

# INVESTMENT PHILOSOPHY CONCERNING VIETNAM'S LEGAL AND CONTEXT: CONTRADICTIONS, LIMITATIONS, AND PHILOSOPHICALS TO BE SHAPED

*FILOSOFIA DE INVESTIMENTO RELATIVA AO CONTEXTO LEGAL E AO VIETNÃ:  
CONTRADIÇÕES, LIMITAÇÕES E FILOSÓFICOS A SEREM MOLDADOS*

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## Abstract

As Vietnam's economy gradually transitions toward a sustainable development model and deepens its integration into the global economy, building an effective, transparent, and practically grounded legal framework for investment becomes an urgent imperative. This study focuses on clarifying the substance and role of investment philosophy, understood as the foundational value system that governs investment decisions and policymaking, in shaping and enhancing Vietnam's investment legal system. By analyzing classical development philosophies (justice, freedom, sustainability, intergenerational responsibility, etc.) in conjunction with modern legal theories of investment, the study highlights the dialectical relationship between philosophy, institutions, and law. Through an examination of current legislative instruments such as the 2020 Law on Investment, the 2019 Law on Public Investment, the 2020 PPP Law, and key political documents such as the XIIIth National Congress of the Communist Party of Vietnam, the study identifies philosophical expressions, limitations, and voids in Vietnam's current investment legal system. Based on this, it recommends institutionalizing a coherent investment philosophy that is distinctly Vietnam's yet aligned with international norms, thereby fostering an investment landscape committed to sustainability, equity, and innovation.

## Resumo

*À medida que a economia vietnamita transita gradualmente para um modelo de desenvolvimento sustentável e aprofunda sua integração à economia global, a construção de um arcabouço jurídico eficaz, transparente e com base prática para o investimento torna-se um imperativo urgente. Este estudo se concentra em esclarecer a substância e o papel da filosofia de investimento, entendida como o sistema de valores fundamental que rege as decisões de investimento e a formulação de políticas, na formação e no aprimoramento do sistema jurídico de investimento do Vietnã. Ao analisar as filosofias clássicas de desenvolvimento (justiça, liberdade, sustentabilidade, responsabilidade intergeracional, etc.) em conjunto com as teorias jurídicas modernas de investimento, o estudo destaca a relação dialética entre filosofia, instituições e direito. Por meio da análise de instrumentos legislativos atuais, como a Lei de Investimento de 2020, a Lei de Investimento Público de 2019, a Lei de PPP de 2020 e documentos políticos importantes, como o XIII Congresso Nacional do Partido Comunista do Vietnã, o estudo identifica expressões filosóficas, limitações e lacunas no atual sistema jurídico de investimento do Vietnã. Com base nisso, recomenda-se a institucionalização de uma filosofia de investimento coerente, distintamente vietnamita, mas alinhada às normas internacionais, fomentando assim um cenário de investimentos*



**Keywords:** Investment Philosophy. Legal Framework. Vietnam Context. Investment Attraction. Philosophically Shaped.

*comprometido com a sustentabilidade, a equidade e a inovação.*

**Palavras-chave:** *Filosofia de Investimento. Marco Legal. Contexto do Vietnã. Atração de Investimentos. Moldado Filosoficamente.*

## 1 INTRODUCTION

From the perspective of legal philosophy, investment is not merely an economic act aimed at profit generation, but rather a value-oriented sociolegal act, governed by foundational philosophical conceptions of humanity, society, development, and justice. In the current global context of sustainability and interconnected economies, the critical issue is not simply “attracting investment,” but rather orienting investment according to a coherent, humanistic, and rational philosophical framework that harmonizes economic, social, environmental, and legal interests.

Philosophy refers to a system of foundational views about the world, human beings, and the way humans engage with the world. Applied to investment, investment philosophy can be defined as: “A set of ideas, values, and foundational principles that guide investment decisions and policies either by investors or the state” (Ministry of Justice, 2020).

At the national level, investment philosophy is embodied in legal policy, institutional frameworks, and development orientations. At the enterprise or individual level, it reflects perspectives on efficiency, risk, ethics, and long-term growth. Investment philosophy helps elevate the investment goal beyond mere profitability. Profit remains central to investment activity, but without philosophical direction, the pursuit of profit may conflict with sustainable values such as social equity or environmental protection. Investment philosophy thus provides a comprehensive goal orientation: not only profit but also value creation for communities, humanity, and future generations. Amartya Sen (1999) asserted that “development is the expansion of human freedom”; therefore, investment should be understood as a means of expanding human capability, not just capital.

Absent a foundational philosophy, investment can easily devolve into speculation or resource exploitation. The integration of guiding philosophies such as sustainable development, corporate social responsibility (CSR), or environmental, social, and

governance (ESG) principles provides new metrics for assessing investment quality that transcend short-term cost-benefit logic. The OECD (2023), in its Investment Policy Reviews: Viet Nam, emphasizes the need for countries to adopt “investment guiding philosophies” to attract high-quality capital and avoid a “race to the bottom” in terms of environmental and human rights standards.

The investment legal system reflects a society’s underlying conceptualization of the state, the market, and human beings. A philosophy grounded in “rule of law, market and humanism” stands in contrast to one based on “centralized governance interventionism vested interests”. Consequently, investment philosophy plays a crucial role in orienting legal design along several key principles: Transparency, fairness, and fair competition (grounded in the philosophy of justice); Encouragement of creativity and innovation (grounded in the philosophy of liberty); Protection of the environment and future generations (grounded in the philosophy of sustainability and intergenerational responsibility).

