

*Review Article*

## The Law Role of Business Competition to Develop the Global and Indonesian Economy

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**Abstract:** This study examines the role of law in regulating business competition to develop the economy is needed. The purpose of this research is to find out and reveal the role of law in developing the economy. This research method uses normative legal research method, it is intended to identify and reveal the role of law in economic development. The results of this study indicate that the role of law in regulating business competition to develop the economy is very much needed so that business competition runs orderly and does not violate the rights of fellow business actors. The role of this law is manifested in government policies required by developing countries far beyond the needs of the developed industrial countries which have been established. The developed countries already have legal mechanisms in place to accommodate changes in their societies. Meanwhile, developing countries are not like that. In fact, the hopes and desires of people in developing countries for the realization of changes that bring about a greater improvement in living standards exceed the expectations needed by people in developed countries. The growth and economic development of the Indonesian state and in the world will be much influenced by fair business competition among business actors, both now and in the future. While, the healthy competition will be determined by legal policies in economic development; legal policies in business competition; politics of law formation and decision-making processes in the formation of business competition law.

**Keywords:** Business Competition; Develop; Economy; Global; Indonesian; The role of law.

### 1. Introduction

The development of business competition of developed countries in the world is very rapid and has contributed to the pattern of forming the business competition law itself, it cannot be ruled out for countries in the world. Indonesia as a developing country almost 21 years ago had anticipated this situation by issuing Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and unfair business competition and other regulations related to controlling business competition among businessmen, even though there were weaknesses as legal products that were resulted at the beginning of the reform.

Basically, every businessmen who carries out his business activities in this world in any form, the main goal is luck and a lot of success, but all of these have a rule of the game in carrying out their business activities, if the business actor violates the rules. existing, it will be subject to sanctions in accordance with the current regulations.

The Competition is basically a human and natural thing to do in common life, because the existence of culture competition has encouraged business actors to create and innovate which in turn business actors gain progress and improve their quality of life. Progress and improvement in the quality of life obtained from culture competition in a fair and properly and healthy manner in the form of efforts to improve both in the field of technology and in business managerial by going through processes or carried out with effective and efficient efforts that always bring good to life together, it is very reasonable if human beings in this world are all competing to win what is called extraordinary luck and success, but do not justify any means with the right elbow and left elbow to win that luck.

In contrast, if a competition based on a bad commitment, the competition is always carried out with an unfair business, which results the detrimental to other parties, namely

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fellow businessmen and consumers, in which conditions like this will cause legal problems. This unfair and unfair business can be carried out in various forms such as in the form of piracy, expert hijacking, oligopoly, price fixing, zoning, boycotts, cartels, trusts, oligopsony, vertical integration, closed agreements, agreements with foreign parties, positions dominant, dumping or other businesses such as tax smuggling, so that he does not have to pay for it, which of course he can sell his products with a higher profit.

Based on the phenomenon of business competition above, competition does not always lead to positive things, so the role of law in regulating matters like this is very necessary to guarantee and protect the law for honest business actors or businesses in Indonesia. Legal protection is meant by comprehensively and holistically regulating the problem in the laws and regulations as an act classified as fair competition and an act classified as an act of unfair competition. The birth of Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition as a juridical instrument to regulate business competition caused by and between business actors in Indonesia, however, the existence of Law Number 5 of 1999 is not sufficient to handle business competition in the future, because the object of regulation is increasingly complex inter-state / trans-national business actors.

## 2. Methods

This research uses the method of (nomative legal research), namely: a research that is done with the purpose to find the principles and philosophical basis (dogma or doctrine) of positive law, and the research of legal discovery in concreto that is appropriate to solve a case law such as the intended to find out and reveal the role of law in economic development. This type of research is commonly as dogmatic study or commonly known as doctrinal research. (Soetandyo Wignjosoebroto, 1974). This research approach used in this research is statute approach, conceptual, historical approach, comparative approach. Data types and sources, namely primary sources or authorities, secondary sources or authorities, and tertiary sources or authorities. The primary data collection technique is done by indentifying and tracing legislation related to the intended to find out and reveal the role of law in economic development. Secondary data was collected by studying research libraries, both books and journals. Tertiary data is collection from encyclopedies and dictionaries to explain primary and secondary data, and can be obtained without being limited by time and place. The technique of data analysis used the interpretation methods and legal theory instruments.

## 3. Results and Discussion

### 3.1. The Role of Law in Business Competition

Today's economic globalization is a new manifestation of development capitalism as an international economic system, As in the past, for overcoming crisis, multinational companies seek new markets and maximize profits by exporting capital and reorganizing the production structure. (Soetandyo Wignjosoebroto, 1974).

