBA) system, and ensure consistency in the application of conflict-of-law principles to foster a reliable and competitive investment climate.

**Keywords:** Legal Certainty, Investment Law, Normative Inconsistency, OSS-RBA, Regulatory Harmonization

**Authors' individual contribution:** Conceptualization — I.; Methodology — I.; Validation — Y.; Formal Analysis — I.; Investigation — Y.; Resources — Y.; Data Curation — Y.; Writing — Original Draft — I.; Writing — Review & Editing — I.; Supervision — I.

**Declaration of conflicting interests:** The Authors declare that there is no conflict of interest.

## 1. INTRODUCTION

Foreign and domestic investment plays a pivotal role in sustaining economic growth in emerging economies, including Indonesia. A conducive investment climate is shaped not only by macroeconomic stability and political conditions but also, crucially, by legal certainty. Scholars and international institutions have consistently emphasized that the predictability and consistency of the legal framework are decisive factors in investors' decision-making processes (North, 1990;

United Nations Conference on Trade and Development [UNCTAD], 2022). Legal uncertainty increases risk premiums, raises transaction costs, and may ultimately deter large-scale and long-term investments.

In recent years, Indonesia has shown both progress and volatility in attracting foreign direct investment (FDI). In 2024, FDI inflows to Indonesia totaled about 900.2 trillion rupiah (approximately USD 55.33 billion), a 21% increase year-on-year. The fourth quarter of 2024 alone saw FDI of 245.8 trillion rupiah, up about 33.3% compared to

the same period in 2023. Meanwhile, total investment (domestic and foreign combined) reached 1,714.2 trillion rupiah ( $\approx$  USD 105.13 billion), marking a strong performance in capital inflows. However, the growth is not uniform: in Q2-2025, FDI dropped by approximately 6.95% year-on-year to 202.2 trillion rupiah ( $\approx$  USD 12.3 billion), the steepest decline since Q1-2020 (“Indonesia’s FDI drops”, 2025). This signals that investor confidence is highly sensitive to regulatory, political, and legal conditions.

The Indonesian government has set ambitious economic growth targets as part of its National Medium-Term Development Plan (*Rencana Pembangunan Jangka Menengah Nasional*, RPJMN) 2020–2024, aiming for 5.3%–6.0% annual growth by promoting priority sectors, improving infrastructure, supporting renewable energy, and increasing investment in downstream industries. Legal certainty is consistently identified in policy documents as a key enabler for achieving these targets. However, despite significant reforms — particularly through the enactment of the Job Creation Law (Law No. 6 of 2023) and the implementation of the Online Single Submission — Risk Based Approach (OSS-RBA) — normative inconsistencies persist across different levels of legislation. The coexistence of overlapping laws, such as the Investment Law (Law No. 25 of 2007), sectoral regulations, and regional by-laws, creates uncertainty in licensing procedures, inflates transaction costs, and enables discretionary practices among bureaucratic officials.

This study addresses three fundamental research questions:

*RQ1: In what specific forms do normative inconsistencies manifest within Indonesia’s investment law regime?*

*RQ2: How do these inconsistencies affect legal certainty and the broader investment climate?*

*RQ3: What policy recommendations can be formulated by drawing upon international best practices?*

The article seeks to bridge this scholarly gap by offering a critical examination of the structural and substantive inconsistencies embedded in Indonesia’s investment regulatory framework and assessing their implications for predictability and coherence in legal implementation. It further contributes to the literature through a comparative analysis of how jurisdictions such as Vietnam, Malaysia, Singapore, Thailand, the Philippines, South Korea, India, Brazil, and South Africa have addressed analogous challenges through regulatory harmonization and the establishment of centralized licensing authorities. Through this dual normative and comparative inquiry, the study advances theoretical insights into the centrality of legal certainty in investment law while also generating practical recommendations for regulatory reform in Indonesia.

The article is structured into five principal sections. Section 1 presents the introduction, outlining the background, the research problem, and the significance of the study. Section 2 offers a comprehensive literature review that synthesizes relevant scholarship and establishes the conceptual framework guiding this research. Section 3 sets out the methodology, employing a normative legal research approach to analyze statutory frameworks, jurisprudence, and comparative regulatory models. Section 4 details the research findings and analysis,

consisting of normative inconsistencies in Indonesia’s investment law, relevant jurisprudential illustrations, comparative lessons from the Association of SouthEast Asian Nations (ASEAN) and non-ASEAN jurisdictions, a sector-specific assessment of regulatory inconsistencies, and implications for micro, small, and medium enterprises (MSMEs). Section 5 provides the conclusion, synthesizing the key findings and highlighting the practical and theoretical contributions of the study.

## 2. LITERATURE REVIEW

### 2.1. Theoretical perspectives on legal certainty

Legal certainty has long been recognized as a cornerstone of the rule of law. Radbruch (1950) emphasizes that law must embody clarity, predictability, and stability. Rahardjo (2011) expands this view by arguing that certainty requires not only clarity of legal texts but also consistency in enforcement. In the context of investment law, predictability and stability are vital for fostering investor confidence and reducing risks associated with capital allocation.

International literature provides substantial support for these arguments. North (1990) asserts that institutional predictability plays a decisive role in reducing transaction costs, thereby creating the structural conditions necessary for long-term economic development. Within the domain of international investment law, Dolzer and Schreuer (2012) reinforce this view by underscoring that legal certainty is not merely a normative aspiration but a foundational doctrine that underlies investor trust and the enforceability of investment commitments. Empirical research further corroborates this theoretical framework. Busse and Hefeker (2007) demonstrate that institutional instability and regulatory unpredictability impose significant constraints on FDI, a pattern reaffirmed in recent global assessments by UNCTAD (2022).

More recent empirical analyses strengthen the linkage between institutional quality and investment performance. Chen and Jiang (2021), drawing on data from integrated economic regions, provide statistically rigorous evidence that improvements in regulatory quality and the rule of law are positively associated with increased FDI inflows. Their findings highlight not only the importance of institutional design but also the amplifying effects of regional economic integration. Khan et al. (2024) advance this line of inquiry by demonstrating that regulatory quality — among multiple institutional dimensions — exerts the most consistent and significant influence on FDI, thereby lending strong empirical support to the argument that administrative harmonization is indispensable for attracting and sustaining investment. Complementarily, Saha et al. (2022) reveal that the effects of institutional quality on FDI vary considerably across national contexts, suggesting that institutional reforms must be tailored to each country’s political-administrative configuration.

Taken together, these scholarly contributions provide robust empirical validation for the central claims of this article regarding the critical importance of regulatory stability, administrative coherence, and institutional strengthening as

prerequisites for legal certainty in the investment sector. They collectively affirm that legal frameworks characterized by stability, cross-sectoral alignment, and clear regulatory hierarchies substantially enhance the credibility of domestic legal systems and improve a country's competitiveness in attracting foreign investment.

## 2.2. An Indonesian and comparative examination of investment law

Indonesian scholars have increasingly focused on regulatory reform. Anggunsuri and Zahara (2023) identify procedural barriers within the OSS-RBA system. Asriadi and Sulaiman (2025) highlight disharmony between the Job Creation Law and sectoral regulations. Tinambunan et al. (2025) emphasize conflicts between central and regional authorities. While these studies provide valuable insights, they focus on specific instruments rather than offering a comprehensive analysis of normative inconsistencies across the investment regulatory framework.

