

Micro, Small, Medium Enterprises (MSMEs) Development Strategy Based on Omnibus Law

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Abstract

MSMEs as the strongest business sector compared to other sectors are also the largest contributors to Indonesia's economic growth. MSMEs are business innovations that can be used as important pillars for Indonesia as a developing country, with the increase in entrepreneurs it can improve the welfare of the Indonesian people. The position of MSMEs in the national economy has an important and strategic role. This condition is very possible because the existence of MSMEs is quite dominant in the Indonesian economy, with the reason for the large number of industries and in every economic sector, the great potential in absorbing labor, and the contribution of MSMEs in the formation of Gross Domestic Product (GDP) is very dominant. The research method used by the author is the doctrinal legal research method or normative law, namely research that uses legislation, legal rules, and norms as sources of law related to the problems to be studied. The development of MSMEs is one of the government's efforts as the ruler of the country to increase investment and open up employment opportunities. The Indonesian House of Representatives' critical thinking in discussing the Job Creation Law will determine the direction of the policy for the ease, empowerment, and protection of MSMEs

Keyword: Micro, Small, Medium Enterprises (MSMEs), Development, Omnibus Law

INTRODUCTION

MSMEs as the strongest business sector compared to other sectors are also the largest contributors to Indonesia's economic growth. With the various contributions made by MSMEs to the national economy, it is only right that the government provides legal protection that can serve, facilitate and provide legal guarantees to MSMEs. In addition, legal protection is also one of the steps that can be taken to foster Indonesian MSMEs to become more developed.

Micro, Small and Medium Enterprises (MSMEs) are creative businesses or enterprises that meet business standards that are present as a livelihood for people to meet their needs (Harsono, 2014). Based on Law Number 20 of 2020 concerning Micro, Small and Medium Enterprises, small



businesses are defined as activities that provide profit and an independent creative economy. This means that the owners and implementers of the business come from individuals or business entities that do not depend on other business units, are not tied to large or medium entrepreneurs and are not branches of their divisions (Jam'iyatuzzulfiyyah, 2021).

MSMEs are business innovations that can be used as important pillars for Indonesia as a developing country, with the increase in entrepreneurs it can improve the welfare of the Indonesian people. With the presence of entrepreneurs, the needs of the community are easier to obtain. This is in line with the 1945 Constitution Article 33 Paragraph (4) which implies that MSMEs are important for a free community economy and can work with the help of individual governments.

The issue of ease of doing business and legal certainty is suspected to be the main problem of low investment in Indonesia. Non-transparent and complicated licensing bureaucracy is an obstacle for entrepreneurs to invest and develop their businesses in Indonesia. These obstacles are also faced by micro, small and medium enterprises (MSMEs) which generally have various limitations, both in terms of capital and access to licensing. Through the Job Creation Bill (RUU Cipta Kerja), the government seeks to regulate ease of doing business for entrepreneurs in running their businesses.

The main actors in development are all levels of society, while the government has an obligation to direct, protect and build a conducive, safe, and peaceful climate to support national development. The role of society in national development, especially in economic development, is Micro, Small, and Medium Enterprises (MSMEs). The position of MSMEs in the national economy has an important and strategic role. This condition is very possible because the existence of MSMEs is quite dominant in the Indonesian economy, with the reason for the large number of industries and in every economic sector, the great potential in absorbing labor, and the contribution of MSMEs in the formation of Gross Domestic Product (GDP) is very dominant. The role of MSMEs is very large for the growth of the Indonesian economy, based on data from the Ministry of Cooperatives and SMEs in 2021, the number of MSME business actors in Indonesia reached 99% of all business units or 64.2 million. The contribution of MSMEs to GDP also reached 60.5% and the rest was contributed by large business actors, to the absorption of labor is 96.9% of the total absorption of the national workforce, and is able to collect up to 60.4% of the total investment in Indonesia. 1 Therefore, MSMEs are considered as one of the main pillars of the national economy that must receive the main opportunity, support, protection and development as widely as possible as a form of firm support for the people's economic business group, in addition to large businesses and State-Owned Enterprises. Regulations regarding the





