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The Future of MSMEs in Indonesia: Policy Directions for National Legal Formation in Supporting MSMEs Growth

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Abstract: Micro, Small, and Medium Enterprises (MSMEs) has an important role in Indonesia's economic growth and social stability. Despite their significant contributions to GDP and employment, MSMEs face challenges such as limited access to capital, technology, and markets, which hinder their development in the digital economy era. This study explored the formation of adaptive and inclusive national laws to support MSMEs in overcoming these challenges and enhancing their competitiveness. By using a normative juridical method with a statutory and conceptual approach, the research analyzed recent regulatory changes, including adopting the Business Identification Number (NIB) and updated MSME classification criteria, to evaluate their effectiveness in addressing MSME needs. The findings reveal that while reforms like NIB simplify licensing and promote formalization, inconsistencies in implementation and structural barriers limit their impact. Inclusive Growth Theory and Economic Analysis of Law (EAL) highlight the need for equitable resource distribution and economic efficiency in crafting MSME policies. In short, adaptive legal frameworks integrating technology, innovation, and collaboration across sectors are essential to empower MSMEs and sustain their role in national economic growth. Recommendations include enhancing regulatory coherence, fostering public-private partnerships, and prioritizing digital transformation to ensure inclusive and sustainable MSME development.

Keywords: MSMEs; Legal Formation; Inclusive Growth; Policy Reform; Economic Efficiency

Abstrak: Usaha Mikro, Kecil, dan Menengah (UMKM) memiliki peran penting dalam pertumbuhan ekonomi dan stabilitas sosial di Indonesia. Terlepas dari kontribusinya yang signifikan terhadap PDB dan lapangan kerja, UMKM menghadapi tantangan seperti keterbatasan akses terhadap modal, teknologi, dan pasar yang menghambat perkembangannya di era ekonomi digital. Studi ini mengeksplorasi pembentukan undang-undang nasional yang adaptif dan inklusif untuk mendukung UMKM dalam mengatasi tantangan ini dan meningkatkan daya saing mereka. Dengan menggunakan metode yuridis normatif dengan pendekatan perundang-undangan dan konseptual, penelitian ini menganalisis perubahan peraturan baru-baru ini, termasuk mengadopsi Nomor Induk Berusaha (NIB) dan kriteria klasifikasi UMKM yang diperbarui, untuk mengevaluasi efektivitasnya dalam memenuhi kebutuhan UMKM. Temuan menunjukkan bahwa meskipun reformasi seperti NIB menyederhanakan perizinan dan mendorong formalisasi, ketidakkonsistenan dalam implementasi dan hambatan struktural membatasi dampaknya. Teori Pertumbuhan Inklusif dan Analisis Ekonomi Hukum (EAL) menyoroti perlunya

pemerataan distribusi sumber daya dan efisiensi ekonomi dalam menyusun kebijakan UMKM. Singkatnya, kerangka hukum yang adaptif yang mengintegrasikan teknologi, inovasi, dan kolaborasi lintas sektor sangat penting untuk memberdayakan UMKM dan mempertahankan peran mereka dalam pertumbuhan ekonomi nasional. Rekomendasi yang diberikan mencakup peningkatan koherensi peraturan, mendorong kemitraan publik-swasta, dan memprioritaskan transformasi digital untuk memastikan pengembangan UMKM yang inklusif dan berkelanjutan.

Kata kunci: *UMKM; Pembentukan Hukum; Pertumbuhan Inklusif; Reformasi Kebijakan; Efisiensi Ekonomi*

1. INTRODUCTION

Micro, Small, and Medium Enterprises (MSMEs) are the engine of economic growth and the breadwinner of maintaining social and economic stability in Indonesia.¹ With a significant contribution to the Gross Domestic Product (GDP) and job creation, MSMEs have become a primary sector of focus for the government in supporting national economic growth. Their strategic role in strengthening the economy is expected to improve the investment climate and entrepreneurial spirit, enabling them to serve as a solid economic pillar.²

MSMEs contribute 60.51% to the national GDP while absorbing nearly 96.9% of the workforce. However, their contribution to national exports remains relatively low, at around 15.59%. Their flexible nature enables them to adapt to market changes³ and have a significant role in economic development at both the local and national levels.⁴ MSMEs excel in utilizing natural resources and labor, particularly in agriculture, trade, and restaurants, complementing large-scale businesses.⁵

MSMEs have a strategic role as drivers of Indonesia's national economy. Previous studies indicated that MSMEs contribute approximately 60% to Indonesia's Gross Domestic Product (GDP) and employ nearly 97% of the workforce. However, their contribution to exports remains relatively low, accounting for only 15.59%. Study by Zaelani⁶ and Judijanto et al.⁷ has

¹ Bayu Prasetya Roy, "Pengaruh Pandemi COVID-19 Terhadap Ketahanan Ekonomi UMKM Di Indonesia," *Circle Archive* 1, no. 5 (May 22, 2024), <http://www.circle-archive.com/index.php/carc/article/view/212>.

² Sudati Nur Sarfiah, Hanung Eka Atmaja, and Dian Marlina Verawati, "UMKM Sebagai Pilar Membangun Ekonomi Bangsa," *Jurnal REP (Riset Ekonomi Pembangunan)* 4, no. 2 (October 30, 2019): 137–46, <https://doi.org/10.31002/rep.v4i2.1952>.