Comparative legal scholarship provides important lessons. Vietnam's 2014 Law on Investment consolidated fragmented regulations and successfully boosted FDI inflows (Thai, 2023). Malaysia strengthened its legal certainty by centralizing investment licensing under the Malaysian Investment Development Authority (MIDA) (World Bank, 2022). Singapore, often ranked among the easiest places to do business, streamlined licensing through a single online portal, ensuring coherence between general and sectoral regulations (World Bank, 2020).

From this literature, two research gaps emerge: 1) a limited systematic analysis of normative inconsistencies across Indonesia's investment laws, and 2) a lack of comparative insights from regional peers in Indonesian legal scholarship. This study addresses both.

## 2.3. Legal certainty, investment, and institutional economics

The relationship between legal certainty and investment has been widely discussed in institutional economics. North (1990) argues that institutions, including legal systems, determine the transaction costs of economic activity. When legal rules are predictable and consistently enforced, transaction costs are reduced, and investment is encouraged. Conversely, weak institutions and inconsistent legal frameworks discourage long-term investment commitments.

Acemoglu and Robinson (2012) similarly highlight that inclusive political and legal institutions create stability and prosperity, while extractive institutions often produce legal uncertainty that deters private sector participation. In this sense, Indonesia's regulatory fragmentation may be seen as a symptom of institutional weaknesses that undermine investment potential.

## 2.4. International standards and investment law

Beyond domestic considerations, international organizations provide benchmarks for investment governance. The Organisation for Economic

Co-operation and Development (OECD, 2015) Policy Framework for Investment stresses the importance of transparency, coherence, and predictability in legal regimes. UNCTAD (2022) further highlights that legal uncertainty is among the top barriers faced by multinational enterprises in emerging markets. Empirical studies from the International Monetary Fund (IMF)<sup>1</sup> confirm that countries with consistent regulatory environments attract more sustainable FDI.

These insights suggest that Indonesia's fragmented investment laws not only pose internal governance challenges but also undermine its credibility in international markets.

## 2.5. Sector-specific regulatory uncertainty

Several scholars have noted that normative inconsistencies manifest strongly in sectoral regulations. In the extractive industries, overlapping laws between the Mining Law (Law No. 3 of 2020), environmental regulations, and spatial planning laws have created conflicts over licensing authority (Suhartana et al., 2025). In the energy sector, contradictions between renewable energy policies and fossil fuel investment regulations generate legal uncertainty for investors in green technology (Dinatha et al., 2024). Similar issues arise in the MSME sector, where simplified licensing under the Job Creation Law clashes with regional bylaws on local business permits (Nurmayani et al., 2023).

These sectoral studies reinforce the broader argument: legal certainty cannot be achieved without harmonizing both general investment laws and sector-specific frameworks.

## 2.6. Legitimate expectations in international investment law

One strand of scholarship in international investment law focuses on the principle of legitimate expectations as a core element of legal certainty. Henckels (2023) argues that protection of legitimate expectations in investor-state dispute settlement serves to guard against arbitrary regulatory conduct and enhance predictability in host states' legal frameworks. This perspective highlights that normative inconsistencies in Indonesian law may not only undermine domestic governance but also expose the state to disputes under bilateral and multilateral investment treaties.

## 2.7. ASEAN investment and regulatory frameworks

Regional comparative studies also show how ASEAN countries have sought to reconcile competition law and investment regulation. Ahamat (2020) highlights the growing role of competition law in ASEAN's investment policy, suggesting that regulatory coherence is crucial for regional integration. Pasaribu et al. (2025) provide further insights into venture capital regulations in Indonesia compared with ASEAN counterparts, stressing that fragmented legal frameworks hinder cross-border investment flows.

<sup>1</sup> <https://data.imf.org/CDIS>

## 2.8. Legal certainty and investment in emerging economies

The issue of legal certainty is not unique to Indonesia but is a persistent challenge across many developing countries. Comparative experiences from India, Brazil, and South Africa demonstrate how normative inconsistencies in legislation can directly affect investment inflows and broader economic development.

- *India.* India provides a useful example of how regulatory fragmentation and judicial activism influence investor confidence. The country has enacted multiple investment-related statutes, including the Foreign Exchange Management Act of 1999 and the Companies Act of 2013, while also attempting to liberalize FDI policies through sector-specific rules. However, frequent amendments and inconsistent application of regulations across states have created uncertainty.

For instance, the retrospective taxation case against Vodafone International Holdings B.V. revealed how sudden regulatory changes can undermine investor expectations. In 2012, the Indian government imposed a retrospective tax claim amounting to USD 2.2 billion on Vodafone, despite earlier judicial rulings in its favor. This triggered investor-state arbitration under the India-Netherlands Bilateral Investment Treaty (BIT). The arbitral tribunal ruled in favor of Vodafone in 2020, finding that India's actions violated the principle of fair and equitable treatment (FET) and legal certainty (Papanastasiou, 2025).

This case demonstrates that even when a state seeks to increase its tax revenues, inconsistent and unpredictable regulatory conduct can result in international liability. For Indonesia, this highlights the importance of avoiding retroactive legislation and ensuring that reforms — such as the Job Creation Law — are implemented transparently and consistently.

- *Brazil.* Brazil has historically attracted large inflows of FDI, particularly in natural resources and infrastructure. However, legal fragmentation between federal and state regulations has often discouraged investors. One of the most critical issues has been environmental licensing. Brazil's Forest Code (Carvalho et al., 2024) and multiple decrees issued by federal and state agencies frequently conflict, creating uncertainty for infrastructure and agribusiness projects (Ruaro et al., 2022).

Moreover, Brazil does not participate in the traditional investor-state arbitration framework under the International Centre for Settlement of Investment Disputes (ICSID). Instead, it developed a unique model of Cooperation and Facilitation Investment Agreements (CFIAs), which focus on institutional dialogue rather than arbitration. While innovative, the absence of binding arbitration mechanisms has raised concerns among investors about the enforceability of legal protections.

The Brazilian example is particularly relevant to Indonesia: both countries face tensions between promoting investment and protecting the environment, while also struggling with multi-level governance and regulatory overlap. Lessons from Brazil suggest that institutional reforms, rather than purely legislative measures, are necessary to reduce legal uncertainty.

- *South Africa.* South Africa represents another important case study. Following the end of apartheid, South Africa initially adopted liberal investment laws and signed multiple BITs. However, in the early 2010s, the government terminated several BITs, arguing that they constrained domestic policy space. These terminations, combined with policy uncertainty in the mining sector, led to a significant decline in FDI inflows between 2010 and 2015 (Sauvant & Sachs, 2009).

South Africa subsequently enacted the Protection of Investment Act of 2015, which reaffirmed the principle of national treatment but limited investor access to international arbitration, directing disputes primarily to domestic courts. While this reasserted state sovereignty, it raised concerns about judicial independence and the predictability of legal remedies.

The mining sector provides a vivid illustration. Amendments to the Mineral and Petroleum Resources Development Act created uncertainty about licensing procedures, black economic empowerment requirements, and state participation rights. Investors perceived these shifts as undermining the stability of the regulatory framework.

