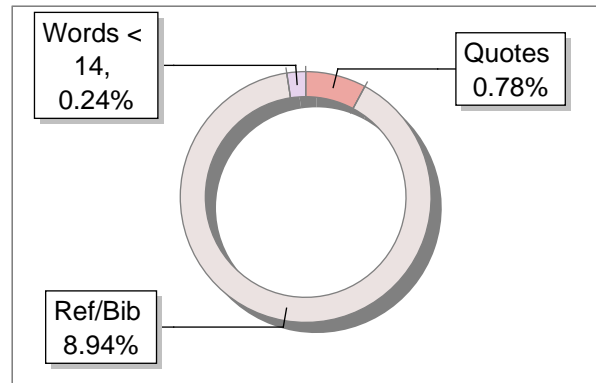
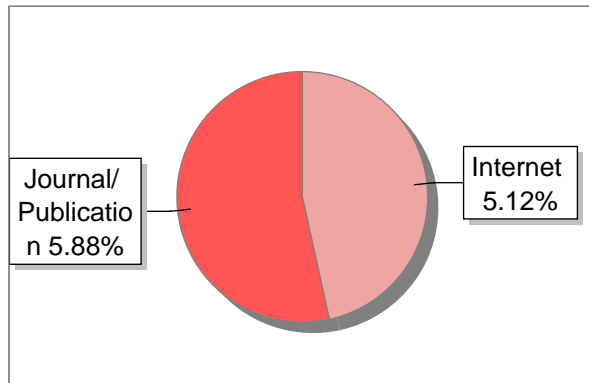
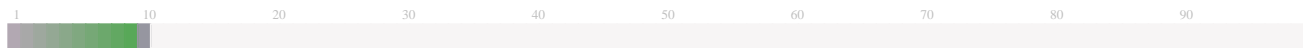


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## One-Man Company Policy and Its Impact on Improving Citizen Welfare

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### Abstract

To facilitate investment for business actors, Law no. 11 of 2020 concerning Job Creation makes changes, deletions, and stipulations to new regulations in several laws. One of the new regulations is to simplify the establishment of limited liability companies (LLCs) through changes to the provisions on company capital, legal entity status, and the company criteria for allowing one person to establish a micro or small business referred to in this research as a one-man company. In its development to date, BPS data from a survey of the impact of the Covid-19 pandemic on approximately 30,000 MSME business actors in 2020 shows that as many as 84 per cent of MSMEs experienced a decrease in income during the pandemic, with as many as 24 per cent reducing capacity. This research was conducted using a normative juridical approach that examines legal principles as well as related laws and regulations. the legal basis for individual companies is regulated in laws and regulations which include Law Number 11 of 2020 concerning Job Creation (UU Cipta Kerja), Government Regulation Number 7 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and Micro, Small and Medium Enterprises, Government Regulation Number 8 of 2021 concerning Authorized Capital of the Company and Registration of Establishment, Amendment.

**Keywords:** One-Man Company; Public Welfare; Legal Politics; Individual Company.

### Introduction

To facilitate investment, Law no. 11 of 2020 concerning Job Creation changes, abolishes, and stipulates new regulations in several laws, one of which is the simplification of establishing LLCs in Law no. 40 of 2007, which includes changes to the provisions on company capital, legal entity status, and the criteria required one person to establish a micro or small business, referred to in this

research as *a one-man company*,<sup>1</sup> with derivative rules in the form of PP No. 8 of 2021 related to OMC's policy in facilitating business licensing and legality of individual companies. The provisions of Article 2 explain that companies that meet the criteria for micro and small businesses can consist of two or more people while allowing for individual companies founded by one person.

This is necessary because MSMEs are the backbone of the country's economy, which amounts to 64.2 million with a Gross Domestic Product (GDP) contribution of 61.07% and an absorption of up to 97% of the total workforce in Indonesia.<sup>2</sup> If we take data from the Central Statistics Agency regarding the development of the number of MSMEs from 1997 to 2013, we can see a significant increase from 39,000 MSMEs to around 57,000 in a period of 16 years with a growth in the number of MSMEs in the range of 2 to 5 per cent post-reform era.<sup>3</sup>

In its development to date, data obtained by BPS in a survey on the impact of the Covid-19 pandemic on 34,559 MSMEs in 2020 shows that as many as 84 per cent of MSMEs experienced a decrease in income during the pandemic.<sup>4</sup> These data indicate, in the future, the need ability to absorb the number of workers to encourage improvement in the growth of the GDP contribution of MSMEs. The one-man company policy can add up-skilling for business actors in managing PT and financial reporting accountability.

The focus of this research is to examine the extent to which the state regulates the ease of investing with the initial goal of providing ease of doing business correlated with increasing people's welfare by creating employment opportunities.

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<sup>1</sup> Johari Santoso, 'Perseroan Terbatas Sebagai Institusi Kegiatan Ekonomi Yang Demokratis The Presence of the Company Limited Acts Is Aconcret Step from the Government in the Effort of Giving Aguide for Business People in Running Their Commercial Activities and This Menjadl' (2000) 7 Hukum Ius Quia Iustum.[194].

