

Quality Assurance Audit System for Legal Improvement of Foreign Investment in Indonesia

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Abstract

Foreign investment in Indonesia has been present since 1967, starting at the onset of the New Order era. It was initially regulated by Act No. 1 of 1967 concerning Foreign Investment and later updated by Act No. 25 of 2007 concerning Investment. The fact is, foreign investment does not always run smoothly; many problems arise due to incomplete regulations or insufficient benefits for business actors, especially foreign investors. Legal issues caused by the shortcomings of these regulations will impact deviations in their implementation. For foreign investors or business actors with bad intentions, the regulations' shortcomings can be exploited for their interests. The research metode involves literature research conducted through a literature review. This study finds that legal quality audits in investment law are designed to measure legal quality both against regulations (normative audit) and the application of these regulations in practice (implementative legal audit) in the investment sector. Also, the development of concepts in Indonesian National Economic Law based on legal quality science related to the regulation of state revenue from foreign sources involves the development of several concepts in the field of investment law.

Keywords: *Foreign Investment, Legal Quality Audit, Quality Assurance, Quality System, Foreign Investment.*

Introduction

Foreign investment does not always run smoothly; many problems arise due to incomplete regulations or insufficient benefits for business actors, especially foreign investors. Legal issues caused by the shortcomings of these regulations will impact deviations in their implementation. For foreign investors or business actors with bad intentions, the regulations' shortcomings can be exploited for their interests. One of the ways that the government takes to get capital is through investment. The essence of investment activities refers to the aim of the Indonesian constitution to create public welfare, as well as the mandate of Article 33 (3) regarding natural resources that are contained to be used for the welfare of the Indonesian people (Article 33 paragraph 3. The 1945 Constitution). In Indonesia, foreign investment has existed since 1967, to be precise at the beginning of the new order which is regulated in The Act Number 1 of 1967 concerning Foreign Investment and has been renewed in The Act Number 25 of 2007 concerning Investment. Urbanization has led to improved infrastructure in the country, making it more attractive for foreign investors to establish their businesses. However, in the presence of foreign investment, environmental degradation may either increase or decrease (Taduri, 2021; Pujiati, 2023).

The state has opted for foreign investment. In essence, foreign investment refers to activities undertaken by foreign investors who invest directly or indirectly in productive enterprises with the goal of earning a return on their initial capital (Simbolon, 2020). The weak legal regulation of state revenue from foreign sources results from the lack of integration of quality science into the legal audit system. The legal community believes that law graduates do not need to study quality science because quality is only related to industry and finance. Therefore, it is the economists and technocrats who should study and apply it.

Legal experts do not realize that quality is the key to successful law implementation in all fields. Therefore, without studying quality science, how can law and its application be highly quality? The problem is that legal experts who hold important positions in national economic development, whether as bureaucrats, lawyers, notaries, lecturers, law drafters, or politicians, are reluctant to study it because they consider it knowledge meant only for economists and technocrats. Current legal issues stem from legal stakeholders'

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ignorance and/or reluctance to engage with quality science.

Legal quality audit is integrating quality science into the legal audit system, where the "quality" of the law itself is audited. Three philosophical aspects of a legal quality audit are deficiency-free, customer satisfaction and continuous improvement never ending. These three philosophical aspects, which the author terms as "Concepts," are elaborated into legal quality parameters used as benchmarks in the legal quality audit. These parameters are: quality of legal products, low cost, access to legal implementation, legal security, service morality, legal system, and adaptability (Murwadji, 2016).

The empirical fact underlying this research is that not all investments benefit the country. State revenue losses can be caused by the regulations, their implementation, and the underlying Economic Law Theory. The researcher believes that a legal audit should be conducted on the regulations and their implementation related to investment and the economic law theory that underpins them.

The term "legal audit" is rarely used in legislation. The term commonly used is "judicial review" of legislation. Currently, there are two types of judicial review: the review of laws against the constitution conducted by the Constitutional Court and the review of regulations below the law conducted by the Supreme Court. There is no instrument yet for legal review of the implementation of laws, which is currently carried out through the regular judicial process.

It can be concluded that there is no adequate legal review instrument for investment regulations and their implementation in investment activities. To address the legal issues in this article, the researcher proposes the concept and parameters of a Legal Quality Audit. This audit system differs from judicial review, as the activities conducted in a Legal Quality Audit are not formal tests for oversight but measurements of the quality of regulations and investment implementation, followed by actions to improve their quality to meet target standards. It can be concluded that this Legal Quality Audit represents a new form of oversight that is more humane because there is no structural distance between the audited parties and the auditors, creating a sense of comfort (hospitality) and eliminating the fear of severe sanctions.

The science that serves as the basis and framework for a legal quality audit combines quality science and legal science, which the researcher refers to as integration. Thus, legal quality science is a new field in legal science literature because the function of quality science is to soften or relax the law, known in Dutch as "Rechtsverwijning." With this softening of the law, people will feel more just, comfortable, humanistic, and encouraged to be familiar with the law. So far, when people hear terminology related to the law, such as court, judge, prosecutor, police, lawyer, execution, and criminal, they already feel uncomfortable and terrified, and try to avoid it. As a new paradigm, legal quality science and audits need to be socialized to legal stakeholders to understand, comprehend, and apply them. Legal quality science is necessary for forming legislation because it is a multidisciplinary study, meaning it utilizes various fields of knowledge such as economics, social sciences, communication, and psychology.

In an effort to determine whether a regulation adequately supports business activities or not, a legal audit is necessary. Currently, there are various regulations related to legal audits, including Judicial Review of laws by the Constitutional Court, Material Review of regulations under laws by the Supreme Court, Due Diligence, and Legal Due Diligence. However, these have not yet fully met the needs of a legal audit for foreign investment interests. Foreign Investment (FI) is an activity to invest in doing business in the territory of the Republic of Indonesia conducted by foreign investors, either using foreign capital entirely or in exchange with domestic investors. FI is a form of investment by building, buying, or acquiring a company. Law No. 25 of 2007 on Investment regulates investment in Indonesia, including for PMA. The Investment Coordinating Board (BKPM) is a Non-Ministerial Government Agency tasked with carrying out policy and service coordination in the investment field based on the laws and regulations provisions (Soegoto, 2022).

On the other hand, the Foreign Investment Law (FIL) is a key component of China's strategy to create a unified, open, competitive, and orderly market system. The evolution of China's foreign investment law is driven by both economic and political factors. Economically, China aims to further liberalize its market

and improve the ease of doing business to attract and safeguard foreign investments. Politically, as domestic reforms reach a critical phase, a more advanced and open foreign investment framework will strengthen the government's capacity (Zhang, 2022).

Various shortcomings of the Legal Audit System include the audited object, audit methods or processes, and the capacity of audit implementing institutions. The shortcomings of the Judicial Review conducted by the Constitutional Court and the Supreme Court include their monodisciplinary approach that only measures the conformity between the regulation under review and the regulation used for testing, the need for cases to be brought forward first before review, and the fact that these are judicial institutions whose function is to adjudicate rather than revise or create regulations. Due Diligence and Legal Due Diligence indeed uses a multidisciplinary approach but are not yet integrated into a single system. Additionally, their auditors are legal consultants, potentially meaning they may not fully grasp audits in non-legal fields involving quantitative and qualitative aspects.

Methodology

The research conducted by the author falls into normative research supported by empirical data. Data collection is divided into two stages. The first stage involves literature research conducted through a literature review. Every legal research must always begin with the use of documents or literature studies (Soekanto, 2006). A literature study examines written information about law sourced from various widely published sources, essential in normative legal research (Kadir, 2004). In this research, the literature study focuses on data related to legal quality science and state revenue from foreign sources.

The second stage involves research on applying legal regulations in field practices conducted through interviews. According to Pauline V. Young (1979) in her book "Scientific Social Surveys and Research," as cited by Soerjono Soekanto (2006), There are several types of interviews based on the role of the interview itself, according to the interviewer and the interviewee. The type of interview used in this research is a directive interview aimed at obtaining results relevant to the discussion in this study.