Ronald Dworkin, in *Law’s Empire* (1986), argued that law is not a “mechanical set of rules” but a reflection of “moral and philosophical principles”. Therefore, investment law, too, must express the philosophy of justice and human dignity. In practice, investment processes often face conflicts of interest between investors, the state, communities, and the environment. Investment philosophy serves as a value-based coordinate system, helping to harmonize such conflicts and offering a foundation for policy negotiation, legal interpretation, and rational allocation of resources. Vietnam is currently undergoing a developmental shift from a model driven by natural resource exploitation and low-cost labor to one based on innovation and sustainable growth. To support this transformation, the country must articulate a foundational investment philosophy as the basis for legal and institutional design.

The philosophy of a social-oriented market economy ensures that market mechanisms operate effectively under the strategic regulation of the state in service of the public good. This helps balance growth with environmental sustainability, harmonizing economic objectives with the protection of natural and social systems. The Communist Party of Vietnam, in its XIIIth National Congress Document (2021), stated: “Rapid and sustainable development must primarily rely on science, technology, innovation, and digital transformation”. This marks the conceptual foundation of an investment philosophy focused on the future and human development.

Investment practice always faces conflicts of interest between investors, the state, the people and the environment. The investment philosophy will be the “value coordinate system” that helps reconcile conflicts, creating a basis for policy negotiations, legal interpretation and reasonable resource allocation. Vietnam is in the process of transforming its development model, from “growth based on resources, cheap labor” to “growth based on innovation and sustainable development”. To achieve that, Vietnam needs to establish a fundamental investment philosophy as a basis for legal institutionalization. The social-oriented market philosophy ensures that the market mechanism operates effectively but is regulated by the State for the public interest. It ensures a balance between growth and the environment: harmonizing economic interests with the protection of nature and society. The Communist Party of Vietnam in the XIIIth Congress Documents identified: “Rapid and sustainable development relies mainly on science, technology, innovation and digital transformation” (Communist Party of Vietnam, 2021), which is the foundation of an investment philosophy for the future and people.

From a research perspective, approaching the topic “Investment philosophy associated with the legal status and context of Vietnam” not only requires content analysis, but also requires structuring the problem into scientific research questions, thereby clarifying the scope, objects and theoretical and practical approaches. To clarify the topic of “Investment philosophy in connection with the current legal status and context of Vietnam”, it is necessary to answer the following questions:

What is investment philosophy in Vietnam’s legal framework: current status?

What are the contradictions and inconsistencies between law and developmental imperatives?

What is the context shaping Vietnam’s investment philosophy?

How should philosophies need to be shaped to perfect Vietnam's investment law?

The investment philosophy within the Vietnamese legal framework is currently in the formative stage, reflecting efforts to balance investment attraction and ensure sustainable development orientation. However, the current legal framework still has many contradictions and inadequacies between legal regulations and practical development requirements, between rapid investment attraction and strict control of project quality, as well as between specialized laws and the Investment Law. The context for the formation of investment philosophy in Vietnam includes the process of economic transformation,

international integration, green and sustainable development requirements, and competitive pressure in the region. Therefore, the development of investment philosophy needs to be reoriented towards consistency, long-term, focusing on efficiency and sustainable development. This requires perfecting investment law based on the principles of transparency, predictability, linking with national development planning and strategy, and harmonizing the interests of the state, investors and the community.

## 2 LITERATURE REVIEW

### 2.1 Foreign research

Over the past decades, investment studies have often focused on technical aspects such as economic efficiency, profitability, financial risks, or regulatory legal instruments. However, with the development of ideas on sustainable development, business ethics, and social responsibility, international and Vietnamese academics have begun to raise more fundamental questions: what philosophical principles should guide investment? what is the role of philosophy in designing investment institutions and laws? This content is not yet popular in Vietnam but is a topic of high academic and practical value, especially in the context of restructuring the post-COVID-19 development model and the requirements for green transformation, digital transformation, as well as institutional reform in Vietnam.

Approaching philosophy in investment can start from classical and modern development theories. One of the influential ideological foundations is the view of Amartya Sen, who asserted that: “Development is the process of expanding the substantive freedoms that people enjoy” (Hepburn, 2023). Accordingly, investment policies must aim to expand human capacity, rather than focusing solely on growth indicators. From this perspective, investment philosophy is positioned as a core part of the ideology of comprehensive, humane, and responsible development (Lucas Clover Alcolea, 2025).

From the perspective of legal philosophy, Ronald Dworkin (1996) argues that law is not simply a set of coercive rules, but rather an expression of the underlying moral and philosophical principles that govern society. This implies that a fair and effective investment legal system needs to reflect clear philosophies of development, justice, social

responsibility, and the environment, and cannot rely solely on short-term economic interests (Riffel, 2025).

In recent years, investment theories and policies have increasingly emphasized approaches rooted in ethical and sustainable values, prominently represented by ESG (Environmental, Social, and Governance) frameworks. ESG has emerged not only as an international investment standard but also as the manifestation of a new investment philosophy, one that calls for the integration of nonfinancial values into investment decision-making (Sullivan & Mackenzie, 2017). Research within this school of thought underscores that investment activities should not undermine ecological foundations, social structures, or governance systems. Instead, it should reflect the philosophies of intergenerational responsibility and ethical investing in a globalized context.

