



Legal Politics on the Dynamics of Micro, Small and Medium Enterprises Regulation in National Legislation

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Abstract. Soon after the Covid crisis passed, with horrible circumstances for several months, every country began reorganizing its economy to recover and rise in global competition. In Indonesia, there is an interesting phenomenon about the entity of the actual economic sector, which continues conducting trade in goods and services during the pandemic. These economic actors are called UMKM. Some Micro, Small, and medium business units have proven successful in stimulating the economy. Seeing the resilience of UMKN, the President then collaborated with the Legislative Body to grow this sector to strengthen the economic base by absorbing an extensive job market, which was explicitly regulated in Law No. 11 of 2020 concerning Job Creation. This paper was conducted by normative research and succeeded in identifying that in enacting this controversial omnibus law, the government has observed that it has almost simplified many regulations to facilitate the formation of UMKM and direct investment. From the perspective of legal politics, it was designed to create job opportunities as vast as possible for citizens and open the barrier to entry of foreign investment. For this purpose, the government is aggressively socializing digitalization to UMKN actors, ranging from business entity registration to modern marketing techniques combined with the power of data 5.0 evolution. This scientific work would be beneficial for harmonizing law, the legislative process that constantly adapts to the times with new issues.

Keywords: UMKM · crisis · Pandemic · Law No. 11 of 2020 · Legal Politics

1 Introduction

In the history of world civilization, the occurrence of economic crises has always had a destructive effect on the condition of the global economy. The same case with the monetary crisis of 1997. This country immediately experienced a severe multi-dimension disruption, which in terms of economic constellation left only the UMKM (Micro, Small and Medium Enterprises) sector. However, this line of business is slowly stimulating the national economy in the trade of goods and services. The history has repeated since Corona Virus Disease 19 swept the world in 2019. There is a fact in Indonesia that UMKM are the driving force of the real economy which has been retested for performance, so

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this sector has given new hope and made the Government pay special attention to its entities.

According to data from the Central Statistical Office, the development of UMKM in 2012 was capable of absorbing between 85 million and 107 million workers. During that year, there were 56,539,560 entrepreneurs in Indonesia. UMKM accounted for 56,534,592 units, or 99.99%, of the total. The remainder, approximately 0.01% or 4,968 units, are significant enterprises.

Thus, UMKM is a fundamental pillar in the Indonesian economy, which is an attraction for people to become independent. According to information from the Ministry of Cooperatives and UMKM, the current number of UMKM is 64,2 million, with a contribution to GDP of 61.07%, or 8,573.89 trillion rupiahs. UMKM's contribution to the Indonesian economy includes the capacity to absorb up to 97% of the existing labor force and collect up to 60.4% of total investment. Nonetheless, the high number of UMKM in Indonesia cannot be separated from the numerous obstacles.

One of the challenges that came to the fore in the last Covid-19 Pandemic was the situation that had changed Consumer Behavior, in addition to the Business Competition Map, which requires extraordinary anticipation by business actors due to restrictions on large-scale activities. Both regulations and suggestions have required residents to keep their distance, always wear masks and keep working at home. These regulations make Consumers do more activities at home and spend more time with digital technology. For this reason, the Government then socializes the digitization of UMKM to economic activists to synchronize with changes in consumer behaviour which were initially very conventional. Welcoming these changes, businesses are migrating towards digital technology, a business model without consumers interacting directly and traveling outside the home. Mobile phones have not just become a means of communication but have become a tool for meeting needs. Although, of course, not all UMKM players are aware of the effectiveness of smartphones, there are still many who traditionally still sell products by direct selling by selling on the road body. The change in consumer behaviour to digitalization has primarily been realized in the Online Shop format with the support of online transportation services.

Legislation Number 11 of 2020 concerning Job Creation has offered many conveniences to the space for UMKM to move. Starting from the absence of initial capital restrictions, registration of limited liability company business entities in the form of individuals quickly registered through OSS without a notarial deed and became an active business entities. However, all of the above updates have given rise to a new legal problem that reconstructs the Limited Liability Company Law. Not only about the validity of the establishment documents and capital but also the basic concept of pt about the partnership of shares which limits its liability to the extent of the capital in the deposit. The organs of the company are clear. Some parties run the company, and some parties supervise. So, overall, the company concept in Law Number 40 of 2007 stipulates that a limited liability company is a legal entity that is a capital partnership established under an agreement, conducting business activities with an authorized capital divided into shares.

