Update on the Law Regarding the Control of Minimarket to Protect Small Retailers

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Abstract

The increase in the establishment of minimarkets has implications for micro and small business actors, including owners of grocery stores and stalls that sell goods similar to minimarkets. Whereas this business sector is the largest in contributing to the Indonesian national economy. One of the factors causing the increase in the establishment of minimarkets is the regulation made by the government in the form of laws, government regulations, presidential regulations and ministerial regulations that provide convenience in the establishment of minimarkets. Therefore, it is necessary to have legal arrangements in regulating the increase in the establishment of minimarkets in order to protect micro and small businesses. This Journal writing uses normative legal research methods using primary legal materials and secondary data obtained through library data. The results showed that there was an impact of the existence of minimarket outlets on the income of retail traders and grocery stores experiencing changes in income. The traders experienced a decrease in turnover and the amount of income per day. The implication becomes the basis for the formation of the concept of new rules in maintaining business balance as an effort to protect the business actors of Grocery Stores and Stalls from the rampant establishment of Minimarket in the form of a review of the articles related to the existence of Minimarket adjacent to residential.
areas and fill the legal vacuum related to the distance setting of Minimarket establishment with other Minimarket as well as restrictions on granting business licenses, setting working hours and setting administrative sanctions.

A. Introduction

Peer development Minimarket is currently very fast to reach residential areas. Retailers who are in residential areas are directly affected because they deal directly with minimarkets.\(^1\) Retail traders (retail) which is one of the activities of the informal sector in the trade sector which is very strategic in Indonesia. The amount of retail activities both large and small scale is very easy to find in every corner of the city, both in the city center and on the outskirts of big cities in Indonesia. The high population growth in urban areas has resulted in reduced employment opportunities in the formal sector. This is what causes the activities of the informal sector to be used as an alternative livelihood land for the community.\(^2\)

It should be noted that the distribution pattern of these minimarkets is very out of control. The irregular distribution of modern shops can lead to unequal competition.\(^3\) It is possible that the longer it will have a negative impact on retail traders in general. This is related to the preferences of the people who have the possibility to tend to switch to shopping at the Mini market. The distance between stalls, grocery stores and Mini -market locations which are within one service range also greatly influences people's preferences in determining where to shop.\(^4\)

The increased growth of minimarkets in the regions is a form of macroeconomic progress in Indonesia, and also has a positive impact on reducing the number of unemployed by opening up many job opportunities. However, on the other hand, this economic passion has sparked unrest among UMKM players, especially retail traders whose business locations have mini markets. Even with the increase in this Minimarket can threaten perpetrator business or retailer traditional.\(^5\)

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\(^5\)Rivâ, M. Muchtar, Uki Masduki, Berlianingsih Kusumawati, and Sulisty Seti Utami. "Evaluasi Peraturan Walikota Tentang Penataan Ritel Modern Di Kota Tangerang Selatan"
Minimarket in the laws and regulations is included in the meaning of "Modern Store" or "Supermarket". Regulations regarding Modern Stores were originally regulated in Presidential Regulation No. 112 of 2007 concerning Arrangement and Development of Traditional Markets, Shopping Centers and Modern Stores (Presidential Decree No. 112 of 2007) then repealed by Government Regulation (PP) Number 29 of 2021 concerning Implementation of the Field Trading. In PP Number 29 of 2021 the mention of Modern Shops is changed to Supermarkets. According to Article 1 number 26 PP Number 29 of 2021 what is meant by a Supermarket is "A shop with a self-service system that sells various types of goods on a retail basis in the form of Minimarkets, Supermarkets, Department stores, Hypermarkets or Wholesalers in the form of Wholesalers ". As for the form of Supermarkets as regulated in Article 85 Paragraph 2 PP Number 29 of 2021 is Mini market , Supermarkets , Department Stores , Hypermarts or Wholesalers or Wholesalers in the form of shops with a self - service system . In terms of licensing, this is also regulated in PP Number 29 of 2021. The government in issuing construction permits and minimarket business must consider the socio-economic conditions of the community, spatial use, the distance between shopping centers and supermarkets with traditional markets and traditional markets or retail stores.\(^6\)

The increase in supermarkets is considered to be hampering micro and small businesses, in this case the owners of food stalls and grocery stores are minimarkets. This is because the closer and more existing M- inimarkets, of course, will slowly kill the existence of Warung and K- lontong shops owned by people whose business activities are marketing similar products to Mini-markets. This can be seen from the increasingly rare existence of stalls or clontong shops that sell daily needs in the middle of residential areas. Even though small businesses in the form of stalls and clontong shops are for some people the main source of their livelihood.