³ John O. Okpara and Jean D. Kabongo, "An Empirical Evaluation of Barriers Hindering the Growth of Small and Medium Sized Enterprises (SMEs) in a Developing Economy," *African Journal of Business and Economic Research* 4, no. 1 (January 2009): 7–21, <https://doi.org/10.10520/EJC10443>.

⁴ Dina Rosari et al., "Positive Effect on the Development Regional of the Karo Regency by Creative Economic Basic Honey UMKM," ed. S. Sudjatmiko, Yansen, and A. Zarkani, *E3S Web of Conferences* 373 (2023): 04012, <https://doi.org/10.1051/e3sconf/202337304012>.

⁵ Mery Lani Br Purba, Renika Hasibuan, and Tia Novira Sucipto, *Kesejahteraan Keluarga Berbasis Pengembangan UMKM di Masa Pandemi Covid-19* (Pekalongan: Penerbit NEM, 2023).

⁶ Iwan Ridwan Zaelani, "Peningkatan Daya Saing UMKM Indonesia: Tantangan dan Peluang Pengembangan IPTEK," *TRANSBORDERS: International Relations Journal* 3, no. 1 (2019): 15–34, <https://doi.org/10.23969/transborders.v3i1.1746>.

⁷ Loso Judijanto et al., "Pengembangan Usaha Kecil Menengah (UKM) Berbasis Inovasi Teknologi Untuk

identified significant challenges MSMEs face, including limited access to capital, technology, and global markets. Moreover, studies such as those by Nasrida et al.⁸ highlight the critical role of digitalization in enhancing MSME competitiveness. Nevertheless, regulations supporting this transformation are often insufficiently adaptive and lack integration. This study seeks to address these issues by exploring a more inclusive national legal framework to facilitate digital transformation, thereby providing concrete solutions to structural barriers faced by MSMEs.

Theoretical foundations for this study are drawn from Inclusive Growth and Economic Analysis of Law (EAL) theories. These concepts have been partially applied to Indonesia's MSMEs to achieve inclusive economic growth, though their implementation remains suboptimal. For instance, regulatory reforms such as the Omnibus Law on Job Creation and related policies, as Budiarto et al.,⁹ discussed, face challenges regarding consistent implementation and oversight. This study focuses on developing a more adaptive and collaborative legal framework to ensure that policies promote MSME growth and equitably distribute economic benefits.

Thus, this study offers a novel approach to integrating digital transformation and cross-sectoral collaboration in developing MSMEs in Indonesia. By addressing these gaps, the study aims to contribute to a more effective and inclusive policy environment that empowers MSMEs to become more substantial contributors to the national economy.

During crises like the COVID-19 pandemic, MSMEs have demonstrated resilience by adopting digital platforms to survive and grow.¹⁰ However, the potential of MSMEs has not been fully maximized. MSMEs face several challenges, such as low competitiveness, suboptimal adoption of information and communication technology (ICT) to expand marketing and promotion networks through e-commerce, financial constraints, infrastructure limitations, and market barriers that hinder their initiation and development in the digital economy era.¹¹

As MSMEs evolve, their challenges become increasingly complex, such as limited access to capital and infrastructure needed for innovation.¹² The necessity for capital and

Mendorong Pertumbuhan Ekonomi Lokal," *Community Development Journal: Jurnal Pengabdian Masyarakat* 4, no. 6 (December 23, 2023): 12500–507, <https://doi.org/10.31004/cdj.v4i6.23244>.

⁸ Muhammad Farras Nasrida, Ausi Pandahang, and Dicky Febrian, "Perkembangan UMKM Di Indonesia Dan Potensi Di Kota Palangka Raya," *JUMBIWIRA: Jurnal Manajemen Bisnis Kewirausahaan* 2, no. 1 (April 30, 2023): 45–49, <https://doi.org/10.56910/jumbiwira.v2i1.548>.

⁹ Rachmawan Budiarto et al., *Pengembangan UMKM Antara Konseptual dan Pengalaman Praktis* (Yogyakarta: UGM PRESS, 2018).

¹⁰ Roy, "Pengaruh Pandemi COVID-19 Terhadap Ketahanan Ekonomi UMKM Di Indonesia."

¹¹ Zaelani, "PENINGKATAN DAYA SAING UMKM INDONESIA."

¹² Muslim El Hakim, Gatot Yudoko, and Mursyid Hasan, "The Impediments of Small Medium Industries in Government's View in Indonesia," *International Journal of Recent Technology and Engineering* 7, no. 6 (2019): 980–86; Fathia Prinastiti Sunarso, "Assessing ICT Usage in Indonesian Small and Medium Enterprises Towards Poverty Alleviation Using Sustainable Livelihoods Assets," 2017, 95–102, <https://www.iadisportal.org/digital-library/assessing-ict-usage-in-indonesian-small-and-medium-enterprises-towards-poverty-alleviation-using-sustainable-livelihoods-assets>.

infrastructure hinders the transformation of MSMEs. The transformation of MSMEs towards digitalization of products and marketing is essential to compete in domestic and international markets but is often neglected in existing regulations. Improving the competitiveness of MSMEs requires support in the form of easy access to finance, adequate training and promotion, and a conducive business climate.