Thus, the per mistake that arose in this scientific paper is whether legal certainty against the current UMKM regulations is related to the phenomenon of digitalization in the new trend of the business world. Therefore, this research aims to know what legal

politics is the big agenda of the Government of the Republic of Indonesia against the new terms and conditions imposed on UMKM in Law No. 11 of 2020 concerning Job Creation.

2 Method

From the author's side, there is a willing to understand more about the UMKM entity itself in terms of the order of concepts, utilities and their development when the country is experiencing a severe crisis. In order to examine the perspective of legal certainty on regulations governing UMKM as well as identifying Legal Politics with specific regulations for UMKM in Law No. 11 of 2020 concerning Job Creation.

This sort of study use the library study methodology to conduct normative legal research (library research). Secondary data sources include books, journals, research results, rules and regulations, and other related materials. The strategy employed is a statutory strategy. The gathered data are descriptively and qualitatively examined in order to address the problem formulation.

3 Result and Discussion

3.1 UMKM Regulation

Currently, regulations on UMKM are contained in various laws and regulations, resulting in a significant impact on the UMKM empowerment system, which needs to be more comprehensive and has the potential to block the pace of investment development. Specifically, Law Number 20 of 2008 has regulated UMKM. However, the fact is that there is still Law No. 25 of 2007 concerning Investment, Law No. 23 of 2014 concerning Regional Government, along with the implementing regulations of each of these Laws, as well as laws and regulations that indirectly regulate and affect the empowerment of UMKM. Many of those rules do not mean overlap. However, they have the potential to cause citizen confusion when contained norms that should otherwise be able to have a specialist character eventually become familiar and potentially biased if interpreted partially.

Law Number 20 of 2008 pertaining to Micro, Small, & Medium-Sized Businesses has governed UMKM in the following manner: 1. Micro-enterprises are productive businesses owned by individuals and/or individual business entities that meet the criteria for Micro Enterprises as defined in this law. The term "Small Business" refers to a productive economic business conducted by an individual or business entity that is not a subsidiary or branch of a company owned, controlled, or part either directly or indirectly of a Medium Enterprise or Large Business that meets the criteria for "Small Business" as outlined by this law. Medium Enterprises are economically viable firms run by persons or corporate entities that are neither subsidiaries or branches of Small Enterprises or Large Enterprises in terms of net worth or yearly sales income.

Article 6 of Law No. 20 of 2008 regarding the prerequisites for UMKM capital reads: The following characteristics describe Micro Businesses: i. has a net worth of no more than Rp 50,000,000.00 (fifty million rupiah), excluding firm property and buildings;

or ii. has annual sales of Rp 300,000,000.00 (three hundred million rupiahs). Has a net worth between Rp 50,000,000.00 and Rp 500,000,000.00 (five hundred million rupiahs), excluding land and buildings for commercial premises, or has yearly sales earnings between Rp 300,000,000.00 and Rp 2,500,000,000.00 (two billion five hundred million rupiahs). The following are the criteria for Medium Enterprises: ii. has yearly sales receipts of more than Rp 2,500,000,000.00 up to a maximum of Rp 50,000,000.00; or iii. has a net worth of more than Rp 500,000,000.00 up to a maximum of Rp 10,000,000.00, excluding land and buildings for company premises (fifty billion rupiahs).

In terms of concept and capital, there has been an understanding that small and medium-sized entrepreneurs are getting very much attention in the eyes of the government. However, with the dynamics of the development of knowledge and technology that is very fast, we still need to finish applying digitalization 4.0. The world has moved towards evolution 5.0, with the speed of data multiplying so that links to communication with one another hamper are built without obstacles. Entrepreneurs, as UMKM players, should be biased towards adapting to technological innovations to support their businesses. The change in the new world order that has been discourse has really become a reality with changes in life behaviour and modes of transactions that are truly digital heavy. Digitization is a necessity.