The rapid increase in the number of minimarkets at this time can be seen from the graph below, this is inversely proportional to the presence of retail traders who continue to experience setbacks, especially during the Covid 19 pandemic.

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\(^6\) Article 3 Permendag Nomor 23 year 2021, Concerning Guidelines for the Development, Arrangement and Supervision of Shopping Centers and Supermarkets.
The graph above shows that there has been a development in the establishment of Minimarkets in the last 5 years, in these 5 years there have been 6,863 registered Minimarket outlets, from the number of Minimarket outlets in 2017 which totaled 31,460 outlets to 38,323 outlets in 2021. The data above is only data from the number of Minimarkets that have been registered or have obtained business licenses, because in practice there are still Minimarkets that operate without obtaining a business permit. One example is a minimarket that operates but does not yet have a business license, for example what happened at the sealing of the Minimarket in Depok City, West Java Province. In carrying out its business, the Minimarket should have a permit, both to construct a building and also a business license issued by the Investment and One-Stop Services Agency (DPMPTSP).

The spread of Minimarket which has now reached suburban areas is dominated by established franchises. Besides being owned by an established franchise, it is not uncommon for us to find several minimarkets carrying local / individual brands. In the city of Palembang itself, there are many Minimarket outlets with different brands, but they are still dominated by Indomaret and Alfamart Minimarkets. The large number of Minimarket outlets with a distance of only a few meters from one another also poses a problem for the development of Conventional Stores.

Seeing the development of Minimarket outlets that clearly has a direct effect or impact on local entrepreneurs in the region, in this case small retail business actors, namely stalls and Klonongan shops. This is because many people prefer shopping at Minimarkets rather than shopping at stalls and grocery stores, according to him, this will have an impact on the opinion (turnover) of these retail traders. This condition is certainly different from before the presence and increase of Minimarkets adjacent to their place of

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business. This condition occurs in almost all parts of Indonesia, especially in urban areas.

From the observation results, it can be seen that there is a decrease in consumers/buyers who want to shop at retail stores, people prefer to shop at existing Minimarkets. This is one of the reasons for the increasing number of Minimarkets, which has a negative impact on retail traders, namely stalls and grocery stores. Apart from that, there is no regulation governing the minimum distance between one Minimarket outlet and another mini-market. This becomes an academic anxiety that will be discussed in this study how the ideal concept of Minimarket Control Law in Protecting Small Retailers.

The research method used is normative legal research which is carried out several approaches, namely: statute approach, conceptual approach, analytical approach, comparative approach, historical approach, philosophical approach, and case approach. From several existing approaches. The scope of this research is that researchers only focus on the limitations in the study. The scope of this research on legal reform of mininmarketing control in protecting small retail traders is to examine the principles of law, carried out on legal rules with each Legislation containing legal rules, where there are Articles in the UMKM Law and PP No. 29 of 2021 and Permendag No. 23 of 2021 as amended by Permendag No. 18 of 2022.

This research is normative juridical in nature with legal materials consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The technique of processing legal materials is carried out by using inventory and systematization of laws and regulations that have relevance to the philosophical basis for regulating the principles of balance and certainty in the UMKM Law as a philosophical basis for legal protection for small retail traders. After obtaining legal materials from the results of library research, the management of legal materials obtained by systematizing written legal materials is carried out. Systematization means classifying legal materials to facilitate analytical and construction work.

Based on the title of this research, namely legal reform of minimarket control in protecting small retail traders, the analysis technique used is qualitative analysis. Qualitative analysis is basically an analysis that explains using words on the findings made by researchers. This is said to be so because qualitative analysis prioritizes quality over data so that explanations related to the problems being discussed in this study, namely the legal update of minimarket control in protecting small retail traders, become the main

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point in qualitative research itself because it is presented in the form of sentences that will be poured in the discussion of this study.