implementation of MSME activities in Indonesia to date are regulated in Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises (UU MSME). MSMEs have various definitions and criteria that vary in various literatures. Qualitative definitions of MSMEs are grouped based on characteristics in the form of independent management, ownership is held by a small group of individuals and capital is provided by a small group of individuals and provided by themselves, the company's operating area is mostly local, and the company is small-scale when compared to large units in its field. In addition, MSMEs also have several main characteristics that distinguish them from large companies, namely flexible, innovative, fast in implementing policies, and its success predominantly depends on the skills of the business owner. In its development until now, MSMEs still have problems in increasing competitiveness which also affects its resilience. There are at least 5 (five) obstacles faced, namely:

1. Business Legality

This is related to the establishment permits and legal documents that must be owned by MSMEs, for example the Business Identification Number (NIB) to intellectual property rights (HKI) which are important in supporting marketing products abroad.

2. Access to Capital/Financing

MSME actors usually have difficult access to financing and are often faced with high interest rates when getting access to funding. In response to this obstacle, the Government is present through the provision of people's business credit (KUR). In addition, as an alternative, a securities crowdfunding scheme is also offered, namely the offering of securities through crowdfunding and based on information technology to meet long-term funding needs for MSMEs.

3. Assistance

In improving product competitiveness, assistance by the Government through related ministries/institutions is very necessary, for example providing training programs and improving business governance.

4. Production Area

The lack of product standards in accordance with standards is often an obstacle for MSMEs to obtain maximum market share.

5. Marketing

Limited information on market opportunities makes it difficult for MSMEs to develop their wings. This also includes logistics routes, both land, sea, and air, which have relatively high costs, making the products produced more expensive, making it difficult to compete in the market.

The dominant factors that are the main sources of MSME vulnerability in





Indonesia today are stated as follows:

1. The technology used, both for the production process and supporting work such as bookkeeping business activities. This factor has an influence of 37% on MSME vulnerability. The lower the access of MSMEs to technology, the more vulnerable the MSMEs are.
 2. Expansion of technology use and asset ownership. This factor has an influence of 10% on MSME vulnerability. The factors taken into account here are ownership and use of mobile phones, personal savings and use of computers to run business activities. The less access MSMEs have to technology and the less savings they have, the more vulnerable MSMEs are.
 3. Formal education and business management, especially in micro and home businesses. This group has an influence of 7.26% on the vulnerability of MSMEs. The lower the formal education of MSMEs, the more vulnerable the MSMEs are. On the other hand, the pattern of management of micro and home businesses also greatly influences the vulnerability of MSMEs.
 4. Use of credit and business location. This group has an influence of 5.67% on the vulnerability of MSMEs. The credit prioritized for MSMEs to use here is the People's Business Credit (KUR). The less access MSMEs have to KUR or other sources of financing, the more vulnerable the MSMEs are. Likewise with the location of MSMEs, the more difficult it is to access, the more vulnerable the sustainability of the MSMEs.
 5. The experience of MSME actors in running a business contributes 5.11% to the MSME vulnerability factor. This experience can be obtained from training or from in-depth study during the business activities. One interesting thing here is that MSME actors with minimal experience and minimal access to financing sources will put the MSME in a vulnerable position. However, MSMEs that do not receive any training to improve their skills will not necessarily put their MSME in a vulnerable position.
 6. Other sources of income. The presence or absence of other sources of financing to support the cost of living of MSME actors contributes 4.77% to the vulnerability of MSMEs. The lower the source of income for the cost of living of MSME actors, the more vulnerable the sustainability of the MSME will be.
- Based on the description as mentioned above, the National Legal Development Agency (c.q. National Legal Analysis and Evaluation Center) considers it important to conduct an analysis and evaluation of micro, small, and medium enterprises (MSMEs) in order to see MSMEs as one of the important and strategic players in the national economy and the validity of the





laws and regulations that regulate them and the prospects for future regulations, whether they are in accordance with current developments and dynamics.