For Indonesia, South Africa's experience underscores the risks of abrupt policy changes and the need to balance regulatory sovereignty with credible legal guarantees for investors.

The experiences of India, Brazil, and South Africa reinforce several lessons relevant to Indonesia:

- Avoiding retroactive legislation (India) is crucial to maintaining investor trust.
- Institutional coherence (Brazil) matters as much as legislative clarity; multiple layers of government must coordinate to prevent legal fragmentation.
- Policy stability and credible dispute settlement mechanisms (South Africa) are essential to ensure that investors perceive long-term predictability.

By integrating these comparative insights, Indonesian scholarship on investment law can better situate domestic debates within the broader global South experience, highlighting both common challenges and potential solutions.

## 3. RESEARCH METHODOLOGY

This study adopts a normative juridical method, which is appropriate for analyzing problems that originate in the inconsistency of legal norms. The normative juridical method focuses on examining written law (*ius constitutum*), legal doctrines, and judicial interpretations, with the aim of identifying gaps, overlaps, and inconsistencies within the legal system.

The normative juridical method was selected because the issues under investigation originate from the substantive disharmony of legal norms, rather than from empirical phenomena. Analyzing the inconsistencies between the Investment Law, the Job Creation Law, sectoral regulations, and regional regulations can only be carried out through a meticulous examination of statutory provisions, legal principles, doctrine, and jurisprudence. The normative approach enables an assessment of both vertical and horizontal coherence of norms, the application of the legal maxims *lex superior, lex*

specialis, and *lex posterior*, as well as a comparative analysis of the investment law frameworks in other jurisdictions. Hence, the normative juridical method is the most appropriate means to evaluate the quality of the regulatory structure and to formulate recommendations for legal harmonization.

### 3.1. Research approaches

Three complementary approaches are employed in this research:

- *Statutory approach*. This approach examines the hierarchy of laws governing investment in Indonesia, including:

- a) 1945 Constitution of the Unitary State of the Republic of Indonesia as the constitutional foundation.

- b) Investment Law (Law No. 25 of 2007), which provides the general framework.

- c) Job Creation Law (Law No. 6 of 2023), which introduces omnibus-style reforms and OSS-RBA.

- d) Government Regulation No. 5 of 2021 on Risk-Based Licensing.

- e) Sectoral laws, such as the Mining Law (Law No. 3 of 2020), Geothermal Law (Law No. 21 of 2014), Forestry Law (Law No. 41 of 1999), and Environmental Law (Law No. 32 of 2009).

- f) Regional regulations that often introduce licensing obligations for MSMEs.

By mapping these statutes, the study evaluates how overlapping provisions undermine vertical and horizontal consistency.

- *Conceptual approach*. The study applies classical and modern legal theories to interpret normative inconsistencies, including:

- a) Radbruch's (1950) concept of legal certainty emphasizes clarity and predictability in law.

- b) Dicey's (1959) rule of law, which critiques discretionary government power and stresses equality before the law.

- c) Principles of conflict of laws, particularly *lex superior derogat legi inferiori*, *lex specialis derogat legi generali*, and *lex posterior derogat legi priori*.

- d) Institutional economics theory (North, 1990), which links predictable legal institutions to reduced transaction costs and higher investment.

- e) Legitimate expectations doctrine in international investment law (Henckels, 2023), relevant to evaluating how inconsistent regulations may violate international commitments.

- *Comparative approach*. This approach situates Indonesia's investment law within a broader international context. It analyzes reforms in:

- a) ASEAN countries: Vietnam, Malaysia, Singapore, Thailand, and the Philippines, which offer regional best practices.

- b) South Korea, representing a successful non-ASEAN model in East Asia.

- c) India, Brazil, and South Africa, representing emerging economies in the Global South, facing similar challenges of legal fragmentation.

Comparative analysis helps to identify which institutional and legislative reforms are transferable to the Indonesian context.

### 3.2. Sources of legal material

The study relies on three categories of legal material:

- a) Primary materials: Indonesian statutes, government regulations, Constitutional Court decisions, administrative court decisions, and citizen lawsuits.

- b) Secondary materials: scholarly books, peer-reviewed journal articles (both Indonesian and international), and reports from institutions such as UNCTAD, OECD, and the World Bank.

- c) Tertiary materials: legal dictionaries, encyclopedias, and official statistics from Statistics Indonesia (*Badan Pusat Statistik*, BPS) and Indonesia Investment Coordinating Board (*Badan Koordinasi Penanaman Modal*, BKPM).

### 3.3. Data collection and analysis

Legal materials were collected through a literature study, focusing on statutory texts, case law databases, and academic journals indexed in Scopus and other international databases. The analysis employs qualitative juridical analysis, structured as follows:

- a) Identification of conflicting or overlapping provisions in Indonesian investment law.

- b) Evaluation of the consequences of these inconsistencies for legal certainty and the investment climate.

- c) Comparative contextualization, drawing lessons from ASEAN and emerging economies.

- d) Synthesis, formulating theoretical and policy recommendations for Indonesia.

### 3.4. Analytical framework

The analytical framework is guided by the principle that legal certainty requires:

- a) Vertical consistency: Lower regulations must not contradict higher laws (e.g., ministerial decrees *vis-à-vis* statutes).

- b) Horizontal consistency: Regulations of equal rank should be coherent across sectors (e.g., Investment Law vs. Mining Law).

- c) Institutional consistency: Administrative practice must align with statutory mandates (e.g., OSS-RBA vs. ministerial licensing).

- d) By applying this framework, the study identifies gaps between law in the books and law in action — a discrepancy that often undermines investor trust.

## 4. RESULTS AND DISCUSSION

### 4.1. Normative inconsistencies in Indonesian investment law

Despite reforms introduced by the Job Creation Law, Indonesia's investment legal framework remains fragmented. The coexistence of the Investment Law (Law No. 25 of 2007), the Job Creation Law (Law No. 6 of 2023), and various sectoral laws creates dual authority in licensing. For example:

- a) The OSS-RBA system (Government Regulation No. 5 of 2021) centralizes licensing digitally.

b) The Investment Law still maintains BKPM's licensing authority.

c) Sectoral laws, such as the Mining Law (Law No. 3 of 2020), continue to vest licensing power in technical ministries.

This dualism generates confusion for investors, forces them to navigate multiple processes, and undermines efficiency. Moreover, weak application of conflict-of-law principles (*lex superior*, *lex specialis*, *lex posterior*) allows lower or sectoral regulations to override higher rules, creating further uncertainty.

Normative inconsistencies have practical implications:

a) Increased transaction costs: multiple permits, consultations, and duplicate filings.

b) Bureaucratic discretion: officials exploit ambiguities for rent-seeking.

c) Regulatory risk: sudden changes or contradictory rules increase perceived risk.

d) Declining competitiveness: investors choose ASEAN peers with clearer regimes.

Indonesia's fluctuating FDI data in 2024–2025 illustrates this vulnerability: while inflows rose in 2024, they dropped sharply in mid-2025 when regulatory uncertainty escalated.

Applying Radbruch's (1950) concept of legal certainty, Indonesian regulations fail to meet the principle of clarity and predictability. Dicey's (1959) rule of law warns against "supremacy of officials" — a phenomenon evident when ministries selectively apply conflicting rules. Institutional economics (North, 1990) shows how these uncertainties increase transaction costs, deterring sustainable FDI.