<sup>2</sup> Dina Sunyowati and others, 'Can Big Data Achieve Environmental Justice?' (2022) 19 Indonesian Journal of International Law.[6].

<sup>3</sup> Mochamad Kevin Romadhona, 'Does the Pandemic Affect Unemployment Rate in East Java? (A Study of Pre and Post COVID-19 Pandemic in 2016 to 2021)' (2022) 3 The Journal of Indonesia Sustainable Development Planning [164] <<http://journal.pusbindiklatren.bappenas.go.id/lib/jisdep/article/view/308>>.

<sup>4</sup> Wuri Sumampouw, Kana Kurnia and Imam Ridho, 'Perlindungan Hukum Terhadap UMKM Pasca Berlakunya UUCK' (2021) 13 Jurnal de Jure.[24].

The impact of the *one-man company* policy on the welfare of communities with MSEs that can be established as an individual PT becomes an implementation discourse to study its implementation. Based on this description, it is important to examine more deeply the *one-man company* policy and its impact on improving the welfare of the community. The objectives of this study include examining a) the legal arrangement of the *one-man company* policy in Indonesian laws and regulations, (b) the legal politics and regulation of the *one-man company* policy in Indonesian laws and regulations, and c) the impact of the *one-man company* policy on improving people's welfare in Indonesia. The urgency of this scientific research lies in an expected increase in knowledge for the community, especially business actors, in the existence of a *one-man company* policy arrangement. Institutionally, this research will be useful in developing government policies to create legal certainty for people seeking to establish individual companies with clear legal protection mechanisms and rules to implement in their application.

This research was conducted using a normative juridical approach that examines legal principles as well as related laws and regulations. This research is descriptive in revealing the overall picture of the problem. The data used is secondary data consisting of primary legal materials and secondary legal materials. The primary legal materials used in this study include 1) the 1945 Constitution of the Republic of Indonesia, 2) Law no. 40 of 2007 concerning Limited Liability Companies, 3) Law no. 11 of 2020 concerning Job Creation, 4) Government Regulation no. 8 of 2021 concerning the Company's Authorized Capital and Registration of Establishment, Amendment, and Dissolution of Companies that Meet the Criteria for Micro and Small Businesses, 5) Government Regulation No. 29 of 2016 concerning Changes in the Authorized Capital of Limited Liability Companies, and 6) Government Regulation No. 7 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and MSMEs.

Secondary legal materials provide an interpretation of primary legal sources such as legal journals relevant to research issues and legal doctrine. In this study, the references used as secondary legal materials include Legal Doctrine on Companies

and <sup>11</sup> Limited Liability Companies which include the Business Judgment Rule Doctrine, Piercing The Corporate Veil Doctrine, Ultra Vires Doctrine, Fiduciary Duty Doctrine, Derivative Action Doctrine, Corporate Opportunity Doctrine, and Welfare State Doctrine.

This research begins with an inventory of positive laws in sorting out legal norms which are then synchronized in the statutory order.<sup>5</sup> The method of data collection is a literature study (library research). The data analysis method is carried out by analysing library materials in the form of laws and regulations related to research issues and legal journals and legal doctrines.<sup>6</sup> Data analysis is carried out using qualitative methods<sup>7</sup> with the logic of deductive thinking to identify the legal rules implementing the article governing the one-man company policy in the omnibus law from the perspective of the welfare state, which is then used to draw conclusions.

### The One-Man Company Policy in the Omnibus Law

Ease of doing business is based on 10 indicators set by the World Bank, including ease of doing business, construction permits, taxes, building registration, credit, contract execution, access to electricity, cross-border trade, bankruptcy issues, and the security of minority investors. Of the 10 indicators, the issue of ease of doing business has prompted the government to ratify Law no. 11 of 2020 concerning Job Creation to amend several laws to improve the ease of investing and doing business, one of which is to make a one-man company policy allowing individuals to establish PTs.<sup>8</sup> The amendment to <sup>11</sup> Law no. 40 of 2007 in UUCK, which originally required a minimum capital of 50 million and at least two investors to establish a PT, features a one-man company policy allowing MSMEs to establish

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<sup>5</sup> M Holyone Nurdin, 'Penerapan Hukum Pidana Lingkungan Bagi Pelaku Pencemaran Citarum Di Karawang' (2016) 1 Ilmiah Hukum De'Jure.[302].

<sup>6</sup> Henni Muchtar, 'Analisis Yuridis Normatif Sinkronisasi Peraturan Daerah Dengan Hak Asasi Manusia' (2015) 14 Humanus.[80].

<sup>7</sup> Tengku Erwinsyahbana, 'Penelitian Kualitatif Bidang Ilmu Hukum Dalam Perspektif Filsafat Konstruktivis' (2017) 1 Borneo Law Review Journal.[1].