Based on the research background and explanation of the problems above, the author is interested in conducting research with the problems raised, namely: **Micro, Small, Medium Enterprises (MSMEs) Development Strategy Based on Omnibus Law**

METHOD

The research method used by the author is the doctrinal legal research method or normative law, namely research that uses legislation, legal rules, and norms as sources of law related to the problems to be studied. The type of approach used is the statute approach by analyzing laws and regulations related to the problems analyzed. The author uses secondary data in the form of primary and secondary legal materials. The primary legal materials are laws and regulations while secondary legal materials are in the form of legal journals and legal books that have views, legal research results, and basic principles. The author collects data by searching for legal materials by searching through the internet media. Then the author examines the data obtained descriptively qualitatively, namely analyzing data that is in the form of descriptions or cannot be counted. The secondary data obtained is then discussed, examined, and grouped to be processed into informative data (Muhaimin, 2020).

RESULTS AND DISCUSSION

The Coordinating Ministry for Economic Affairs continues to socialize the various benefits of Law No. 11 of 2020 concerning Job Creation. The Job Creation Law is believed to increase public interest in opening a business, especially for micro, small and medium enterprises (MSMEs), because the Job Creation Law also encourages strengthening the MSME and e-commerce ecosystem through various kinds of conveniences. Among them are related to licensing, certification, financing, market access, training, digital infrastructure, implementation of electronic systems and transactions, and the business climate in the e-commerce sector. "One of the main substances of the Job Creation Law is the harmonization of various regulations and rules, as well as simplification and convenience in the licensing system. Where the licensing system which previously seemed not integrated, less harmonious, tended to overlap and was sectoral, is now simpler, easier and creates certainty of service for the community and the business world.

After the Job Creation Law is implemented, continued Coordinating Minister Airlangga, the business licensing sector will adopt a system that uses a risk-based approach. So, businesses that have low risk only need to register and then get a Business Identification Number (NIB).





Meanwhile, businesses with medium risk must meet the standards set out in the Norms, Standards, Procedures, and Criteria (NSPK), and for businesses with high risk, must meet the requirements and use certain permits. Each level of business risk is determined based on parameters from various aspects, especially in terms of Health, Safety, Security and Environment (K3L) risks. Licensing that tends to be difficult, complicated and uncertain about time and costs will reduce public interest in starting a business, and make it difficult and burdensome for business actors (especially MSMEs) in obtaining business permits and legality, so that it will also make it difficult to access loans to financial institutions and banks. With the changes and improvements in business licensing, for MSME entrepreneurs, they will get various conveniences and no longer experience a complicated and burdensome process.

"The Job Creation Law exempts licensing fees for micro businesses, while small businesses are given

relief. In addition, halal certification for MSMEs is also free of charge. The government also gives priority to MSME and cooperative products and services of at least 40% in the procurement of government goods and services.

The criticality of the Job Creation Law is an element of world change that must be answered quickly and precisely so that various problems that arise can be resolved appropriately, without disrupting and hindering monetary developments that are detrimental to Indonesia (Alexander Prabu et al, 2020). The Job Creation Law was created to facilitate the opening of new businesses and encourage people to open their own businesses, especially MSMEs. In addition, the Job Creation Law was also created to encourage 64.13 million MSME actors who are still informal businesses to change their form to become formal sector businesses (Yuli Nurhanisah, 2021) In addition to facilitating Indonesian business activities, this Law was created entirely to change the monetary design that can drive all sectors of the economy to support financial development reaching five point seven to six percent. This must be possible through the creation of extraordinary jobs, business expansion that can build income and purchasing power, and empowerment of expanding utilization and expanding uses which will be followed by expanding compensation to build individual purchasing power and community utilization. Of course, some of these aspects can be achieved through the implementation of MSMEs as the core sector of the Indonesian economy (Alexander Prabu et al, 2020).