B. Discussion

1. Concept of Updating Minimarket Control Law in Protecting Small Retailers

In its development, minimarkets are also increasingly widespread in remote corners of the city. Minimarket growth data shows an increase from year to year. This takes advantage of the gaps in the less strict regulations from the government. PP Regulation Number 29 of 2021 is unable to stop the very fast increase in Minimarkets. Likewise with the regulations issued by the local government, it is also felt that they have had a significant impact on the increasing establishment of Minimarkets.

The concept of protection is only a formal rule without being able to enforce it. Rules regarding the establishment of minimarkets must include the socio-economic impact of the small businesses that have been around them beforehand. These indications lead to games between Mini-market business groups and the government increasingly revealing the surface, giving rise to unfair business competition. Even though the establishment of the minimarket arrangement is an instrument for controlling the use of space so as to create an orderly space.

In addition, it often happens that the government seems to "give in" to pressure. And demand of the owners of capital, so giving birth to policies that favor only a handful of people, and have a number of impacts negative for most people.

The existence of Minimarkets, which are always located close to residential areas, greatly influences the continuity of the business of retail stalls and grocery stores. From the data obtained, many small retail businesses admit that in the last few years, minimarket has had quite a pronounced impact. Their income is also decreasing, as one informant felt, namely 45-55% per day, this percentage is the highest rate of decline. Many

11 Based on the Indonesian Market Traders Association (IKAPPI), the number of modern retailers in 2016 has reached more than 36,000 outlets throughout Indonesia. Meanwhile, AC Nielsen announced that the modern market grew by 31.4 percent. In the journal Riva'i, M. Muchtar, Uki Masduki, Berlianingsih Kusumawati, and Sulistyо Seti Utami. "Evaluasi Peraturan Walikota Tentang Penataan Ritel Modern Di Kota Tangerang Selatan Dengan Menggunakan Regulatory Impact Analysis (RIA)." Jurnal IUS Kajian Hukum dan Keadilan 9, no. 1 (2021), p. 96.


of them are complaining about the reduced number of consumers shopping at their shops, this is because it is easy for the Government to grant building permits for Minimarket buildings, without paying attention to matters that impact small traders, especially food stalls and grocery stores. The growth of Mini-markets is inseparable from the consequences of social changes that have occurred in society, related to the fulfillment of the psychological aspects of consumers who demand service convenience, security and attractive price offers in shopping activities.\(^\text{15}\)

More sellers means more choices of buyers. Sellers whose prices are higher will certainly be abandoned by buyers. This is what encourages traders to surrender to follow the prevailing prices in the market. The more variety of goods sold by a seller means that buyers do not have the initiative to look for goods at other sellers. This also encourages sellers to sell their goods at the same price in the market, because there is no reason for buyers to pay more for the same goods.

Currently, there are so many Minimarkets or the like, not just one, but several standing not far apart. The traders feel differently, it is clear that the traders feel a loss because of the existence of mini-markets. But you still have to compete because quite a lot of customers have switched to shopping at Minimarket.

Islam is often used as a model of life order. Of course, this can be used to develop further the order of life, including the order of business life. The goal of Islamic economics is to create a safe, prosperous and just human life. If the Islamic economic system is standardized on the texts of the Qur'an and As-Sunnah, then humans play the role of those called for in these texts. It is humans who understand texts, interpret, conclude and transfer them from theory to application in practice. In economics, people are ends and means. Humans are obliged to carry out their duties towards their God, towards themselves, their families, their people and all of humanity.

The practice of establishing Minimarkets adjacent to retail traders causes harm to one of the parties. It is the same as concentrating economic activities on one of these parties, which is very contrary to Article 33 paragraph 4 of the 1945 Constitution concerning the application of the principles of togetherness and kinship in the implementation of economic activities.\(^\text{16}\)

Because both directly and indirectly the establishment of Minimarket will reduce the income or turnover of traditional traders so that they have to bear the burden of establishing Minimarket. Dealing with one of the parties


who must be harmed, then the benefits will not materialize. Even though we know the purpose of Islamic economics is to create benefit.