In international law, Henckels (2023) emphasizes legitimate expectations as part of the FET standard. Inconsistent reforms such as the shifting scope of OSS-RBA or contradictory sectoral rules risk violating this principle, exposing Indonesia to potential investor-state disputes.

## 4.2. Case law illustrations

### 4.2.1. Constitutional Court Decision No. 91/PUU-XVIII/2020 (Judicial Review of the Job Creation Law)

Petitioners challenged the Job Creation Law for both substantive and procedural defects. The Court declared the law conditionally unconstitutional, requiring revisions within two years. This decision created a window of legal uncertainty, as licenses issued under the law could be challenged. Investors in energy and infrastructure projects hesitated, delaying project financing.

This case illustrates procedural inconsistency — when the law-making process itself undermines legitimacy. Instead of enhancing certainty, the omnibus law introduced new uncertainty.

### 4.2.2. Administrative Court Decision No. 82/G/2022/PTUN-JKT (Licensing Dispute)

A foreign investor obtained an OSS-RBA license but was denied an operating permit by the Ministry of Energy and Mineral Resources, which demanded sectoral compliance. The Jakarta State Administrative Court (*Pengadilan Tata Usaha Negara*, PTUN) ruled for the investor, affirming OSS-RBA supremacy.

This shows administrative inconsistency: central reforms are undermined by sectoral ministries. Although the judiciary corrected the issue, reliance on litigation indicates systemic weakness.

### 4.2.3. Citizen lawsuits and environmental litigation

Environmental governance has become a flashpoint for investment.

a) Jakarta Air Pollution Case (2019–2021): The Court ordered the government to strengthen standards, raising compliance costs.

b) Kalimantan Deforestation Case (2020): Non-governmental organization (NGO) lawsuits delayed plantation projects.

c) Citarum River Pollution Case (2018): Litigation damaged the reputation of supply-chain investors.

These cases reveal substantive inconsistency between growth-oriented policies and environmental obligations.

If we pay attention, several jurisprudence highlights three dimensions:

a) Procedural (constitutional drafting defects).

b) Administrative (sectoral vs. central conflicts).

c) Substantive (environmental vs. investment goals).

Together, they show that legal certainty in Indonesia is undermined not only by statutes but by weak institutions and inconsistent judicial oversight.

## 4.3. Comparative lessons from ASEAN and beyond

In Vietnam, the Law on Investment of 2014 consolidated regulations, making Vietnam a regional hub with an annual FDI of USD 15–20 billion.

In Malaysia, MIDA serves as a centralized authority, ensuring consistency and transparency. In 2022, FDI inflows reached USD 17 billion.

In Singapore, the Online Business Licensing Service (OBLS) system integrates 80+ licenses with harmonized laws, consistently placing Singapore in the top tier globally for regulatory quality.

In Thailand, the Board of Investment (BOI) acts as both regulator and promoter, reducing fragmentation. FDI reached USD 10.1 billion in 2022.

In the Philippines, the Ease of Doing Business and Efficient Government Service Delivery Act of 2018 established the Anti-Red Tape Authority (ARTA), mandating strict timelines. Amendments in 2022 liberalized restrictions. FDI hit USD 9.2 billion.

In South Korea, the Foreign Investment Promotion Act (1998) created Invest Korea, combining streamlined licensing with strong guarantees. FDI in 2022 was USD 17.3 billion.

In India, Vodafone's retrospective tax dispute showed the dangers of unpredictable laws. Investor arbitration upheld FET, ruling against India.

In Brazil, environmental licensing conflicts and federal-state overlaps discourage investment. Brazil's CFIA model avoids arbitration, raising enforceability concerns.

In South Africa, terminating BITs and mining law amendments caused FDI decline. The Protection of Investment Act (2015) limited arbitration, raising doubts about legal certainty.

Considering the comparison above, the main lessons from these approaches are as follows:

a) Centralization reduces discretion (Vietnam, Malaysia, Thailand, Korea).

b) Harmonization prevents conflicts (Vietnam, Singapore).

c) Timelines reduce uncertainty (Philippines).

d) Stability and credible enforcement matter (India, Brazil, South Africa).

Indonesia must emulate consolidation (Vietnam), institutional authority (Thailand), and robust guarantees (Korea) while avoiding retroactive or fragmented reforms.

#### 4.4. Sectoral analysis of normative inconsistencies

##### 4.4.1. Mining sector

Indonesia's mining sector is one of the pillars of its national development strategy, particularly due to the country's role as the world's largest producer of nickel and a leading exporter of coal and copper. The government considers mining as a driver of downstream industrialization and energy transition, especially nickel for electric vehicle (EV) batteries. However, despite its strategic role, the sector is marred by overlapping legal frameworks, inconsistent enforcement, and recurrent litigation.

##### 4.4.2. Export and investment data

In 2023, Indonesia's nickel export value reached approximately USD 33 billion, accounting for nearly 10% of national export earnings (BPS, 2024). The downstreaming policy (*hilirisasi*) further boosted foreign investment in smelters, with Chinese investors alone committing USD 12 billion to nickel processing facilities in Sulawesi and Maluku. Coal exports also remained significant, with revenues of USD 45 billion in 2023, while copper exports through PT Freeport Indonesia contributed over USD 7.5 billion.

FDI in the mining sector has been consistently strong, reaching USD 4.8 billion in 2024 (KAP Siddharta Widjaja & Rekan, 2025). However, investors report that licensing remains one of the biggest obstacles, despite reforms under the Job Creation Law and OSS-RBA.

##### 4.4.3. Legal conflicts in licensing

The Mining Law (Law No. 3 of 2020) centralized licensing authority at the Ministry of Energy and Mineral Resources. Yet, the OSS-RBA system, introduced under the Job Creation Law, claims to serve as the central licensing gateway. In practice, investors often face a dual licensing burden: obtaining approval through OSS-RBA but also needing ministerial or regional permits.

One example occurred in Central Sulawesi in 2022, where at least nine nickel mining companies reported delays of more than 18 months because local governments refused to issue environmental permits, despite central approval through OSS-RBA. These delays increased project costs, as investors had to pay holding charges on idle equipment and extend loan repayments.

##### 4.4.4. Case study: Freeport Indonesia

The case of PT Freeport Indonesia illustrates how legal uncertainty affects even long-established investors. After decades of operating under a contract of work (CoW), Freeport faced renegotiation when the government revised mining regulations in 2009 and 2017, requiring CoWs to be

converted into Special Mining Business Permits (*Izin Usaha Pertambangan Khusus*, IUPK).

Protracted negotiations between 2017 and 2018 created significant uncertainty, as Freeport threatened to bring claims under international investment treaties. The dispute was eventually resolved through a divestment agreement, with Indonesia acquiring a 51% stake in Freeport. While politically successful, the process highlighted regulatory unpredictability and the government's discretionary power to alter long-term agreements.

##### 4.4.5. Environmental litigation in mining

Several lawsuits have also challenged mining projects on environmental grounds. In 2021, environmental NGOs filed a lawsuit in the Southeast Sulawesi Administrative Court against the approval of a nickel mining project that allegedly violated coastal zoning regulations. Although the court dismissed the case, it underscored how conflicting laws — between mining concessions and coastal management plans — create grounds for litigation.

