

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 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 allows people to shop with facilities and comfort as well as good service, besides that the price of each product is quite affordable.

Keywords: Legal Role, Retail Business, Economic Development

INTRODUCTION

Indonesia as a developing country has extraordinary potential to become the most advanced and prosperous country in the world. We can see this potential from the abundant natural wealth in the thousands of islands spread across the archipelago.

This considerable potential will be more and can contribute to the world if supported by reliable and innovative human resources in developing ideas that can make Indonesia a country recognized by the world. Of course, there is a lot of homework to be done to achieve these ideals, starting from economic, social, cultural, political and legal aspects to become the main indicators of a nation's prosperity.

Globalization is characterized by openness and freedom in various areas of life that result in changes in various aspects of life that occur very quickly. Through globalization and openness of information, economic activities become open so that business transactions can be carried out anywhere and anytime. The form of electronic transactions is not something new anymore, where with electronic transactions, agreements will occur electronically.

Globalization has an influence on the development of corporate law and business law as a result of the development of economic institutions in business activities which inevitably also give birth to a new legal institution that is importing foreign law, especially laws originating from the Anglo-Saxon legal tradition with the common law legal system. In line with this development, the forms of business activities in this era of globalization continue to develop rapidly following the development of forms of business activities in the world. Even many foreign economic institutions have entered and developed in Indonesia, which are sometimes not suitable for application in Indonesia. Such as the forms of legal institutions that developed in the Anglo-Saxon legal tradition with its common law legal system where differences in legal systems become obstacles in their application.

With the advancement of technology, there have been developments in the forms of electronic transactions which are forms of legal obligations or relationships that are widely discussed as online contracts, namely legal obligations or relationships that are carried out electronically by combining networks (networking) of computer-based information systems with network-based communication systems and telecommunications services. So that in this case it has given birth to electronic trade and business transaction resolutions which include the method of selling, purchasing products, services and business transactions themselves.

Through this e-commerce transaction, the implementation of transactions that are guided by paper accompanied by authorized signatures as transaction documents has shifted to electronic transactions with electronic documents without signatures as proof of the validity of the transaction. This change occurred because business needs indeed require it, resulting in the import or takeover of foreign laws which are generally carried out in full, meaning they are applied as is without significant changes or adjustments. So that often in its implementation it causes problems and obstacles. Most of the provisions of foreign laws that are taken over actually come from what is practiced in countries that adhere to the Anglo Saxon legal system such as England and America, even though Indonesia itself adheres to the Continental European legal system.

So what happens is that in corporate law there 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 feet are still based on Continental European law, where in many cases the transplantation is forced. As a result of the development of new business legal institutions that were previously not regulated in the Indonesian legal system, it has resulted in its implementation often causing conflicts or disputes which in this case 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 which require definite

and clear legal institutions for their regulation. Therefore, business law and corporate law are very much needed in practice.

RESEARCH METHODS

This research is included in the form of normative legal research, namely research that emphasizes the use of written legal norms and is supported by the results of interviews with sources and informants.

This type of research is descriptive analytical, namely research that describes the applicable laws and regulations and is linked to legal theories in their implementation practices related to the problem, as well as describing/describing real facts.

The type of data is secondary data obtained directly through literature searches or from official documents. This is important for the author to sort and then analyze against the regulations/provisions of legislation. This secondary data consists of three legal materials, namely primary legal materials, secondary legal materials and tertiary legal materials supported by interviews with sources. Meanwhile, the types of legal materials are:

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

DISCUSSION

Globalization and Free Trade

In responding to globalization and free trade, a study is needed on the conditions, problems, opportunities, directions and models of traditional market development. Without a relevant study, traditional market development will certainly run well and on target.

Retail business is one of the fastest growing businesses compared to other businesses. One of the reasons is that all the goods in retail stores are people's daily needs. Every day there must be people shopping at retail stores even though they are not always crowded. Moreover, every month this retail business gets bigger profits, especially on early dates or the beginning of the month.

