

INVESTMENT AND LOCAL GOVERNMENT: A CASE OF INDONESIA

Tirta N. Mursitama, PhD
(International Relations Department,
Bina Nusantara University)

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OUTLINE

Contextual Changes

- Global, Regional, National
- Adjustment and Realignment

Investment Law

- Brief Review of Indonesian investment law

Failures and Success

- Story of local government in attracting investment

Challenges

- Some challenges
- Winning globalization: an integrated framework

Contextual Changes

Global Level:

- New architecture of trade and financial needed
 - Incorporating new emerging powers
 - Necessity for more inclusive and equal decision making
 - Decreasing relative power of major actors: e.g. EU and US crisis

Regional Level:

- Power realignment in Asia
- Intensify competition among regional powers
- Searching new roles for middle powers

National Level:

- Adjustment to new changing context
 - Leadership
- Reformulation of national interests
- Contributing to regional and global level
 - Coordination and empowerment of domestic stakeholders
- Increasing importance of local government

UU No. 25 /2007 Investment Law: Special treatment for investors

- Replacement of UU No. 1/1967: Foreign Investment Law, (Revised by UU No.11/1970); and UU No. 6 /1968: Domestic Investment Law (Revised by UU No. 12/1970)
- Under the new investment law:
 - (1) To enhance national business climate by assuring law enforcement, transparency;
 - (2) To ease classification between foreign and domestic investments by assuring that no different treatment between foreign and domestic investors.

Pre Decentralization Era (up to 1999)

- Investment laws:
 - UU No. 1/1967 : Foreign Investment Law and UU No. 6/1968: Domestic Investment Law
- Focal points:
 - National Coordinating Board of Investment (Central Government) and Local Coordinating Board of Investment (Provincial Level)
 - Centralized at national level

Pre Decentralization Era (up to 1999)

- Role of Local Government:
 - More administrative related permits (e.g. issuing location permits, building construction permit)
 - No authority to decide the investment
- Factors influencing investment climate;
 - Political stability
 - Law enforcement

Decentralization Era (1999 -)

- Regulation:
 - UU No. 22/1999: Decentralization Law
 - Power shifting from central to local government
 - Local government could issue various business permits that previously issued by central government

Decentralization Era (1999 -)

- Based on Presidential Decree No. 97/1993, revised by Presidential Decree No. 115/1998 jo Presidential Decree No. 117/1999, and Ministry of Investment/Head of Coordinating Board of Investment No. 38/SK/1999:
 - Governor at provincial level has authority to issue following permits accordance to investment service:
 - To issue investment approval;
 - To issue implementation permit and import tariff reduction facilitation;

Decentralization Era (1999 -)

- At the district level (city), the head of district (mayor) has authority to issue administrative-related permits:
 - Location permit;
 - Usage of building permit;
 - Business permit etc
- The stronger authority of local government tends to worsen investment climate at local level due to:
 - Uncertainty in payments/costs
 - More bureaucratic process
 - Takes longer time
 - Too many local public policies that contradict with the intention to enhance investment climate

Recentralization? (1)

- Issuance of Presidential decree No. 29/2004:
 - Due emergence of many problems/negative impact of decentralization, central government retake the authority for investment approval (strategic authority)
 - It stated that “local government CAN transfer the authority to National Coordinating Board of Investment”, but in fact, the Board takes control of approval, permission and investment facilities
 - Local government lost their “strategic authority”; reduced to more administrative functions

Recentralization? (2)

- Issuance of UU No. 32/2004:
 - Local authority given administrative functions/services in investment activities; not approval of investment projects
 - The term “administrative” is used to divide between strategic and non-strategic authority
- One stop service through National Coordinating Board of Investment:
 - Centralization of approval, permission, and investment facilities both for foreign and domestic investment
 - To coordinate among lines departments, provincial and local government

Local Government Failures in Creating Conducive Business Climate (1)

INSTITUTIONAL ASPECTS

- Absent of grand design of national and local investment activities
- Failure of capacity building in local investment services (physical, non-physical factors, human capital, big government)
- Lack of competency of human capital and mindset of bureaucracy
- Lack of capability in public policies making of local government
- Failure of de-bureaucratization process in customs, local tax and other lines of departments
- Overlapping function between Provincial Coordinating Board of Investment and Local Coordinating Board of Investment
- Poor coordination among institutions

Local Government Failures in Creating Conducive Business Climate (2)