In recent years, Indonesia has made significant changes to its MSMEs regulations. The Indonesian government regulated MSMEs in Law Number 20 of 2008, amended by Law Number 11 of 2020 on Job Creation. The Constitutional Court ruled the Job Creation Law unconstitutional.¹³ Therefore, the Government issued a Regulation in lieu of Law Number 2 of 2022 on Job Creation, which the House of Representatives ratified through Law Number 6 of 2023.

Significant changes in this series of regulations relate to the provisions of the criteria for MSMEs. In the MSMEs Law, MSMEs are differentiated based on a business's capital/wealth capacity. Meanwhile, in the job creation law, MSMEs criteria face many factors that depend on the business sector carried out by MSMEs. These revisions to the provisions indicate a change in the government's paradigm in viewing and/or measuring MSMEs, from previously only considering capital/wealth capacity to becoming more complex and systematic and even based on types of businesses.

Those changes in MSME regulations will impact other regulations, both horizontally and vertically. With these changes, the Indonesian government is trying to pay attention to MSMEs to create inclusive and sustainable economic growth. Based on the facts presented, this research seeks to explore the direction of national law formation in the field of MSMEs to see how Indonesia has accommodated MSMEs and its future projections for achieving maximum economic growth.

Furthermore, those changes in MSME regulations will impact other regulations, both horizontally and vertically. With these changes, what exactly does the Indonesian government want to aim for the objective. Based on the facts presented, this study explores policy recommendations for forming national laws that support the development of Micro, Small, and Medium Enterprises (MSMEs) in Indonesia, emphasizing their role as a force of economic growth.

Then, Judijanto et al.¹⁴ emphasized the importance of a community-based approach in developing MSMEs, particularly in the creative economic sector. Similarly, Nasrida et al.¹⁵ explored the potential of digitalization to drive MSME growth while acknowledging regulatory challenges that often hinder small businesses' ability to transform. However, most of these studies focus on technical or sectoral aspects without deeply integrating regulatory analysis. It highlights the need to bridge the gap between the practical needs of MSMEs and the

¹³ Constitutional Court Decision No. 91/PUU-XVIII/2020

¹⁴ Judijanto et al., "Pengembangan Usaha Kecil Menengah (UKM) Berbasis Inovasi Teknologi Untuk Mendorong Pertumbuhan Ekonomi Lokal."

¹⁵ Nasrida, Pandahang, and Febrian, "Perkembangan UMKM Di Indonesia Dan Potensi Di Kota Palangka Raya."

development of more inclusive and adaptive legal policies.

The urgency of this study is grounded in recent regulatory dynamics, including significant changes to MSME legislation in Indonesia. The enactment of Law Number 6 of 2023, replacing the previous Omnibus Law on Job Creation, introduces new criteria for MSME classification and simplifies licensing through the Business Identification Number (NIB). These reforms aim to enhance the formality and competitiveness of MSMEs. However, the effectiveness of these regulations remains a challenge, particularly in fostering cross-sectoral collaboration and improving access to technology and global markets.

This study seeks to provide policy recommendations based on the theory of inclusive growth and economic analysis of law. By addressing structural barriers and regulatory inefficiencies, the research aims to promote the development of MSMEs as a cornerstone of sustainable and inclusive economic growth.

2. METHOD

This study employed a statutory approach with a normative juridical method to analyze MSME-related regulations.¹⁶ Designed as a policy analysis, the study evaluated existing policies and offered recommendations for a more inclusive and adaptive legal framework. Primary data includes laws, government regulations, and policy documents such as Law Number 6 of 2023 and its derivatives. Secondary data comprises journal articles, research reports, books, and other relevant publications. To assess the effectiveness of current regulations, the study combined a statutory approach with a conceptual framework grounded in Inclusive Growth and Economic Analysis of Law (EAL) theories. This integrated methodology evaluates how regulations support sustainable and inclusive MSME development. Data analysis involves content analysis techniques, highlighting regulatory provisions and real-world implementation gaps. The qualitative findings identify critical issues and guide evidence-based policy recommendations. Results are systematically presented to outline pathways for creating a more adaptive and collaborative legal framework that facilitates digital transformation and MSME growth.

3. DISCUSSION

3.1. Potential Policy Reforms for Micro, Small, and Medium Enterprises in the Future

Various crises often trigger economic reforms. Sadli revealed that crises can trigger awareness of the need for sound economic reforms.¹⁷ In the 1980s, declining oil revenues prompted the government to implement major economic and bureaucratic reforms, spurring industrial development in Indonesia. Likewise, in the late 1990s, Indonesia introduced an economic reform package as part of an IMF program to exit the Asian financial crisis.¹⁸ It shows

¹⁶ Jonaedi Efendi and Johnny Ibrahim, *Metode Penelitian Hukum: Normatif Dan Empiris* (Jakarta: Prenada Media, 2018).

¹⁷ Yose Rizal Damanik, "Reformasi Ekonomi, Kabinet, dan Visi Teknokratik," *kompas.id*, October 23, 2019, <https://www.kompas.id/baca/utama/2019/10/24/reformasi-ekonomi-kabinet-dan-visi-teknokratik>.