Similarly, coal mining operations in Kalimantan have faced lawsuits due to non-compliance with reclamation obligations, as mandated under the Environmental Law (Law No. 32 of 2009). The uneven enforcement of reclamation rules creates further uncertainty, as some companies face strict penalties while others continue operations unchallenged.

The mining sector demonstrates several layers of normative inconsistency:

- a) Regulatory overlap: Dualism between OSS-RBA and ministerial licensing.
- b) Contractual instability: Frequent renegotiation of long-term mining contracts (e.g., Freeport).
- c) Environmental conflicts: Contradictions between mining permits and spatial/environmental laws.
- d) Litigation risk: Frequent lawsuits delay projects and increase compliance costs.

For investors, these inconsistencies translate into higher transaction costs, regulatory risk premiums, and potential exposure to international arbitration. The Indonesian government undermines policy credibility and jeopardizes the long-term attractiveness of the mining sector.

##### 4.4.6. Energy sector

The energy sector lies at the heart of Indonesia's economic growth and climate commitments. With abundant coal, oil, natural gas, and renewable energy resources, Indonesia faces both opportunities and challenges in creating a coherent legal framework that supports sustainable development. However, overlapping regulations, inconsistent policy signals, and licensing disputes continue to undermine legal certainty for investors.

##### 4.4.7. Energy transition commitments

Indonesia ratified the Paris Agreement in 2016 through Law No. 16 of 2016, committing to reduce greenhouse gas emissions by 31.89% by 2030 under a business-as-usual scenario, and up to 43% with international support (United Nations Framework Convention on Climate Change [UNFCCC], 2022). These commitments have been further integrated

into the National Energy Policy and the Enhanced Nationally Determined Contribution (NDC). At the G20 Bali Summit in 2022, Indonesia also launched the Just Energy Transition Partnership (JETP), securing USD 20 billion in funding pledges from international partners to accelerate the transition away from coal.

Despite these commitments, regulatory fragmentation remains. Subsidies and regulatory support for coal-fired power plants persist, while renewable projects struggle with tariff uncertainty and lengthy permitting. This contradiction sends mixed signals to investors and has hindered the pace of the energy transition.

#### 4.4.8. Foreign direct investment in energy

According to BKPM, FDI in renewable energy projects (solar, wind, hydropower, geothermal) reached USD 2.1 billion in 2023–2024, representing only a fraction of Indonesia's potential (Yustika, 2024). By contrast, coal and fossil fuel investments remained dominant, with more than USD 4.5 billion in related infrastructure projects.

Investors repeatedly cite three main concerns:

a) Tariff and Power Purchase Agreement (PPA) uncertainty with PT Perusahaan Listrik Negara (PLN), which often renegotiates terms.

b) Conflicting land-use regulations, particularly in geothermal projects.

c) Inconsistent incentives, where renewable projects receive limited fiscal support compared to fossil fuels.

#### 4.4.9. Geothermal and forestry conflicts

Geothermal energy illustrates the contradictions within Indonesia's legal framework. The Geothermal Law (Law No. 21 of 2014) classifies geothermal development as a “non-mining” activity, allowing projects in conservation forests. However, this has clashed with the Forestry Law (Law No. 41 of 1999) and conservation regulations.

For example, the Sorik Marapi geothermal project in North Sumatra (145 MW capacity) faced delays due to conflicting land permits from the Ministry of Forestry, despite approval under the Geothermal Law. Prolonged disputes over environmental clearance and land rights led to project interruptions, resulting in significant financial losses and reduced investor confidence.

Putri et al. (2024) argue that this case shows how legal inconsistency undermines Indonesia's ability to exploit its vast geothermal potential — the largest in the world, estimated at 24 GW.

#### 4.4.10. Coal-fired power plants and litigation

Indonesia continues to rely heavily on coal, which accounts for around 60% of electricity generation (Institute for Essential Services Reform [IESR], 2022). While the government has pledged to phase out coal, recent approvals for coal-fired power plants contradict this goal.

Legal challenges have also arisen. In 2021, a coalition of NGOs filed a lawsuit against the government's approval of a coal-fired power plant in Banten, arguing that it violated environmental

and climate commitments. The case reflected growing tension between environmental obligations and investment policies that favor fossil fuels.

Such lawsuits highlight the inconsistency between Indonesia's climate commitments under the Paris Agreement and its continued reliance on coal. For investors, this creates uncertainty: renewable projects face obstacles, while coal projects risk reputational damage and litigation.

#### 4.4.11. Policy contradictions and investment risks

The energy sector exemplifies how normative inconsistencies generate risk in multiple ways:

a) Contradictory policies: Simultaneous promotion of renewables and coal undermines policy credibility.

b) Licensing conflicts: Geothermal vs. forestry laws delay project implementation.

c) Tariff unpredictability: PLN's role as a single buyer gives it discretion to alter PPAs, creating bankability issues.

d) Litigation risks: Environmental lawsuits increase compliance costs and delay projects.

For foreign investors, particularly those in renewable energy, these inconsistencies raise questions about Indonesia's long-term commitment to energy transition. For the government, failure to resolve these issues jeopardizes the achievement of its NDC targets and undermines international partnerships like the JETP.

#### 4.4.12. Environmental regulation

Environmental regulation lies at the core of Indonesia's sustainable development agenda, yet it remains one of the most fragmented and inconsistent domains. Despite ambitious targets for green growth and climate resilience, normative inconsistencies across environmental, investment, and sectoral laws have produced frequent litigation and investor uncertainty.

#### 4.4.13. Regulatory framework

The central law governing environmental management is Law No. 32 of 2009 on Environmental Protection and Management, which mandates Environmental Impact Assessments (*Analisis Mengenai Dampak Lingkungan*, AMDAL) for high-risk projects. This was modified by the Job Creation Law (Law No. 6 of 2023), which attempted to streamline AMDAL by introducing risk-based licensing under the OSS-RBA. However, ambiguity remains regarding which projects require full AMDAL, simplified environmental documents, such as Environmental Management Efforts/Environmental Monitoring Efforts (*Upaya Pengelolaan Lingkungan Hidup dan Upaya Pemantauan Lingkungan Hidup*, UKL-UPL), or merely self-declaration.

The dualism between the Environmental Law (Law No. 32 of 2009) and subsequent implementing regulations under the Job Creation Law creates confusion for both regulators and investors. Local governments sometimes insist on AMDAL requirements even for projects classified as “medium risk” under OSS-RBA, resulting in prolonged delays.

#### 4.4.14. Citizen lawsuits

Indonesia has seen a growing wave of citizen lawsuits (*gugatan warga negara*) on environmental issues, reflecting both judicial activism and public frustration with weak enforcement.

a) Jakarta Air Pollution Case (2019–2021): In Case No. 374/Pdt.G/LH/2019/PN Jkt.Pst, residents of Jakarta sued the President and multiple ministries for failing to ensure clean air. In 2021, the Central Jakarta District Court ruled in favor of the plaintiffs, ordering the government to strengthen air quality standards and enforcement. While not directly an investment dispute, this case raised compliance costs for industrial operators in Greater Jakarta, including energy and manufacturing investors.

b) Kalimantan Deforestation Case (2020): NGOs challenged the issuance of plantation permits in East Kalimantan, arguing that the concessions violated spatial planning and forest conservation rules. Although the administrative court upheld most permits, the litigation delayed project implementation and attracted negative publicity for the foreign investors involved.

c) Citarum River Pollution Case (2018): Community groups sued textile companies and local governments over pollution in the Citarum River. The case highlighted weak monitoring of industrial discharges despite existing regulations. International buyers linked to supply chains in West Java faced reputational risks, showing how environmental litigation can affect FDI indirectly.