When the economy becomes integrated, legal harmonization follows. The formation of the WTO (World Trade Organization) has been preceded or followed by the formation of regional economic blocs such as the European Community, NAFTA, and AFTA APEC. There is no contradiction between regionalization and globalization of trade. Otherwise, global economic integration necessitates the creation of new trading blocs. (Bary Hufbauer, 1995). Joining the WTO and regional economic cooperation means developing institutions the democratic system reforms the market, and makes the legal system work. (Paul Demaret, 1995).

The government's policy in overcoming monopolistic practices and unfair business competition has been accommodated in Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition as a positive law (*ius constitutum*) and other related regulations. However, this policy will not be sufficient or adequate without being accompanied by a law enforcement approach that truly has the capability and credibility of an institution that has the authority to enforce Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and No Business Competition. Healthy, in this case the Business Competition Supervisory Commission (KPPU).

Considering that business competition law is related to business activities and the business community as the place where it applies, it is understandable that many countries have comprehensive business competition laws and special organs have been formed to manage law enforcement against business competition with the authority and duties and responsibilities. which is hard on the government.

The law that is projected in the form of a codification of laws will be incomplete and may not be complete in regulating a particular object. However, substantially Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition has clearly and in detail stipulated prohibited agreements, prohibited activities, and dominant position, so there is no excuse for the perpetrator. businesses in carrying out their business activities not to heed what is allowed and what is prohibited in Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition which perhaps needs to be reviewed again given the massive development of business competition and substantive in encouraging Indonesia's economic growth in the future, especially regarding anti-dumping arrangements regulated in Government Regulation Number 34 of 2001 concerning Anti-dumping Measures, Compensation Measures, and Trade Safeguard Measures due to imported products from abroad. to Indonesia if it is not suppressed and it is anticipated by an established law, foreign products will kill domestic products, thus causing the collapse of the domestic industry itself.

The law politics spirit, the democracy of economic field requires equal opportunities for citizens to participate in the process of production and marketing of goods or services, in a healthy, effective and efficient business climate so as to encourage economic growth and the operation of a fair market economy. In addition, every person doing business in Indonesia must be in a situation of fair and reasonable business competition, so as not to cause a concentration of economic power in certain business actors, inseparable from the agreements that have been executed.

Economic democracy is not anti-economic cooperation with other parties or with world economic institutions such as the WTO, GATT, WIPO or IMF. However, democracy that is built in Indonesia is inherent with political democracy that relies on national natural resources, both in social aspects and natural aspects (natural resources and human resources). The aim of economic democracy is to prevent dependence on foreign aid by emphasizing economic independence while respecting mutually beneficial partnerships. Do not become a nation that likes to be fed with debts by world economic institutions to become obligator countries, and fall into the HIPC's (heavily indebted poor Countries) group, which is notably known as a country rich in national natural resources in almost all aspects, except system management. wrong. The economic conditions that we inherited from the colonial era of the Dutch East Indies to the current reformation era have not shown efforts to be independent that have led to economic democracy with the aim of equality. (Martin Basiang, 2002).

### 3.2. The Role of Law in Economic Development

The development is a process of change that includes all social systems, such as politics, economy, infrastructure, defense, education and technology, institutions, and culture (Alexander 1994). Meanwhile, according to Portes (1976), development is an economic, social and cultural transformation.

The countries which are now called developed countries have undergone three stages of development, namely: unification, industrialization and the welfare state.

Sustainable economic development requires an approach multidimensional. In this case, sharia economic law offers a different perspective can unite economic growth, social justice and conservation environment. The relationship between sharia economic law and development sustainability shows that these two concepts do not stand alone but complete each other. To achieve sustainable development goals, it is important to understand how sharia economic principles can be applied in global context. Integration between sharia economics and development strategy the global economy can pave the way for achieving more development fair and sustainable. In this case, the role of policy makers and practitioners is very important it is important to ensure that sharia economic principles are implemented effectively and efficiently. (Gania Fasya, 2021).

At the first level of the serious problem is how to achieve political integration to create national unity and unity. The second level is the struggle for the economy and political modernization. Finally, in the third level, the state's main task is to protect the people from the negative side of industrialization, to correct mistakes in the previous stage, by emphasizing the welfare of society. These levels were passed consecutively (consecutive) and took a relatively long time. National unity is a prerequisite for entering the industrialization stage. Industrialization is a way to achieve a welfare state. American national unity was achieved with the birth of the American Constitution. However, perhaps most of the people still reject the constitution in 1789, regarding "state rights. (Wallace Mendelson, 1970).