Parts of the interview can be used as an interview guide containing the main points needed for the interview, using a structured list of questions (questionnaire) (Soekanto, 2006). The interviews in this research use an open-ended questionnaire that only outlines the main points, allowing for the possibility of asking other questions related to the researched issue.

Discussion

Integrating Legal Quality Science Through a Legal Quality Audit System for Regulations on State Revenue from Foreign Sources

The structure of the Legal Quality Audit System consists of 2 subsystems, namely, Concepts and Characteristics of the Audit. The concept of the legal quality audit system is a philosophical aspect that will be elaborated on in its characteristics, which are evaluated aspects in the form of measurement parameters. The Legal Quality Audit System concept consists of 3 pillars: **deficiency-free, customer satisfaction, and continuous improvement**. These three pillars are inseparable; in this article, foreign investors or foreign companies, along with other stakeholders such as the central and regional governments, state-owned enterprises, and micro, small, and medium enterprises, continuously strive to improve "deficiency-free" and "customer satisfaction" through never-ending continuous improvement.

The fundamental question is: what elements should be deficiency-free? Based on the Theory of Legal Systems formulated by Mochtar Kusumaatmadja, law fundamentally constitutes a system of norms that revolves around principles and/or legal methods, embodied in regulations, institutions, and processes. Furthermore, Erman Rajagukguk suggests that the primary factors for law to play a role in economic development are whether the law can create stability, predictability, and fairness. The first two are prerequisites for any economic system to function. The function of stability includes the potential of law

to balance and accommodate competing interests. The need for predictability regarding the consequences of actions taken is particularly important for countries where much of the population is entering economic relationships beyond traditional social environments for the first time. Aspects of fairness, such as equal treatment and standard patterns of government behavior, are necessary to maintain market mechanisms and prevent excessive bureaucracy (Sembiring, 2010).

The first aspect of deficiency-free: **Deficiency-free regulation** relates to the formal and material aspects of the regulation. In this regard, formal deficiency-free in law includes procedures for formation, formulation, authority, approval, and other formal aspects. Material deficiency-free pertains to its content or substance, consisting of non-legal norms such as religious, moral, and social norms. Regulations concerning business, particularly state revenue from foreign sources, fall under social norms or norms between individuals.

The second aspect of deficiency-free **institutional deficiency-free** includes the form and structure of institutions or legal entities, authority granted by regulations, procedures to be followed, performance monitoring, and audit. Concerning institutions, this covers human resources (HR), organization, and institutional governance. For example, suppose legal officials from the Department of Finance, entrepreneurs, foreign companies, notaries, and financial consultants consistently apply legal quality science. In that case, stakeholders can satisfy service users by working as effectively as possible. Suppose this condition is continuously maintained and sustained. In that case, it has the potential to establish a culture of legal quality, which is crucial for successfully increasing state revenue from foreign sources in the future.

The application of a legal quality culture, which involves human resources development in the Legal Quality Audit System, embodies the characteristic of quality parameter "morality," interpreted here as hospitality from law enforcers and legal service providers. As we collectively understand, our law enforcement officials are already proficient in the normative system, and their legal enforcement is professional and competent. Legal Quality Science discusses how law enforcers and legal service providers should be professional and emphasize carrying out their duties with full hospitality without compromising accuracy and work discipline, based on the slogan "hospitality and accuracy in service."

Hospitality is a specific term in legal quality science that denotes a genuine appreciation for others—being sincere, honest, straightforward, smiling readily, not belittling, not discriminating, and always making those being served feel safe and comfortable. Hospitality adds value to discipline and accuracy in service. It keeps law enforcers and legal service providers from being easily angered, taking things personally, being overly proud, blaming others, or sarcastically "finding happiness in others' suffering."

In relation to the development of investment law in Indonesia, the study and application of moral characteristics, namely hospitality, are crucial in services related to public administration, including licensing, taxation, judiciary, consulting, notarial services, and legal representation. With hospitality, reluctance to engage with law enforcement and legal services can be minimized. In the long term, this supports the implementation of hospitality as a culture of legal quality, making economic actors, both domestic and international, feel comfortable and fortunate to invest in Indonesia. This, in turn, enhances national income, especially from foreign sources, in the long run.

The third aspect of deficiency-free: **“legal process”**. In current legal science, one manifestation of law is regulations. In Indonesia, the legal basis is Law No. 12 of 2011 concerning the Formation of Laws and Regulations. The hierarchy of regulations includes the Constitution of the Republic of Indonesia (UUD 1945), decisions of the People's Consultative Assembly, laws/acts of the government replacing laws, government regulations, presidential regulations, provincial regulations, and regulations of district/city governments. One of the subjects in Introduction to Legal Studies taught in law faculties across Indonesia explains that legal forms include regulations and agreements. The hierarchy of legal levels only up to "regulations" alone raises various issues regarding the methods or procedures of implementation, also known as the audit method itself.

In classical law, procedures and supervision of regulation implementation are governed by regulations, such as the Civil Procedure Code. In contrast, in legal quality science, a regulation is not the only form of law; there is a new form that serves as both a method and an audit for its implementation, known as **"legal management,"** which is a legal document referred to as a manual system or documentation system. The Manual System in legal quality science is essentially a continuation of regulations or implementing regulations not recognized in Law No. 12 of 2011. As a result, law enforcement officials and legal service providers may encounter difficulties in applying and supervising the law.

In judicial proceedings, procedural law is known, for example, in Law No. 8 of 1981 concerning Criminal Procedure Law, which regulates the procedures for adjudicating criminal cases. However, the detailed procedures for adjudicating these cases are not explicitly stipulated. In practice, business entities such as banks, hospitals, and the police may not realize they are already implementing a legal quality system. This can be seen in the development and implementation of Standard Operating Procedures (SOPs), known as Standard Procedures (Protap) in the police. The issue lies in that these SOPs they create only apply as separate standard procedures, distinct from the core regulations.

According to the hierarchy of legislation in Indonesia, a legal form such as a manual system is not considered law. The issue arises because a manual system is not classified as a regulation or implementing regulation, making it difficult for leadership to enforce sanctions. In Legal Quality Science, a manual serves two functions: first, as a procedure or method of implementing regulations that must be followed, and second, as a means to audit implementation.

In legal quality science, manuals can be grouped into three categories, they are:

Policy Manual

This manual is prepared and must be implemented by top management in an institution, in this case, the Minister of Finance and top officials (Echelon 1 officers) who formulate quality policies that include planning, directing, and supervising. Often, legal scholars debate, for example, whether officials who establish policies and then violate them can be punished?

Based on classical legal science currently in effect, the question is difficult to answer because policy is not a form of regulation, making it challenging for law enforcement officials to impose sanctions for violations against the law interpreted as acts that breach regulations. This question can be easily answered by legal quality science, as policy-makers have policy manuals, so if violated, it can be confirmed as a violation of the law. Therefore, legal quality science can assist legal science in answering questions that classical legal science cannot easily address.

Procedure Manual

This manual is prepared and implemented by middle-level officials or managers, referred to as managers, in the Ministry of Finance, for example, conducted by officials at echelons 2 and 3. This manual implements policy manuals containing steps that must be prepared and implemented to ensure that procedures are carried out correctly. This manual is used for managers to supervise and ensure that the targets of the policy manual are achieved.

Work Instruction Manual

It is a manual prepared and implemented by operators to outline the specific actions that field implementers must take. Level 4 officials and functional personnel implement this manual. It details the actions that must be taken at each stage of the procedural manual.