These lawsuits exemplify how normative inconsistencies — between investment promotion and environmental obligations — create fertile ground for litigation.

#### 4.4.15. AMDAL conflicts

The AMDAL system itself is a source of inconsistency. Government Regulation No. 22 of 2021 mandates environmental permits based on project risk, but local interpretations vary widely.

For example, a hydropower project in West Java faced contradictory requirements: the central government classified it as medium risk requiring only UKL-UPL, while the provincial government insisted on a full AMDAL, delaying approval by more than 14 months. Investors incurred additional costs for consultancy, duplicate assessments, and legal fees.

Similarly, nickel smelter projects in Sulawesi were delayed due to discrepancies between AMDAL requirements under the Ministry of Environment and Forestry and local government regulations. These duplications erode investor trust in Indonesia's licensing reforms.

#### 4.4.16. ESG investment and global standards

Global investors increasingly apply environmental, social, and governance (ESG) standards in their investment decisions. Funds such as Norway's Government Pension Fund Global and major European institutional investors have divested from Indonesian coal companies due to deforestation and pollution concerns.

Magda et al. (2025) observe that Indonesia's green economy policy lacks coherence across ministries, reducing the country's attractiveness for

ESG-driven FDI. While the government promotes renewable energy and sustainable finance, weak enforcement of environmental regulations undermines credibility.

From an international law perspective, Indonesia risks being excluded from global green financing initiatives unless it harmonizes its regulatory framework. The European Union (EU) Deforestation Regulation of 2023, for instance, requires exporters of commodities like palm oil and rubber to prove that products are deforestation-free. Normative inconsistencies in land use and forestry law make compliance difficult, threatening Indonesia's access to European markets.

The environmental sector highlights the cost of normative inconsistency in multiple dimensions:

a) Litigation risk: Citizen lawsuits and NGO litigation delay projects and raise compliance costs.

b) Regulatory dualism: Conflicting AMDAL requirements between central and local authorities increase uncertainty.

c) Reputational risk: ESG investors avoid Indonesia due to weak and inconsistent enforcement.

d) Market access: Failure to align with international environmental standards threatens export competitiveness.

For Indonesia, achieving sustainable investment requires reconciling its dual objectives: attracting capital while ensuring environmental protection. Without regulatory harmonization, the risk is that Indonesia will lose both investment capital due to legal uncertainty and environmental integrity due to weak enforcement.

### 4.5. Micro, small, and medium enterprises

Micro, small, and medium enterprises are the backbone of Indonesia's economy. According to BPS (2024), MSMEs account for over 61% of GDP and 97% of total employment, making them a key driver of inclusive and sustainable growth. Recognizing this, the Indonesian government has introduced multiple policies to simplify MSME licensing, enhance access to finance, and promote integration into the digital economy. However, normative inconsistencies between central reforms and local regulations remain a significant obstacle.

#### 4.5.1. OSS-RBA and simplified licensing

The Job Creation Law (Law No. 6 of 2023) mandated simplified business licensing for MSMEs through the OSS-RBA system. In principle, micro and small businesses only require a Business Identification Number (*Nomor Induk Berusaha*, NIB), which functions simultaneously as a business license, import license (if relevant), and access point to tax registration. This reform was intended to cut red tape and reduce informality by lowering entry barriers.

In practice, MSMEs continue to face significant licensing challenges. According to a discussion organized by Universitas Gadjah Mada on August 12, 2025, many MSMEs encounter difficulties in obtaining business licenses due to limited understanding, complex bureaucracy, and an administrative system that remains insufficiently effective. In 2023, out of approximately 64.19 million MSMEs in Indonesia, only around 5.8% possessed a NIB, indicating a persistently low level of formalization and limited access to licensing mechanisms among MSMEs (Nugroho, 2025).

This regulatory dualism undermines the central government's effort to formalize MSMEs. Many entrepreneurs, especially micro-businesses, either abandon the process or continue operating informally, thereby limiting their access to finance and government support programs.

#### 4.5.2. Local bylaws and bureaucratic fragmentation

The persistence of local bylaws (*peraturan daerah*) reflects broader issues of decentralization. While the Law on Regional Government (Law No. 23 of 2014) grants local autonomy, it also creates regulatory fragmentation. Local governments frequently issue sector-specific bylaws regulating small trade, food stalls, or home-based industries. These bylaws often contradict the simplified licensing regime under OSS-RBA.

For example, in 2022, several municipalities in West Java required traditional market traders to obtain market-specific permits in addition to NIBs. This not only increased administrative burdens but also introduced opportunities for rent-seeking by local officials.

#### 4.5.3. Financial inclusion and access to credit

Formalization through OSS-RBA is closely linked to access to finance. Banks and fintech lenders typically require proof of formal registration before extending credit. However, due to the inconsistencies in licensing, many MSMEs remain classified as informal.

According to Bank Indonesia<sup>2</sup>, only 19% of MSMEs had access to formal credit in 2022, with the majority relying on informal lenders or personal savings. This financial exclusion limits MSMEs' ability to expand operations, adopt new technologies, or participate in export markets.

Government initiatives, such as the People's Business Credit (*Kredit Usaha Rakyat*, KUR), provide subsidized loans to MSMEs. Yet, disbursement remains uneven, often favoring medium-sized enterprises over micro-businesses. The lack of alignment between licensing reforms and credit policies creates further uncertainty.

#### 4.5.4. Digital economy integration

Indonesia has one of the fastest-growing digital economies in Southeast Asia, with e-commerce sales surpassing USD 53 billion in 2023 (Google et al., 2023). The government has promoted digital platforms as a way for MSMEs to formalize and access wider markets.

However, regulatory inconsistencies extend to digital businesses. Online sellers are required to register through OSS-RBA, but in practice, enforcement varies. Some regional governments require additional local permits for online trading, while tax authorities have introduced separate reporting obligations. This fragmented regulatory environment discourages small online entrepreneurs from formalizing their businesses.

#### 4.5.5. Case study: Street vendors in Jakarta

In 2023, Jakarta attempted to integrate street vendors (*pedagang kaki lima*) into the OSS-RBA system by issuing collective NIBs for market clusters. However, local enforcement officers continued to impose informal fees and periodic evictions, contradicting the spirit of formalization. This case illustrates the gap between law on the books and law in practice, a recurring theme in Indonesia's regulatory environment.

Normative inconsistencies in MSME regulation generate multiple negative effects:

a) Fragmented licensing: Central simplification through OSS-RBA is undermined by local bylaws and extra-legal requirements.

b) Persistence of informality: MSMEs avoid formal registration due to excessive bureaucracy, perpetuating financial exclusion.

c) Limited access to credit: Banks and fintechs hesitate to lend to informally registered MSMEs, limiting growth potential.

d) Digital economy barriers: Inconsistent rules for online businesses discourage micro-entrepreneurs from formalizing operations.