The control of 80% (eight percent) of the earth's surface and 75% (seventy five percent) of the world's population over the centuries by Europeans has created a prolonged crisis in its colonies. The prolonged crisis then had to be exacerbated by the consequences of World War I, World War II which ultimately created not only a new crisis in the colonies, but also in almost all regions of the world. World War II has created terrible suffering and economic setbacks, which ultimately aroused the awareness of the people of the nations to fix global destruction. (Lili Rasjidi and I.B. Wyasa Putra, 2003). After World War II, the orientation of the international community was really focused on global economic development. Regional and bilateral cooperation has become a new trend, mostly focused on economic cooperation. Advances in technology and science immediately brought great changes in various countries. The European Community designs regional economic cooperation, as has been done by North, Central and South American countries. The United Nations has also played a very important role in this new, fast-paced development, through its specialized agencies, the International Bank for Reconstruction Development (IBRD), the Economic and Social Council (ECOSOC), the general assembly, the security council and other institutions. (Lili Rasjidi and I.B. Wyasa Putra, 2003).

In the 1970s several member states of the international community had shown amazing progress, but at the same time a very serious new problem developed, namely the increasingly sharp gap between welfare and progress achieved by developed and developing countries. . Developed countries which consist of 20% (twenty percent) of the world's population enjoy about 2/3 (two thirds) of the world's income. Meanwhile, developing countries with a population of 50% (fifty percent) of the world's population enjoy 1/8 (one-eighth) of the world's income, and poor countries, which have a population of about 30% (thirty percent) of the world's population, only enjoy 3 percent of world income. (Lili Rasjidi and I.B. Wyasa Putra, 2003).

This bad condition is caused by, among others:

- The centralization of capital and technology, expertise, and information in developed countries.
- The poverty and the poverty of the third countries as a result of colonialism.
- The large numbers of people of the third countries, which tends to be more of a burden to them.
- The decline in science, technology and information in these countries.
- The high costs that must be risked by the third countries for any form of development cooperation and capital assistance from developed countries.
- The amount of pressure developed countries have on developing countries as a consequence of the potential differences and gaps between the two groups of countries. The whole global condition requires one of the important thing that is absolute, namely development. The meaning of development for developed countries is the struggle to control economic potential, prosperity, and the struggle to maintain development and progress for the interests of the present and future of their nation. otherwise, the meaning of development for developing countries is the struggle to increase economic growth and welfare, the struggle to master science, technology, expertise and information, and the struggle to exert economic pressures from developed countries. (Lili Rasjidi and I.B. Wyasa Putra, 2003).

The two characteristics of the economic development orientation immediately showed very sharp differences. If the economic development in developed countries has been oriented towards the pursuit of economic growth and prosperity, then the economic development in developing countries is still oriented towards building the pillars of economic development, and at the same time, they must also fight against economic pressures. from developed countries. This has resulted in broadening the meaning of development for developing countries and making it a form of dual struggle. (Lili Rasjidi and I.B. Wyasa Putra, 2003).

To reach this tough and complex goal, according to Lili Rasjidi, a development process requires careful planning. This planning includes, among other things, legal guarantees and protection of order, smoothness, and the entire process and results of the development, and therefore an instrument that is capable of providing assurance, protection, certainty and direction is needed for that development. The instrument is law. In legal societies in developing countries, legal development is even more complex, not only in terms of procuring new laws, but also including reforming concepts and almost all components of the legal

system. Starting from this fact, legal development is a problem that is more global in nature than just local in nature.

Economic activity as a social activity humans also need to be regulated by law so that economic resources, utilization and activities can run well by considering the side of justice for the parties economic actors. Economic laws or regulations that apply to each social group or a nation varies depending on the agreement that applies to the social group or the nation. (Maqdir Ismail, 2017).

In general, it can be said that acts in the economic sector are neutral legal acts, meaning that legal acts that occur in the economic sector are laws that contain neutral values. However, these legal acts are not completely value-free. The next question is whether the existing regulations created by the state are able to meet economic activities in general and business activities in particular. (M Lohot Hasibuan, 2011). 96

The law provided flexibility for business development but there was no say in the fate of workers, consumers and landless peasants (landlessness) . During World War 1, Japan became a first-class industry and militarism brought Japan to its defeat in World War II. It was only after the end of the World War that Japan entered the stage of a welfare state.(Frank K. Upham, 1987).