<sup>8</sup> Henry Donald Lbn Toruan, 'Pembentukan Regulasi Badan Usaha Dengan Model Omnibus Law' (2017) 3 Jurnal Hukum to-ra.[463].

individual PTs with capital adjusting capabilities. This change is outlined in Article 7 paragraph 7C. In addition, the role of the notary is negated in terms of registering a PT license with the Ministry of Law and Human Rights.<sup>9</sup>

The concept of PT by the UMK <sup>11</sup> can be referred to as an individual PT because it can be established by one person. This PT model is recognized in the United Kingdom (UK) and the European Union (EU) and Southeast Asian countries such as Malaysia and Singapore. The terms Single-Member Private LLC or Single-Member Company are terms used in the laws and regulations as an equivalent to an individual PT that will be proposed for arrangement.<sup>10</sup> This form of individual PT for UMK does not need a deed of establishment, but only an individual establishment statement which is then ratified electronically through the Minister of Law and Human Rights with a waiver of legalization fees. The proposal regarding this individual PT has positive potential to increase EODB with the indicator “starting a business.” This policy can also negate the negative stigma attached to the minimum capital requirement for establishing an LLC, which is quite expensive.<sup>11</sup>

A sole proprietorship, which is one of the programs in the job creation cluster, is the simplest form of business to create. Such a company has no obligation to be registered with an agency, so it does not need other parties in terms of licensing and so on, nor does it require other parties for dissolution. The Commercial Code (KUHD) and other laws and regulations do not apply to individual companies. Among the countries in ASEAN, Indonesia requires more procedures and time than many to establish a legal entity PT. Therefore, in the Employment Creation Act, the government plans to simplify the rules regarding the establishment of a private company.<sup>12</sup>

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<sup>9</sup> Nicky Raming, ‘Syarat-Syarat Sahnya Pendirian Perseroan Terbatas (PT) Di Indonesia’ (2013) 1 *Lex Privatum*.

<sup>10</sup> Bambang Sugeng Ariadi Subagyo, Zahry Vandawati Chumaida and Mochamad Kevin Romadhona, ‘Enforcement of Consumer Rights Through Dispute Settlement Resolution Agency to Improve the Consumer Satisfaction Index In Indonesia’ (2022) 37 *Yuridika*. [673].

<sup>11</sup> Muhammad Faiz Aziz and Nunuk Febrianingsih, ‘Mewujudkan PT Perseorangan Bagi UMK Melalui Rancangan Undang-Undang Tentang Cipta Kerja’ (2020) 9 *Rechts Vinding*. [91].

<sup>12</sup> A Prabu and others, ‘Kemudahan Berusaha Dalam Cluster Omnibus Law’ (2020) 1 *Jurnal Lex Specialis*. [171].



### **11** Limited Liability Company Concept

A company must be established based on the prevailing laws and regulations, especially Law Number 40 of 2007 concerning Limited Liability Companies, hereinafter referred to as the Company Law. Although the Company Law is classified as an economic law that specifically regulates the field of corporate law, not all provisions contained in the Company Law. it is coercive (*dwingenrecht*, *mandatory law*). Many of the substances are regulatory (*aanvuelendrecht*, *directory rule*).<sup>13</sup>

As a legal entity, an LLC is established based on an agreement to conduct business activities with authorized capital, which is entirely divided into shares that have consequences. The LLC becomes an independent institution that supports rights and obligations and can carry out legal actions both inside and outside the court and owns assets. separate from its administrators and founders. The founders, who are also shareholders, cannot be burdened with responsibilities that exceed the nominal value of the shares they own or for actions carried out before the company was established, such as preparations to establish a company and legal actions on behalf of the company. After the company is established with a notarized deed of incorporation, all actions become the responsibility of the LLC as a legal entity.<sup>14</sup>

Article 1 Number 1 of the Limited Liability Company Law (UUPT) defines an LLC as a “legal entity which is a capital partnership, established based on an agreement, conducting business activities with authorized capital which is entirely divided into and fulfils the requirements stipulated in this law and regulations implementation”. Based on the limitations provided by Article 1 Number 1 of the Company Law, there are five main points in the definition of an LLC: namely an

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<sup>13</sup> Yahya Wasyafi Hardiyono, Benny Krestian Heriawanto and Isdiyana Kusuma Ayu, ‘Keabsahan Dan Akibat Hukum Pendirian Perseroan Mikro Dan Kecil Yang Didirikan Berdasarkan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja’ (2021) 27 *Dinamika: Jurnal Ilmiah Ilmu Hukum*. [1086].

<sup>14</sup> Ukilah Supriyatin and Nina Herlina, ‘Tanggung Jawab Perdata Perseroan Terbatas (PT) Sebagai Badan Hukum’ (2020) 8 *Galuh Justisi*. [127].