¹⁸ Haryo Aswicahyono and David Christian, "Perjalanan Reformasi Ekonomi Indonesia 1997-2016" (Centre for

that crises often provide the right momentum to produce more substantial and long-term policy reforms. Therefore, amidst the current challenges, a clear roadmap for MSME reforms is needed to address the weaknesses faced before the crisis, which only exacerbated vulnerabilities during the crisis. With the right reforms, MSMEs are expected to become healthier and stronger, enabling them to face future challenges.

MSME reform must be based on an in-depth analysis of the chronic problems faced and the challenges and opportunities during the crisis and in the long term. Therefore, the policies implemented must be gradual and structured at the sectoral and cross-sectoral levels.¹⁹ In the early stages, MSMEs reform policies should focus on restructuring existing MSMEs through appropriate and sustainable policies. It is an essential requirement to face global challenges, although, in the long run, MSMEs that are not only 'good at home' but also globally competitive and adaptive are required.

Furthermore, in achieving this vision, five key areas should be the focus of policy: strengthening the MSMEs financial system, supporting assistance for MSMEs, improving the business climate, accelerating technology adoption, and developing human resources involved in MSMEs. These five areas need to be developed in stages, both in the short, medium, and long term.²⁰

In the short term, priority should be given to reducing MSME's business and financial burdens, including taxation, debt, electricity, and other operational costs. In the medium term, efforts should be focused on improving MSME's access to the financial sector, addressing capital issues, and utilizing financial technology (fintech) as part of the long-term roadmap.

One of the characteristics of the Indonesian economy is the existence of a structural gap, where large companies dominate economic value added. At the same time, most of the workforce is absorbed by small and micro enterprises.²¹ Medium-sized enterprises, which should be a source of economic dynamism, are lagging, allegedly due to the sizeable regulatory burden they face. These regulatory burdens are fixed costs, which large companies are better able to bear than small and medium enterprises.²² Therefore, one of the short-term priorities in MSME reform should be reducing regulatory burdens, especially for medium-sized

Strategic and International Studies, July 2017), https://old.csis.or.id/uploads/attachments/post/2019/01/10/perjalanan_reformasi_ekonomi_indonesia_1997_2016.pdf.

¹⁹ Lasmi Ariyanti, "Kebijakan Pemerintah dalam Pemberdayaan UMKM," KPPN Cirebon, June 27, 2023, <https://djpb.kemenkeu.go.id/kppn/cirebon/id/data-publikasi/berita-terbaru/2852-kebijakan-pemerintah-dalam-pemberdayaan-umkm.html>; Sulastris, "Peran Penting UMKM Dalam Ancaman Isu Resesi," Kementerian Keuangan Republik Indonesia, December 6, 2022, <https://www.djkn.kemenkeu.go.id/kpkn-balikpapan/baca-artikel/15677/Peran-Penting-UMKM-dalam-Ancaman-Isu-Resesi.html>.

²⁰ Budiarto et al., *Pengembangan UMKM Antara Konseptual dan Pengalaman Praktis*.

²¹ Aisyah A. Darmawan and Sabrina E. Susanto, "Kesenjangan Sosial Indonesia: Kemiskinan Struktural Dan Efek Pandemi," *Medium* (blog), September 11, 2021, <https://pantau-ekonomi.medium.com/kesenjangan-sosial-indonesia-kemiskinan-struktural-dan-efek-pandemi-f69b94ea0715>.

²² Sunarso, "Usaha Mikro, Kecil dan Menengah sebagai Dinamisator dan Stabilisator Perekonomian Indonesia," *JURNAL EKONOMI DAN KEWIRAUSAHAAN* 7, no. 1 (2007), <https://ejurnal.unisri.ac.id/index.php/Ekonomi/article/view/196>.

enterprises, which are often sandwiched between a business scale that is too large to avoid regulation but not yet large enough to absorb the burden effectively.

In addition, MSMEs must adapt to increasingly modern market demands and emphasize product and service quality. To catch up, technical and management training, including logistics management, should be provided to enable MSMEs to participate in global value chains. On the regulatory side, after the removal of unnecessary regulatory burdens, the next step is to establish a simple license regime, with the application of a single identity number and the 'silence is consent' rule, or even change the paradigm from license to registration for businesses with low risk of negative externalities. These steps will encourage the formalization of MSMEs, which is critical to facilitating access to the formal financial sector.²³

Adopting digital technology will be essential to reforming MSMEs in the medium and long term. In the face of these technological challenges, MSMEs must transform from 'business as usual' to businesses responsive to technological change. Barriers to technology adoption and diffusion, including foreign investment and imports, must be reduced to accelerate this transformation. Technology adoption alone is insufficient; product and process innovations are also needed for MSMEs to remain competitive. Upskilling human resources, especially in digital technology, will be crucial to ensure MSMEs can compete in the global market. Digital technologies, such as e-commerce platforms, open great opportunities for MSMEs to expand their domestic and international markets while encouraging continuous innovation.²⁴

Policy reforms to support Micro, Small, and Medium Enterprises (MSMEs) must focus on five key pillars: inclusive financial systems, continuous mentoring, an improved business climate, accelerated technology adoption, and developing a competent workforce. A phased approach that integrates short-, medium, and long-term needs is essential to enhance the competitiveness of MSMEs in both domestic and global markets. In the short term, reducing operational and fiscal burdens should be prioritized, while medium-term efforts should focus on improving access to financing and technology. In the long term, inclusive and innovation-driven digital transformation must be a cornerstone strategy to foster sustainable growth in the sector.

