

THE ROLE OF LAW IN ECONOMIC DEVELOPMENT RETAIL BUSINESS

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Abstract

Indonesia's economic system, which is increasing in modern times, requires the Indonesian people to play an active role in improving their welfare and economic level. To improve the level of the economy, people open various kinds of businesses. One of his efforts is to open a retail business / retail business. Retail business is a business that sells goods and services to end users or distributed directly to consumers. The retail business in Indonesia is currently growing very rapidly along with the shift from traditional to modern lifestyles, therefore this golden opportunity is utilized by retailers who have large capital and good management skills to open retail business businesses such as mini markets, super markets, hypermarkets and and so on that allow people to shop with facilities and comfort as well as good service, besides that the price of each product is quite affordable.

INTRODUCTION

Indonesia, as a developing nation, has extraordinary potential to become the most advanced and prosperous nation in the world. This potential can be seen in the abundant natural resources found across the thousands of islands scattered throughout the archipelago.

This considerable potential will be further enhanced and contribute to the world if supported by reliable and innovative human resources who can develop ideas that can make Indonesia a globally recognized nation. Of course, much work remains to be done to achieve this goal, from economic, social, cultural, political, and legal aspects to key indicators of a nation's prosperity.

Globalization is characterized by openness and freedom in various areas of life, resulting in rapid changes in various aspects of life. Through globalization and the openness of information, economic activity has become more transparent, allowing business transactions to take place anywhere and at any time. Electronic transactions are nothing new; with electronic transactions, agreements are made electronically. Globalization has influenced the development of corporate and business law, resulting from the development of economic institutions within business activities. This inevitably also gave rise to new legal institutions that import foreign laws, particularly those originating from the Anglo-Saxon legal tradition with its common law system. In line with these developments, the forms of business activities in this era of globalization continue to evolve rapidly, following the development of business activities worldwide. Many foreign economic institutions have even entered and developed in Indonesia, sometimes unsuitable for implementation. For example, legal institutions developed in the

Anglo-Saxon legal tradition with its common law system, where differences in legal systems pose obstacles to their implementation.

With technological advances, forms of electronic transactions have developed, representing a form of legal agreement or relationship widely discussed as online contracts. These agreements or legal relationships are conducted electronically by integrating computer-based information systems with network-based communication systems and telecommunications services. This has given rise to electronic trade resolution and business transactions, encompassing the sale and purchase of products, services, and business transactions themselves.

Through e-commerce transactions, transactions have shifted from paper-based transactions with authorized signatures to electronic transactions, with electronic documents without signatures as proof of their validity. This change occurs because business needs dictate it, resulting in the importation or adoption of foreign laws, which are generally carried out in a blanket manner, meaning they are applied as is without significant changes or adjustments. Consequently, this often creates problems and obstacles in implementation. Most of these adopted foreign legal provisions originate from practices in countries that adhere to Anglo-Saxon legal systems, such as the United Kingdom and the United States, while Indonesia itself adheres to Continental European law.

Consequently, what occurs in corporate law is a transplantation of Anglo-Saxon legal institutions into the body of Continental European law. In this case, the body is already in the form of Anglo-Saxon law, while its foundation remains firmly grounded in Continental European law, a process that, in many cases, is forced. The development of new business legal institutions that were previously not regulated in the Indonesian legal system has resulted in their implementation often giving rise to conflicts or disputes, which are better known as business disputes. Corporate/business law is an important legal institution considering the rapid development of business and also considering the disputes that occur that require definite and clear legal institutions for their regulation. Therefore, business law and corporate law are very necessary in practice.

METHOD

The research methods to be used are:

1. Research Method

This research is a normative juridical research method, emphasizing the use of written legal norms and supported by interviews with sources and informants.

2. Research Type

This research is descriptive and analytical, describing applicable laws and regulations and linking them to legal theories in their practical implementation related to the problem, as well as describing/illustrating concrete facts.

3. Data Type

The data is secondary data obtained directly through literature searches or official documents. This is essential for the author to sort and then analyze the laws and regulations/provisions. This secondary data consists of three legal materials: primary legal materials, secondary legal materials, and tertiary legal materials, supported by interviews with sources.

4. Legal Material Type

The types of legal materials are:

- a. Primary Legal Material
- b. Secondary Legal Material
- c. Tertiary Legal Material

RESULTS

1. Globalization and Free Trade

In responding to globalization and free trade, it is necessary to study the conditions, problems, opportunities, directions, and development models of traditional markets. Without relevant studies, traditional market development will undoubtedly proceed smoothly and on target.