According to data, retail can provide excellent business opportunities. One third of the 500,000 new ones are engaged in the retail world. Retail in Indonesia is a major industry for more than 24 million people working in this sector. In retail places there are many goods that can be traded starting from clothing, electronics, vehicle parts, and so on.

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

1. Determining the Right Retail Business Model.
After developing a business plan or marketing and having an idea about the products to be retailed, it is necessary to determine the right type of retail model.
2. Choosing the Right Location.
The right choice is the key to success in retail business. As a retail businessman, the location chosen must be close to customers.
3. Retail Business Finance
The cost of starting a retail business varies widely. If your operation is online or you run your business from home, you may not need as much capital as a main street retailer.
4. Determine Retail Business Structure
If you have friends or family who can help you with the logistics of running a retail business, a business partner may be able to help you. They can also help with the risks.

National Law Development

The concept of national legal development, the idea of development law. Law is not a tool, but a means for legal renewal. Precisely, national legal development is difficult to separate from Kusumaatmadja's writing. Almost all authors who study the theory of development law quote Kusumaatmadja's opinion. Therefore, in this article, several of Kusumaatmadja's reviews in his theory of development law will be quoted again. Kusumaatmadja brilliantly changed the concept of law as a tool into law as a means (instrument) for building society. The main ideas underlying this concept are that order and regularity in development and renewal efforts are indeed desired, even absolutely necessary, and that law in the sense of norms is expected to direct human activities in the direction desired by development and renewal. Therefore, a means is needed in the form of unwritten legal regulations that must be in accordance with the laws that live in 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 when compared to the United States which places jurisprudence (especially *Supreme Court decisions*) in a more important place.
2. The concept of law as a "tool" will produce results that are not much different from the application of "legisme" as was once carried out during the Dutch East Indies era, and in Indonesia there is an attitude that shows the sensitivity of society to reject the application of such a concept.
3. If "law" here also includes international law, then the concept of law as a means of social renewal was applied long before this concept was officially accepted as the basis for national legal policy.

In more detail, Kusumaatmadja stated that: "Law is a tool to maintain order in society. Given its function, the nature of law is basically conservative, meaning that law is to maintain and defend what has been achieved. Such a function is needed in every society, including a developing society, because here too there are results that must be maintained, protected and secured. However, a developing society, which in our definition means a society that is changing rapidly, law is not sufficient to have such a function alone. It must also be able to assist the process of change in society. The old view of law that 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 condition of diversity, and pluralistic society (diverse) is substituted in the state ideology, or legal philosophy of the Indonesian nation, namely Pancasila. While the legal theory is in the opening of the 1945 Constitution of the Republic of Indonesia, especially in the 5 main programs of national development. The theory of development law put forward by Kusumaatmadja is to introduce the purpose of law not only in its certainty and justice. But rather in the usefulness of the law as a means of legal reform (predictability) in the midst of a pluralistic society.

The development of national law is attempted to accommodate all interests of a multi-ethnic society. Thus, the dimensions of legal philosophy that are to be achieved in the theory of development law show that there are 2 (two) dimensions as the core of the Theory of Development Law created by Kusumaatmadja, namely:

1. Order or regularity in the context of renewal or development is something that is desired, and is even seen as absolute;
2. Law in the sense of legal rules or regulations can indeed function as a regulatory tool or means of development in the sense of channeling the desired direction of human activities towards renewal.

The dimensions of the philosophy of law referred to in development law as stated above are the dimensions of order, regularity, and legal rules that can create development in all aspects of life. In addition, the dimensions of the philosophy of law drawn from development law by Kusumaatmadja have added a definition of law not only as a set of rules, legal principles or regulations, but behind that is how legal institutions move or run as rules that have binding power and enforceability. In full, Kusumaatmadja provides a definition of law as "a set of rules and principles that regulate human life in society, including institutions and processes required to realize the law in reality."