The author's analysis reveals that while regulatory reforms such as introducing the Business Identification Number (NIB) and revised MSME classification criteria have made significant progress, their implementation faces complex structural challenges. These contain gaps in cross-sectoral coordination, inadequate technological infrastructure, and limited access to international markets. These issues highlight the need for a more responsive and adaptive legal framework tailored to the specific needs of MSMEs.

Thus, policy reforms aim to create an ecosystem that facilitates digital transformation, promotes strategic collaboration, and ensures equitable distribution of economic benefits for

²³ Sulistiowati, "Penerapan Prinsip Lisensi Dalam Pemberian Izin Penyelenggaraan Layanan Publik," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 24, no. 3 (February 1, 2013): 431, <https://doi.org/10.22146/jmh.16113>.

²⁴ Budiarto et al., *Pengembangan UMKM Antara Konseptual dan Pengalaman Praktis*.

MSMEs. By addressing these challenges, such reforms can drive the sustainable and inclusive development of MSMEs as vital contributors to economic growth.

3.2. MSMEs and the Regulatory Framework in Indonesia

Legal policies related to MSMEs, through laws and government regulations, are designed to support the development of this sector and make it more competitive. These policies are also part of the national development vision to accelerate economic growth. Various policies have been implemented, such as improving financial services, market access, and MSMEs' technical and managerial capabilities. However, implementing this policy requires the active role of various stakeholders; without their support, the effectiveness of the policy will not be optimal.²⁵

The history of MSMEs' legal policy in Indonesia shows government support since Law 9 of 1995 on Small Businesses was inaugurated. Law 9 of 1995 regulates the criteria of small businesses and offers various forms of empowerment, development, coaching, and partnerships to strengthen the MSME sector. During the reform period, regulations related to MSMEs continued to evolve, including Presidential Decree 127 of 2001, Presidential Instruction 3 of 2006 and Presidential Instruction 6 of 2007.

To strengthen MSMEs in Indonesia, Law 20 of 2008 was enacted to revoke Law 9 of 1995. Law 20 of 2008 introduces micro, small, and medium enterprises, with business criteria groupings based on net worth and/or annual sales revenue.²⁶ This law comprehensively regulates the development, financing, and partnerships that MSMEs can undertake.

Law 20 of 2008 was later revised by Law 11 of 2020 on Job Creation, which was then "unconstitutional". After that, Law 6 of 2023 was issued as the ratification of Government Regulation in lieu of Law 6 of 2022 on Job Creation. The changes can be described in the following table:

Table 1 Changes in MSMEs Law

Law Number 20 of 2008	Law Number 11 of 2020 (Not applicable)	Law Number 6 of 2023
Article 6; MSMEs criteria based on net worth between 50 million and 10 billion rupiah and sales revenue between 300 million and 50 billion rupiah.	The criteria for MSMEs are based on business capital, turnover, net worth indicators, annual sales proceeds, or investment value, incentives and disincentives, application of environmentally friendly	Changes to the criteria are more complex and systematic based on business capital, net worth indicators, annual sales proceeds, or investment value, incentives and disincentives, application of environmentally friendly

²⁵ Eko Supeno, "Konsep Pengembangan Dan Pemberdayaan Usaha Mikro, Kecil Dan Menengah (UMKM) Di Daerah," *Jejaring Administrasi Publik* 8, no. 2 (2016): 899–905; Wido Prananing Tyas, Onixtin Octarina Sianturi, and Julius Kevin P. H, "Analisis Kebijakan Pemerintah Dalam Pengembangan Usaha Mikro Kecil Dan Menengah (UMKM) Berbasis Rumah (Home-Based Enterprises/HBE) Di Kota Semarang, Surakarta, Boyolali, Salatiga, Dan Surabaya," *Jurnal Pengembangan Kota* 8, no. 1 (July 1, 2020): 78–89, <https://doi.org/10.14710/jpk.8.1.78-89>.

²⁶ Law 20/2008, article 6

Law Number 20 of 2008	Law Number 11 of 2020 (Not applicable)	Law Number 6 of 2023
	technology, local content, or the number of workers in accordance with the criteria for each business sector.	technology, local content, or the number of workers according to the criteria of each business sector.
Article 12; Use of the term "business license"	Term change to "business licensing"	Term change to "business licensing"
Article 21; In each paragraph there is the word "may" which connects a party with a financing/guarantee that can be given to MSEs.	Omission of the word "may" in each paragraph	Omission of the word "may" in each paragraph
Article 25; The article discusses the initial explanation of partnerships that can be built with MSMEs. Such as the role of the Government; Local Government; Business World, the role of partnerships between MSMEs and partnerships between MSMEs and Large Enterprises; as well as the role of Ministers and technical ministers.	Article 25 removed	Article 25 removed
Article 26; Partnerships are implemented with the following patterns: a. core-plasma; b. subcontracting; c. franchising; d. general trading; e. distribution and agency; and f. other forms of partnership, such as: profit sharing, operational cooperation, joint ventures, and outsourcing. operational cooperation,	The clause "such as: profit sharing, operational cooperation, joint ventures, and outsourcing." is moved to the explanation.	The clause "such as: profit sharing, operational cooperation, joint ventures, and outsourcing." is moved to the explanation.