REGULATION ASPECTS

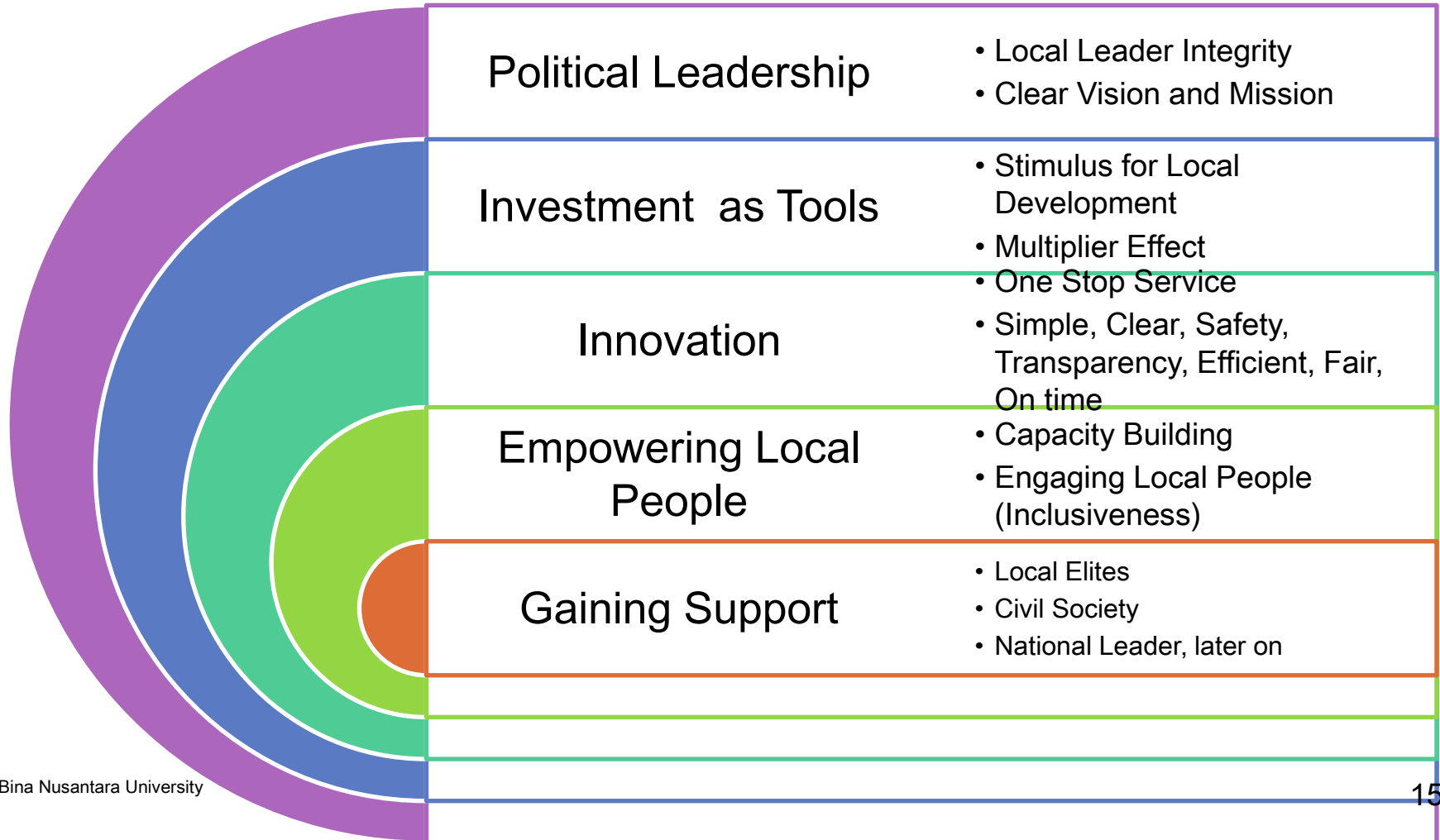
- Half-hearted from the central government in implementation of decentralization laws
- Unclear, inconsistency, and unsynchronized between local and central government regulations
- The absent of integrated regulation; creating confusion

Local Government Failures in Creating Conducive Business Climate (3)

OTHER ASPECTS

- The emphasis of investment services is merely on increasing local income/local budget
- Unhealthy relations between investors/owners and employees
- Sectoral ego and local; interests of local and national elites
- Less attention of making quick delivery time of the permits and costs/charges of it (expensive)