The definition of law by Kusumaatmadja which was later suspected as one of the definitions of law originating from the theory of the "Unpar school of law" is to accommodate the three legal bases as content, which are also absolutely stated in the legislation, namely the legal, sociological and philosophical bases. This means that, if so, until whenever the theory of development law will never stop as a legal concept (legal concept: Peter Mahmud Marzuki) which will become the basis or principle of law in every formation of legal rules. Meanwhile, in the "development of national law" (not associated with the philosophy of law) several dimensions can also be found, 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 though it is no longer in accordance with the development of the times. This dimension aims to prevent a real legal vacuum as a logical consequence of Article II of the Transitional Provisions of the 1945 Constitution, but in its implementation it must be adjusted to the situation and circumstances while still being based on Pancasila and the 1945 Constitution. The renewal dimension is an effort to improve and perfect national law. This effort is carried out by holding discussions on the codification and unification of law. The creation dimension is a dynamic and creativity in the form of creating a law that previously did not exist but is needed for the welfare of the nation and state. The implementation dimension is an effort to implement the law so that the law applies in society both philosophically, juridically, sociologically and politically.

Based on the review above, 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 Sidharta's final conclusion 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 simultaneously, which is then followed by legal certainty."

One of Sidharta's interesting offers is accountability and transparency in law enforcement. Proven by his offer in legal reasoning for the Indonesian context, namely that judges must be conditioned to be ready to be responsible for every argument they prioritize. Laws that are always created in legal institutional spaces with a priority on justice, then require a "principle of transparency" (AAUPB) that involves the public in every formation and application of law. The concept of a nomocratic legal state has guaranteed the principle of equal rights (equity) before the law (before the law), so the concept of development law that prioritizes openness (transparency) is commensurate with the offer of legal formation as a consensus involving the public sphere (public sphere) "Habermas' participatory communication" or the concept of a legal state that prioritizes deliberative democracy.

Retail Business

The Indonesian economic system that is increasingly improving in modern times requires Indonesian people to play an active role in improving their welfare and economic level. To improve the economic level, people open various kinds of businesses. One of the efforts is to open a retail business / retail business.

Retail business is a business that sells goods and services to end users or directly distributed to consumers. 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 businesses such as mini markets, supermarkets, hypermarkets and so on that allow people to shop with facilities and comfort and good service, besides the price of each product is quite affordable.

There has been a shift in retail services in cities in Indonesia over time, but it has rarely received attention. First, is the development of retail in the city center, both in large cities and metropolitan areas. This trend is still ongoing at a decreasing pace. Second, is retail services moving towards the suburbs along with suburbanization and urban sprawl development. Third is because of retail development carried out by developers and anchor tenants in the city center area to serve the urban market (Simmons and Brennan, 1995). The fourth shift observed is the growth of retail in small cities in the form of minimarkets (convenience stores) or modern retail serving smaller markets. In the context of this fourth shift, the development of modern retail has touched small-scale cities, with a population of less than 100,000 people.

With the above considerations, this research sees the importance of measuring the economic impact of the development of modern retail businesses in small towns. The economic impact is studied in relation to the supply system and the characteristics of demand in small towns. The importance of policies at various levels of government is absolutely necessary to protect traditional retail businesses that employ local residents and sell goods (final goods) derived from local products. Economic competition occurs between modern retail and traditional retail (which is often represented by traditional markets).

Market penetration by modern retail in small cities, such as convenience stores (minimarkets), causes the catchment area to be increasingly reduced by traditional retailers. This can be studied through the turnover experienced by local traditional retailers. AC Nielsen (2005) shows that there is a decreasing share of traditional retailers. At the city government level, interventions are generally proposed in the form of location arrangements to overcome problems related to inappropriate land use and competing retail activities. However, the development of policies that link the influence of modern retail development on traditional retailers in small cities does not yet have an adequate study basis. This research provides a basis for the development of more just city economic policies .