LLC 1) is a legal entity 2) established by agreement, 3) running a certain business 4) and having capital divided by shares, 5) that meets statutory requirements.<sup>15</sup>

### **The Welfare State Concept**

This legal reform has become the government's priority in developing social policy as its strategy to overcome inequality by developing social security that includes social insurance, social assistance, social allowances, provident funds, and employer liability. The social security system includes the concept of the welfare state, which is defined as services related to the welfare of citizens that are fully provided by the government, including education, health services, pensions, and workers' compensation. The role of the welfare state is to facilitate services and benefits for citizens, including income maintenance.<sup>16</sup> Measuring the necessary levels of welfare requires not only understanding consumption patterns but also the development of human capabilities and potential as the main capital in realizing a prosperous life.<sup>17</sup> The development of the concept of welfare in the United States, concerning the scope of the state's authority and responsibility to ensure the welfare of its citizens through social insurance/security, gave birth to two typologies of the welfare state, namely the institutional welfare state and the residual welfare state.<sup>18</sup>

The concept of welfare within the framework of the Indonesian state requires the state in its authority to regulate and manage economic problems faced by the community in a manner that fulfils the basic needs of human life. Thus, the government is pursuing legal reforms to individual company policies to benefit community welfare by increasing employment opportunities and fulfilling of basic needs of citizens through social policies that equalize the gap created by the market

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<sup>15</sup> Verti Tri Wahyuni, 'Kepemilikan Tunggal Badan Hukum Perseroan Terbatas (PT)' (2017) 8 Jurnal Hukum Novelty.[201].

<sup>16</sup> Eddy Kiswanto, 'Negara Kesejahteraan (Welfare State): Mengembalikan Peran Negara Dalam Pembangunan Kesejahteraan Sosial Di Indonesia' (2015).[91].

<sup>17</sup> Kadeni, Ninik Srijani, 'Peran UMKM (Usaha Mikro Kecil Menengah) Dalam Meningkatkan Kesejahteraan Masyarakat' (2020) 8 EQUILIBRIUM : Jurnal Ilmiah Ekonomi dan Pembelajarannya.[191].

<sup>18</sup> A Alfitri, 'Ideologi Welfare State Dalam Dasar Negara Indonesia: Analisis Putusan Mahkamah Konstitusi Terkait Sistem Jaminan Sosial Nasional' (2012) 9 Jurnal Konstitusi.[449].

economy. The main gaps and targets of the government's social policies to ensure the welfare of citizens include the existence of social security, healthcare, education, and housing or housing.<sup>19</sup>

### **One-Man Company Regulations in Indonesian Legislation**

The ease of doing business is used as an indicator within a country based on a survey conducted by the World Bank since 2003 and recognized by 190 countries. The ten indicators assessed by the World Bank include 1) starting a business, 2) dealing with construction permits, 3) getting electricity, 3) registering property, 4) getting credit, 5) protecting minority investors, and 6) paying taxes. The Ministry of Law and Human Rights through the Directorate General of AHU has responsibility for increasing the assessment of 4 indicators, namely starting a business, getting credit, protecting minority investors' rights, and resolving insolvency. Pursuant to this goal, the government made regulations through the product of legislation in the form of Law no. 11 of 2020 concerning Job Creation. Law no. 11 simplifies the procedures related to business permits to require simple registration, providing both convenience and opportunity to the community by opening up new small and micro businesses and, as a result, creating job opportunities. An individual company is a breakthrough under the supervision of the Ministry of Law and Human Rights, which has been regulated in the Job Creation Law.

Through an individual company, business actors can form an LLC with only one founder and still enjoy the separation of personal and company assets. The legal basis for individual companies is regulated in laws and regulations which include Law Number 11 of 2020 concerning Job Creation (UU Cipta Kerja), Government Regulation Number 7 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and Micro, Small and Medium Enterprises, Government Regulation Number 8 of 2021 concerning Company's Authorized Capital and Registration of Establishment, Amendment and Dissolution of Companies that Meet the Criteria for

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<sup>19</sup> Nur Rohim Yunus, 'Aktualisasi Welfare State Terhadap Kehidupan Bernegara Dalam Dimensi Keislaman Dan Keindonesiaan' (2015) 3 Mizan: Jurnal Ilmu Syariah.[253].

Micro and Small Enterprises (PP Company), Minister of Law and Human Rights Number 21 of 20201 concerning Requirements and Procedures for Registration of Establishment, Amendment and Dissolution of Legal Entities PT, and Permenkeu Number 49/PMK.02/2021 concerning Types and Tariffs of Types of Non-Tax State Revenues Applicable to the Directorate General of AHU, Ministry of Law and Human Rights.

Some of the advantages of an individual company include the separation of personal assets from company assets, the ease of establishment, which requires only electronically making a statement of establishment, legal entity status, freedom from the obligation to announce in additional state news, and director positions obtained by business actors.