3.2 Digitization

The term Digital Economy was first introduced by Don Tapscott in 1995 in his book *The Digital Economy*. It is explained that the Digital Economy is an economic activity based on the Digital Internet Economy. In the process of the system, there has been a Digital Disruption, which has become the light of the Digital Business Model. This theory is manifested in Gojek's success story, which offers something new as the evolution of Gojek's conventional business. Offering all the conveniences in its application through the internet network, GoJek has become a market leader by absorbing millions of workers, once again knocking out Blue Birds which has long been the choice of land transportation modes.

Digitization is about the data that is at the top of the system. For example, when we register or download an application, the system will ask if we allow it to access our data so that there is synchronization and interconnection in the application service. This means that the condition for the incorporation of the application service is the absolute openness of the user's data, which then makes the property accessible. So based on empirical records, misuse of data banks by providers is often a legal issue because abusing data by irresponsible parties have had a fatal impact on victims. With a total of 5 billion people in the world who use the internet today, which means that it is equivalent to 63 per cent of the population in the world, of which 200 million are new internet users in today's digital era, often the form of system weaknesses is related to data privacy, including personal data, even confidential data, financial transaction data and others to make the issue of negative digitization. In order to answer the legal issue that is a factor of digital discomfort, finally, the activity of surfing in cyberspace or running digital today has found the anticipation of misuse of data with the introduction of GDPR. This system is one of the regulations initially issued in the European Union in 2016, which regulates the security of the personal data of its users, which all online service providers

must obey. The world and technology are moving fast, and in the new world order, it is certainly possible that the development of cyberspace crimes is massive and will be even more sophisticated. For this reason, the law must move linearly to anticipate and respond to social issues that grow in society for various minimalizing crimes by the authority and control of the state.

The importance of digitalization or digital transformation is not only to encourage UMKM to participate in the digital platform but also to take a comprehensive approach based on the ecosystem so that it is more effective and ensures that Indonesian UMKM can transform as a whole. We must realize that behind the dark history of the Covid Pandemic, the state of affairs has simultaneously pushed us to be more digital-minded. We are getting used to online transactions and no longer shop with currency. Our transactions are realized with Dana, Ovo, and Girish media, and even we are used to virtual accounts. On the one hand, this habit is linear with anticipation of the recent energy crisis that has hit the world. We are no longer stagnant due to traffic congestion in general. People do not spend fuel energy on consumption needs because transportation services such as Gofood have served the needs of residents with efficient and effective services. On the other hand, citizens of the nation have the totality of work from home, and studies are also with digital Zoom, so indirectly during the pandemic, people have transformed with digital in the form of daily life.

The existence of digital technology and the internet immediately helps UMKM business owners to be able to focus more on other aspects that are more efficient, ranging from marketing, sales, and recording carried out on the company's achievements. Through the digital space, UMKM players can certainly save more time, energy, and costs incurred. Moreover, business actors are faced with fair business. People no longer rely on first-class places with high rental prices, but even from production sites in alleys, they can sell and reach the target market with digital power. For this reason, this digitalization must be massed by all of us because it has the following advantages:

- 1) Wider Coverage Area; With a technology entity, the goods and services offered can certainly reach a wider coverage area. The sophistication of digital technology can be possible for business actors to market their products on a national to an international scale. With the ease of transaction modes that ensure the security of buying and selling, the place is no longer an obstacle. In general, startups or UMKM only start from home products, or businesses that start from hobbies will not invest in place problems. However, with digitalization, the display is no longer a crucial problem. Digital Technology can reach and serve consumers from anywhere. This positive impact can be easily felt after UMKM adopt the technology.
- 2) Place/Display is not a significant Matter: With broader market coverage, UMKM businesses that are already digitally literate can be more easily accessible to consumers. UMKM products, usually home production, are often difficult to reach by potential consumers. Imagine how hard the previous ordeal of business people who had to sell snacks from small alleys caused the reluctance of potential buyers, but today the world has changed. With a tremendous digital promotional format, your products will be ordered by the residents of Market Place in an instant. Moreover, online transportation is ready to serve remote corners. Even in digital format, UMKM can freely describe their UMKM product info clearly and structured. Even

in the current era, testimonials as a form of consumer satisfaction are one of the buyers' considerations to continue transactions. So even in this business, UMKM is not biased toward playing with product quality because consumers also have no obstacles in submitting their complaints.