From an investment law perspective, these inconsistencies weaken the inclusiveness of Indonesia's investment climate. While large corporations can navigate bureaucracy with legal teams and financial resources, MSMEs bear disproportionate burdens. This widens inequality and undermines the government's vision of inclusive, sustainable development.

## 5. CONCLUSION

This study demonstrates that the presence of pervasive normative inconsistencies within Indonesia's investment law architecture substantially erodes legal certainty and weakens the overall stability of the investment climate. Although the government has undertaken significant reform initiatives — most notably through the enactment of the Job Creation Law (Law No. 6 of 2023) and the operationalization of the OSS-RBA licensing system — these measures have not been sufficient to resolve the persistent overlap among the Investment Law, sectoral legislation, and regionally enacted regulations. Such overlap continues to generate fragmented authority, procedural ambiguity, and regulatory redundancy. These dynamics are particularly evident in legislative processes that remain insufficiently transparent, inadequately coordinated, and occasionally disconnected from broader institutional rationalization efforts. Administrative disharmony also persists, as sectoral ministries and local governments frequently impose additional requirements that exceed statutory mandates, thereby diluting the coherence and effectiveness of centralized licensing reforms. Furthermore, the inconsistent and often discretionary application of foundational legal doctrines — such as *lex superior*, *lex specialis*, and *lex posterior* — in judicial and administrative dispute resolution exacerbates legal unpredictability and contributes to the proliferation of conflicting interpretations across regulatory actors.

Notwithstanding the substantive contributions of this research, several limitations must be acknowledged. The analysis is grounded primarily in

<sup>2</sup> <https://www.ceicdata.com/en/indonesia/financial-system-statistics-summary/financial-inclusion-and-micro-small-medium-enterprises-msmes-msmes-credit-to-total-credit>

a normative legal methodology and therefore does not incorporate empirical data that would illuminate how investors experience regulatory inconsistencies in practice. As a result, the study is unable to fully capture the day-to-day operational challenges faced by investors when interacting with local authorities or navigating sector-specific licensing regimes. Similarly, the treatment of investor-state dispute dynamics remains conceptual, as it relies largely on secondary literature rather than direct case-based analysis. These limitations indicate that the study's findings, while analytically robust at the doctrinal level, may not fully reflect the complex realities of regulatory implementation across Indonesia's diverse administrative and regional landscapes.

Considering these constraints, future research should prioritize empirical investigations into how investors encounter, interpret, and respond to regulatory disharmony across different jurisdictions within Indonesia. Such studies will be essential for assessing the extent to which inconsistencies in

licensing requirements, administrative discretion, and interpretive divergence affect investment behavior and decision-making. Comparative research into international investment disputes involving Indonesia is likewise warranted to determine whether regulatory incoherence has contributed to the initiation of claims or heightened Indonesia's exposure to legal and financial liabilities in the global investment regime. Additionally, interdisciplinary approaches that integrate insights from law, economics, public administration, and political science may yield a more holistic understanding of how institutional design, administrative capacity, and regulatory hierarchies collectively shape the performance of the investment governance system. These perspectives will be critical for informing future policy reforms aimed at enhancing legal predictability, strengthening administrative coordination, and improving Indonesia's competitiveness as an investment destination.

## REFERENCES

- Acemoglu, D., & Robinson, J. A. (2012). *Why nations fail: The origins of power, prosperity, and poverty*. Crown Publishers.
- Ahamat, H. (2020). The role of competition law in the investment policy in ASEAN. In J. Chaisse, L. Choukroune, & S. Jusoh (Eds.), *Handbook of international investment law and policy* (pp. 1-21). Springer. [https://doi.org/10.1007/978-981-13-5744-2\\_100-1](https://doi.org/10.1007/978-981-13-5744-2_100-1)
- Anggunsuri, U., & Zahara, Z. (2023). Transition of online single submission (OSS 1.1 to risk-based approach) to increase investment in West Sumatera. *Jurnal Cendekia Hukum*, 8(2). <http://doi.org/10.33760/jch.v8i2.617>
- Asian Development Bank (ADB). (2023). *Asian development outlook 2023*. <https://www.adb.org/publications/asian-development-outlook-december-2023>
- Asriadi, A., & Sulaiman, A. (2025). The role of the Job Creation Law in increasing investment and labor protection in Indonesia. *Jurnal Indonesia Sosial Teknologi*, 6(6), 1287-1297. <https://doi.org/10.59141/jist.v6i6.9071>
- Busse, M., & Hefeker, C. (2007). Political risk, institutions and foreign direct investment. *European Journal of Political Economy*, 23(2), 397-415. <https://doi.org/10.1016/j.ejpoleco.2006.02.003>
- Carvalho, R., Rausch, L., Gibbs, H. K., Bastos Lima, M. G., Bernasconi, P., Valdiones, A. P., Vasconcelos, A., & Silgueiro, V. (2024). Illegal deforestation in Mato Grosso: How loopholes in implementing Brazil's Forest Code endanger the soy sector. *Land*, 13(11), Article 1828. <https://doi.org/10.3390/land13111828>
- Chen, F., & Jiang, G. (2021). Investigating the impact of institutional quality on FDI: Are there promotional effects in economic integration regions? *Sustainability*, 13(20), Article 11309. <https://doi.org/10.3390/su132011309>
- Dicey, A. V. (1959). *Introduction to the study of the law of the constitution* (10th ed.). Macmillan.
- Dinatha, H., Hasibuan, F. Y., & Wibowo, B. R. (2024). Analysing the legal dynamics involved in the development of new renewable energy in Indonesia, focusing on regulations and the challenges faced during implementation. *International Journal of Law, Crime and Justice*, 1(3), 322-338. <https://doi.org/10.62951/ijlcj.v1i3.195>
- Dolzer, R., & Schreuer, C. (2012). *Principles of international investment law* (2nd ed.). Oxford University Press. <https://doi.org/10.1093/law/9780199651795.001.0001>
- Google, Temasek, & Bain & Company. (2023). *e-Economy SEA 2023. Reaching new heights: Navigating the path to profitable growth*. <https://www.temasek.com.sg/content/dam/temasek-corporate/news-and-views/resources/reports/google-temasek-bain-e-economy-sea-2023-report.pdf>
- Henckels, C. (2023). Justifying the protection of legitimate expectations in international investment law: Legal certainty and arbitrary conduct. *ICSID Review — Foreign Investment Law Journal*, 38(2), 347-358. <https://doi.org/10.1093/icsidreview/siac027>
- Indonesia's FDI drops 6.95% y/y in Q2, biggest fall since 2020. (2025, July 29). *Reuters*. <https://www.reuters.com/world/asia-pacific/indonesias-fdi-drops-695-yy-q2-biggest-fall-since-2020-2025-07-29/>
- Institute for Essential Services Reform (IESR). (2022). *Indonesia energy transition outlook 2023. Tracking progress of energy transition in Indonesia: Pursuing energy security in the time of transition*. [https://iesr.or.id/wp-content/uploads/2022/12/Indonesia-Energy-Transition-Outlook\\_2023.pdf](https://iesr.or.id/wp-content/uploads/2022/12/Indonesia-Energy-Transition-Outlook_2023.pdf)
- KAP Siddharta Widjaja & Rekan. (2025). *Investing in Indonesia 2025*. KPMG Indonesia. <https://assets.kpmg.com/content/dam/kpmg/id/pdf/2025/09/id-investing-in-indonesia-2025.pdf>
- Khan, H., Dong, H., Bibi, R., & Khan, I. (2024). Institutional quality and foreign direct investment: Global evidence. *Journal of the Knowledge Economy*, 15, 10547-10591. <https://doi.org/10.1007/s13132-023-01508-1>
- Magda, M., Sinulingga, T. A., & Suwanto, S. (2025). Legal certainty for investors in the green economy ecosystem: An analysis of sustainable investment regulations in Indonesia. *Ipsa Jure*, 2(4), 57-66. <https://doi.org/10.62872/d20w3h18>
- Ministry of Energy and Mineral Resources. (2023). *Handbook of energy & economics of Indonesia 2023*. <https://esdm.go.id/assets/media/content/content-handbook-of-energy-and-economic-statistics-of-indonesia-2023.pdf>
- North, D. C. (1990). *Institutions, institutional change and economic performance*. Cambridge University Press. <https://doi.org/10.1017/CBO9780511808678>