3. Legal Protection Efforts to Develop MSMEs
The rapid growth of business will continue to be in line with population growth. Therefore, it must be supported by the right legal function that can enforce justice and discipline in business. The existence of laws governing business, or business law, allows business actors to protect their attitudes and activities from harming others, including citizens who may be affected by externalities. Existing commercial law must answer the universal legal objectives of law





enforcement (harmony) and justice. Most MSMEs are business entities and their scope is not too broad (based on the definition and information available), but MSME managers are indifferent to explaining business law. Examples of business laws include the Consumer Protection Law, which requires the launch of products that do not harm consumers, and the Labor Law, which contains the rights and obligations between workers and industry. The existence of economic law is a way to achieve legal objectives, serve the community, and create welfare and justice for citizens. The object of law is a product that is owned and understood as ownership (RAS Editor, 2010), with the legal subject being an individual or a group of people. In the case of MSMEs, the legal object is the business to be run, and the legal subject is the owner, employees, investors, and related parties, including the form of business entity. The purpose of the law can be achieved through its legal status in society as social engineering and social control. Social engineering is a legal position to carry out social engineering by developing fair rules for interested parties and the general public in legal practices in the form of laws. Social control is a legal position sought by all citizens with encouragement from law enforcement officers. Social control seeks to minimize social movements that have negative consequences. No business journey can be imagined without obstacles and difficulties. Many things must be resolved along with the progress of the business. The challenge is simple when the company is still at the small business level. It could be about branding, creation, creative permits, and marketing. However, to develop a business, such as entering the import/export business or winning large orders, the industry needs to create a business entity that is in accordance with business conditions. The ignorance of business actors when establishing a business will actually harm the business being run. However, if MSME actors know that their business prospects are in accordance with legal requirements, the type of entity chosen will also be more appropriate. As a country of law, it is appropriate for the government to develop basic concepts for a certain period of government, including legal guidelines to coordinate the development of national economic law.

In the Job Creation Bill, the government seeks to establish a single licensing mechanism for all sectors through a risk-based licensing approach. The risk classification is divided into low, medium, and high risk. The type of business license is determined based on the level of risk. For low risk, it is sufficient to register. Medium-risk businesses are required to meet standards according to their respective business fields. Meanwhile, high-risk businesses are required to have a business license, including business activities related to K3L (Health, Safety, Security, and Environment) and management of certain Natural Resources (SDA). Regarding the ease of business licensing for MSMEs, the central government plays an active role in providing guidance and registration for MSMEs which is carried out by providing a business registration number (NIB)





through an integrated licensing service system electronically or Online Single Submission (OSS). NIB is a single permit that applies to all business activities that include business permits, distribution permits, Indonesian national standards, and halal product guarantee certification. Thus, MSMEs only need to register for NIB and will immediately obtain the permits needed to start a business without having to take care of each permit separately.

CONCLUSION

The development of MSMEs is one of the government's efforts as the ruler of the country to increase investment and open up employment opportunities. These efforts are stated in Law No. 11 of 2020 concerning job creation and Government Regulation No. 7 of 2021 concerning the Development, Protection, and Strengthening of Small Cooperatives and Businesses. The role of MSME law is to implement the law as social control and social engineering as a legal hierarchy that handles the formation of a legal system that handles various MSME issues. Maximizing this role requires cooperation between law enforcement officers and MSMEs (both producers and consumers). With this job creation law, the government will closely monitor business growth, provide legal protection to MSMEs from actions by other parties, and make stronger efforts to avoid monopolistic actions. The government also helps MSME actors develop their businesses faster by providing various conveniences for MSME members in terms of regulation, taxation, licensing, broad market access, and financial support with low interest rates. The government must decide to do so. From this it can be concluded that MSME entrepreneurs are currently under legal protection. The flexibility of the regulation to adjust to the development of community needs is the main reason for the government to regulate ease of doing business in detail in the PP. The delegation of the regulation of ease of doing business for MSMEs to the PP needs to be addressed by the Indonesian House of Representatives by providing "guidelines" on the norms of delegation in the Job Creation Law. In addition, several substances related to MSMEs that are regulated outside the special MSME cluster in the Job Creation Bill, the discussion needs to receive attention so that they remain in line with the norms for regulating ease of doing business for MSMEs. The Indonesian House of Representatives' critical thinking in discussing the Job Creation Law will determine the direction of the policy for the ease, empowerment, and protection of MSMEs.

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