The Second Pillar, namely customer service satisfaction, means that service users feel satisfied because of the alignment between expectations and the fulfillment of services/goods needed for flawless task

execution. According to the Author, satisfaction in the field of quality law differs from satisfaction in legal studies. Satisfaction in quality law is categorized into three levels, namely:

Basic Satisfaction: the lowest level of satisfaction. Actions regulated by regulations, agreements, or legal agreements constitute the minimum standards that must not be exceeded. For example, a tax officer handling the Tax Amnesty Program, according to the Standard Operating Procedure (SOP) must complete it within 30 days. If the officer completes the task within the stipulated time frame, they are rewarded for being considered professional in fulfilling their duties, and their performance is recognized as good. According to the quality law, this tax officer only achieves basic satisfaction. According to quality law, basic satisfaction should be avoided as much as possible because service users do not truly feel satisfied.

Medium Satisfaction: satisfaction above basic satisfaction. For example, if the tax officer completes the tax amnesty process within 25 days, they achieve medium satisfaction because they are 5 days faster than their legal obligation. According to quality law, medium satisfaction marks **the beginning** of genuine satisfaction. Professionals should understand that the concept of legal certainty needs to be revised; they must realize that they should not only meet but exceed the quality standards imposed and complete tasks faster than the required time.

High Satisfaction: satisfaction that is beyond imagination because it is considered beyond human capability. For example, if the tax officer completes the tax amnesty process within 20 days, the taxpayer will be extremely satisfied with the officer's performance.

The concept of satisfaction levels, when juxtaposed with the concept of "flawlessness," is the core of the quality law paradigm that fundamentally transforms or, in other words, undermines the concept of "legal certainty" according to the classical legal doctrine upheld until now.

Legal certainty in legal studies refers to the accuracy or alignment between what is regulated or agreed upon and what is actually done. For example, in the above example, if regulations state that a tax officer must complete a task within 30 days, and the officer completes it within that timeframe, the highest level of legal certainty is achieved and praised. Ironically, according to the Quality Law paradigm discussed earlier, this level of compliance constitutes the lowest form of legal certainty. Therefore, based on the comparison between the two perspectives, it can be concluded that **"facts of law that conventional legal studies consider as the highest certainty are regarded as the lowest certainty according to Quality Law."**

The approach of quality law is multidisciplinary, encompassing methodologies from legal studies, economics, psychology, social sciences, communication, and mathematics. Therefore, legal studies must shift paradigms from a monodisciplinary approach to a multidisciplinary one through the application of quality law. In line with Mochtar Kusumaatmadja's opinion that law functions as an agent of societal change, law should act as a commander of change, tasked with planning, directing, supervising, and auditing these changes. Hence, professionals in the legal field should understand and apply the multidisciplinary methods of quality law.

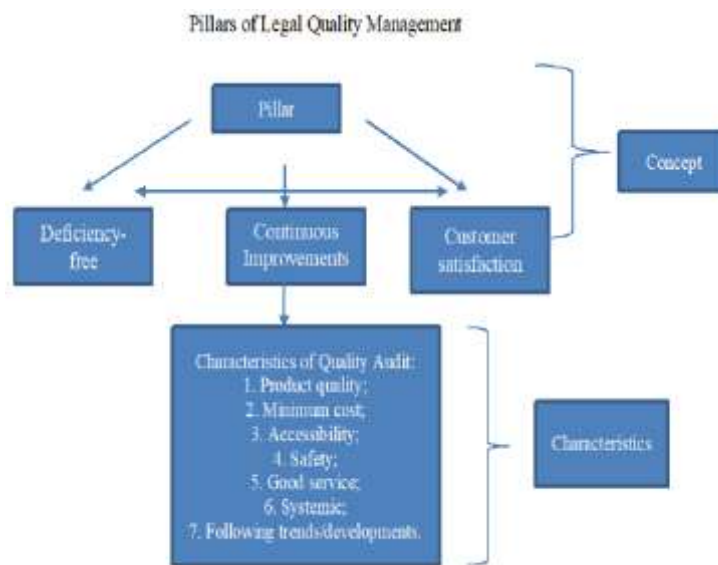
Legal experts must understand that law, as a legal framework, is not monodisciplinary but multidisciplinary. The field of law is not static and passive but dynamic and active, interacting with other disciplines.

The Third Pillar Is Continuous Improvement, which means continuous improvement without end, from the beginning to the end. Continuous improvement can be summed up in a simple saying: "Today is better than yesterday, and tomorrow will be better than today." The pillars of flawlessness and customer satisfaction are inseparable from the third pillar of continuous improvement. No matter how significant the improvement, it must always be ongoing; therefore, implementing the first and second pillars must continually evolve.

Development in the context of quality law must always occur, even if gradually, depending on societal situations. The principle that must not be violated is that legal development should not hinder society. Mochtar Kusumaatmadja emphasized that legal development should encourage and promote better and more organized progress through normative systems. The author adds that the role of law in societal development must consider societal values; when societal values are strong, the law should assert its role in "guiding" these values through upholding order and legal certainty. As societal values improve, the law should emphasize its role in "facilitating" societal values toward justice.

The concept of Quality Law, consisting of three pillars, is elaborated through 7 quality testing characteristics. Simply put, the relationship between the concept and the characteristics of quality law can be illustrated with the following scheme:

Diagram Of the Relationship Between Concept and Characteristics



The description of all components of quality law used in this article is as follows:

Product Reliability: it is service excellence that is the duty or responsibility of the leadership of the Department of Finance and its ranks. The requirement for excellence includes the quality of work results above its obligations.

Minimal Cost: costs that are minimized to the extent that they cannot be reduced further, which must be lower than the standard costs. Low cost is not the same as minimal cost because it can still be further reduced.

Access: it means ease of: handling various permits, paying various obligations both as a business actor or corporation, meeting officials, obtaining public information, resolving issues and disputes.

Security: It means not experiencing various disturbances, both physical and psychological, and that the services or products produced are not harmful to humans and the environment.

Morality: interpreted as the behavior of human resources in business ethics and hospitality, refraining from engaging in unlawful acts and fulfilling authority, tasks, or duties as business actors or government officials.

Systemic: it means a system or program that is created and approved by authorized officials.

Environmental: anticipating developments occurring in society, meaning mastering futurology, which is a

science that extends into the future, thereby understanding the development of digital and online technologies.

The seven core assessments are parameters or audit measures that the Author refers to as characteristics of legal quality. These characteristics are general, serving only as guidelines. To be applicable in auditing a specific field, these general guidelines must be detailed or elaborated into several sub-characteristics according to the field. Detailed characteristics are crucial because legal quality audits are general and cannot be directly applied to audit all fields.

Legal quality audits can be used to audit regulations or agreements, which the Author refers to as "**Normative Audits**". This audit can be conducted in three stages: First, the drafting stage during the approval process; second, periodic audits; and third, audits when issues arise during implementation. Legal Quality Audits can be used to audit the implementation of regulations or agreements, referred to by the Author as "**Implementative Audits**". The characteristics for normative audits differ from implementative audits, particularly in error tracing, to ensure at which point in the process flow issues occur.

The Legal Quality Audit Institution in Indonesia, which currently does not exist, is urgently needed, especially to audit State-Owned Enterprises (*BUMN*) due to their frequent collaborations with foreign investors or foreign corporations. This is because foreign businesses and companies are accustomed to implementing quality management through quality assurance systems. This Legal Quality Audit Certificate could replace ISO 9000 certificates for BUMNs and foreign companies collaborating with BUMNs. This includes normative and implementative audits specifically designed to audit regulations and agreements that form their legal basis. The components of the Legal Quality Audit Certificate in the investment field, covering regulations, institutions, and processes, represent a new development,

The Legal Quality Assurance System Certification can be used as a requirement for collaboration between foreign investors and Micro, Small, and Medium Enterprises in programs related to community participation, such as licensing related to community approval. In the future, The Legal Quality Assurance System Certification has the potential to be a requirement for participating in tenders related to financial sources from abroad.

The Implementation of Legal Quality Audit in Developing Economic Law Concepts Aims to Increase State Revenue Sourced from Investments

The Concept of Unified Legal Audit

The unification referred to by the Author involves having only one regulation that governs institutions, processes, and certification, namely **the Legal Quality Assurance System**. Through unification, the implementation of these regulations would be more efficient and effective. The steps for unification include drafting regulations, in this case in the form of a Presidential Regulation or Decree, as investment issues fall under the executive authority, specifically that of the President.