Law Number 20 of 2008	Law Number 11 of 2020 (Not applicable)	Law Number 6 of 2023
joint ventures, and outsourcing.		
Article 30 paragraph 1; Paragraph reads "The implementation of partnerships with general trading patterns as referred to in Article 26 letter d, can be carried out in the form of marketing cooperation, provision of business locations, or receipt of supplies from Micro, Small and Medium Enterprises by Large Enterprises which are carried out openly."	Deletion of the phrase "or receipt of supplies from Micro, Small and Medium Enterprises"	Deletion of the phrase "or receipt of supplies from Micro, Small and Medium Enterprises"
There is no article 32A	Addition of article 32A on the implementation of Partnership with supply chain pattern	Addition of article 32A on the implementation of Partnership with supply chain pattern
Elucidation of article 35; Self-explanatory	Amendment to the elucidation of Article 35; the phrases "own" and "control" in Article 35 are interpreted as a juridical transfer of ownership/possession.	Amendment to the elucidation of Article 35; the phrases "own" and "control" in Article 35 are interpreted as a juridical transfer of ownership/possession.

Source: Data processed by Author, (9/11/2024)

Law 6 of 2023 on the stipulation of Government Regulation in lieu of Law 2 of 2022 on Job Creation into law also provides additional regulations for MSMEs. The government imposes a single database, which will be the basis for determining policies related to MSMEs.²⁷ Regarding MSME-related policies, the central and regional governments conduct integrated management to organize MSMEs clusters.²⁸ In addition, in improving the level of MSMEs businesses, the central and local governments should facilitate MSMEs partnerships, provide incentives to facilitate partnerships, and conduct supervision.²⁹

Government Regulation in lieu of Law 2 of 2022 provides flexibility for MSMEs

²⁷ Government Regulation in lieu of Law 2/2022, article 88

²⁸ Government Regulation in lieu of Law 2/2022, article 89

²⁹ Government Regulation in lieu of Law 2/2022, article 90

regarding business licensing. This regulation simplifies business licenses into a single Business Identification Number (NIB). NIB includes Business Licenses, Indonesian National Standards, and halal product guarantee certification.³⁰ The ease of licensing is also accompanied by incentives in the form of fee waivers, customs incentives for export-oriented businesses, income tax incentives, ease of intellectual property rights, ease of importing raw materials, and government efforts to encourage micro businesses to be used as collateral for credit programs.³¹

On the other hand, Law 7 of 1992 on Banking contains provisions that instruct banks to support small businesses. It is stated in Article 12 of the law. Meanwhile, Presidential Regulation 10 of 2021 provides a significant breakthrough in strengthening the investment ecosystem in Indonesia. This regulation provides direction on sectors open to investment so MSMEs can more easily access various business fields. This opportunity opens up the potential for collaboration between large companies and small businesses, improving local competitiveness. This Presidential Regulation is still in effect and serves as the primary basis for efforts to create inclusive and sustainable economic development and support the growth of MSMEs throughout Indonesia.

The Presidential Regulation regulates business sectors open to investment activities, including Priority Business Sectors, Business Sectors allocated or reserved for partnerships with cooperatives and MSMEs, and Business Sectors with specific requirements or that all investors can run. In addition, exclusion criteria regulate business fields closed to investment, as described in Article 12 of Law 25 of 2007 on investment, amended by Law 11 of 2020 on Job Creation, or business fields that can only be run by the central government.

Government Regulation 7 of 2021 on the Ease, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises (MSMEs) is also an important element in regulations related to MSMEs. This regulation covers aspects of ease, protection, and empowerment of cooperatives and MSMEs, including implementing business incubation and allocating special funds to support cooperatives and MSMEs. Central and local governments are mandated to provide guidance and facilities for cooperatives and MSMEs. In addition, ministries/institutions, local governments, state-owned enterprises, regionally owned enterprises, and private business entities are required to provide at least 30% of the total commercial area for the promotion and development of Micro and Small Enterprises, both in shopping venues and strategic promotional locations on public infrastructure.

These regulations reflect the government's commitment to protect, support and create opportunities for MSMEs to grow sustainably. While the existing legal policies are important steps, successful implementation depends on the involvement of all relevant parties. Without the active participation of all stakeholders, the protection and empowerment of MSMEs in Indonesia will not be optimized.

³⁰ Government Regulation in lieu of Law 2/2022, article 91

³¹ Government Regulation in lieu of Law 2/2022, article 92-93

3.3. Policy Directions for Legal Framework Development for Future MSMEs

The process of law formation (*rechtsvorming*) in the legal system is strongly influenced by the legal community's concept of law and the quality of lawmakers. According to E. Utrecht in the Sayuti research, the factors that influence (*determinaten*) law formation can be divided into formal and material factors. Formal factors include legislation, state administration, judiciary, tradition, and legal doctrine. Meanwhile, material factors include individual legal feelings and public opinion.³²

Law formation in the field of MSMEs can be carried out using the inclusive growth theory and the economic analysis theory of law by Richard A. Posner. Inclusive growth is a multidimensional concept that emphasizes the equitable distribution of the benefits of economic growth across all segments of society. This approach prioritizes the growth, pattern, and quality of growth to ensure sustainability and inclusiveness.³³ The ultimate goal is to increase productivity, expand employment opportunities, and ensure equal access to economic resources.