The OECD (2020), in its *Investment Policy Reviews: Viet Nam*, emphasizes the critical importance of building a clear “investment philosophy” in order to attract high-quality capital, rather than pursuing quantity-driven investment while neglecting societal values. The report specifically points out that a guiding investment philosophy would enable Vietnam to screen and prioritize investment sectors aligned with long-term national interests. Furthermore, the OECD highlights that one of the core prerequisites for improving investment quality is the establishment of a coherent philosophy for investment selection and supervision, grounded in principles of equity, transparency, and sustainability. The World Bank (2020) similarly calls for “redefining the development philosophy” embedded in Vietnam’s investment policies, particularly concerning state governance and innovation priorities.

## **2.2 Research in Vietnam**

Although direct academic engagements with the concept of “investment philosophy” remain limited in Vietnam, certain scholars and research institutions have laid the foundational groundwork for its theoretical development.

A significant contribution to the institutional reform discourse on investment has been made by the Ministry of Justice (2025) and a team of experts from the Central Institute for Economic Management (CIEM). In a series of reports from 2016 to 2020, the Ministry of Justice argued that Vietnam must adopt an investment reform philosophy guided by the principles of “market orientation, competition, transparency, sustainable

development”. Far from being a mere slogan, this framework is articulated as a core ideological structure that informs the entire process of policymaking, legislative drafting, and policy implementation.

CIEM further asserts that in a modern economy, the role of the state should not be microinterventionist or administratively intrusive, but rather institutional i.e., the state should act as an “institutional architect”, creating fair rules of engagement that allow economic actors to thrive through innovation and healthy competition (CIEM, 2020). This approach reflects the influence of New Institutional Economics, which underscores that institutions, including laws, administrative processes, and public ethics, play a decisive role in establishing an efficient and sustainable economic order. Without a transparent and stable institutional foundation, investment policies will fail to incentivize private sector participation, particularly in long-term and socially responsible investments.

In a separate study, Minh Trung (2024) identified persistent inconsistencies in Vietnam’s current investment law from a philosophical perspective. Specifically, she highlighted a disconnect between economic growth objectives and the imperatives of community rights, environmental protection, and social justice. While the 2020 Law on Investment introduced improvements in administrative procedures and sought to enhance FDI inflows, it remains heavily biased toward investor interests and insufficiently addresses social accountability, labor protections, and ecological considerations.

According to Le Nhu Quynh (2023), the list of incentivized sectors outlined in the Investment Law is largely formalistic, lacking a substantive evaluation mechanism to assess the practical impact on local livelihoods and environmental sustainability in project areas. Moreover, the concept of “sustainable development” has not yet been meaningfully integrated into the legislative philosophy of investment-related legal texts. As she critically observes, when legal frameworks focus solely on attracting capital flows while neglecting the alignment of growth with quality of life and social equity, investment law ultimately loses its function as a strategic tool for guiding national development in the long term.

At various thematic forums organized by the Central Institute for Economic Management (CIEM) during 2018–2019, economist Nguyen Thi Thuy Lien (2022) emphasized that: “Investment only becomes a driver of development when it is grounded in a philosophy of transparency, stability, and enabling governance”. This statement is

not merely rhetorical but reflects a fundamental principle in the design of public policy: investment law is not just an administrative technique, but an embodiment of a nation's development thinking.

Transparency in investment legislation encompasses clear delineation of the rights and obligations of investors, procedural openness in licensing, and accountability mechanisms for state agencies. Stability is manifested in consistent and predictable policies, reducing policy risk and enhancing investor confidence. Meanwhile, the enabling role requires the State to shift from a traditional managerial function to a facilitative and promotive one, constructing a legal environment conducive to innovation and fair competition.

According to the World Bank's Doing Business Report (2020), Vietnam still faces multiple institutional barriers in the field of investment, including cumbersome administrative procedures, inconsistent law enforcement, and a discretionary "ask-give" mechanism in project approval. Therefore, legislative philosophy must be positioned as a foundational principle that underpins the entire legal reform process, from lawmaking and amendment to impact assessment.

### **2.3 General evaluation and research gaps**

In the context of a global transition toward sustainable and responsible development models, numerous international studies have begun to construct theoretical systems and philosophical frameworks for investment. Notably, approaches grounded in development ethics, ESG (environmental, social and governance), and Corporate Social Responsibility (CSR) are playing an increasingly central role in shaping investment policy and legal design. Porter and Kramer (2011) argue that modern investment strategies must transcend the logic of profit maximization to aim for shared value, creating benefits simultaneously for businesses and society.

In Europe, legal mechanisms such as the EU Sustainable Finance Disclosure Regulation (SFDR) mandate that investment entities disclose the environmental and social impact of their portfolios, thereby establishing a moral foundation for cross-border investment practices. At the academic level, investment philosophy is gradually being framed as an interdisciplinary school of thought at the intersection of moral philosophy,

development theory, and economic law, offering a normative orientation for legislation and policymaking.

However, in Vietnam, the concept of investment philosophy remains largely absent from legal academic discourse and has yet to be systematized into a central theoretical axis. Current investment laws, including the Law on Investment 2020, Law on Enterprises 2020, and the Public-Private Partnership (PPP) Law, continue to be grounded primarily in administrative and procedural approaches, placing heavier emphasis on capital attraction techniques rather than long-term development values.

This is evident in the inconsistencies among policy objectives: while one side emphasizes investment liberalization and procedural reform, the other fails to fully integrate standards of social justice, environmental protection, and local community interests. A fundamental weakness is the lack of a national theoretical framework on investment philosophy, a coherent ideological system capable of linking investment legislation with a long-term national development vision.