The retail business is one of the fastest-growing businesses compared to other businesses. One reason is that all the goods in retail stores are everyday necessities. Every day, people shop at retail stores, even if they are not always busy. Furthermore, these retail businesses generate greater profits each month, especially around the beginning of the month.

According to data, retail can provide excellent business opportunities. One-third of the 500,000 new entrants are involved in the retail world. Retail in Indonesia is a key industry for more than 24 million people working in this sector. Retail outlets offer a wide variety of goods, from clothing and electronics to vehicle parts, and more.

There are several things to consider to open or operate a successful retail operation:

1. Determining the Right Retail Business Model.

After developing a business plan or marketing plan and having an idea of the products to be retailed, it is necessary to determine the appropriate type of retail model.

2. Selecting the Right Location.

The right choice is key to a successful retail business. As a retailer, the location you choose must be close to customers.

3. Retail Business Finance

The costs of starting a retail business vary widely. If you operate online or run a business from home, you may not need as much capital as a brick-and-mortar retailer.

4. Determine the Retail Business Structure

If you have friends or family who can help with the logistics of running a retail business, a business partner may be able to assist you. They can also help with various risks.

2. National Legal Development

The concept of national legal development, the idea of development law. Law is not a tool, but rather a means for legal reform. Specifically, the development of national law is inextricably linked to the writings of Kusumaatmadja. Almost all authors who study the theory of development law cite Kusumaatmadja's opinions. Therefore, this article will re-cite several of Kusumaatmadja's comments on his development law theory. Kusumaatmadja brilliantly transforms the concept of law as a tool into law as an instrument for building society. The basic ideas underlying this concept are that order and regularity in development and renewal efforts are desirable, even absolutely necessary, and that law, in the sense of norms, is expected to direct human activities in the direction desired by that development and renewal. Therefore, a means is needed in the form of unwritten legal regulations that must conform to the prevailing laws within society.

According to Kusumaatmadja, the concept of law as a means is broader than law as a tool because:

1. In Indonesia, the role of legislation in the legal reform process is more prominent, for example, compared to the United States, which places greater importance on jurisprudence (particularly Supreme Court decisions).

2. The concept of law as a "tool" will produce results not significantly different from the application of "legisme" as practiced during the Dutch East Indies era, and in Indonesia, there is a public attitude that demonstrates a sensitivity to the application of such a concept.

3. If "law" here includes international law, then the concept of law as a means of societal renewal was applied long before this concept was officially accepted as the basis for national legal policy.

More specifically, Kusumaatmadja argues that: "Law is a tool for maintaining order in society. Given its function, the nature of law is essentially conservative, meaning that law maintains and preserves what has already been achieved. Such a function is necessary in every society, including developing societies, because there are outcomes that must be maintained, protected, and secured. However, in developing societies, which in our definition means societies undergoing rapid change, law is not sufficient with this function alone. It must also be able to facilitate the process of societal change. The conventional view of law, which emphasizes the function of maintaining order in a static sense and emphasizes the conservative nature of law, assumes that law cannot play a meaningful role in the process of renewal."

The conditions of diversity and a pluralistic (diverse) society are subsumed within the state ideology or legal philosophy of the Indonesian nation, namely Pancasila. Meanwhile, its legal theory is rooted in the preamble to the 1945 Constitution of the Republic of Indonesia, particularly in its five main national development programs. Kusumaatmadja's development law theory emphasizes the purpose of law not solely on certainty and justice, but also on its usefulness as a means of legal reform (predictability) within a pluralistic society.

National legal development strives to accommodate all interests of a multi-ethnic society. Therefore, the philosophical dimensions of law to be achieved in development law theory demonstrate two core dimensions of Kusumaatmadja's development law theory:

1. Order or regularity within the framework of renewal or development is desirable, even considered absolute;
2. Law, in the sense of rules or regulations, can indeed function as a regulatory tool or a means of development, in the sense of channeling the desired direction of human activity toward renewal.

The philosophical dimension of law in development law, as stated above, is the dimension of order, regularity, and legal principles that can create development in all aspects of life. Furthermore, the philosophical dimension of law derived from development law by Kusumaatmadja has expanded the definition of law beyond simply a set of rules, legal principles, or regulations, but also how legal institutions operate or function as rules with binding and enforceable power. Kusumaatmadja's complete definition of law is "a set of rules and principles that regulate human life in society, including the institutions and processes necessary to implement that law in practice."