One key tenet of inclusive growth is poverty alleviation through productive job creation. Instead of relying on direct income redistribution to alleviate poverty, inclusive growth focuses on developing an economic environment where individuals can fully participate in the economy, removing barriers to market access, resources, and an unbiased regulatory environment.³⁴ Inclusive growth seeks to create a level playing field for investment while promoting sustainable economic expansion.

The theory also emphasizes that growth should be broad-based across sectors, ensuring that the benefits of the economy are not confined to a few areas but are shared widely among different workforce segments. This approach is aligned with structural transformation, which advocates diversification of economic activities and a shift towards more productive sectors.³⁵

Regarding policy implications, inclusive growth requires coordinated and integrated policies covering multiple sectors, including education, labor markets and governance. Governments are encouraged to act as facilitators rather than wealth distributors by creating enabling conditions for sustainable employment and productivity growth. It includes investing in human capital and promoting institutional frameworks that support the growth of labour, education, and capital.³⁶

The second approach is Economic Analysis of Law (EAL), pioneered by Richard Posner;

³² Sayuti Sayuti, "Arah Kebijakan Pembentukan Hukum Kedepan (Pendekatan Teori Hukum Pembangunan, Teori Hukum Progresif, Dan Teori Hukum Integratif)," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 13, no. 02 (2013): 1–22, <https://doi.org/10.30631/alrisalah.v13i02.407>.

³³ Elena Ianchovichina, "Chapter 8. What Is Inclusive Growth?," in *Commodity Price Volatility and Inclusive Growth in Low-Income Countries* (International Monetary Fund, 2012), <https://www.elibrary.imf.org/display/book/9781616353797/ch008.xml>.

³⁴ Martin Ravallion and Shaohua Chen, "Measuring Pro-Poor Growth," *Economics Letters* 78, no. 1 (January 1, 2003): 93–99, [https://doi.org/10.1016/S0165-1765\(02\)00205-7](https://doi.org/10.1016/S0165-1765(02)00205-7).

³⁵ Ianchovichina, "Chapter 8. What Is Inclusive Growth?"

³⁶ E. Ianchovichina and S. Lundstrom, "Inclusive Growth Analytics: Framework and Application," (World Bank, 2009).

EAL is an approach that integrates economic principles in legal analysis. This theory is based on the assumption that humans act rationally (*homo economicus*) and seek to maximize their utility. Posner argues that the law should be designed to improve economic efficiency, where the primary goal of the law is to create optimal social welfare.³⁷

The EAL approach uses economic theory, such as cost-benefit analysis, to assess legal effectiveness. For example, a good law maximizes welfare without sacrificing too many resources.³⁸ Posner also adopts concepts from utilitarianism, which asserts that laws should maximize happiness for as many people as possible. In this regard, the Pareto and Kaldor-Hicks efficiency approaches are often used to evaluate the impact of a legal rule.³⁹

The concept of EAL is briefly as follows: (a) EAL assumes that individuals act based on profit and loss calculations. In decision-making, individuals will choose the alternative that provides the highest economic benefit, given limited resources.⁴⁰ Rational humans will consider the economic impact of the choices made, including looking for the next best alternative if necessary;⁴¹ (b) Efficiency in the context of law means that the law should not only provide justice but also ensure optimal allocation of resources. The concept of Pareto efficiency states that a legal policy is considered efficient if no individual is harmed without increasing the welfare of others. Meanwhile, Kaldor-Hicks efficiency allows for compensation, where policies that benefit more people can still be implemented even if there are losers, as long as the benefits are more significant overall;⁴² and (c) Posner views value as something that individuals want, either in monetary or non-monetary form. An effective law must consider the utility or benefits that can be generated, which ultimately aims to increase the prosperity of society.⁴³ Thus, utility becomes an important parameter in evaluating the fairness and effectiveness of the law.

The regulation of MSMEs in Indonesia has seen significant developments, with the government attempting to create a legal framework that is adaptive to the dynamics of the modern economy. Implementing Law 6 of 2023, which replaced Law 20 of 2008 post-revision of the Job Creation Law, changed the criteria for classifying MSMEs with more complex indicators, including capital, turnover, investment, and green technology. The policy also reflects a move to simplify licensing by introducing a Business Identification Number (NIB) that integrates various aspects of legality, including business licensing and halal product certification. The government is increasingly emphasizing strategic partnerships between MSMEs and large entities to strengthen competitiveness, but the effectiveness of such policies is highly dependent on implementation that involves collaboration from various

³⁷ Richard A. Posner, *Economic Analysis of Law* (Aspen Publishing, 2014).

³⁸ Robert Cooter and Thomas Ulen, *Law & Economics*, 6th ed (Boston: Prentice Hall, 2012).

³⁹ Dominick Salvatore and Eugene Dullio, *Principles of Economics* (New York: McGraw-Hill, 2012), <http://archive.org/details/principlesofecon0000salv>.