Establishing a one-man company is convenient because it requires only the filling out of a statement of establishment form obtained from online services; therefore, there is no time or place limit for registering. The status of a legal entity is obtained only by downloading proof of registration without having to get approval first. The absence of a minimum authorized capital provides even more convenience. Furthermore, the statement of establishment requires no notarial deed or commissioner, allowing for only one founder and one shareholder. Likewise, the financial statements of individual companies are carried out annually and electronically in realizing good and accountable corporate governance. To assess the feasibility of providing loans via financial statements, the banking sector prioritizes business sustainability, which shows that the one-man company can survive and succeed if it performs competitively. Individual company financial report formats are managed under the Ministry of Law and Human Rights.<sup>20</sup>

As outlined in the Directorate of Information Technology, the Directorate General of General Legal Administration, and the Ministry of Law and Human Rights no. 21 of 2021, an applicant can establish an individual company by opening the ahu.

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<sup>20</sup> Muhammad Zulhidayat and Milatul Aslamiyah, 'Pertanggungjawaban Pemegang Saham Perseroan Perorangan Dalam Hal Perseroan Perorangan Mengalami Kerugian Berdasarkan UU No.11 Tahun 2020 Tentang Cipta Kerja' (2021) 4 Ilmu Hukum Rechtsregel.[12].

go.id page, filling out a statement of establishment, and then downloading proof of registration. While utilizing the application service, an applicant can accomplish six tasks, all online, including account registration, login, establishment, change, dissolution, and financial reports. The contents of the statement of establishment include company data, consisting of the full name and address of the company, type of the company's business activities, and the amount of business capital in addition to business-owner data, including full name, date of birth, and complete address as well as the residence registration number (NIK) and registration number. Taxpayer (NPWP). Finally, the requirements for establishing an individual company are so simple they can be carried out by individual Indonesian citizens who are at least 17 years old and have legal skills as well as micro and small businesses with a maximum capital of 5 billion.

#### **Law Politics of One-Man Company Policy**

The study of legal politics cannot be separated from this discussion, especially for legal scholars who want to obtain comprehensive and critical clarity about the specific aims and objectives of the establishment of legislation through a disciplinary approach. Indeed, we cannot separate legal politics from several combined aspects including political aspects, ideological aspects, social and economic aspects, and others. Law, as a product of political power, is almost always the result of the intentions of certain underlying political powers, so the instrumental function of law as a means of power dominates its other functions. In other words, the law in the assumption is a product of rules deliberately arranged and formed to achieve certain goals or interests, hidden or not, which are guaranteed through the law itself.

In "The Political History of Customary Law in Indonesia" Volumes 1 and 2, Professor Soepomo identifies the terminology of legal politics in Indonesia. These two volumes, considered two of the oldest documents that use the term "political law," address the Dutch East Indies policy for the development of customary law (*adatrecht*), with a focus on the development of the protection of customary rights (*beshikkingrechts*) in addition to other rights found in customary law from the VOC

era <sup>12</sup> to the changes in the regulations. It also examines the political influence of the Dutch East Indies law on customary law in relation to the legal education of the natives. Finally, the book explains Van Vollenhoven's paradigm of thinking in opposing the codification and unification of law in the Dutch East Indies territory. Although Soepomo's work does not find a conceptual definition of legal politics, the substance of the writing is an interpretation of the Dutch East Indies government's political stance on the development of customary law into the rule of law. Thus, we can define legal politics in conceptual terms as the political attitude of an authorized institution or institutions toward certain issues embodied in legal products. Satjipto Rahardjo and Mochtar Kusumaatmadja used the term *rechtspolitik* in the New Order regime to refer to the purpose of a legal product. Mochtar's view of "law as a tool of social control" highlights the synergy between legal science and political science as an urgent matter because the problem domain studied in political science is none other than issues concerning authority and its supervision. The law as a political product <sup>16</sup> cannot be separated from the fact that the main resource for the formation and enforcement of the law is politics itself, where in the political process that occurs without the need for distinction whether the process is achieved from the result of balanced power or through the domination of one party. According to Bagir Manan, legal politics is divided into two types. First is the legal politics of legal formation, which consists of procedures, mechanisms, and procedures <sup>17</sup> of the determination of the content or substance of a legal product to be made. Second is the legal politics of law enforcement, which consists of policies in litigation and non-litigation routes such as arbitration, mediation, negotiation, or reconciliation. Additionally, Mahfud MD defines legal politics as a legal policy or an official line of policy regarding the law that will be enforced, both in making new laws and by replacing old laws, to achieve state goals.