Kusumaatmadja's definition of law, which was later identified as one of the legal definitions derived from the "Unpar school of law" theory, accommodates three legal foundations as content, which are also absolutely included in legislation: the juridical, sociological, and philosophical foundations. This means that development law theory will never cease to be a legal concept. Peter Mahmud Marzuki) which will serve as the legal basis or principle in every legal rule formation. Meanwhile, in "national legal development" (not linked to legal philosophy), several dimensions can also be identified, including the maintenance dimension, the renewal dimension, the creation dimension, and the implementation dimension.

The maintenance dimension is an effort to maintain the existing legal order, even if it is no longer in line with current developments. This dimension aims to prevent a true legal vacuum as a logical consequence of Article II of the Transitional Provisions of the 1945 Constitution. However, its implementation must be adapted to the situation and circumstances while remaining based on Pancasila and the 1945 Constitution. The renewal dimension is an effort to improve and perfect national law. This effort is carried out through discussions on legal codification and unification. The creation dimension is a dynamic and creative approach to the creation of a law that previously did not exist but is necessary

for the welfare of the nation and state. The implementation dimension is the effort to implement laws so that they apply in society, both philosophically, juridically, sociologically, and politically.

Based on the above review, the dimensions of legal philosophy in the development of national law and the dimensions that are also found in the development of national law as a form of national policy, then the law still has prescriptive power, without ignoring its sociological and philosophical dimensions. This is in line with the final conclusion of Sidharta in his dissertation *Characteristics of Legal Reasoning in the Indonesian Context* that "the ideal legal reasoning in the development of national law is that its ontological aspect still interprets law as positive norms in the legal system; its epistemological aspect focuses not only on the application of positive norms to concrete cases, but also on the process of their formation; its axiological aspect is directed towards achieving "The values of justice and utility are simultaneously combined, followed by legal certainty."

One of Sidharta's compelling propositions is accountability and transparency in law enforcement. This is evident in his proposal for legal reasoning within the Indonesian context, which requires judges to be prepared to be accountable for every argument they prioritize. Law, which is always created within legal institutions with a prioritization of justice, demands a "principle of transparency" (AAUPB), involving the public in every aspect of lawmaking and implementation. The concept of a nomocratic state based on law guarantees the principle of equality before the law. Therefore, the concept of development law, which prioritizes transparency, aligns with the proposal for lawmaking based on consensus, involving the public sphere, Habermas's "participatory communication," or the concept of a state based on law that prioritizes deliberative democracy.

3. Retail Business

Indonesia's increasingly dynamic economic system in this modern era demands that Indonesians actively participate in improving their welfare and economic well-being. To improve their economic well-being, people are starting various types of businesses. One such effort is retail businesses. Retail. The retail business is a business that sells goods and services to end users or directly to consumers. The retail business in Indonesia is currently growing rapidly along with the shift from traditional to modern lifestyles. Therefore, this golden opportunity is being exploited by retailers with substantial capital and good management skills to open retail businesses such as minimarkets, supermarkets, hypermarkets, and so on. These businesses allow people to shop with convenience, facilities, and excellent service, while also offering affordable prices for each product.

There has been a shift in retail services in Indonesian cities over the years, but it has received little attention. First, there is the development of retail in city centers, both in large cities and metropolitan areas. This trend is still ongoing at a decreasing pace. Second, there is the shift of retail services to the suburbs along with suburbanization and urban sprawl development. Third, there is the shift in retail services to the suburbs. This is due to retail development undertaken by developers and anchor tenants in downtown areas to serve the urban market (Simmons and Brennan, 1995). The fourth observed shift is the growth of retail in small towns, in the form of convenience stores or modern retail serving smaller markets. Within the context of this fourth shift, modern retail development has reached small towns with populations of less than 100,000.

Given the above considerations, this research examines the importance of measuring the economic impact of modern retail development in small towns. The economic impact is examined in relation to the supply system and the characteristics of demand in small towns. Policies at various levels of government are crucial for protecting traditional retail businesses that employ local residents and sell locally sourced final goods. Economic competition occurs between modern retail and traditional retail (often represented by traditional markets).