In the absence of such a philosophy, legal documents risk becoming contradictory and overlapping, leading to challenges in policy implementation, law enforcement, and attracting high-quality, responsible investments. Furthermore, the scarcity of interdisciplinary research between philosophy, law, and development economics significantly hampers Vietnam's capacity to construct a comprehensive and forward-looking institutional strategy in the investment sector.

Therefore, the urgent task at present is to develop a nationally grounded investment philosophy framework, one that can serve as a normative foundation for reforming investment law, while also aligning with the ethical values, cultural identity, and specific development conditions of Vietnam in the era of globalization and digital economy.

### **3 RESEARCH APPROACH AND METHODOLOGY**

#### **3.1 Research approach**

This study adopts an interdisciplinary approach, integrating insights from:

Political and moral philosophy, to elucidate the ideological foundations and value systems underpinning investment behavior.

Philosophy of law, to explain the relationship between philosophical thought and the legal design of investment regulations.

Legal studies and public policy, to analyze existing legal norms and assess the effectiveness of institutionalizing philosophical principles in Vietnam's practical context.

This approach enables a dual-level investigation: first, to identify the theoretical essence of "investment philosophy"; second, to examine how (and whether) it is reflected in Vietnam's current legal system and investment governance institutions.

### **3.2 Research methods**

**Conceptual and Hermeneutic Analysis:** This method is used to clarify the concept of "investment philosophy" and to distinguish it from related terms such as "investment perspective," "policy mindset," and "development objectives". It also involves the interpretation of relevant philosophical schools such as Utilitarianism (J.S. Mill, Bentham), Distributive Justice (J. Rawls), Capabilities Approach (A. Sen), and Legal Moralism and Integrity (R. Dworkin).

**Document Analysis:** This involves the legal and philosophical content analysis of major statutes, including the Law on Investment 2020, the Law on Public Investment 2019, and the Law on Public-Private Partnership 2020, as well as political documents such as the XIIIth National Party Congress Documents. It compares foundational philosophical principles (freedom, justice, sustainability) with the current legal and policy landscape in investment regulation, as well as international documents from the OECD, the World Bank, and other organizations.

**Comparative Legal Method:** This method compares the institutionalization of investment philosophy in Vietnam with countries that have well developed legal systems and explicit philosophical orientations such as Japan's philosophy of harmonizing economic and social development in public investment, Germany's legal foundation on dignity and legal order, and the use of ESG criteria and "sustainable development" as investment benchmarks in the OECD and EU.

**Case-oriented Qualitative Analysis:** This includes empirical studies of specific cases in Vietnam that reveal tensions or alignments between investment philosophy and real-world practice, e.g., public investment in transport infrastructure (BOT, BT models),

renewable energy projects, and foreign direct investment (FDI) projects involving environmental or community rights disputes.

## 4 RESEARCH FINDINGS AND DISCUSSION

### 4.1 Current status of investment philosophy in Vietnam's legal framework

In the context of globalization and the demand for sustainable development, investment is no longer a purely financial activity; it is deeply intertwined with social, ethical, and legal dimensions. Modern investment thinking increasingly requires orientation by values such as justice, transparency, humanism, and intergenerational responsibility. From a legal and philosophical perspective, these values constitute the core of what is referred to as investment philosophy. Specifically:

The Law on Investment 2020 reflects significant reform by recognizing freedom of investment as a constitutional right and by expanding the scope of conditional business sectors. Article 5(1) affirms: “The State recognizes and protects lawful ownership of assets, capital, rights, and legitimate interests of investors”. However, the law still lacks concrete criteria related to sustainable development and social responsibility in determining investment incentives. There is insufficient integration of ESG standards, human rights, or labor criteria in investment screening regulations, posing risks of selecting projects harmful to the environment or exacerbating social inequalities (OECD, 2020).

The Law on Public Investment 2019 (amended) was enacted to improve the efficiency of public capital use, control public expenditure, and enhance transparency in investment management. Its focus lies in reforming processes of project planning, appraisal, approval, and monitoring of state budget-funded projects. However, from a development philosophy perspective, core principles such as regional equity, sustainability, and human rights-based approaches in public investment remain underdeveloped in the current legal framework. Given Vietnam's stark socioeconomic regional disparities, the demand for equitable allocation of public investment resources is pressing.

According to the State Audit Report (2022), several localities still report irrational and subjective capital allocation, sometimes skewed by “term-based interests” or “ask-

give mechanisms”. Although the law mentions investment priority for disadvantaged areas, this principle has not been effectively realized in practice. Thus, despite formal acknowledgment, the principle of equitable development remains largely rhetorical rather than legally operationalized.

Alongside the concept of a “human rights-based approach in public investment”, which has been emphasized in several international recommendations by UNDP and the OECD, remains vague and underdeveloped within Vietnam’s legal framework. The implementation of public investment projects has at times resulted in the infringement of citizens’ rights, particularly in matters such as land expropriation, resettlement, and environmental pollution, while lacking adequate mechanisms to safeguard the right to information access, community consultation, and effective grievance redress (OECD, 2020). In this context, there is a critical need to restructure the philosophical foundation of public investment law by placing the human person at its center, ensuring transparency, fairness, and sustainability as ethical pillars for the rational and equitable allocation of public resources.

The Law on Public-Private Partnerships (PPP) (2020), aimed at creating a stable legal framework to mobilize private capital for public infrastructure development, marks an important milestone in Vietnam’s national development strategy. However, from a dialectical legal philosophical perspective, it is evident that the PPP Law fails to fully articulate a partnership philosophy grounded in social responsibility, balanced interest, and community oversight.