Mahfud MD further explains the three patterns of political and legal relations. First is the political and legal pattern of *das sollen*, which departs from the premise that politics is the determinant of law, implying that law (*ius constitutum*) is the basis for how politics is carried out or that existing law precedes politics. Second

is the view based on *das-sein*, according to which law is the determinant of politics, in that law is a crystallization or legalization of political will that is in intense competition as well as the dominance of certain political forces. This view is most widely used as the paradigm of thinking of legal political analysts. Even the formation of legal political postulates from a legal product can be influenced by certain events that occur in a country and have a significant impact on people's lives. One example is the Great Depression, which occurred in the 1930s in the United States, which became one of the factors that prompted Canada to amend its Constitution so that the country had constitutional legitimacy to intervene in the economic crisis. Third, the *das-sollen-sein* view states that law and politics neither depend on nor dominate each other. The issuance of a legal product and a background study, as well as the political process behind the issuance of the regulation, also depend on the assumptions used by legal political analysts, which, according to Mahfud MD are relative. These assumptions are used as the starting point for arguments in explaining legal politics so that legal political analysts have the freedom to determine political configuration variables and legal products based on their respective research objectives.<sup>21</sup>

Departing from this conceptual definition of legal politics, the one-man company policy, regulated in the Job Creation Act and further regulated in derivative legislation in terms of legal political studies, can be seen from several aspects. First is the social aspect of the Covid 19 pandemic. The resulting world turmoil caused Indonesia to experience a sharp correction in its economic growth rate in 2020, which fell from 5.02 per cent to 0.5 per cent from the previous year as projected by the IMF. Several other institutions also indicate a spike <sup>14</sup> in the number of poor people in 2020, rising from 1.16 million to 9.6 million people in addition to a spike <sup>11</sup> in the number of unemployed from 2.91 million to an estimated 5.23 million Indonesian citizens. These data prompted the government to issue Government Regulation Number 23 of 2020 concerning the Implementation of the National Economic

<sup>21</sup> Syahriza Alkohir Anggoro, <sup>8</sup> 'Politik Hukum: Mencari Sejumlah Penjelasan' (2019) 10 Jurnal Cakrawala Hukum.[77].

Recovery Program in Order to Support State Financial Policies for Handling the 2019 Corona Virus Disease Pandemic and/or Facing Threats That Endanger the National Economy and/or Financial System Stability and Rescue the National Economy (Programme PEN) as a response to the decline in community activities that have an impact on the economy, especially in the informal sector or MSMEs.<sup>22</sup> One of the goals of the PEN program is to develop the economic performance of business actors during the Covid-19 pandemic to advance the existence of MSMEs and increase competitiveness.

A “Micro Business” is a productive form of business owned by an individual and/or an individual business entity that has a net worth of no more than Rp. 50,000,000.00 (fifty million rupiahs), not including land and buildings which are the place of business, or annual sales of no more than Rp. 300,000,000.00 (three hundred million rupiahs). A “Small Business” is a form of independent productive economic business, run by an individual or a business entity that is neither a subsidiary nor a branch of a company owned by or part of a Medium or Large Business, that has a net worth of more than Rp. 50,000,000.00 (fifty million rupiahs) up to a maximum of Rp. 500,000,000.00 (five hundred million rupiahs), not including land and buildings serving as business premises, or annual sales of more than Rp. 300,000,000.00 (three hundred million rupiahs) up to a maximum of Rp. 2,500,000,000.00 (two billion five hundred million rupiahs).<sup>23</sup> The government created these breakthrough guidelines, changing several articles in Law no. 40 of 2007 concerning Limited Liability Companies, to recognise the existence of an individual legal entity with criteria that are intended for micro and small businesses to realize the welfare of the community.

Second is the economic aspect. The government’s seriousness in supporting MSMEs, manifested by making regulatory arrangements related to One Man

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<sup>22</sup> Shinta Pangesti, ‘Penguatan Regulasi Perseroan Terbatas Perorangan Usaha Mikro Dan Kecil Dalam Mendukung Pemulihan Ekonomi Masa Pandemi Covid-19’ (2021) 10 Jurnal Rechts Vinding.[117].

<sup>23</sup> Ade Irawan Taufik, ‘Evaluasi Regulasi Dalam Menciptakan Kemudahan Berusaha Bagi Umkm’ (2017) 6 Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional.[369].



Company, can also be seen as the Government's efforts to penetrate the top 40 rankings of the Ease of Doing Business (EoDB) program. Efforts to increase the ease of doing business index are in accordance with the President's directives in Presidential Regulation Number 86 of 2020 concerning Government Work Plans for 2021. A survey conducted by the World Bank containing 10 indicators to improve the business climate covering 189 countries in the world. These indicators include aspects of starting a business, managing construction permits, access or opportunity to obtain electricity, registering property, obtaining credit, protecting minority shareholders, paying taxes, trading across borders, executing contracts, and resolving bankruptcy. In 2018, Indonesia managed to rank 72<sup>nd</sup>, up from the previous year's ranking of 91<sup>st</sup>. The World Bank's assessment indicated that a good assessment of all EoDB indicators from a survey of business actors would not only have a positive impact on MSMEs but also spread to the world. business comprehensively. This is because the target of the study instrument and EoDB indicators is the ease of doing business, which is advocated in businesses with an MSME scale. In addition, the EoDB assessment also targets <sup>17</sup> the form of a PT business entity, which is used as the basis for the assessment.<sup>24</sup> Achieving a higher rating related to the EoDB program is the basis for the government's simplification of obtaining business permits for individual companies to encourage and promote micro and small businesses.