So, from the results of the research that has been done, we can see that Islamic economics is closely related to the world of commerce, this shows that it is important to reform the M-Market control law for retail traders. The author provides a legal breakthrough regarding the protection of retail traders against the proliferation of Minimarkets by adjusting the radius distance between one M-minimarket and another minimarket.

The concept of reforming the law controlling the establishment of Minimarkets against retail traders is based on philosophical, sociological and juridical considerations. The philosophical aspect of the renewal of the law controlling minimarkets against retail traders illustrates that there is the same determination and goal of the founding fathers of this nation to establish the nation with the aim of creating general welfare for all Indonesian people which is expressly regulated in Paragraph IV of the Preamble of the 1945 Constitution which explains that the purpose of establishing the nation this is "to protect all of Indonesia's bloodshed, promote public welfare, educate the nation's life, and participate in carrying out world order based on eternal independence, peace and social justice".

Therefore, in an effort to promote public welfare, in essence it is the duty of the state which is the responsibility of the government to implement it which is manifested in equitable and just development. Creating general welfare means welfare for all Indonesian people, not welfare for individuals, groups or certain groups. In other words, the goal of the state in creating general welfare through development must be enjoyed by all Indonesian people without exception.

Therefore, the body of the 1945 Constitution through its articles, especially Article 33 of the 1945 Constitution which regulates the Indonesian economic system with the principle of kinship, which is better known as the article in the populist economic system, is the foundation of the economic system adopted by Indonesia because it contains the principles and goals of national development.

National economic development based on Article 33 paragraph (1) of the 1945 Constitution aims to improve the welfare of the people as a whole, not the welfare of individuals or certain groups and classes. Therefore the national economy must be structured as a joint effort based on the principle of kinship to achieve prosperity and prosperity.

In order to realize the people's welfare as aspired to - it is necessary to carry out various efforts by involving the participation of the community, especially micro, small and medium enterprises by increasing competitiveness and providing protection to MSMEs.

The concept of populist economy itself is an economic system whose economic strength comes from the community itself or is carried out independently in managing all available resources for the realization of
common prosperity. The populist economic system is also a national economic system that is based on kinship, people's sovereignty, Pancasila morality, and shows seriousness in defending the people's economy.

From the elucidation of 33 of the 1945 Constitution, it can be understood that the spirit of the founders of the nation in an effort to build structures in the economic sector in order to create an economic system with its own strength (self-help), aims for common welfare and provides justice and protects all groups of people without discrimination.

The sociological aspect of the legal renewal of mini-market control over retail traders describes a rule that must be understood by the community in accordance with the realities of life. This means that the law that is formed must be in accordance with the view of life (the living law) in society. So a regulation is said to have a sociological basis (sociologische grundslag) if its provisions are in accordance with general beliefs, legal awareness of society, values, and laws that live in society.

Minimarket outlets can be found easily in almost every corner of the city. This condition has created problems in society, especially retail stalls and grocery stores. Minimarkets have the potential to marginalize retail stalls and grocery stores. In fact, they are free to build in various locations without heeding the rules of distance. In the end, these things become a challenge for the Government to protect retail traders, and empower food stalls and grocery stores which are still the main focus of the community, and at the same time also organize Minimarkets so that their existence does not kill retail traders. Thus, it is hoped that the plan for legal arrangements to be made regarding Mini-market Arrangements can provide protection and empowerment for retail stall and grocery store traders.