The Presidential Regulation or Decree should regulate the authorized institution to conduct audits, the audit process, and the validity of the Legal Quality Audit Certificate. The key substantive provisions of the Presidential Regulation or Decree are as follows:

First, **the justification for the importance of regulating the Legal Quality Audit System**, guidelines on General and Specific Legal Quality Audit Systems are as follows:

- Up to now, several legal audit systems have been in place under various names, each conducted by audit institutions.
- The current implementation of the legal audit system requires prior occurrence of cases or

disputes.

- Periodic audits of regulations and their implementation are needed without requiring prior disputes.
- Legal quality management is needed, integrating quality management and legal expertise to measure and enhance legal quality.
- General Legal Audit and Specific Legal Audit guidelines are developed. General guidelines are necessary as a basic guide for the Legal Quality Audit System, while Specific guidelines are necessary as guidance for Specific Legal Quality Audit Systems, such as those in foreign investment fields.
- **Second, the institutions empowered to conduct audits**
- The institution is established based on a Presidential Regulation or Decree.
- Officials are selected by a Special Team established according to a Presidential Regulation or Decree and inaugurated by the President or a Minister-level official appointed for the purpose.
- The institution's headquarters is located in the capital city, and representative offices may be established in each province.
- Officials and employees are salaried by the government and included in the State Budget (APBN).
- Auditors must adhere strictly to principles of independence, professionalism, and are bound by ethical standards and performance standards.

Third, **audit process**

- In the Presidential Regulation or Decree, documentation of the audit process is established.
- The audit process is governed by the General Legal Quality Assurance System Guidelines, consisting of Basic Guidelines and Special Quality Assurance Certificate Guidelines for specific fields, such as foreign investment or state revenue sourced from abroad.
- The President may mandate periodic audits, for example, every five years or whenever a new regulation is enacted or issues arise from a regulation.
- The results of normative audits may propose the repeal, revision, or retention (passing the audit) of regulations, while the results of implementative or performance audits may lead to the replacement, enhancement of skills, or retention of implementing officials or accountable parties.
- After the audit is completed and deemed successful, an audit certificate will be issued; and
- In case auditors violate ethical or performance standards, they will be investigated by the Institutional Honor Commission.

Fourth, **the validity and benefits of the Legal Quality Audit Certificate:**

- Certificate titled: Legal Quality Assurance System Certificate
- There are 2 (two) types of certificates: Normative System Certificate: for auditing regulations,

and Implementative Audit Certificate: for auditing the implementation of regulations or Performance certificates.

- The substantive format is standardized and has Copyright Certificate.
- Signed by the Director of the Audit Institution.
- It holds strong validity for compliance with Government requirements and provisions.
- It is a mandatory certificate.
- It can be used as evidence in court.

Concept of International Treaty Law

Regionalization and economic globalization are now unavoidable. In 2016, the era of regionalization began with the ASEAN Economic Community (AEC). Regionalization essentially involves economic integration regimes within specific regions, such as ASEAN or the European Union. Cross-border movements of goods and services will occur immediately. Legal certainty and business certainty are advantages for countries that are prepared. Countries that underestimate this situation may become victims of these economic integration regimes.

As we all know, contract law is the most important law in business activities, including international business. Ironically, Indonesia still does not have a national Treaty Law. The Treaty Law we use is the Civil Code, which is a direct translation without changes from the colonial-era *Burgerlijke Wetboek (BW)*.

Legal theory should be viewed in a dynamic sense, not as "*status quo*" and passive, but rather, law should have functional mobility and play an active role in accordance with the evolving conditions of national and international society over time. The scope of Economic Law in Indonesia includes areas regulated in private and public law. Sunaryati Hartono states that economic law is elaborated into development economic law and social economic law. Economic Law according to Sunaryati Hartono is the overall rules and a legal decision that specifically regulates economic activities in Indonesia. Departing from the definition presented by Sunaryati Hartono, economic law in Indonesia has two models of economic law, namely development economic law and social economic law. Development Economic Law is a legal arrangement that includes legal arrangements and thinking about ways to improve and develop Indonesia's economic life nationally, comprehensively and planned (Hartono, 1982).

John Humble emphasized that change is a human dimension, meaning that humans change all the time and that change can be faster than expected, for example, the rapid development of technology causes most parties, including companies and banks, to have limitations and are unable to adjust to technological developments in society. John Humble quotes Alvin Toffler in his brilliant book: "Future Shock" which suggests that the devastating pressure and disorientation we inflict on individuals, because they are told to experience too many changes in too short a time. The key to overcoming this change is that people and companies must have the ability to adapt to the changes that occur in society (Murwadji, 2016).

Integrative Legal Theory can be developed as a comprehensive and holistic legal analysis model to address and anticipate national and international developments in various aspects of societal life. This theory will not degrade national interests in all fields but will preserve local characteristics while integrating international developments into the local legal system and vice versa in a proportional manner. This is because in the practice of international relations amid globalization, developing countries, including Indonesia, have become "victims" of the hypocritical attitudes of developed countries that prioritize their national interests over the common interests of developing nations.

Regarding the interconnectedness of value systems, norm systems, and behavioral systems, which are at the core of Integrative Legal Theory according to Romli Atmasamita: Law as a norm system that prioritizes norms and logics (Austin and Kelsen) will lose its meaning and significance in the reality of societal life if it fails to manifest in the behavioral systems of society and bureaucracy, both of which adhere to the law. Conversely, law viewed merely as a norm and behavioral system and used as a "bureaucratic machine" will lose its spirit if it neglects the value system rooted in Pancasila as the pinnacle of moral values in national life.

As an illustration of the Legal Quality Audit analysis regarding the validity of Treaty Law, it is as follows: The Civil Code is a translation of the *Burgerlijke Wetboek*, often referred to as BW, which is the Dutch Civil Code applied in Indonesia through concordance, meaning it is directly enforced. The philosophy underlying the BW is liberal, capitalist, and individualistic, which does not align with Indonesia's philosophy, namely Pancasila, based on principles of kinship, mutual cooperation, and communalism.

The legal system, including the judiciary applying substantive law, is not inexpensive. For example, establishing a legal entity such as a Limited Liability Company, adoption of children, inheritance divisions, and similar processes involve considerable costs in litigation. Similarly, resolving cases through the court system—from District Courts to High Courts and the Supreme Court—inevitably requires significant expenses. Thus, when considering the costs versus the outcomes, both the winning and losing parties endure substantial losses, including financial losses, time, and missed work opportunities.

Regarding access to the courts, the public faces difficulties due to limited access. There is typically only one District Court per district/city, one High Court building per province, and only one Supreme Court building in the Republic of Indonesia.

Therefore, measured against the characteristics of the Legal Quality Audit System, the weaknesses of Treaty Law are **"product reliability," "minimal costs," and "ease of access."** The solution lies in establishing a Quality Assurance System for Civil Justice.

Development of International Civil Law in the Field of Investment Agreements

The fundamental issue is that the Civil Code (BW) was drafted in the mid-19th century, over 100 years ago, and is applied through concordance. Certainly, conditions have changed significantly since then, especially with rapid advancements in all fields, particularly in information technology over the past two decades. The legal issue concerns International Civil Law, where if foreign businesses collaborate with domestic Indonesian entrepreneurs, their contracts often include choice of law and forum selection clauses.

The choice of law clause means that foreign and domestic business entities together determine which law will govern their agreement as the *lex generalis*. The weaknesses of our civil law system lie not only in its age but also in its lack of specific regulation on International Civil Law. The Civil Code (BW), originating from 19th-century Dutch civil law, has undergone many changes, especially in Dutch International Civil Law. This reality may deter foreign businesses from investing in Indonesia if they choose the Civil Code (Book III) as the governing law.