Development of Economic Legal Instruments and Their Implications for Investment Growth

The current rapid economic development pattern has caused the achievement of equal distribution of public welfare to become the main goal. To achieve this goal, the role of law is needed to influence the formation of a new order of life. In further developments, attention is no longer directed at the development of law, but rather is more associated with social changes. Law is no longer seen as a recorder of habits that have formed in the fields of community life, but it is also hoped that law can be an accurate revealer of new forces that require the formation of public welfare. As a result, almost all aspects of our lives encounter legal regulations.

On the one hand, the Law is interested in the results it will obtain through its regulation, and therefore must understand the ins and outs of the problems it will regulate. On the other hand, the law must also realize that factors and forces outside the law will also have an influence on the law and its working process. So that in formulating legal policies,

considerations are needed, including psychological factors, sociological factors and geographical location.

Investment is one of the drivers of the process of strengthening the country's economy, therefore in the framework of its economic policy several countries are trying hard to increase their investment. One way to increase investment that is expected is through foreign investment. Investors invited to enter a country are expected to be able to bring fresh money directly with the hope that the incoming capital can drive the wheels of the company/industry which in turn can drive the economy of a country.

In the era of globalization, the entry of investment in a developing country, especially Indonesia, is one of the very significant roles in spurring economic development. Because in developing countries the need for large development capital is always a major problem in economic development. So that among developing countries that are of concern to investors are not only rich natural resources, but the most important thing is how investment laws in the country can provide legal certainty and business certainty.

This is where the law is a very important factor in relation to the legal protection provided by a country for investment activities. As expressed by Erman Rajagukguk, the main factor for the law to be able to play a role in economic development is whether the law is able to create "stability", "predictability" and "fairness". The first two things are prerequisites for any economic system to function. Included in the stability function is the potential of the law to balance and accommodate competing interests. The need for the legal function to be able to predict the consequences of steps taken is especially important for a country where most of its people are entering economic relations beyond the traditional social environment for the first time. Aspects of fairness, such as equal treatment and standard patterns of government behavior are necessary to maintain market mechanisms and prevent excessive bureaucracy. So that through the legal system and legal regulations that can provide protection, certainty (predictability), justice (fairness) and efficiency (efficiency) will be created for investors to invest their capital.

The investment climate in Indonesia has developed relatively rapidly since the PMA Law of 1967 and the PMD Law of 1968 were enacted. This is because of the regulation of several incentives, including investment protection and guarantees, the opening of employment opportunities for foreign workers, and incentives in the field of taxation. And the political and security situation at that time was relatively more stable which encouraged investment so that it experienced a significant increase. Even in the early 70s to the late 80s, Japan made large-scale investments in Indonesia.

The growth of investment (direct investment) continued until 1996 along with various liberal policies in the financial and trade sectors issued by the Government. However, the investment growth experienced a decline which culminated in the economic crisis at the end of 1997 which became a multidimensional crisis that affected political stability. According to Bismar Nasution, for Indonesia whose economy is open, it will be affected by the principles of the global economy and the principles of trade liberalization. Because the Indonesian economy will face the economies of other countries/the economies of Indonesia's trading partners such as exports-imports; investment, both direct and indirect investment; and borrowing and lending. The influence of this economy is a challenge for the formulation of national policies, the world economy and economic actors.

According to data submitted by the Investment Coordinating Board (BKPM), the total investment realization experienced a striking increase. Total investment approvals during January-March 2007 amounted to Rp 204.3 trillion, an increase of 447.2% compared to the same period last year. Since the 1970s, the investment realization approved by BKPM has ranged between 20-40%. During January-March 2007, the realization was "only" Rp 40.59

trillion or around 20%, consisting of Domestic Investment (PDMN) of Rp 23.17 trillion and Foreign Investment (PMA) worth Rp 59.91 trillion.

Ironically, it turns out that the flow of foreign investment into Indonesia is followed by a much higher outflow. This is what is commonly referred to as negative net capital inflows. Indonesia's balance of payments data, especially the foreign direct investment post, has recorded negative figures since 1998, which have increased from year to year. It was only since 2005 that net capital inflows began to record positive figures, which means a turning point.