The juridical aspect of the renewal of laws controlling minimarkets against retail traders illustrates that arrangements are made to resolve legal issues or fill legal voids by taking into account existing regulations, which will be amended, or which will be repealed in order to guarantee a sense of justice and legal certainty. The laws and regulations that form the juridical basis of the reform of minimarket control laws in protecting small retail traders are as follows:


b. Article 33 of the 1945 Constitution can be understood that the spirit of the founders of the nation in an effort to build structures in the economic field in order to realize an economic system with its own strength (self-help), aims for common welfare and provides justice and protects all groups of society without discrimination. Therefore, reforming the minimarket control law in protecting small retail swords for the purpose community welfare can be realized, so that it can be felt in a real way that the law plays a very important role in realizing people's welfare.
c. Government Regulation Number 29 Year 2021 concerning Implementation of the Trade Sector in Article 86 paragraph (1) states that in the establishment of shopping centers and supermarkets, it is obligatory to pay attention to the socio-economic conditions of the community, the existence of traditional markets, small and medium enterprises in the zone or area concerned. So a store with a self-service system, sells various types of goods in retail in the form of Minimarkets, Supermarkets, Department Stores, Hypermarkets or wholesalers in the form of Wholesalers. must take into account the socio-economic conditions of the surrounding community as well as the existing distance between modern shops and traditional markets, Small and Medium Enterprises in the area concerned.

d. Regulation of the Minister of Trade Number 23 of 2021 as amended by the Minister of Trade Regulation Number 18 of 2022 concerning Amendments to the Regulation of the Minister of Trade Number 23 year 2021 about Guidelines for Development, Structuring, and Development of shopping centers and self-service shops.

e. Article 3 of the Minister of Trade Regulation 23 of 2021 states that Minimarket must consider conditions economy people set four as well as the existence of People 's Markets and UMK- M which is in the zone or area or region set of four; use of inner space guard framework between amount People 's Market with a Shopping Center and Shops between Center Shopping and Stores with Market People or Shop retail traditional.

f. Law of the Republic of Indonesia Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. Article 3 states that the purpose of business competition is to safeguard the public interest and increase the efficiency of the national economy as one of the efforts to improve people's welfare, create a conducive business climate through regulation of fair business competition so as to ensure certainty of equal business opportunities for large business actors, medium business actors, and small business actors. Preventing monopolistic practices and or unfair business competition caused by business actors, and Creating effectiveness and efficiency in business activities.

In the subject matter, the ideal concept of reforming the law on controlling mini-markets for retail stalls and grocery stores is of course carried out with the principles of humanity, the principles of justice, balance, equality and healthy competition. The humanitarian principle is one of the main things because every material for strengthening laws and regulations must reflect the protection and respect for human rights and the dignity of every citizen and resident of Indonesia in a proportional manner. The principle of balance, that every economic activity carried out by economic actors does not involve tyrannizing other people. Equality of position is one
of the principles of democracy or the principle of being a state to realize general welfare and social justice for all Indonesian people. Fair competition is competition that occurs between companies or business people that takes place without any criminal acts. This competition puts forward business ethics when business people compete.

In the renewal of the law controlling mini-markets for stall and grocery retail traders, the aim is to provide protection to stall and grocery retail traders, by regulating the existence and establishment of mini-market outlets so as not to harm and kill the existing stall and grocery retail traders.

Several articles in Presidential Regulation Number 112 of 2007 which are still "considered" in effect state that the establishment of shopping centers and modern shops must take into account the socio-economic conditions of the community where traditional markets, small and medium enterprises in the area concerned already exist (Article 4 paragraph 1). Furthermore Article 5 Paragraph (4) which reads: "Minimarkets may be located on any road network system, including the environmental road network system in environmental service areas (housing) in cities/urban areas". If you look at this article, it is felt that it can threaten the existence of small business actors, in this case traditional businesses or traditional retailers (warung and Klontong shops). This means that the existence of the Minimarket will be close to stalls and clontong shops owned by residents. Therefore Article 5 paragraph 4 in this Presidential Decree is considered as one of the policies that are deemed not to be in favor of the people's economy as "boomed" by the Government. Therefore, ideally the rules governing the permissibility of minimarkets to stand alone in areas around residential areas to be reviewed immediately.

This concept is an embodiment of the principle of balance in economic democracy which is implied in Article 33 paragraph 4 of the 1945 Constitution. In addition to the obligation of the government to provide protection to the community, especially to retail stalls and grocery stores, this is also the duty of the state in promoting general welfare as mandated by the 4th paragraph of the Preamble of the 1945 Constitution. Therefore the Government must provide protection to the community, especially retail stalls and grocery stores by rearranging (deconstructing) the rules regarding the establishment of Minimarkets that are close to the community as stipulated in Article 5 Paragraph (4) of Presidential Decree 112 of 2007 because even though this Presidential Decree is no longer applies but in practice the rules regarding Article 5 Paragraph (4) have not been revoked.