The role of law in economic activities in general can be seen from two sides, in that the two interests are equal, namely: (a). Law is seen from the perspective of economic actors; and (b). Law is viewed from the state's perspective on its government. Departing from this economic goal, in fact to obtain the maximum profit, the law is seen solely as an external factor that is useful and can be utilized in order to secure the economic activities and goals that will be achieved. Law can be used to maintain the balance of interests in society. Law is understood as a tool to monitor how far there is deviation from the behavior of economic actors towards other, broader interests. (Hartono, 1992).

The development does not only mean economic growth but also social, political and cultural development. Our development also aims at developing the whole Indonesian people. For human development, one needs both food and freedom of opinion; food is necessary in order to survive, freedom of expression is necessary in order for the soul to continue to develop. Both are essential and absolute necessities. By accepting that all human rights are interrelated and inseparable, the enforcement of civil and political, economic, social and cultural rights should be implemented and encouraged with the same intensity.(Erman Rajagukguk, 1997).

From general explanation of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, it is emphasized that economic development in the First Long-Term Development has resulted in a lot of progress, among others by increasing people's welfare. The development progress that has been achieved above has been driven by development policies in various fields, including economic development policies set out in the State Policy Guidelines and the Five-Year Development Plan, as well as various other economic policies. Although a lot of progress has been made during the First Long-Term Development, which is indicated by high economic growth, there are still many challenges or problems, especially in economic development that have not been resolved, in line with the trend of economic globalization and the dynamics and development of private businesses since the beginning the 1990s.

In reality, the business opportunities created over the past three decades have not enabled all people to participate in development in various economic sectors. The development of private businesses during this period, on the one hand, was marked by various forms of inaccurate Government policies that distorted the market. On the other hand, the development of private businesses is in fact largely a manifestation of conditions of unfair business competition.

The phenomenon above have developed and supported by the relationship between decision making and business actors, either directly or indirectly, thus worsening the situation even more. The implementation of the national economy does not refer to the mandate of Article 33 of the 1945 Constitution, and tends to show a very monopolistic and liberalistic style.

The businessmen who are near with the power elite get excessive benefits, so that it has an impact on social inequality. The emergence of conglomeratization and a small group of strong entrepreneurs who are not supported by a true entrepreneurial spirit is one of the factors that causes economic resilience to become very fragile and unable to compete.

From the situation and conditions above, it requires the public to observe and restructure business activities in Indonesia, so that the business world can grow and develop

in a healthy and fair manner, so as to create a climate of business competition that is healthy, effective and efficient and avoids the concentration of economic power in the actors individual businesses or certain groups, among others in the form of monopolistic practices and unfair business competition that are detrimental to society which are contrary to the ideals of social justice for all Indonesian people.

Related with the development of science and technology that accompanies human life in this modern century, the development of law cannot be ruled out in the midst of a sophisticated human intellectual life, especially in conducting trade transactions both nationally and transnationally. The law must be able to control and manipulate human life, including its political development in every activity, because in essence there is no activity in this world apart from legal initiatives, everything is initiated by law, so that every order of human life is regulated by law where law is an instrument to regulate life.

Basically the law has regulated in such a way what human actions should be done and what should not be done. However, it does not deny and does not override the empirical reality that even though the laws formulated in statutory regulations do not fulfill, they are not even able to regulate and follow, and explore the development of society with all their attitudes.

In addition, law is an order of human actions, "action system" implies a system of rules. The law is not a mere rule, as it is said, but rather. law is a set of rules that are understood in a single systemic unit, it is impossible to understand the nature of the law by paying attention to just one rule. The relationship that unites various special regulations from one legal system needs to be interpreted so that the nature of the law can be understood. It is only on the basis of a clear understanding of the relationships that make up the legal system that the essence of law can be perfectly understood. (Hans Kelsen, 2007). starting from its origins and development.

When the law is played as a tool of social engineering (law as a tool of social engineering), it inevitably places laws and regulations in a very important position in regulating the order of people's lives. The concept of law as a tool for social engineering was first introduced by Roscoe Pound, where the concept was popularized in Indonesia by Mochtar Kusumaatmadja who presented Roscoe Pound's concept on the need to function "law as a tool of social engineering" in Indonesia. (Soetandyo Wignyosoebroto, (1994). Mochtar argued that the use of law as a means to manipulate society according to the scenario of Government (executive) policies is needed by developing countries far beyond the needs of developed industrialized countries which are already established. The developed countries already have legal mechanisms in place to accommodate changes in their societies. Meanwhile, developing countries are not like that. In fact, the hopes and desires of people in developing countries for the realization of changes that bring about a greater improvement in living standards exceed the expectations needed by societies in developed countries. (Mochtar Kusumaatmadja, 1986).