Various studies show that Indonesia's investment climate is worse than China, Thailand, Vietnam and other ASEAN countries. Investment climate can be defined as 'all policies, institutions, and environments, both ongoing and expected in the future, that can affect the level of return and risk of an investment'.

The Indonesian economy was in a very bad state when Indonesia was hit by a crisis at the end of 1997 which had very broad consequences. The economic crisis then became a crisis of public and business confidence in the political elite and the economic elite of the New Order which ultimately eroded the economy and business administration, so that many investors fled to other countries. The economic crisis at least provided a lesson for the Indonesian people and forced Indonesia to make economic, political, social, and legal changes. The reform era is expected to be the basis for legal transformation and reform towards a new system that is more just, reliable, and sustainable, especially the arrangement of investment law in creating 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 potential of law can balance and accommodate competing interests in society. So that investment law can accommodate the interests of foreign capital and at the same time can also protect local entrepreneurs or small businesses. In relation to this, investment will be greatly influenced by political stability. Investors want to come to a country is greatly influenced by political stability factors. The occurrence of political elite conflicts or community conflicts will affect the investment climate. Foreign investors will come and develop their businesses if the country in question has a process of political stability and a constitutional democratic process.

Second, the need for the function of investment law to be able to predict (predictability), is a requirement that the law brings certainty. Investors will come to a country if they are sure that the law will protect the investment made. Legal certainty will provide a guarantee to investors to obtain economic opportunities, so that investment can provide economic benefits for investors. The existence of legal certainty is also one of the main factors in creating a conducive climate for investors, because in making investments in addition to being subject to the provisions of investment law, there are also other related provisions that cannot be separated as considerations for investors to invest their capital.

With the many regulations governing investment and related to investment, sometimes it causes ambiguity or uncertainty about which law applies. When associated with the existence of law with society, then the need for legal authority so that it can be obeyed and as a guideline in carrying out relations with one another, especially in business traffic, there needs to be legal certainty in force. This was also stated by Sentosa Sembiring if the importance of law is associated with investment, investors need legal certainty in running their business. This means that investors need a measure that is a guideline in carrying out their investment activities. This measure is called a rule made by those who have the authority to do so. The rule applies to all parties.

Third, the aspect of fairness, such as equal treatment for all people or parties before the law, equal treatment for all people and the existence of standard patterns of government behavior, are emphasized by many experts as a requirement for maintaining market mechanisms and preventing excessive bureaucracy. In relation to the aspect of fairness here,

the accountability factor by carrying out constitutional reforms and improving the judicial and legal systems is an important requirement in order to attract investors. If this is not done, it will ultimately result in weak law enforcement and the absence of regulations, especially in the investment sector, which are able to provide a sense of security and comfort for investors and the legislation is less friendly to investors, especially foreign investors. In other words, the current legal instruments are felt to be less accommodating to the interests of investors in investing.

CONCLUSION

Regulations that are born as government policies in economic activities must be in line with the highest rules as the constitution of the Republic of Indonesia so that they can be said to be rules that are in sync with each other.

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 contains:

- a. The economy is structured as a joint venture based on the principle of family.
- b. Branches of production that are important for the state and control the livelihoods of many people are controlled by the state.
- c. The earth 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 in law.

In running the government based on the people's economy, it is appropriate that people's economic activities must be guided by good regulations or arrangements so as to create a sense of justice and equality for all Indonesian people.

The legal regulation in question is how the government is proactive in seeing the rapid economic development so that the rate of economic growth can be directed and have a definite track so that there is no inequality in economic activities. This is where the role of the government is to create regulations as checks and balances, such as making policies that can support economic activities to remain focused.

Economic development is carried out to achieve prosperity that is evenly distributed to all Indonesian people. Therefore, it is necessary to create laws that play a role in regulating the economy by providing certain restrictions to the strong and providing opportunities to the weak in order to achieve justice.

With the existence of legal regulations in economic activities, it can prevent arbitrary actions from the strong against the weak. Thus, it is expected that economic development will run fairly and support economic development because through law society is directed to do or not do certain things to achieve the desired economic goals.

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