- 3) Digitalization brings Professional Business Governance; Professional management for UMKM is a requirement for today's business. Through digitalization, the convenience of supporting businesses is a bonus that can immediately be enjoyed. There has been much digitization in the payment system, procurement of goods or re-stock of goods, and financial reporting to employee attendance which certainly makes it easier to manage a business. Systemically, all components have been formed and are ready to launch the performance of UMKM in business contestation in a new form. Mastering digital is a force for assurances that entrepreneurs have half-dominated the market. A business owner, even with digitalization, can control the performance of his employees remotely. The owner will only be concerned about managing his business when he has to be within a short distance, even because he is connected to his smartphone.

3.3 UMKM in the Job Creation Law

Realizing the problem of various UMKM regulations as mentioned above, the Government took the initiative to make a unique formulation of integrated UMKM regulations in the Job Creation Law, or what is commonly referred to as the Omnibus Law, one of whose perspectives describes several conveniences for UMKM explicitly. Chapter V, for example, lays out the convenience, protection, and empowerment provided to UMKM and cooperatives. Especially for UMKM, the norm stretches from Article 87 to Article 104. Not to mention the arrangement of individual PT, which makes many legal experts argue. After the deconstruction of the Company's elements, it turned out that it was indeed prepared for the benefit of UMKM in the future, which was full of convenience and special enforcement.

Law No. 11 of 2020 concerning Job Creation was promulgated in a lengthy debate, and there was even an anarchist demonstration against its implementation. However, in consideration of the political urgency and its use, this Law was declared valid, despite legal efforts of Judicial review. It is currently decided to be negotiated within two years, as the Constitutional Court ruled. Something is interesting about the Job Creation Law, especially the regulation on UMKM. Several articles to implementing regulations, both government regulations regarding ease of doing business to risk-based business, regulate simplification in stages ranging from licensing to access to capital which is a classic problem for UMKM. The development of UMKM in Indonesia continues to grow. However, the problems faced by UMKM are also not minor, so often UMKM does not have competitiveness or lose in competing for both the national and international levels. Regulations in licensing to capital are often an obstacle to having access to UMKM development.

However, regulations regarding the transformation of UMKM in product digitization and marketing should be considered. Digital marketing strategy is one of the challenges UMKM must face in their transformation journey, even though it can be the basis for its development. Business actors who have more knowledge of technology and have

determined the digital platform used according to their consumer persona will find it easier to determine marketing strategies.

3.4 UMKM in the Form of Limited Liability Company Business Entities

The dynamics of regulation regarding UMKM are getting narrower with the passage of the Job Creation Bill on October 5, 2020, into Law Number 11 of 2020 concerning Job Creation (later called the Job Creation Law).

This modification to the Omnibus Law is also a breath of fresh air for the business community, which will gain different advantages in terms of expedited licensing and legal certainty or legitimacy. For micro and small company actors, licensing aims to give convenience and certainty. The Job Creation Law promotes convenience for UMKM actors by ensuring legal clarity and expediting the licensing procedure through OSS registration (Online Single Submission). The government also makes it easy for business actors to register Intellectual Property Rights (IPR) for their company items. In addition, business actors who wish to establish a private public company (PT) are afforded convenience, precise needs, and minimal fees. Thus, the fundamental focus of the Job Creation Law is the harmonization of diverse laws and regulations, as well as the simplification and ease of the licensing system. The licensing system, which previously appeared disjointed, lacked cohesion, tended to overlap, and was sectoral, is now more straightforward, accessible, and guarantees services for the community and the business community.

A further aspect of UMKM in the Job Creation Law is that it entails fundamental alterations and has added Articles to Law No. 40 of 2007 pertaining to Limited Liability Companies (from now on, referred to as the Limited Liability Company Law). In contrast, Article 153 is modified by inserting ten new articles, including Article 153 A, which reads as follows:

1. Companies that meet the criteria for Micro and Small and Medium Enterprises can be established 1 (one) person
2. The establishment of the Company for Micro and Small and Medium Enterprises can be carried out based on a Statement of Establishment using Indonesian.
3. Further provisions related to the Establishment of the Company for Micro and Small and Medium Enterprises are regulated in a government regulation.