If enforced, foreign businesses propose that the law of their own country be chosen as the governing law. Using the foreign country's law in cooperation agreements would benefit those foreign businesses because their entrepreneurs, lawyers, legal consultants, and operational staff are already deeply familiar with their legal system. However, this could lead to disadvantages for Indonesian parties, as they may not fully understand the details of such contracts and the foreign civil law chosen as the *lex generalis*.

Ironically, if the foreign company is from the Netherlands or uses Dutch national consultants or lawyers, they would likely refuse to use the law sourced from Book III of the Dutch Civil Code (BW) because the BW Nederland has been revised multiple times in the Netherlands.

Regarding the choice of forum, the judiciary in Indonesia is not regulated under the National Civil Procedure Law; instead, the *Herziene Indonesische Reglement (HIR)* is used, which is also a product of the Dutch Colonial Government. Additionally, there are instances where law enforcement officials, including judges, may be susceptible to bribery. This can be seen from the arrests of Supreme Court judges, lawyers, and businessmen collaborating in violations of the law.

From the discussion on choice of law and forum, it can be understood that foreign businesses will choose their own country's law and a forum outside of the Indonesian judicial system. As a result, our economic laws are governed by foreign laws, which ultimately disadvantage our country and reduce national income derived from foreign sources.

The element of dispute resolution is also crucial; a reliable court or arbitration system is a factor that will attract the attention of foreign investors. As previously discussed, our civil court system still uses procedural laws enacted during colonial rule. The hierarchy of institutions handling disputes includes District Courts, High Courts, and the Supreme Court.

In the process of case resolution, after a verdict is issued by the District Court judge, which is penal in nature (*komdennatoir*), there is the option of filing an appeal, and if parties are dissatisfied, they can further file for cassation to the Supreme Court. Both the appeal and cassation are regular legal remedies. According to the Author, these regular legal remedies through appeal and cassation are sufficient to achieve justice. However, in practice, there is an extraordinary legal remedy, namely a judicial review of the Supreme Court's cassation decision, which can even be done twice.

This prolonged dispute resolution process incurs significant costs and reduces corporate focus, and ultimately, the Author argues that whether one wins or loses in court, all parties are still disadvantaged. This condition is what the Author refers to as Country Risk, which is a concern for prospective investors and foreign investors alike.

In relation to this article, it turns out there are weaknesses in the field of International Civil Law in Indonesia, namely that the legal system for resolving investment disputes is "unreliable" both in terms of normative system aspects and enforcement aspects through courts and arbitration. The normative aspect is weak because Indonesia does not yet have a comprehensive International Civil Code; instead, rules of International Civil Law are scattered across various laws, often found towards the end of these laws. This condition certainly complicates matters for foreign investors in seeking and understanding Indonesian International Civil Law.

From the description of Legal Quality Audit, Legal Quality Management provides a solution for the formation of a Codification of Dispute Resolution System using the Omnibus Law method, which primarily regulates:

Dispute Resolution System covers both national (domestic) and international disputes.

Institutional Dispute Resolution System includes Court and Non-Court Systems.

The dispute resolution process system, both within and outside the court, includes negotiation, mediation, and adjudication.

From the discussion on the development of International Civil Law above, it is concluded that the parameters that are "not yet adequate" are: quality of product (quality of product), minimal cost (cost), ease of access (delivery), systematization (systemic), and keeping up with global developments (environmental).

Means of Preventing Corruption Crimes

Recently, what has often been problematic and even gone viral in the mass media is corruption committed by influential officials, such as members of parliament (DPR) and officials in the Ministry of Finance. After the money laundering case involving Rafael Alun was uncovered, a mega corruption scandal worth more than 300 trillion rupiah was revealed.

Corruption whose modus operandi forces large business owners, especially those with issues, to collude in paying money (gratuities) to certain officials. In the short term, foreign businesses indeed benefit because they pay less tax. However, if these actions are exposed, these foreign businesses will be trapped as suspects for giving gratuities. Thus, the trap set by tax officials will raise concerns among foreign investors about investing in Indonesia.

Corruption is an action condemned or "prohibited" by Legal Quality Management because it violates all concepts and characteristics of Legal Quality Audits. Investors will avoid countries with high levels of corruption because it not only causes economic losses but also damages the moral integrity of foreign entrepreneurs.

In the case of Tax Amnesty as outlined in Chapter III of this article, foreign entrepreneurs who violate tax laws should be reprimanded and directed to comply with regulations. However, they are directed to violate regulations that benefit certain tax officials. They are threatened with illegal actions that harm foreign companies.

With the concept of Legal Quality Management System, corruption can be avoided because of its supervision by the system. The Legal Quality Management System has tracing systems that identify at which point in the process errors occur and promptly correct them.

Criminal acts of corruption can be traced starting from manuals. The Policy Manual is used to trace whether top management has intentions to enrich themselves or not; the Procedure Manual to trace whether supervision is effectively carried out or not; and the Work Instruction Manual to trace whether operational field officers follow SOPs or not. These manuals, according to the author, serve a dual function, either "downward" or "upward." The downward function means the Procedure Manual details the Policy Manual, and the Procedure Manual is detailed by the Work Instruction Manual. The upward function is a corrective system, meaning if the higher-level manuals are difficult to implement or need improvement—such as if the Policy Manual set by top management is too high-level, making it difficult for managers to supervise—managers will propose corrections to the Policy Manual and so forth.

Nowadays, if there is a criminal act of corruption, for example, a tax crime case committed by Rafael Alun and his associates, it is immediately processed. According to Legal Quality Management, however, this is not the case; it should be audited first to determine at which stage the error occurred.

The first step is to conduct Normative Legal Quality Audit, which involves auditing policy manuals, procedure manuals, and work instruction manuals. If no issues are found in the audit results, the second step involves Implementative Legal Quality Audit, which audits the implementation of SOPs to identify the "actors behind" the incident. This quality audit will objectively determine who should be held accountable and prevent the emergence of "scapegoats."

Examined from the concept of Legal Quality Audit, which consists of pillars: acting in the best and flawless manner, user satisfaction, and continuous improvement, corruption is assuredly not passing the audit or feasibility test. Corruption committed by tax officials is not the best practice in carrying out their duties but is instead the worst action. From the perspective of user satisfaction, such corrupt actions undoubtedly disappoint users, namely the state, taxpayers, and all citizens because they all suffer losses. Furthermore, when assessed from the third pillar, continuous improvement, corruption falls far from these 7 parameters.

The Concept Of "Quantity of Legislation"

The "Quantity of Legislation" concept referred to by the author here is the amount or number of regulations horizontally and vertically within a particular regulatory framework. For example, horizontal quantity refers to the Investment Law regulated under 76 equivalent laws, while vertical quantity indicates that each of these 76 laws has implementing regulations such as Government Regulations, Presidential Regulations, Ministerial Regulations, and Regional Regulations.

The increasing quantity of regulations does not always have a positive impact because foreign investors and business operators have to spend a lot of time and money to study Investment Regulations in Indonesia. Such conditions will certainly reduce their interest in investing in Indonesia.

The author appreciates the codification system implemented by the Dutch Government, which was applied in the Dutch East Indies through the principle of concordance. The first advantage of the codification system is that for civil law, only 1 legal code is needed, namely the *Burgelijke Wetboek* and *Wetboek van Koophandel* for civil law, and the *Wetboek van Strafrecht* for criminal law. These codes can be directly applied without the need for detailed explanations of each article, let alone implementing regulations.

If we compare this with the regulatory system in Indonesia, the sequence can be seen in Law No. 12 of 2011 concerning the Formation of Legislation. In this legislation, the hierarchy or sequence is as follows: Constitution (*UUD*), People's Consultative Assembly Decree (*TAP MPR*), Law/Regulation in lieu of Law (*UU/Perpu*), Government Regulation (*Peraturan Pemerintah*), Presidential Regulation (*Peraturan Presiden*), Provincial Regulation (*Peraturan Daerah Provinsi*), and Regency/City Regulation (*Peraturan Daerah Kabupaten/Kota*). From this lengthy hierarchy or sequence, it can be concluded that each piece of legislation indeed has lengthy implementing regulations.