In practice, provisions concerning risk-sharing, revenue guarantees, and budget-based compensation mechanisms largely favor the interests of private investors, especially in high-capital infrastructure projects. Articles 82 and 83 of the PPP Law regulate risk-sharing in revenue and state budget compensation when actual revenue falls below projections. However, they lack reciprocal mechanisms for cases where investors exceed revenue targets or violate environmental and social commitments (National Assembly, 2022).

From a dialectical standpoint, the relationship between the state and private actors in PPPs must be conceived as harmonious, antagonistic, or developmental, meaning that partnerships are not merely about “profit-sharing” but also about responsibility-sharing. The absence of enforceable transparency requirements, community monitoring mechanisms, and substantive assessments of environmental and social impacts poses the

risk of privatizing public benefits without ensuring reciprocal public accountability. This reflects a dialectical imbalance, where the conflict between public and private interests is not resolved through a just and transparent legal structure.

According to a report by UN ESCAP (2021), an effective PPP model must be grounded in a moral, legal social triangle, wherein public participation, accountability mechanisms, and assessments of social environmental responsibility constitute indispensable pillars. Thus, to realize the true philosophy of “partnership,” Vietnam’s PPP law must transcend the logic of contractual formalism and shift toward a dialectical legal consciousness, where the distribution of benefits is proportionate to shared responsibilities across the state, private investors, and local communities.

#### **4.2 Contradictions and inconsistencies between law and developmental imperatives**

Vietnamese investment law continues to emphasize GDP growth and FDI attraction, often at the expense of values such as social justice, environmental protection, and community welfare. The absence of philosophical evaluation tools, such as mandatory assessments of social, environmental, and human rights impacts, represents a major gap in the current legal framework.

One of the most pressing contradictions lies in the systemic bias of the current legal regime toward short-term economic growth, while neglecting or underemphasizing long-term goals such as environmental protection, social equity, and sustainable development. The 2020 Investment Law, while expanding business freedom and facilitating investment procedures, does not explicitly integrate ESG (environmental, social and governance) criteria into the screening or monitoring of investment projects (OECD, 2020). In contrast, under international standards, investment quality is inseparable from ethical values and corporate responsibility (Sullivan & Mackenzie, 2017). This legal incoherence risks attracting projects harmful to the environment or local communities, particularly in key economic zones.

The 2019 Law on Public Investment, though nominally prioritizing remote and underdeveloped regions, lacks specific criteria to ensure equitable budget allocation. In practice, this results in regional disparities and undermines the principle of inclusive development articulated in multiple policy documents (World Bank, 2020). The philosophy of justice, as defined by John Rawls (1971), requires the design of institutions

to ensure that all social groups, especially the disadvantaged, benefit from development outcomes. However, Vietnam's current investment law has not fully embedded this foundational principle.

Vietnam still lacks a national evaluation framework based on inclusive, intergenerational, and humanistic values. For example, energy and mining projects are often prioritized for their short-term benefits, without mechanisms to safeguard the rights of local communities or future generations. The ESG philosophy and corporate responsibilities toward national development remain marginalized in Vietnam's legal texts. Despite ESG's international recognition as a normative standard, Vietnamese investment law neither mandates ESG disclosure nor establishes incentives or sanctions for ethical violations by investors.

Furthermore, a growing tension has emerged between investor freedom and corporate social responsibility. The 2020 Investment Law robustly protects the right to business freedom as a development driver. However, an overemphasis on investor rights creates a vacuum in ethical and social obligations. Currently, there is no mandatory requirement for investors to disclose social impact reports or to provide transparency on ethical standards within their investment dossiers. From a jurisprudential perspective, Ronald Dworkin (1986) warned that law is not merely a tool for regulating behavior but an expression of justice and social ideals. Without balancing rights with responsibilities, the legal system becomes philosophically unsound and functionally unbalanced.

Finally, the PPP Law lacks an intergenerational philosophy and an environmental responsibility framework. Although it outlines risk-sharing mechanisms between the state and private sector, it does not fully incorporate principles of sustainability or environmental stewardship. Yet many PPP projects, particularly in energy and transport, have far-reaching consequences for ecosystems and local livelihoods. The concept of "intergenerational responsibility," a core tenet of sustainable development (UN, 1987), remains absent from binding legal norms. As a result, Vietnam's investment policy remains intellectually and institutionally unsustainable.

Fragmentation in sectoral legal provisions is also a key cause of contradictions between the law and the imperatives of development. Current legislation on investment, land, environment, construction, etc., remains overlapping and lacks a coherent philosophical perspective on development. For instance, while the Law on Environmental Protection (2020) mandates environmental impact assessments (EIA) for investment

projects, the Law on Investment (2020) fails to link these requirements to investment licensing conditions. The absence of a shared investment philosophy leads to fragmented, compartmentalized implementation and diminished governance effectiveness.

These inconsistencies highlight the fact that Vietnam's current investment legal framework still lacks a unified philosophical foundation. The overemphasis on short-term economic interests and the failure to institutionalize principles such as inclusive development, intergenerational responsibility, and social justice have undermined the law's strategic and normative functions. To address these issues, Vietnam must establish a legal framework grounded in a responsible investment philosophy, balancing rights, obligations, and social values to promote sustainable and inclusive development.

### **4.3 The context shaping Vietnam's investment philosophy**

#### *4.3.1 Economic context: rapid but unsustainable growth*

Over the past three decades, Vietnam has maintained an average GDP growth rate of 6–7% per year, making it one of Asia's most successful emerging economies (World Bank, 2020). However, the country's growth model continues to rely heavily on traditional factors such as natural resource exploitation, low-cost labor, and high capital investment, rather than on productivity and innovation.