The provisions of the article mentioned above by many people are considered inconsistent with the provisions of Article 7 paragraph (1) of the Limited Liability Company Law, which reads as follows: “The Company is established by 2 (two) or more people with a Notarial Deed made in Indonesian.”

Suppose you understand the company’s concept in principle from a historical and utility perspective. In that case, the arrangements regarding individual companies deconstruct the concept of a PT in a norm or empiric order, which has been identic with the agreement of 2 parties, authorizing the agreement before a notary, regulating the composition of shares at least 51-49%. In addition, there is a commissioner in the role of supervision and limited responsibility of the PT organs.

In accordance with the enactment of Government Regulation No. 7 of 2021 concerning the Ease, Protection, and Empowerment of Cooperatives and Micro, Small and Medium Enterprises (PP UMKM), which the government issued on February 16, 2021 along with 48 other implementing regulations from Law No. 11 of 2020 concerning Job Creation (Job Creation Law), this UMKM Regulation has changed several provisions that had previously been regulated in Law No. 20 of 2008 concerning Cooperatives (UMKM Law). One of them is the rules associated with the UMKM criteria itself.

The new UMKM criteria are regulated in Article 35 to Article 36 of the UMKM PP. Based on this article, UMKM is grouped based on business capital or annual sales results criteria. Business capital criteria are used for establishing or registering UMKM activities after the UMKM PP applies. The criteria for such capital consist of:

- 1) Micro Enterprises have a maximum business capital of one billion rupiah (one billion rupiah), excluding land and buildings for business premises.
- 2) Small Businesses have a business capital of at least IDR 1,000,000,000,000.00 (one billion rupiah) and no more than IDR 5,000,000,000.00 (five billion rupiah), excluding land and buildings for company premises.
- 3) Medium Enterprises have a minimum business capital of IDR 5,000,000,000.00 (five billion rupiah) and a maximum business capital of IDR 10,000,000,000.00 (ten billion rupiah), excluding land and buildings for company premises.

When observed, the determination of this capital criterion is closely correlated with Law Number 01 of 2007 concerning Limited Liability Companies. So that the restriction of UMKM space with the capital criteria above, then if the capital of the UMKM develops significantly has passed the capital limit that is tolerated, the UMKM must consequently enter the performance of a large-scale company, so that then the PT is obliged to find partners at least two parties, carry out deed management through a Notary and get approval from the Ministry of Law and Human Rights.

3.5 UMKM as a Government Concern

In addition to playing a role in economic growth and employment, small and medium-sized firms (SMEs) also play a role in the distribution of development outcomes, which gives them a crucial position in the development of the national economy.

As one of the foundations of the Indonesian economy, UMKM plays the following essential roles:

According to statistics data, UMKM contributes significantly to the GDP, 61.97% of the entire national GDP in 2020, which is equivalent to Rp 8,500 trillion. UMKM has absorbed a huge number of personnel, equivalent to 97% of the corporate world's absorption potential in 2020. Considering that the vast number of UMKM is exactly equal to the number of jobs in Indonesia, UMKM account for a substantial amount of labor absorption. According to Bank Indonesia records, UMKM themselves absorbed the largest loans in 2018, totaling nearly Rp 1 trillion.

According to the author of Micro, Small, and Medium Enterprises in Indonesia, Tulus Tambunan, UMKM is vital to the national economy for a number of reasons:

- 1) The number of UMKM is vast and spread in urban and rural areas, even to remote corners that show the independence of the nation's children through self-employment
- 2) UMKM are classified as very labour-intensive and have the potential for significant growth in job opportunities and an increase in income. The community has many options for the type of UMKM it will be engaged in, which requires a lot of human resources.
- 3) UMKM are widely found in the agricultural sector, which indirectly supports development. As an agricultural country, it is appropriate for youth to be at the forefront of the progress of the agricultural sector.
- 4) UMKM help in accommodating many workers with a low level of education because the character of UMKM prioritizes the factor of effectiveness over the formal side.
- 5) In the conditions of an economic crisis, UMKM can survive, as happened in 1997/1998, during the Covid 19 Pandemic Crisis, and will be tested again in the upcoming energy crisis due to Russia's war against Ukraine.
- 6) Being the starting point for investment mobility in rural areas and a forum for improving entrepreneurs' ability, the growth of UMKM is expanding rapidly in rural areas.
- 7) Become a tool to divert the consumption expenditure of rural residents into savings for the business world. People are invited to be productive to carry out production to meet market demand.
- 8) UMKM can provide necessities relatively cheaply because UMKM, with limited capital, prioritize turnover, although a small quantity of profit is essential to be productive.
- 9) Through various types of investment, UMKM can quickly adapt to the times because UMKM is required to think visionary and reactively in responding to the market.
- 10) Has a high level of flexibility because, in general, the production of UMKM is in the form of daily consumption so that it becomes the target of consumers