The quantity of legislation in the field of investment creates what seems like a "forest of regulations." Concerning investment law, which are regulated in 76 laws, each with numerous implementing regulations, one can imagine the sheer volume of implementing rules that need to be inventoried and understood for investment purposes in Indonesia. President Jokowi himself likened foreign investors who invest in Indonesia to being in a thicket of regulations regarding investment.

The characteristics of Legal Quality Audit can help provide a solution, which is to reduce the length of the regulatory process. Instead of needing more than 5 implementing regulations from a law to its application, with Legal Quality Audit, only 1 implementing regulation would suffice.

When using the parameters of product reliability, minimal cost, and systemic approach, the regulatory structure after the law consists only of Presidential Regulations or Ministerial Regulations. This concept has been implemented in Banking Law. In Banking Law, there are only two forms of regulations: first, in the form of laws, including the Banking Law, Bank Indonesia Law, Islamic Banking Law, and Financial Services Authority Law. The second form is implementing regulations, such as Bank Indonesia Regulations and Financial Services Authority Regulations. The first form, laws, are not easily changed; if new issues need regulation, they are issued in the form of Bank Indonesia Regulations or Financial Services Authority Regulations.

The Concept of Transparency in Foreign Investment

Foreign investment offers are indeed very attractive to the host country, especially when there is a need for physical infrastructure, which sometimes drives acceptance of these offers. For foreign investors, investment targets and constraints are meticulously calculated to avoid potential losses. Moreover, alternative solutions are prepared in case of payment delays or profit targets are unmet.

Unlike investment-receiving countries like Indonesia, many issues are often overlooked when considering whether to accept or reject foreign investment offers in the form of foreign loans. One "legendary" issue is the rise in land prices and project raw materials such as cement, iron, steel, sand, and others.

Up to now, many countries have invested in Indonesia, including China. Some of the projects in Indonesia financed by China include the Jatigede Dam, the Medan-Kualanamu Toll Road, PT Gunbuster Nickel Industri (GNI), the Morowali Industrial Park, and the Jakarta-Bandung High-Speed Train.

The Jakarta-Bandung High-Speed Train project initially involved cooperation between Indonesia and Japan. However, due to various challenges, Indonesia eventually formed a capital participation cooperation with China, leading to the establishment of PT Kereta Cepat Indonesia China (*KCIC*) with 60% of the shares owned by Indonesia and 40% owned by China. Specifically, China holds 46% of the shares in PT Kereta Cepat Indonesia-China (*KCIC*), while the remaining 54% is owned by Indonesian state-owned enterprises (*BUMN*). In other words, this cooperation project follows a government-to-government (G2G) scheme.

The project has attracted attention from various parties because, besides being targeted to start operating in 2023, the project costs have escalated from the initially agreed amount. The project's initial value, US\$6.071 billion, increased by US\$1.449 billion or approximately Rp 21 trillion, resulting in a total cost of US\$7.5 billion or approximately Rp 117 trillion, as found by the Financial and Development Supervisory Agency. Furthermore, Presidential Regulation Number 93 of 2021, amending Presidential Regulation Number 107 of 2015 concerning the Acceleration of the Implementation of High-Speed Train Infrastructure and Facilities between Jakarta and Bandung, stipulates that Indonesia's State Budget (*APBN*) is designated as the guarantee for the debt.

Several factors underlie the cost escalation, including the Covid pandemic, changes in road access design, taxation issues, as well as cash flow and budgeting. Despite these challenges, foreign investments in Indonesia do not always proceed smoothly. Many factors need careful consideration. For projects like Indonesia-China High-Speed Train project, thorough calculations are needed concerning costs involving third parties, such as land lease taxes. Such collaborations inherently carry potential issues, but with meticulous planning and calculation, these issues can be minimized.

Considering that the Indonesia-China High-Speed Train cooperation itself is government-to-government, theoretically, it may appear more advantageous because any potential issues would be jointly managed. However, in reality, China has requested that Indonesia's State Budget be the guarantee, which will indeed impact the country's fiscal position over a considerable period and create other ripple effects.

Another issue that has arisen is the lack of transparency from the government towards the public. This is regrettable because it also relates to survey results among residents of Jakarta and surrounding areas, as well as Bandung and surrounding areas, showing that a significant number of respondents have doubts about the Jakarta-Bandung High-Speed Train project. The Indonesian government appears less firm and authoritative compared to China. However, there are reports circulating that the Indonesian government is attempting to offer alternatives by securing debt through PT Penjaminan Infrastruktur Indonesia (*Persero*) or PII.

Furthermore, the increase in loan interest rates from 2% to 3.4% is another evidence that the Indonesian government has had to comply with China's wishes. It is not surprising that many view Indonesia as being trapped in debt to China. Indonesia should take heed of the Sri Lanka case, where a cooperation agreement with China over a port led to economic and political consequences due to Sri Lanka's inability to repay the debt. Regarding the Indonesia-China High-Speed Train, no matter how small the risks might seem in the future, Indonesia should be increasingly vigilant in its cooperation with the Indonesia-China High-Speed Train and other investments in any country.

The Indonesia-China High-Speed Train project case shows that Legal Quality Audit is highly necessary because the method used is multidisciplinary. Some parameters that "did not pass" include:

Quality of Product: Indonesia-China High-Speed Train potentially lacks interest from customers because it is expensive; the ticket price is Rp 350,000, whereas regular travel costs only Rp 165,000 to reach Cengkareng Airport.

Cost Efficiency: Besides being expensive, Indonesia-China High-Speed Train's destinations are limited; it can only stop at specific stations. If passengers' destinations are not on the Indonesia-China High-Speed Train route, they must use public transportation like Gojek or Go Car to reach their destination. Another economic issue is the high interest rates and the ballooning costs up to Rp 21 trillion, especially since investors demand that the investment be guaranteed by the State Budget (*APBN*), trapping Indonesia in Chinese investment.

Safety: With high speed and narrow railway positions above roadways, Indonesia-China High-Speed Train may not be safe, especially on the congested Bandung-Jakarta route. From a safety standpoint, Indonesia-China High-Speed Train is faster on less congested routes, covering longer distances and connecting industrial or densely populated areas with urban areas.

The concept of Foreign Private Investment that Harms Domestic Entrepreneurs

Not all foreign investments have a positive impact on the national and local economy. Field research data shows that the conflict between Ukraine, supported by NATO forces, against Russia has caused its citizens to migrate to more conducive countries for their businesses.

One issue they face is difficulty accessing their funds stored in banks in their home country. They have resorted to making payments using cryptocurrencies such as Ethereum, Flaming Sandwich, Solana Fish and Chips, and BNB Latte to cope.

One destination for them is Indonesia, particularly in Bali. One of the provinces that attracts attention from these foreign tourists is Bali, known for its tourism and large number of foreign visitors. Given these conditions, both foreign and local tourists require various facilities, including motorbike and car rentals, international-scale restaurants, and global-scale transactions.

From field research in Bali, the author obtained information that foreign tourists enjoy staying in Bali, even though they have limited funds, they use them for small businesses to sustain themselves, such as selling vegetables and their country's traditional food or renting motorcycles. Certainly, their business activities would disadvantage the local government because foreign micro-businesses pressure their micro and small enterprises (UMKM).

Small enterprises in Bali has declined due to businesses owned by foreigners with business permits, and some foreign tourists have even started establishing Limited Liability Companies (PT). The business activities of foreign tourists that disadvantage local small enterprises are rapidly growing and are used as a modus operandi, seemingly creating an illegal gateway for the entry of foreign labor (illegal). These illegal foreign workers engage in business activities typically carried out by local small enterprises, such as selling vegetables, bread, and most commonly, renting motorcycles.

The local provincial government is grateful for taking swift and precise actions. The author believes that the Bali Provincial Government has implemented Legal Quality Science and has the potential to close the "passing action" parameters from the Job Creation Law and the Central Government's policies regarding those licenses above.