Within this context, Vietnam's investment philosophy has yet to shift toward sustainability, inclusivity, and innovation. Investment incentives often focus on short-term comparative advantages and lack alignment with long-term criteria such as environmental protection, social equity, and intergenerational responsibility. This reflects the absence of a long-term value system in the current investment, legal and policy frameworks.

#### **4.4 Political context: the vision of a developmental state**

The XIIIth National Congress of the Communist Party of Vietnam emphasized the need to develop a “socialist rule of law state that is democratic, modern, developmental, incorruptible, action-oriented, and people-serving” (Communist Party of Vietnam, 2021). The notion of a developmental state underscores the government's role

in creating enabling institutional conditions, rather than directly intervening in market mechanisms.

However, institutionalizing this vision in the investment sector faces multiple challenges. The investment legal framework continues to reflect an administrative, command and control mindset, characterized by discretionary approvals and “ask–give” mechanisms, rather than a facilitative and service-oriented approach. The lack of alignment between economic development strategies and legal institutional mechanisms has relegated the developmental state vision to a political directive, without concrete expression in the design of laws on investment, public investment, or PPPs.

#### **4.5 Legal context: fragmented legislation and lack of philosophical orientation**

Since 2014, Vietnam has promulgated and revised several key laws in the investment domain: the Law on Investment (2014, amended 2020), the Law on Public Investment (2019), the Law on PPP (2020), and the Law on Environmental Protection (2020). However, these statutes remain disconnected, lacking a common philosophical foundation, which has resulted in contradictions in goals, principles, and implementation mechanisms.

For example, the Law on Investment prioritizes business liberalization and investment incentives, while the Law on Environmental Protection imposes stringent environmental impact requirements. The Law on Public Investment promotes infrastructure investment but fails to clearly articulate principles for regional equity. The absence of a coherent philosophy has led to a disjointed legal system that lacks coordination toward sustainable development (Hang, 2021).

#### **4.6 Impact of globalization and international integration**

Vietnam has acceded to various new-generation free trade agreements (FTAs), such as CPTPP, EVFTA, and RCEP, which impose commitments on environmental protection, labor standards, and dispute resolution in investment–trade relations. These commitments compel Vietnam to align its domestic investment laws with international standards on transparency, fairness, and sustainability.

However, the domestication of these international norms has been slow and insufficient. Requirements for investment transparency, corporate social responsibility, and worker protection standards are still not fully reflected in domestic legislation. This reveals a disconnect between international development philosophies and Vietnam's domestic investment legal system (OECD, 2020).

#### **4.7 Pressures from environmental and social challenges**

Vietnam is confronting numerous environmental threats, including air and water pollution, deforestation, climate change, and saltwater intrusion. Simultaneously, social issues such as regional inequality, multidimensional poverty, and labor migration demand investment policies that are both responsible and human-centered.

While the Law on Environmental Protection (2020) has advanced strategic environmental assessments (SEA), investment-related laws have not incorporated Social Impact Assessment (SIA) into project approval processes. This indicates a lack of integration between development and social policy in Vietnam's investment philosophy.

In summary, the current economic, political, and legal context in Vietnam presents both opportunities and challenges for the development and institutionalization of an appropriate investment philosophy. While the vision of a “developmental state” and international integration creates space for reform, the investment legal system is still in transition and lacks completeness.

#### **4.8 Some philosophies need to be shaped in perfecting Vietnam's investment law**

##### *4.8.1 The philosophy of sustainable development in investment law: from ethical principle to legal institution*

The philosophy of sustainable development was first established in the Brundtland Report (1987) by the World Commission on Environment and Development, with its classic definition: “Development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (WCED, 1987). From a moral principle, this philosophy has evolved into a foundational norm for

formulating investment strategies and economic legislation, especially in the context of escalating environmental crises, social inequality, and resource scarcity.

From the dialectical philosophical perspective, sustainable development is the result of harmonizing the contradictions inherent in development: between growth and conservation, the present and the future, humanity and nature. In the investment domain, this entails that decisions must not solely be profit-driven but systematically evaluated concerning long-term values such as environmental protection, community wellbeing, and social justice.

In Vietnam, integrating sustainable development into investment law is an urgent imperative, as many localities face serious challenges like air pollution, groundwater depletion, deforestation, and climate change. The National Environmental Report 2022 indicated that over 70% of industrial zones lacked standard-compliant wastewater treatment systems (Ministry of Natural Resources and Environment, 2022). Meanwhile, the legal framework for environmental and social impact assessment remains largely superficial.

To materialize the philosophy of sustainability, an ESG (environmental, social, governance) criteria system must be mandated across all major investment projects, especially public investment and PPPs. ESG is not merely a technical toolkit, but a holistic approach that embodies corporate social responsibility. Requiring periodic environmental–social impact reports, publicly disclosing sustainability indicators, and involving independent oversight bodies are practical mechanisms to realize this goal.

According to the OECD (2021), countries such as Germany, Sweden, and South Korea have institutionalized ESG standards as compulsory benchmarks for evaluating, licensing, and auditing large-scale or resource-intensive investment projects. These international experiences underscore that sustainable development cannot rely solely on corporate goodwill—it must be codified into binding legal norms, with clear monitoring and enforcement mechanisms.

In sum, as Vietnam transitions to a new growth model, it must strongly institutionalize sustainable development as a core principle within its investment law framework. This is not merely a matter of international compliance but a moral commitment to future generations.