Roscoe Pound considers that law is a tool of social engineering (Law as a tool of social engineering and social control) which aims to create harmony and harmony in order to optimally fulfill human needs and interests in society. Justice is a symbol of harmonious and impartial efforts to pursue the interests of the community members concerned. For that ideal interest, it is necessary to force force exercised by the state authorities.

The various studies on the relationship between law and economic development show that economic development will not succeed without legal reform. In general, there are 3 (three) stages or levels of development experienced by a country starting from a developing country to a developed country, namely:

- The unification with an emphasis on how to achieve political integration to create national unity and integrity.
- The industrialization with a focus on the struggle for economic development and political modernization.
- A welfare state (social welfare) in which the task of the state is primarily to protect the people from the negative side of industrialization, to correct mistakes in the previous stage, with the main focus on the welfare of the people. (Daniel Suryana, 1972).

The developed countries have succeeded in progress through the 3 (three) stages or levels of development one by one well and it takes quite a long time. Meanwhile, developing countries want to reach all three stages or levels of development simultaneously and simultaneously. In a country, good development is development that is carried out comprehensively. This means that development, apart from merely pursuing economic

growth, must also pay attention to the implementation of guarantees for the protection of the human rights of its citizens as regulated in the constitution of the country concerned, both civil rights, as well as economic, social and cultural rights. Thus, development that has been, is being and will be carried out by the Government will be able to attract public participation in development. (Daniel Suryana, 1972).

Laws conducive to development contain at least five qualities:

"The stability", "predictability", "fairness", "education," and ability to predict are prerequisites for the functioning of the economic system. The need for "predictability" is enormous at countries where peoples for the first time enter into relationships economies beyond their traditional social environment. Stability also means law has the potential to balance and accommodate those interests compete with each other. Aspects of fairness (fairness) such as equality before the law, standards of attitude government, it is necessary to maintain market mechanisms and prevent bureaucracy The absence of a standard of what is fair and what is unfair is a big problem faced by developing countries. In the long run absence these standards are the main reason for the loss of government legitimacy. (Leonard J Theberge, 1980).

Entering the global competition for community participation in economic, social, political development is very much needed through free market media which is actually not new to Indonesia, because it has been a long time since the spice trade, the period of forced cultivation (culture system) in which private capital in the colonial era was forced labor, while the current era of globalization stands for the emergence of a new era of economic capitalism that has long developed in developed countries.

The new era of global competition of economic field must be followed by legal instruments in the field of economy and business competition, therefore the material content of laws and agreements as a source of positive law should be synergized with existing legal provisions in the ASEAN member countries in order to be formed. harmonization of law, so that when violations or disputes occur in the field of business competition, the capital or services sector will not experience difficulties.

The regulations in the field of economic law in the business world must be in harmony and balance with the direction and policies of economic development and legal politics because it will involve the politics of development of Indonesian society nationally and transnationally in a systematic and comprehensive manner, so that it can be said that the scope of global business competition must be able to prosper the Indonesian people. and global and able to provide adequate legal protection for business actors in Indonesia.

Law and economics interact as one each other positively and negatively. Chaos will occur if economic activity is not supported by law. This is because economic actors those who pursue profit do not follow legal norms, then they will experience losses for one of the parties involved economic activity. (Akhmad Saripudin & Muhammad Torieq Abdillah, 2024).

That law has a very central role in the success of a country's economic development, especially in providing business and investment certainty. Law can provide conditions that can spur the growth of economic development and to maintain relations between various elements and economic actors. The role of law in economic development means the use of economic considerations to solve problems, and the use of technical analysis tools or concepts. (Ajie Prasetya, 2023).

#### 4. Conclusion

The role of law in regulating business competition for economic development is very much needed. This is so that business competition runs in an orderly manner and does not violate the rights of fellow business actors. The role of this law is manifested in government policies required by developing countries far beyond the needs of the developed industrial countries which have been established. The developed countries already have legal mechanisms in place to accommodate changes in their societies. Meanwhile, developing countries are not like that. In fact, the hopes and desires of people in developing countries for the realization of changes that bring about a greater improvement in living standards exceed the expectations needed by people in developed countries. The growth and economic development of the Indonesian state and in the world will be much influenced by fair business competition among business actors, both now and in the future. Beside that, healthy competition will be determined by legal policies of economic development; legal policies in business competition; politics of law formation and decision-making processes in the formation of business competition law.

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