On Wednesday, May 31, 2023, Governor Bali Wayan Koster issued Governor's Circular Letter of Bali Number 4 Year 2023 concerning New Order for Foreign Tourists During Their Stay in Bali. The Circular Letter becomes the umbrella policy of the Bali Provincial Government to regulate tourist activities, especially foreign tourists while in the Island of Gods, which have recently been widely exposed due to their negative behavior. Koster mentioned that this regulation is aimed at ensuring that tourism in Bali becomes more high-quality and dignified.

Koster stated, "This is so that its implementation does not make Bali appear as cheap tourism. As many as 129 people who have been deported since January are quite a lot." The letter stipulates 12 obligations for foreigners while in Bali, including:

- Honoring the sanctity of temples, pratima (sacred statues), and religious symbols;
- Respecting customs, traditions, arts and culture, as well as the local wisdom of Balinese communities during procession ceremonies and rituals being conducted;
- Wearing appropriate, decent, and respectful attire when visiting sacred areas, tourist attractions, public places, and during activities in Bali;
- Behaving courteously in sacred areas, tourist sites, restaurants, shopping areas, roads, and other public places;
- Accompanied by licensed tourist guides (who understand the natural conditions, customs, traditions, and local wisdom of Balinese communities) when visiting tourist attractions;
- Exchanging foreign currencies at authorized Foreign Exchange Business Activities operators, both banks and non-banks, identified by their license number and QR code logo from Bank Indonesia.
- Seriously respecting customs, traditions, arts and culture, as well as the local wisdom of Balinese communities during procession ceremonies and rituals being conducted;
- Wearing appropriate, decent, and respectful attire when visiting sacred areas, tourist attractions, public places, and during activities in Bali;
- Behaving courteously in sacred areas, tourist sites, restaurants, shopping areas, roads, and other public places;
- Accompanied by licensed tourist guides (who understand the natural conditions, customs, traditions, and local wisdom of Balinese communities) when visiting tourist attractions;
- Exchanging foreign currencies at authorized Foreign Exchange Business Activities (KUPVA) operators, both banks and non-banks, identified by their license number and QR code logo from Bank Indonesia;
- Making payments using the Indonesian Standard QR Code;
- Conducting transactions using the Indonesian Rupiah currency;
- Driving while complying with the laws and regulations in Indonesia, including possessing a valid International or National Driving License, obeying traffic rules, dressing appropriately, wearing a helmet, following traffic signs, not exceeding passenger capacity, and not under the influence of alcohol or illegal drugs;
- Using four-wheeled vehicles that are officially roadworthy or two-wheeled transportation under businesses or associations renting two-wheeled vehicles.
- Staying/accommodating in accommodation businesses that have proper licenses according to regulations;
- Adhering to all specific rules/regulations applicable at each tourist attraction and tourist activity.

In addition, there are also 8 prohibitions for foreigners (Wisman) while in Bali, namely:

- Entering the main areas of mandala and madyaning mandala sacred places or places sanctified like

temples, shrines, except for prayer purposes while wearing traditional Balinese attire or for prayer and not during menstruation;

- Climbing sacred trees;
- Behaving in a manner that desecrates sacred places and sanctified places, temples, pratima (sacred statues), and religious symbols, such as climbing sacred buildings and taking photos in inappropriate attire or without clothing;
- Littering carelessly and polluting lakes, springs, rivers, seas, and public places;
- Using single-use plastics such as plastic bags, polystyrene (styrofoam), and plastic straws;
- Uttering harsh words, behaving rudely, causing disturbances, and acting aggressively towards state officials, government, local communities, or fellow tourists directly or indirectly through social media, such as spreading hate speech and hoaxes;
- Working and/or conducting business activities without official documents issued by authorized agencies;
- Engaging in illegal activities such as (flora and fauna, cultural artifacts, sacred objects) involving in illegal buying and selling including illegal drugs. Foreign tourists who behave inappropriately in activities that are not in accordance with visa permits to transact using crypto and violate other provisions will be dealt with firmly including deportation subject to administrative sanctions criminal penalties and other harsh sanctions.

In recent months, a number of foreigners behind the scenes have been behaving indecently, which is considered damaging to the image and traditions in Bali. This ranges from taking nude photos at sacred trees to intruding into dance performances without wearing clothes and engaging in activities with pornographic undertones. Between January and May 2023, the Bali Regional Police have processed legal actions against 38 foreign nationals for criminal behavior and issued fines to over 1000 foreign nationals for traffic violations. Additionally, 120 foreigners have been deported for offenses ranging from inappropriate actions to activities not in accordance with their visa permits.

Bali Police Chief Inspector General Putu Jayan Danu Putra has urged the community to prevent violations and courageously report deviations committed by foreigners actively. He emphasized that community participation in reporting or acting to prevent such misconduct by tourists is not for the sake of coverage and viral sharing. These reports will be processed accordingly if they meet the legal violation criteria.

Minister of Tourism and Creative Economy Sandiaga Uno expressed concern about the behavior of foreigners in Bali. "I am quite concerned about the incident involving a German national, who upon further investigation, was found to be experiencing mental health issues and is now being treated by doctors and a psychiatric hospital in Denpasar."

Discrimination against foreign workers should no longer be practiced because these foreign workers will seek countries that are willing to accept them. Efforts should focus on enhancing competitiveness and promoting the nationality of local micro, small, and medium enterprises. Therefore, Legal Quality Science can be used as a means to improve the quality of services or products produced.

The author appreciates the Circular Letter issued by the Governor of Bali because when tested against the concept of Quality Audit System, namely: defect-free, customer satisfaction, and continuous improvement it has qualitatively passed. The author believes that a culture of quality has been implemented on the island of Bali. Here is the description:

Firstly, **deficiency-free** means that the Local Government restores Bali as a cultured tourist destination, respecting places of worship, fostering mutual respect between Balinese residents and foreign tourists, maintaining morality, avoiding vice, and adhering to regulations from the Central Government, Local Government, and local customs.

Secondly, **satisfying service/product users**, with the restoration of Bali as a cultured tourist destination, stakeholders in Bali's tourism sector will be satisfied, for example:

- The Central Government will gain revenue from visas due to increasing foreign tourists.
- Foreign tourists with a capital of 10 billion are allowed to open certain businesses by complying with the Omnibus Law, thus preventing illegal foreign workers.
- Domestic tourists feel comfortable traveling in a place that upholds morality and etiquette.
- Local residents are comfortable engaging in worship, arts, and environmental preservation activities.
- Micro and small businesses are not disrupted by the actions of foreign tourists attempting to dominate their businesses.
- Government revenue from tax sectors is guaranteed to increase.

Thirdly, continuous improvement, as the prolonged pandemic has paralyzed the tourism sector in Bali. As tourism begins to recover, foreign tourists are increasingly engaging in illegal businesses, activities that are not in accordance with religious, moral, and social norms. The quick response from the Bali Government by issuing Governor's Circular Letter of Bali Number 4 Year 2023 concerning New Arrangement for Foreign Tourists During Their Stay in Bali on Wednesday, May 31, 2023, reflects the realization of the third quality concept, continuous improvement.

There is a theory called “Triangulation of Economic Development Law”. Thus the Economic Law group becomes 3, namely (Murwadji, 2024):

- Development Economic Law that regulates the capacity building of large-scale national companies to become global companies that provide large amounts of national income.
- Social Economic Law that regulates the increase in the capacity of micro and small enterprises (MSEs) so that they are able to carry out business activities that are increasing and sustainable.
- Corporate Social Responsibility Law: regulations that regulate the responsibility of large companies that have received various facilities from the Government are obliged to facilitate the progress of MSEs with various methods regulated in regulations that are compelling.

Firstly, **deficiency-free** means that the Local Government restores Bali as a cultured tourist destination, respecting places of worship, fostering mutual respect between Balinese residents and foreign tourists, maintaining morality, avoiding vice, and adhering to regulations from the Central Government, Local Government, and local customs.