- Nugroho, A. (2025, August 13). *Pelaku UMKM masih sulit urus perizinan* [MSMEs still struggle with business licensing]. Universitas Gadjah Mada. <https://ugm.ac.id/id/berita/pelaku-umkm-masih-sulit-urus-perizinan>
- Nurmayani, N., Yuniati, A., Yusdiyanto, Y., Madinar, M., & Putri, M. E. (2023). Local government policies related to simplification of micro, small and medium enterprises licensing. *Jurnal Magister Hukum Udayan*, 12(1), 30-41. <https://ojs.unud.ac.id/index.php/jmhu/article/view/94574>
- Organisation for Economic Co-operation and Development (OECD). (2015). *Policy framework for investment*. OECD Publishing. <https://doi.org/10.1787/9789264208667-en>
- Papanastasiou, A. (2025). Lost in conversion: Rethinking investment treaty protection against retroactive regulation in the wake of the 'Francogeddon'. *Journal of International Economic Law*, 28(1), 78-100. <https://doi.org/10.1093/jiel/jgaf007>
- Pasaribu, S. A., Taufiq, M., & Napitupulu, D. R. W. (2025). Comparison of venture capital regulations in Indonesia and ASEAN countries. *TATOHI: Jurnal Ilmu Hukum*, 5(4), 190-201 <https://doi.org/10.47268/tatohi.v5i4.2992>
- Putri, D. S., Arsalan, H., & Huang, N. K. (2024). Rethinking Indonesia's geothermal foreign direct investment policy: Certainty and economic analysis of law perspective. *Hang Tuah Law Journal*, 8(1), 42-61. <https://doi.org/10.30649/htlj.v8i1.227>
- Radbruch, G. (1950). *Legal philosophy*. In K. Wilk (Ed.), *The legal philosophies of Lask, Radbruch, and Dabin* (pp. 47-224). Harvard University Press.
- Rahardjo, S. (2011). Hukum progresif: Hukum yang membebaskan [Progressive law: Law that liberates]. *Jurnal Hukum Progresif*, 1(1), 1-24. [https://ejournal.undip.ac.id/index.php/hukum\\_progresif/article/view/1009](https://ejournal.undip.ac.id/index.php/hukum_progresif/article/view/1009)
- Ruaro, R., Zaiia Alves, G. H., Tonella, L., Ferrante, L., & Fearnside, P. M. (2022). Loosening of environmental licensing threatens Brazilian biodiversity and sustainability. *DIE ERDE — Journal of the Geographical Society of Berlin*, 153(1), 60-64. <https://doi.org/10.12854/erde-2022-614>
- Saha, S., Sadekin, M. N., & Saha, S. K. (2022). Effects of institutional quality on foreign direct investment inflow in lower-middle income countries. *Heliyon*, 8(10), Article e10828. <https://doi.org/10.1016/j.heliyon.2022.e10828>
- Sauvant, K. P., & Sachs, L. E. (2009). *The effect of treaties on foreign direct investment: Bilateral investment treaties, double taxation treaties, and investment flows*. Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780195388534.001.0001>
- Statistics Indonesia (BPS). (2024). *Profil industri mikro dan kecil* [Profile of micro and small industries] (Vol. 15). <https://www.bps.go.id/id/publication/2025/09/16/a83f105e49377d0a7434e62a/profil-industri-mikro-dan-kecil-2024.html>
- Suhartana, L. W. P., Asikin, Z., Haq, L. M. H., & Azizah, M. (2025). Risk-based mining investment in the framework of fair legal certainty. *Volksggeist: Jurnal Ilmu Hukum dan Konstitusi*, 8(1), 63-85. <https://doi.org/10.24090/volksggeist.v8i1.12894>
- Thai, L. M. (2023). Evaluation of the 2020 Investment Law in Vietnam. *International Journal of Professional Business Review*, 8(8), Article e03306. <https://doi.org/10.26668/businessreview/2023.v8i8.3306>
- Tinambunan, H. S. R., Istislam, Hadiyantina, S., Kusumaningrum, A., & Tajudin, A. A. (2025). Recentralization of mining licensing authority and its impact on local autonomy in Indonesia. *Jurnal Suara Hukum*, 7(2), 520-539. <https://doi.org/10.26740/jsh.v7n2.p520-539>
- United Nations Conference on Trade and Development (UNCTAD). (2022). *World investment report 2022: International tax reforms and sustainable investment*. United Nations. <https://investmentpolicy.unctad.org/publications/1263/world-investment-report-2022-international-tax-reforms-and-sustainable-investment>
- United Nations Framework Convention on Climate Change (UNFCCC). (2022). *Enhanced Nationally Determined Contribution (NDC) of Indonesia*. [https://unfccc.int/sites/default/files/NDC/2022-09/23.09.2022\\_Enhanced%20NDC%20Indonesia.pdf](https://unfccc.int/sites/default/files/NDC/2022-09/23.09.2022_Enhanced%20NDC%20Indonesia.pdf)
- World Bank. (2020). *Doing business 2020: Comparing business regulation in 190 economies*. <https://doi.org/10.1596/978-1-4648-1440-2>
- World Bank. (2022). *Investment policy and regulatory review — Malaysia*. World Bank Group. <https://doi.org/10.1596/38525>
- Yustika, M. (2024). *Unlocking Indonesia's renewable energy investment potential: Challenges and opportunities for accelerating investment in solar and wind power*. Institute for Energy Economics and Financial Analysis (IEEFA). [https://ieefa.org/sites/default/files/2024-07/IEEFA%20Report%20-%20Unlocking%20Indonesia%27s%20renewable%20energy%20investment%20potential%20July2024.pdf?utm\\_source=chatgpt.com](https://ieefa.org/sites/default/files/2024-07/IEEFA%20Report%20-%20Unlocking%20Indonesia%27s%20renewable%20energy%20investment%20potential%20July2024.pdf?utm_source=chatgpt.com)