Market penetration by modern retailers in small towns, such as convenience stores (minimarkets), has resulted in a shrinking catchment area for these traditional retailers. This can be assessed through the turnover experienced by local traditional retailers. AC Nielsen (2005) shows a decreasing share of traditional retailers. At the city government level, interventions in the form of location regulation are generally proposed to address issues related to inappropriate land use and competing retail activities. However, the development of policies linking the impact of modern retail development on traditional retail in small towns lacks a sufficient basis for research. This research provides a foundation for developing more equitable urban economic policies.

4. Development of Economic Legal Instruments and Their Implications for Investment Growth

The current rapid pattern of economic development has resulted in achieving equitable social welfare as a primary goal. To achieve this goal, the role of law is needed to influence the formation of this new social order. In subsequent developments, attention is no longer focused on legal development but rather on changes in Social. Law is no longer seen as merely a recorder of established customs within various areas of social life, but rather as an accurate expression of new forces that seek to foster social well-being. As a result, we encounter legal regulations in almost every aspect of life.

On the one hand, the law is concerned with the results it will achieve through its regulations, and therefore must understand the intricacies of the issues it regulates. On the other hand, the law must also recognize that factors and forces outside the law will also influence the law and its working processes. Therefore, in formulating legal policy, considerations such as psychological, sociological, and geographic factors are necessary.

Investment is one of the driving forces behind strengthening a country's economy. Therefore, within the framework of their economic policies, several countries are striving to increase investment. One way to increase investment is through foreign investment. Investors invited to a country are expected to bring fresh capital directly with the hope that this inflow of capital will drive the wheels of companies/industries, which in turn will stimulate the country's economy. In the era of globalization, investment in developing countries, particularly Indonesia, plays a significant role in spurring economic development. This is because the need for substantial capital is a key issue in developing countries. Therefore, investors in developing countries should not only focus on abundant natural resources, but also on how investment laws in those countries can provide legal certainty and business certainty.

This is where law plays a crucial role in the legal protection a country provides for investment activities. As stated by Erman Rajagukguk, the primary factors for law to play a role in economic development are its ability to create stability, predictability, and fairness. The first two are prerequisites for any economic system to function. The stability function includes the law's potential to balance and accommodate competing interests. Competitiveness. The legal function's need to predict the consequences of steps taken is particularly crucial for a country where the majority of its people are entering economic relationships beyond traditional social environments for the first time. Fairness, such as equal treatment and standardized government behavior, is essential to maintaining market mechanisms and preventing excessive bureaucracy. Therefore, through a legal system and regulations that provide protection, predictability, fairness, and efficiency are created for investors.

The investment climate in Indonesia has developed relatively rapidly since the enactment of the Foreign Investment Law of 1967 and the Domestic Investment Law of 1968. This is due to the regulation of several incentives, including investment protection and guarantees, the opening of employment opportunities for foreign workers, and tax incentives. Furthermore, the relatively stable political and security situation at that time encouraged investment, resulting in a significant increase. In fact, from the early 1970s to the late 1980s, Japan invested heavily in Indonesia.

The growth of direct investment continued until 1996, in line with various liberal policies in the financial and trade sectors issued by the Government. However, this investment growth experienced a decline, culminating in the economic crisis at the end of 1997, which became a multidimensional crisis that affected political stability. According to Bismar Nasution, Indonesia, with its open economy, would be affected by the principles of the global economy and trade liberalization. This is because the Indonesian economy would face the economies of other countries/the economies of Indonesia's trading partners, such as exports and imports; investment, both direct and indirect; and borrowing and lending. These economic influences pose challenges for the formulation of national policies, the economic world, and economic actors.

According to data released by the Investment Coordinating Board (BKPM), total investment realization has seen a significant increase. Total investment approvals from January to March 2007 reached IDR 204.3 trillion, a 447.2% increase compared to the same period last year. Since the 1970s, investment realization approved by the BKPM has ranged between 20 and 40%. During January to March 2007, realization was "only" IDR 40.59 trillion, or approximately 20%, comprised of IDR 23.17 trillion in Domestic Investment (PDMN) and IDR 59.91 trillion in Foreign Investment (PMA).

Ironically, the inflow of foreign investment into Indonesia was accompanied by a much higher outflow. This is commonly referred to as negative net capital inflows. Indonesia's balance of payments data, particularly the foreign direct investment (FDI) account, has been negative since 1998, and the figure has been increasing year after year. It wasn't until 2005 that net capital inflows began to record positive figures, signaling a turning point.