### **The Impact of One-Man Company Policy on Improving Community Welfare in Indonesia**

The theory of the welfare state gives meaning to a social welfare system in which the state plays a big role in allocating a portion of public funds to fulfil the basic needs of its citizens.<sup>25</sup> In its concept, the welfare state engages the state not

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<sup>24</sup> Fahrurrozi Muhammad, <sup>8</sup> Mendukung Kemudahan Berusaha Bagi Usaha Mikro, Kecil, Dan Menengah Berbadan Hukum Dengan Gagasan Pendirian Perseroan Terbatas Oleh Pemegang Saham Tunggal' (2018) 7 Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional.[445].

<sup>25</sup> Darmini Roza, 'Partisipasi Masyarakat Dalam Pembentukan Perundang-Undangan Untuk Mewujudkan Indonesia Sejahtera Dalam Pandangan Teori Negara Kesejahteraan' (2019) 5 JCH (Jurnal Cendekia Hukum).[131].

only as a night watchman as in the *Nachtwatcherstaat* concept but also includes its participation in <sup>10</sup> an aspects of people's lives, so that the purpose of the welfare law state is to realize prosperity for each of its citizens. To achieve this goal, the state is required to participate in all aspects of people's lives. The concept of a welfare state has a fairly close relationship with the role of state administrative law in that the role of the government in supporting economic activities becomes a reference and determinant in the welfare state itself with the implementation of a welfare system as a social right of citizens to improvement in economic growth and the widest possible opening of job opportunities. Moving on from this rationale, to achieve people's welfare, instruments in the form of institutions and social and political resources are utilized to realize integration that is positively correlated with the realization of people's welfare. Institutions are the embodiment of the state in carrying out its duties (*bestuurzorg*) to serve and protect the rights of individuals in the community. In addition, social resources created and organized for the benefit of the community are used to form the psychological aspects of individuals who form society. The relationship between the community and the government is realized through interaction in public services, a form of social welfare development, which is channelled either through a set of policies, programs, or community service activities in the form of community empowerment <sup>12</sup> to improve the quality of life and fulfil the basic rights of the community. This relationship is exemplified in the licensing services or services related to the ease of starting a business. This relationship is then used as a parameter or indicator in assessing good and bad services. The granting of authority in the concept of state administration, or *freies ermessen*, with the implementation of public services within the framework of good governance shows the contribution or position of the <sup>27</sup> people who are not only passive but also have such a large role in carrying out and regulating their <sup>25</sup> economic activities which not only <sup>26</sup> provide accommodation for people with large capital but also people who run micro-enterprises.<sup>26</sup>

<sup>26</sup> Septarian Budiwati, <sup>8</sup> Perizinan Di Sektor Usaha Mikro Dan Kecil ( Iumk )'. [142].

<sup>21</sup> Economic developments have shown that the large role of the micro-economy is positively correlated to the graph of employment opportunities and poverty rates. In addition, the micro-economy has also taken root in the Indonesian people, who have received constitutional arrangements as the basic principles contained in <sup>23</sup> Article 33 of the 1945 Constitution of the Republic of Indonesia. not only limited to a class or group of people.

Creating <sup>16</sup> a public policy product with the nuances of people's welfare requires not only political will but also the implementation of the action of the political will or what is called political action. Public policies aimed at realizing people's welfare generally identify and determine the goals of people's welfare, solve people's welfare problems, formulate public policies in the fulfilment of people's welfare, and fulfil social needs as a whole.<sup>27</sup>

One of the government's efforts to empower the community's economy in the context of realizing people's welfare and supporting micro and small businesses is making legal regulations related to individual companies that allow everyone to have a company business entity without having to get a business license. Moreover, an Indonesian citizen can own a company without a minimum capital limit. In its implementation, the form of a PT business entity is the preferred form of company that has generated significant interest in the community compared to other forms of business entities.<sup>28</sup> This interest proves the government's seriousness in improving the ease of doing business as regulated in the omnibus <sup>8</sup> Law no. 11 of 2020 concerning Job Creation. The establishment of regulations on individual companies also provides convenience both in terms of legality for micro, small, and medium enterprises (MSMEs) as well as access to banking, which can be run through an online application related to registration. This government policy is not only an effort to contain <sup>14</sup> the impact of the pandemic but also to stimulate

<sup>27</sup> Agus Suryono, <sup>8</sup> 'Kebijakan Publik Untuk Kesejahteraan Rakyat' (2018) 6 *Transparansi Jurnal Ilmiah Ilmu Administrasi*. [98].