The emergence of various businesses owned by foreign nationals in Bali should be accompanied by the protection of local Micro MSMEs, do not let local residents lose money or even die. The ease of foreign investment with the issuance of the Job Creation Law (The Act Number 11 of 2020). has made businesses owned by foreign nationals appear in Bali. The types of businesses owned range from property, meditation places, lodging, commercial housing, cafes, to car and motorcycle rentals.

The impact of Law No. 6 of 2023 on the Stipulation of Perpu No. 2 of 2022 on Job Creation is the basis for foreigners to open businesses as widely as possible, research in Bali shows that the prices offered by foreigners are of better quality and cheaper. The Bali Regional Government also has difficulty regulating it through local regulations because the Job Creation Law is centralized in the field of business licenses.

Referring to the Job Creation Law, foreigners doing business in Bali are foreigners with a visit visa with a minimum capital of IDR 10 billion, field data shows that foreign business actors who get permission from the Ministry of Tourism and Creative Industries actually employ foreign workers from their country in violation of the law because they employ foreigners on tourist visas.

MSMEs in Bali have suffered a setback because foreign businesses that have business licenses, even establishing a Limited Liability Company (PT), have turned out to be used as a gateway for illegal entry of foreign workers. These illegal foreign workers carry out business activities commonly carried out by MSMEs such as selling vegetables, selling bread, and the most common is motorcycle rental.

Discrimination against foreign workers should not be done anymore because these foreign workers will look for other countries that are willing to accept them. The effort that must be taken is to increase the competitiveness and nationality of local MSMEs, therefore Legal Quality Science can be used as a means to improve the quality of services or goods produced.

Another way is cooperation between foreign business actors and domestic MSMEs, for example, every licensed foreign business activity is required to employ a number of local workers and is required to transfer technology in its business. Thus, the Job Creation Law must be audited with a Legal Quality Audit so that more foreign parties invest in Indonesia with the provision of also protecting and developing businesses and MSMEs in Indonesia. In addition to hiring local labor, the activities of foreigners must be limited to their business fields so that there is no conflict between their business fields and local Balinese MSEs (Murwadi, 2024).

The Concept of Legal Quality Culture

As an introduction, the author discusses quality science, legal quality science, and legal quality culture because based on these three topics, human resources in the legal field are empowered to synergize with business actors and government because they share the same paradigm. Quality science has already been applied in the corporate sector, as evidenced by quality certifications such as ISO 9000 certificates. For instance, in government-owned enterprises, a quality system known as Good Corporate Governance (GCG) has been implemented, and for micro and small businesses, there are socialization, training, and certification programs for ISO 9000 certificates under packages A, B, and C. Ironically, legal professionals are often unfamiliar with quality science, despite their role in creating regulations and resolving impending issues.

It is important to realize the legal culture so that all stakeholders understand, internalize, and share the same quality paradigm, thus naturally forming a culture of quality. This quality culture is universal, making it not difficult to learn and apply. The author is concerned that the legal professionals' lack of knowledge in this area could become a "country risk" or a hindrance for a country as an investment host.

In relation to this, the main ideas of Talcott Parsons are known through the theory of structural functionalism. This approach views society as a system that is functionally integrated into a state of equilibrium. The structural functionalism approach arises from a perspective that equates society with biological organisms (Turama, 2018).

Parsons also developed functional imperatives concepts aimed at ensuring the survival of a system. These imperatives are commonly known as AGIL, which stands for Adaptation, Goal attainment, Integration, and Latency. Their explanations are as follows (Turama, 2018):

- Adaptation: This refers to the society's ability to interact with its existing environment and nature.

It includes activities such as gathering life resources and commodities, and social redistribution.

- Goal attainment: The second element is the ability to organize and set future goals and make decisions that align with these goals. Solving political problems and achieving social targets are part of this necessity.
- Integration: This is the harmonization of all members of the social system after a general agreement on values or norms within society has been established. This is where values play a role in integrating a social system.
- Latency: This involves pattern maintenance, specifically the preservation of certain societal values such as culture, language, norms, rules, and so on. From this explanation, it is evident that Parsons emphasizes a clear hierarchy from the lowest to the highest level.

Most people in the legal profession with a basic legal education, such as lawyers, judges, prosecutors, police officers, notaries, and legal bureaus, are unfamiliar with quality science. This situation arises because quality science is not taught in law faculties in Indonesia and there is a biased opinion that quality science is not for "legal professionals" but rather for economists or technocrats. Legal professionals only know that quality science relates to the quality of products or quality control, not to services.

In practice, people in the legal profession are actually already implementing "quality processes" even though they are not aware that what they are doing is an application of legal quality science. For example, the police have been implementing "standard procedures (protap)," notaries create land certificates based on Standard Operating Procedures (SOP), and other professions are also familiar with Standard Operating Procedures (SOP).²

In addition to the aforementioned biased opinions, legal studies view law as a set of norms manifested in regulations or agreements. Law No. 12 of 2011 on the Formation of Legislation explains the hierarchy of laws and regulations, which includes the 1945 Constitution, MPR decrees, laws/government regulations in lieu of laws (Perpu), government regulations, presidential regulations, as well as provincial and district/city regulations. Based on this, manuals as explained in Chapter IV, such as Policy Manuals, Procedure Manuals, and Work Instruction Manuals (SOP), are considered non-legal aspects and therefore are not studied or included in the curriculum in law faculties throughout Indonesia.

According to the author, these manuals are a form of legal manifestation in addition to regulations and agreements. Manuals are the most operational form of law, or as the author terms it, the "spearhead," meaning they are the most practical legal manifestations directly applied in legal practice or execution.

Conclusion

The integration of legal quality science through legal quality audits of laws and regulations governing state revenue from foreign sources can be achieved by establishing a Legal Quality Assurance System comprising two subsystems: concept and character audit. The concept is a multidisciplinary philosophical foundation consisting of: defect-free (deficiency), legal customer satisfaction, and continuous improvement never-ending. Characteristics are parameters, both quantitative and qualitative, derived from the concept, a multidisciplinary philosophy consisting of performance reliability (quality), minimal cost, ease of access (delivery), safety, friendly service (mores), systemic nature (systemic), and leading change (environmental). Legal quality audits in investment law are designed to measure legal quality both against regulations (normative audit) and the application of these regulations in practice (implementative legal audit) in the investment sector.

The development of concepts in Indonesian National Economic Law based on legal quality science related to the regulation of state revenue from foreign sources involves the development of several concepts in the field of investment law. This includes the refinement of legal theories related to

investment, namely the Theory of Legal Quality Culture, which is an extension of Sunaryati Hartono's Theory of Developmental Economic Law and John Humble's Theory of Corporate Social Responsibility.

Suggestion

To enhance state revenue from foreign sources, it is advisable to formulate and approve a Presidential Regulation through a Presidential Decree on the Legal Quality Assurance System. This regulation should govern the institutional framework and processes of Legal Quality Audits, accompanied by appendices detailing the General Documentation System and a Special Documentation System specifically used for auditing foreign investments. This documentation system consists of a Policy Manual for top decision-makers, a Procedure Manual for middle management and supervisors, and Work Instruction Manuals for field personnel.

The legal quality audit system serves two functions: as a methodology and as an instrument for auditing the implementation of regulations. The institutional arrangement to conduct Legal Quality Audits is crucial; this institution should be professional, non-profit, and independent, while also facilitated by the government with adequate resources, infrastructure, and financial support.

The concepts of Developmental Economic Law and Corporate Social Responsibility should ideally be universal and impartial towards any particular economic ideology, such as liberalism or socialism. Legal quality science is universal and easily understandable by all foreign investors regardless of their location, as they are already familiar with and apply legal quality principles. With the concept of Legal Quality Culture, Developmental Economic Law, and Responsibility Law based on legal quality science, a harmonious relationship can be fostered between investors, especially foreign investors, the government, and society. This relationship is built on principles of mutual happiness, mutual dependency, and mutual respect.

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