⁴⁰ Posner, *Economic Analysis of Law*.

⁴¹ Cooter and Ulen, *Law & Economics*.

⁴² Fajar Sugianto, *Economic Analysis of Law = Seri Analisis Ke-Ekonomian Tentang Hukum Seri 1 Pengantar*, 1st ed. (Jakarta: Kencana Prenadamedia Group, 2013).

⁴³ Cooter and Ulen, *Law & Economics*.

stakeholders.⁴⁴

This study seeks to complement and expand upon the existing discourse on MSME development in Indonesia. For example, Zaelani⁴⁵ underscores the importance of technology adoption to enhance MSME competitiveness, while Judijanto et al.⁴⁶ emphasize the role of community-based approaches in fostering sectoral growth. Similarly, Nasrida et al.⁴⁷ highlight regulatory challenges and opportunities for digitalization but focus narrowly on specific sectors without thoroughly addressing the broader legal policy implications. While aligning with the consensus that digital transformation and cross-sectoral collaboration are critical, this research critiques the lack of integrated analysis combining Inclusive Growth theory and Economic Analysis of Law (EAL) in prior studies.

Thus, to address these gaps, this study introduces a novel contribution by integrating these two approaches to develop an inclusive and economically efficient legal framework, enabling a more equitable distribution of benefits across society. This study's originality lies in its analytical framework, which combines economic inclusivity with legal efficiency to propose adaptive and collaborative policy recommendations. Furthermore, it broadens the scope of discussion by analyzing recent regulatory developments, such as Law No. 6 of 2023, which replaces the previous Omnibus Law on Job Creation. This analysis connects regulatory changes with implementation challenges and opportunities for empowering MSMEs in the digital era.

In contrast to previous studies that focus on sectoral or technical aspects, this study offers a holistic framework that can serve as a foundation for future studies on developing MSME legal policies. Thus, it enriches academic discourse and provides practical guidance for policymakers to support inclusive and sustainable MSME growth.

The current regulatory environment highlights challenges in consistent implementation and responsiveness to the needs of MSMEs. Therefore, future policy directions should focus on integrating technology and innovation in developing MSMEs. New regulations, such as Law 6 of 2023, which emphasizes the importance of a single database, are expected to create more efficient and coordinated arrangements. Inclusive policy projections will enable MSMEs to gain greater access to financing, training, and markets, thereby contributing significantly to economic growth.⁴⁸

The inclusive growth theory and EAL can be used as a reference in forming policies in the MSMEs sector. Inclusive Growth Theory emphasizes the importance of equitable distribution of benefits from existing policies so that all segments of society,⁴⁹ especially

⁴⁴ Nasrida, Pandahang, and Febrian, "Perkembangan UMKM Di Indonesia Dan Potensi Di Kota Palangka Raya."

⁴⁵ Zaelani, "PENINGKATAN DAYA SAING UMKM INDONESIA."

⁴⁶ Judijanto et al., "Pengembangan Usaha Kecil Menengah (UKM) Berbasis Inovasi Teknologi Untuk Mendorong Pertumbuhan Ekonomi Lokal."

⁴⁷ Nasrida, Pandahang, and Febrian, "Perkembangan UMKM Di Indonesia Dan Potensi Di Kota Palangka Raya."

⁴⁸ Judijanto et al., "Pengembangan Usaha Kecil Menengah (UKM) Berbasis Inovasi Teknologi Untuk Mendorong Pertumbuhan Ekonomi Lokal."

⁴⁹ Herlina Damayanti, Hadi Sasana, and Jalu Aji Prakoso, "Analisis Pertumbuhan Inklusif Dalam

MSMEs, can participate in the economy without obstacles. Meanwhile, the EAL theory, as proposed by Richard A. Posner, demands that legal policies be able to encourage efficiency and economic welfare. Therefore, effective regulations must consider the economic impact and incentivize MSME actors to operate more efficiently.

By integrating the principles of these two theories, the policy direction of national law formation in the MSMEs sector can encourage collaboration between the government, business actors, and the community. Responsive and inclusive policies, as well as tangible support for MSMEs in the form of access to resources, technology, and markets, are expected to create a conducive environment for the growth of this sector. Thus, the contribution of MSMEs to national economic growth and community welfare can be maximized.

CONCLUSION

This study concludes that Indonesia's national legal formation policies have significantly progressed in supporting MSMEs, evolving from focusing on capital and asset-based classifications to adopting more comprehensive criteria. Reforms such as the Business Identification Number (NIB), simplified licensing, and digitalization initiatives demonstrate a paradigm shift toward integrating MSMEs into broader economic structures. The study draws on inclusive growth theory and economic analysis of law (EAL) to guide future legal policies for MSMEs. Inclusive Growth Theory underscores the importance of equitable economic participation, where MSMEs are empowered through access to resources, markets, and technology, fostering sustainable growth. EAL emphasizes economic efficiency in legal policy, encouraging the design of regulations that minimize costs and maximize social welfare. Based on these theoretical foundations, the study recommends prioritizing adaptive and inclusive legal frameworks that support MSMEs through financial access, digital transformation, and regulatory simplification. Synergies between government, private sectors, and stakeholders are essential for creating a dynamic and sustainable MSME sector, ensuring its role as a driver of inclusive economic development.

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