<sup>28</sup> Anggreany Arief and Rizki Ramadani, 'Omnibus Law Cipta Kerja Dan Implikasinya Terhadap Konsep Dasar Perseroan Terbatas' (2021) 6 *Al-Adalah: Jurnal Hukum dan Politik Islam*. [106].

economic revival <sup>20</sup> in response to the number of unemployed workers and closed companies due to the pandemic. The registration of an individual company, which requires only a registration application, has also been integrated with the Online Single Submission managed by the BPKM so that the implementation of this regulation in encouraging micro and small businesses to develop into companies has received sufficient attention and detailed regulation <sup>8</sup> from the government in the aspect of implementation.

One form of further socialization related to the one-man company regulation is the coordination that was established on Monday, 27 September 2021 between the Director General of General Legal Administration (Dirjen AHU), Cahyo R. and the Mayor of Semarang, Hendrar Prihadi. According to the portal.ahu.go.id page, Cahyo explained in that meeting that the regulation of a one-man company can simultaneously provide support for the policies of the Mayor of Semarang, who already has an assistance program for MSMEs <sup>12</sup> in the form of the Credit Authority program distributed through Bank Pasar and BPD Central Java. In addition, it was conveyed that <sup>10</sup> most of the MSME actors in Semarang City do not yet have a legal entity, thus the regulation of a one-man company can be used as a solution for MSME actors. During the meeting, related parties responded positively because they also invited MSME actors to carry out joint socialization regarding individual companies. <sup>14</sup> This is one of the impacts of the one-man company regulation, although its development requires long-term observation over the next five to 10 years. Socially it can provide a stimulus for business actors to develop micro and small businesses that become legal entities as an indicator of EBD. And it is hoped that from other regions there will also be positive developments in the number of business units that are legal entities. The target of this policy is none other than the growth of MSMEs in Indonesia because the growth of MSMEs is one of the biggest drivers of the Indonesian economy. The growth of MSMEs can directly increase the absorption rate of labour from the sector. Data from CNN shows that MSMEs, which absorb more workers than large businesses, make significant contributions and influence of 97.22 per cent in

<sup>24</sup> 2016, which has increased from the previous 5 years.<sup>29</sup>

The change from the original ratification regime to the registration regime became the main domain promoted by the government in the Job Creation Law. The expected impacts of the one-man company regulation include 1) a significant increase in the number of MSMEs that are legal entities, 2) convenience MSME owners in registering, modifying, and submitting financial reports, 3) increased confidence among MSME owners in maintaining their existence and competitiveness resulting in increased resilience and competitiveness in business, and 4) aid in restoring the national economy in the wake of the COVID-19 pandemic.

### Conclusion

Based on the discussion above, we can make the following conclusions. First, <sup>8</sup> the legal basis for individual companies is regulated in laws and regulations which include Law Number 11 of 2020 concerning Job Creation (UU Cipta Kerja), Government Regulation Number 7 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and Micro, Small and Medium Enterprises, Government Regulation Number 8 of 2021 concerning Authorized Capital of the Company and Registration of Establishment, Amendment, and Dissolution of Companies that Meet the Criteria for Micro and Small Businesses (PP Company), Permenkumham Number 21 of 2020 concerning Terms and Procedures for Registration of Establishment, Amendment and Dissolution Legal Entity PT, and <sup>14</sup> Minister of Finance Regulation Number 49/PMK.02/2021 concerning Types and Tariffs of Non-Tax State Revenues Applicable to the Directorate General of AHU, Ministry of Law and Human Rights.

The one-man company policy, which has been regulated in the Job Creation Act and then further regulated in derivative legislation in terms of legal and political studies, can be viewed according to several aspects. First, is the social

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<sup>29</sup> Devi Krisnawati, <sup>8</sup> 'Peran Perkembangan Teknologi Digital Pada Strategi Pemasaran Dan Jalur Distribusi Umkm Di Indonesia (Studi Kasus: UMKM Kuliner Tanpa Restaurant 'Kepiting Nyinyir')' (2018) 6.[2338].

aspect that the economic turmoil<sup>11</sup> due to the COVID-19 pandemic prompted the government to issue Government Regulation Number 23 of 2020 concerning the Implementation of the National Economic Recovery Program to Support State Financial Policy<sup>13</sup> for Handling the 2019 Corona Virus Disease Pandemic and Facing Threats That Endanger the National Economy and of Financial System Stability<sup>11</sup> and National Economic Rescue (PEN Program) as a response to the decline in community activities that<sup>10</sup> have an impact on the economy, especially the informal sector or MSMEs. Second, is the economic aspect: the government's seriousness in supporting MSMEs is manifested by making regulatory arrangements related to the One-Man Company and the Government's efforts to penetrate the top 40 rankings of the Ease of Doing Business (EoDB) program.

Finally, the expected<sup>14</sup> impacts of the one-man company regulation include a significant<sup>6</sup> increase in the number of MSMEs that are legal entities, greater convenience for business actors in registering, modifying, and submitting financial reports, a positive stimulus to the mindset of business actors in maintaining their existence and competitiveness to increase resilience and competitiveness in business, and the restoration of the national economy<sup>14</sup> in the wake of the COVID-19 pandemic.

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