#### 4.9 The philosophy of inclusive development and social justice in investment law

In a global context that increasingly prioritizes sustainability and equity, legislative thinking must go beyond GDP-centric growth models. The philosophy of inclusive development asserts that all development policies, including investment, are meaningful only when all social groups, especially the marginalized, have equitable access to opportunities and share in the benefits of growth. According to political philosopher John Rawls (1971), the difference principle in *A Theory of Justice* requires that inequalities in resource allocation are justified only if they benefit the least advantaged in society.

Applied to Vietnam's legal system, this principle necessitates that public investment laws and national investment programs prioritize poor, ethnic minority, and remote rural regions. Although current policies mention disadvantaged regions, no comprehensive monitoring system exists to evaluate social distribution impacts. The absence of mechanisms such as Social Impact Assessment (SIA) has led to investment projects, both public and PPP, falling into patterns of rent-seeking and regional inequality (World Bank, 2023).

From a dialectical social perspective, true development is not achieved through capital accumulation alone but through a dynamic balance between equity and efficiency. These are not oppositional values but dialectical elements that must be reconciled through legal instruments. Therefore, amendments to the Law on Public Investment should mandate social distribution impact assessments during project selection and approval. This would not only ensure fairness but also strengthen legitimacy and social consensus.

Moreover, PPP and FDI projects must be held accountable for generating sustainable employment, skill transfer, and mitigating income inequality. OECD (2021) recommends that modern investment treaties embed social justice and inclusive development as structural components, not peripheral considerations. Thus, constructing a legal investment framework grounded in inclusive development is both an ethical imperative and a strategic solution to ensure long-term stability and sustainability. This philosophy must guide all legislative processes, from public investment policies to FDI strategies.

#### 4.10 The philosophy of transparency and accountability in investment law

Transparency and accountability are not merely administrative requirements but the foundation of a modern rule-of-law state, particularly in public investment and the use of national resources. Political economist F. A. Hayek (1960) emphasized that a just legal system cannot operate without transparency and accountability, as these are essential for checking power and safeguarding individual freedom. From a dialectical legal philosophy viewpoint, transparency represents a reflexive process of public power, allowing society to verify and adjust state authority through mechanisms of dialogue, critique, and information disclosure.

In investment, especially public projects and those utilizing public resources (land, minerals, environment), transparency manifests in three core requirements: (i) full disclosure of project information and licensing procedures; (ii) environmental and social impact assessments; and (iii) the establishment of independent monitoring and policy critique systems. These are not merely governance techniques, but ethical foundations of investment law in a democratic society.

However, Vietnamese legislation still exhibits gaps in implementing this philosophy. While the Law on Public Investment (2019), the PPP Law (2020), and the amended Land Law (2024) mention information disclosure, they lack legally binding regulations on investment data transparency, especially for state-funded or natural resource-dependent projects. According to the World Bank (2020), the absence of a unified and public investment database hinders access to information by citizens and civil society, raising risks of corruption, rent-seeking, and a lack of accountability.

From a jurisprudential standpoint, investment law should operate as a dialogical structure among the state, investors, and civil society. This necessitates real-time disclosure mechanisms, intersectoral data integration (investment, land, environment and budget), and participatory policy review processes, where professional associations, research institutes, and local communities have the right to access, monitor, and contribute. Institutionalizing transparency and accountability not only improves governance effectiveness but also fosters social consensus, trust, and the legitimacy of law in a sustainably developing society.

#### 4.11 The philosophy of the rule of law and limiting power in investment law

In constructing a socialist rule of law state, the philosophy of legality is not only an organizing principle of state power but also the bedrock for sustainable, transparent, and accountable investment practices. As Friedrich Hayek (1960) posited, the rule of law is the “order of liberty,” where state power is constrained by clear, public, and nonarbitrary legal norms. In investment, this means the state must intervene strictly within legal limits, refrain from abuse of power, and safeguard fundamental rights of both investors and communities.

The philosophy of the rule of law, in the light of dialectics, shows that the relationship between the State and investors is a contradictory but unified one. On the one hand, the State must ensure justice, order and regulatory power; on the other hand, it also needs to restrain power to avoid abuse of power, harassment and distortion of the investment environment. Therefore, modern investment law needs to establish a “dynamic balance mechanism”, both protecting the legitimate power of the State and limiting arbitrary power through legislation. The document of the 13th National Congress of the Communist Party of Vietnam (2021) has identified the goal of building a socialist rule of law state as one of the three pillars of political innovation. In particular, the rule of law principle must be consistent in the investment sector through specific reforms:

*First*, reforming investment administrative procedures to minimize arbitrariness in project approval. According to the CIEM Report (2022), the “ask-give” situation in investment licensing, especially at the local level, is still common, causing high compliance costs and creating conditions for vested interests (CIEM, 2022). Legalizing transparent, quantitative investment processes and independent supervision is a way to institutionalize the philosophy of the rule of law.

*Second*, limiting the “arbitrary” power of investment managers through mandatory regulations, cataloguing, and effective inspection and audit mechanisms. The dialectic shows that, if power is not controlled, it will spontaneously grow to the point of contradicting the original purpose of the investment system.

*Third*, building an independent judicial mechanism to handle investment disputes. This is a typical manifestation of the rule of law, ensuring that all state actions can be monitored and controlled by an independent judicial body. The Law on Commercial Arbitration and the dispute settlement mechanism under the CPTPP and EVFTA

agreements need to be supplemented and closely connected with the domestic investment law system.