In addition, there are no regulations governing the minimum distance between minimarkets and other minimarkets, as well as retail stalls and grocery stores. It is necessary to have rules governing it because with so

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many minimarkets in an area or region it will narrow the business opportunities for Klontong Shop and traditional Warung businesses.

In structuring Minimarket must also pay attention Establishing Standards is the first control step in Ricky W. Griffin's theory or as standard criteria that must be met, namely There are Clear Standards / Guidelines In managing minimarkets, the Central Government and Regional Governments have several basic rules used in realizing minimarket arrangements related to permits business, about the arrangement of minimarkets and about spatial planning. There is a Clear Workflow The Spatial Planning Office is the party responsible for spatial planning.\(^\text{18}\)

In protecting retail stalls and grocery stores, the Government is obliged to provide protection in limiting the granting of business licenses to minimarkets. P P Number 29 of 2021 and Permendag Number 23 The 2021 Permen of Trade stipulates that a permit must be owned to be able to carry out a business. The authority to issue permits rests with the Minister who administers government affairs in the trade sector. This authority can be delegated to the Regent, and the Regent can delegate it to the Head of Service who is responsible for trade or the Head of the One-Stop Integrated Service Unit. Business permits are issued by the Regent/Mayor. Regarding procedures, procedures and requirements, IUTM is regulated in a Regent/Mayor Regulation. Business permits issued by the Regent/Mayor are valid only for 1 (one) business location and as long as they are still carrying out activities in the same location. Therefore, business actors are required to re-register every 5 (five) years. However, if there is a change in business location, you must apply for a new business license. and also for granting minimarket business licenses, written approval must be obtained from the surrounding environment and the village head as well, and the establishment of minimarkets is prioritized to be given to business actors whose domicile matches the location of the minimarket.

Regarding the distance between minimarkets and other minimarkets to retail stalls and grocery stores, namely the distance between establishments of Minimarkets must comply with the provisions with a radius of at least 1000 m (one thousand meters). The distance between establishing a minimarket that is not in the form of a franchise (network) managed by an individual must comply with the provisions with a radius of at least 500 meters. The location for the establishment of a modern shop must refer to the RT/RW (Regional Spatial Plan), RDTR (detailed spatial plan). Minimarkets can be located on arterial and collector road classes, including on the environmental network system in environmental service areas within the city.

\(^{18}\text{Rahma, Firda, Didin Muhafidin, and Dedi Sukarno. "Pengendalian Penataan Minimarket di Kota Bandung." JANE (Jurnal Administrasi Negara) 12, no. 2 (2021), p. 66.}\)
Requirements for selling floor area Business actors who will set up a Minimarket must meet the floor area limit requirements. determine the floor area of a modern shop, namely Minimarket, less than 400 M².

Of course in the implementation so that there is a balance, therefore it is regulated regarding the control of irregularities in the form of imposing administrative sanctions which can be in the form of written warnings, freezing of business licenses, or revocation of business licenses. Freezing of business permits is carried out if a written warning has been given in a row 3 (three) times with a maximum grace period of 1 (one) month. Meanwhile, business license revocation is carried out if the business actor does not comply with the written warning 3 (three) times in a row.

C. Conclusion

The impact of the presence of minimarket outlets on the income of retail stalls and grocery stores experienced a change in income. Traders are starting to feel uneasy because of the decline in sales turnover that they experience directly from year to year. This can be seen from several traders who stated that they experienced a decrease in turnover and the amount of income they received per day. This impact is the basis for drafting new rules in maintaining business balance in an effort to protect Klontong Shop and Warung business actors from the increase in the establishment of Minimarkets in the form of reviewing articles related to the existence of Minimarkets that are close to residential areas and filling the legal vacuum regarding the spacing of Minimarket establishments. with other Minimarkets as well as restrictions on the granting of business licenses, regulation of working hours and arrangements for administrative sanctions.

References