Various studies show that Indonesia's investment climate is worse than that of China, Thailand, Vietnam, and other ASEAN countries. The investment climate can be defined as "all policies, institutions, and the environment, both current and expected, that can influence the rate of return and risk of an investment."

Indonesia's economy plummeted when the crisis hit Indonesia in late 1997, with far-reaching consequences. This economic crisis then led to a crisis of public and business confidence in the political and economic elites of the New Order regime, ultimately undermining the economy and business administration, forcing many investors to flee to other countries. The economic crisis has at least provided lessons for the Indonesian people and forced them to make economic, political, social, and legal changes. The reform era is expected to serve as a foundation for legal transformation and reform, leading to a new, more just, reliable, and sustainable system, particularly the structuring of investment law to create a more conducive business climate for investment.

As Erman Radjagukguk argues, investment law, as part of economic law, must have a stability function, namely how the law can balance and accommodate competing interests in society. Thus, investment law can accommodate the interests of foreign capital and It can also protect local entrepreneurs or small businesses. In this regard, investment is significantly influenced by political stability. Investors' willingness to come to a country is strongly influenced by political stability. Conflicts within political elites or within communities will impact the investment climate. Foreign investors will come and expand their businesses if the country in question has established political stability and a constitutional democratic process.

Second, the predictability of investment law requires that the law provide certainty. Investors will flock to a country if they are confident the law will protect their investments. Legal certainty guarantees investors access to economic opportunities, enabling investments to generate economic returns. Legal certainty is also a key factor in creating a conducive climate for investors, as investments are subject not only to investment law provisions but also to other related provisions that cannot be separated from investor considerations.

The numerous regulations governing and related to investment sometimes create ambiguity or uncertainty about which laws apply. When linking the existence of law to society, legal authority is essential for compliance and as a guideline for conducting relationships with others, especially in business transactions. This is further emphasized by Sentosa Sembiring, who argues that the importance of law in relation to investment requires legal certainty in conducting their business. This means that investors need a single benchmark to guide their investment activities. This benchmark is called a rule, established by an authorized party. This rule applies to all parties.

Third, the aspect of fairness, such as equal treatment for all individuals or parties before the law, equal treatment for all individuals, and the existence of standard government behavior patterns, is emphasized by many experts as a prerequisite for maintaining market mechanisms and preventing excessive bureaucracy. In relation to the aspect of fairness here, the factors Ensuring accountability through constitutional reform and improvements to the judicial and legal systems is a crucial prerequisite for attracting investors. Failure to do so will ultimately result in weak law enforcement and a lack of regulations, particularly in the investment sector, that provide a sense of security and comfort for investors, as well as a lack of investor-friendly legislation, particularly for foreign investors. In other words, the current legal framework is perceived as inadequately accommodating investors' interests.

CONCLUSION

1. Synchronization of Legal Regulations in Economic Activities

Regulations enacted as government policies in economic activities must align with the highest law, the Indonesian Constitution, so that they can be considered synchronized.

The provisions governing the people's economy in Indonesia are contained in the 1945 Constitution. This is stated in Article 33 of the 1945 Constitution, which states:

- a. The economy is structured as a joint effort based on the principle of kinship.
- b. Branches of production that are important to the State and affect the livelihoods of the people are controlled by the State.
- c. Land and water, and the natural resources contained therein, are controlled by the State and used for the greatest prosperity of the people.

The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental awareness, independence, and maintaining a balance between progress and national economic unity. Further provisions regarding the implementation of this article are regulated by law.

2. The Role of Law in Economic Development in Indonesia

In running a government based on a people-based economy, it is appropriate that people-based economic activities be guided by sound regulations or arrangements to create a sense of justice and equality for all Indonesians.

The legal regulations in question demonstrate how the government proactively monitors the rapid economic development so that the rate of economic growth can be directed and have a definite track, preventing. Inequality in economic activity exists. This is where the government's role lies in creating regulations as checks and balances, such as creating policies that support directed economic activity.

Economic development is implemented to achieve equitable prosperity for all Indonesians. Therefore, it is necessary to create laws that regulate the economy by imposing certain restrictions on the powerful and providing opportunities for the weak, in order to achieve justice.

Legal regulation in economic activity can prevent arbitrary actions by the powerful against the weak. Thus, it is hoped that economic development will proceed fairly and support economic development

because through the law, society is directed to do or not do certain things to achieve desired economic goals.

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