Local Government Success Story: Example of Investment Facilitation



Some Challenges

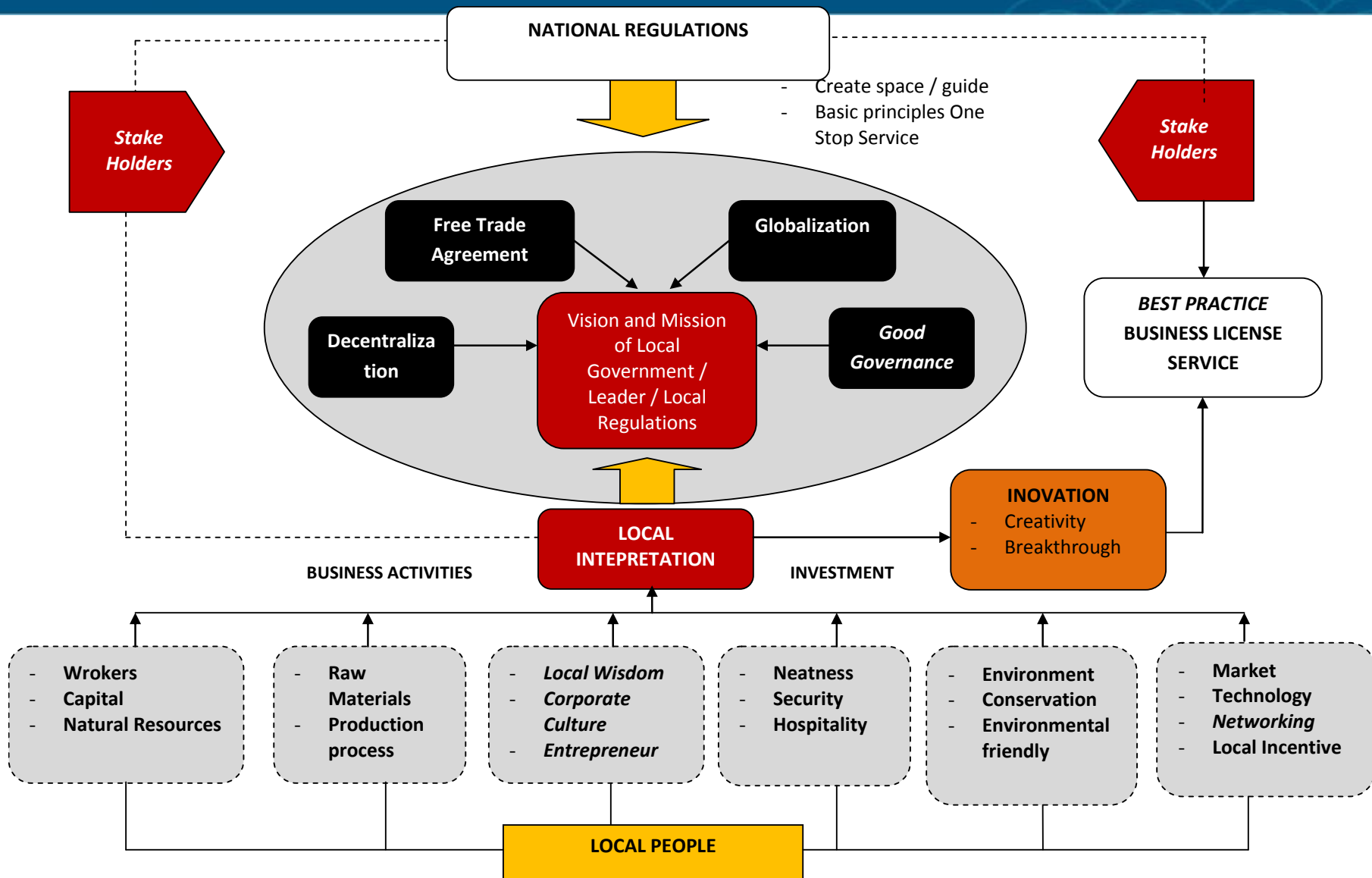
To continue enhancing local government capacity

To build better coordination among agencies

To implement good governance

To build people-centered monitoring and evaluation (public awareness and ownership of the programs)

WINNING GLOBALIZATION IN DECENTRALIZATION ERA



Tirta N. Mursitama, PhD

Associate Professor

Department of International Relations, Bina Nusantara University

Jl. Kemanggisan Ilir III No. 45, Palmerah, Jakarta Barat

Email: tmursitama@binus.edu

<http://ir.binus.edu>

[id.linkedin.com/in/tirtamursitama/](https://www.linkedin.com/in/tirtamursitama/)

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