In addition, protecting the right to community supervision and investor accountability is also a clear manifestation of the philosophy of the rule of law. People's rights cannot be placed behind “market rights”, but must coexist and be balanced in legal design.

#### **4.12 Philosophy of public-private partnership based on shared responsibility**

Public-private partnership (PPP) is a form of investment that plays an important role in developing infrastructure, public services and mobilizing social resources. However, the implementation of PPP projects in Vietnam shows a serious bias towards private investors, while responsibilities to the community, environment and society have not been clearly defined or fully implemented (OECD, 2020).

From a dialectical philosophical perspective, the PPP model should be understood as a positive antagonistic partnership, where the two parties (the State and enterprises) may have different interests but must aim for a common goal: public interest. The philosophy of co-responsibility is therefore the resolution of the contradiction between the “need for capital mobilization” and the “requirement of social responsibility” by establishing transparent and fair legal, monitoring and sanctioning standards. According to OECD (2020), an effective PPP system needs the following legal pillars to realize coresponsibility, specifically: (i) Financial transparency and contract disclosure; (ii) Independent monitoring mechanism, including affected communities; (iii) Environmental and social impact assessment standards (EIA/SIA); (iv) Risk handling, benefit sharing and contract violation penalty mechanisms.

Although Vietnam's PPP Law (2020) has initially approached these contents, it still lacks specific regulations on community supervision, environmental responsibility standards, and especially does not clarify the obligation to share benefits with people in the project area. Many cases lead to prolonged lawsuits, reducing investment efficiency and people's trust in public policies.

### 4.13 Philosophy of innovation and digitalization

In the era of Industry 4.0, innovation is not only a competitive tool but has become an economic imperative. The philosophy of modern investment law, therefore, needs to shift from the state of “management control” to “accompanying, encouraging, protecting”. According to the Document of the XIIIth National Party Congress, Vietnam aims to build a development model based on science, technology and innovation, considering this a pillar to ensure national competitiveness and sustainable development (Communist Party of Vietnam, 2021).

From a dialectical perspective, innovation is not separate from the legal order, but is the endogenous driving force that promotes changes in the legal structure. If the investment legal system does not “innovate” itself, it will become an obstacle, leading to its own “degeneration” and being replaced by reality. To realize the philosophy of innovation, Vietnam’s law needs to have the following fundamental amendments:

Encourage legal sandboxes for new technology fields such as fintech, blockchain, AI, health tech, etc. This not only supports innovative startups but also helps the state understand and manage risks flexibly, responding according to the legal learning model.

Simplify procedures for technology enterprises: Regulations on business registration, testing licenses, and patent protection need to be streamlined and digitized so as not to hinder the dynamic development of innovative startups.

Strengthen intellectual property rights protection: This is an inherent weakness in Vietnam's innovation ecosystem. Strengthening the enforcement of intellectual property laws not only protects business interests but is also a key factor in attracting venture capital.

Investing in digitizing national data infrastructure, from the citizen identification system to investment, land, and environmental data, helps create a trustworthy, transparent, and efficient environment.

Thus, establishing a clear philosophical system in investment law is not only a theoretical requirement but also a foundation for improving institutional quality, ensuring harmony between growth, fairness, and sustainable development. The six philosophies mentioned above, sustainability, inclusiveness, transparency, the rule of law, shared responsibility, and innovation, need to be institutionalized in the current legal system. Integrating these philosophies into legal design not only helps improve investment quality

but also contributes to affirming Vietnam's development identity in the context of global integration and competition. In the context of globalization and the need for sustainable development, investment is not only a purely financial activity but also has profound social, ethical and legal aspects. Modern investment thinking increasingly requires orientation by values such as fairness, transparency, humanity and intergenerational responsibility. These values, from a philosophical and legal perspective, are the components of “investment philosophy”. This article analyzes the current state of investment philosophy in Vietnamese law, thereby identifying strengths, limitations and gaps in theory and institutions.

## 5 CONCLUSION

This study has approached the topic of investment philosophy from an interdisciplinary perspective between philosophy, law and public policy, to clarify the role of the core value system in orienting investment activities in Vietnam, while analyzing the current legal status and contextual factors influencing the ability to institutionalize these philosophies. Specifically, as follows:

*First*, the study has established the concept of “investment philosophy” as a set of values and principles that guide the goals, methods and limits of investment activities. This is not only a theoretical concept but also has practical value in designing policies and legal systems suitable for sustainable, inclusive and humane development (Sen, 1999; Dworkin, 1986; Rawls, 1971).

*Second*, analysis of current Vietnamese investment law shows that despite many positive reforms, such as the Investment Law 2020, the PPP Law 2020 and the Public Investment Law 2019, this system is still inconsistent in terms of philosophy. The contradictions between growth and sustainability, investment freedom and social responsibility, financial efficiency and social justice have not been properly harmonized in legal norms (OECD, 2020; WB, 2020).

*Third*, the current political-economic-legal context is creating favorable conditions for establishing a long-term national investment philosophy. However, to do so, a concerted effort is needed from the State, legislators, academia and the investment community to transform philosophical values into legal standards, policy criteria and specific governance tools.

Although certain results have been achieved, the limitation of the study is that it has not conducted field surveys or interviews with experts to assess the level of awareness and application of investment philosophy in law enforcement practices at ministries, branches and localities. In addition, the study only focuses on the legal and policy levels, without an in-depth analysis of the impacts on the business community and civil society. These are considered necessary suggestions for further research in the future.

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**Authors' Contribution**

Both authors contributed equally to the development of this article.

**Data availability**

All datasets relevant to this study's findings are fully available within the article.

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