The Government's efforts to seriously advance Indonesian UMKM can be seen in the following analysis:

- 1) Ratification of the Job Creation Law: Of the total number of UMKM in Indonesia, 64.13 million are MSEs currently operating in the informal sector; thus, they must be encouraged to transition into the formal sector. There are still restrictions on complex licensing and overlap between central and regional legislation in Indonesia. Therefore, the government is preparing the Job Creation Act, which will be passed in 2020, to address these issues. One of the controlled substances relates to the utility, security, and empowerment of UMKM. The government expects that the Job Creation Law will allow UMKM to continue to grow and remain competitive.
- 2) The National Economic Recovery Program (PEN) is one of the government's key initiatives to recover the Indonesian economy following the effects of Covid-19. This initiative is also the government's response to the reduction in activity among the impacted groups, particularly the informal sector or UMKM. This program was

developed in accordance with Government law No. 23 of 2020, which was later modified into PP No. 43 of 2020. One of the most popular features of this application is the UMKM loss limit guarantee.

- 3) People's Business Credit (KUR): A practical step by the government to progress UMKM via the People's Business Credit (KUR) program, a credit model channeled through guaranteed financial institutions. The government subsidizes the service charge (interest rate) on loans and funding for working capital. The objective of the KUR is to expand UMKM's access to funding and improve its capital.
- 4) Gerakan Nasional Bangga Buatan Indonesia (Germans BBI): Germans BBI is a 2020 government program that aims to encourage the national branding of superior local products in order to create new industries and, of course, boost economic growth. This is in response to the influx of foreign products onto the domestic market, which is expected to increase consumer demand for foreign goods.

4 Conclusion

The changing industry landscape and business competition model are currently characterized by the entity's four business characteristics: Hygiene, Low-Touch, Less-Crowd, and Low-Mobility. A successful company in the pandemic era is a company that can adapt to these four characteristics, which, if summarized, the keywords are a combination of quality and digitalization. For this reason, the government also encourages UMKM players to be on board with digital platforms through the National Movement Program to Be Proud of Made in Indonesia. If the program is the way to go, then there will be a lot of leaps and bounds for UMKM companies to migrate into large, export-oriented companies. This situation will bring these companies together on the actual concept of the company.

About UMKM, the Job Creation Law has amended, deleted and/or stipulated new arrangements for several provisions regulated in four laws, namely: Law Number 23 of 1992 concerning Cooperatives, Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises, Law Number 38 of 2004 concerning Roads and Law Number 40 of 2007 concerning Limited Liability Companies.

With the present number of UMKM at 64,19 million and their contribution to the GDP at 61,97% or 8,573,89 trillion rupiahs, there is optimism for a brighter future for this country. UMKM's contribution to the Indonesian economy includes the capacity to absorb up to 61.4% of the total investment and absorb up to 97.0% of the total labor. For this reason, the government has established particular objectives to expedite the development of UMKM.

The government hopes that the success of this sector, in addition to creating the welfare of the people, is also being concentrated maximally towards the income from the sector tax, which is considered linear with the improvement of people's welfare. This is practical legal politics in the eyes of the government after conducting massive socialization of the Tax Amnesty. The red carpet for UMKM can also be seen from the aspect of capital. Another legal politic that can be captured is how UMKM absorbed the most significant credit in 2018 amounted to approximately Rp. 1 trillion. Of course, the growth of UMKM with all the conveniences regulated in the Job Creation Law will

excite the banking world with a healthy turnover, coupled with the proliferation of the KUR (Citizen's Business Credit) program that the government intensively offers to the public.

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