










“Unequal regulation in partnerships between MSMEs and large enterprises in Indonesia”

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UNEQUAL REGULATION IN PARTNERSHIPS BETWEEN MSMEs AND LARGE ENTERPRISES IN INDONESIA

Abstract

The aim of this study is to analyze the legal framework governing partnerships between micro, small, and medium enterprises (MSMEs) and large businesses in Indonesia, as stipulated by Law Number 20 of 2008. Specifically, it investigates the Law's alignment with the principles of substantive and formal justice and legal certainty enshrined in Law No. 10/2004. Utilizing a normative juridical approach and qualitative analysis of legal documents, the study identifies a critical imbalance in the legal framework governing MSME partnerships with large businesses. While Indonesian MSMEs Law aims to empower MSMEs, it lacks provisions outlining their specific rights and obligations within partnerships and omits sanctions for their contractual violations. This starkly contrasts the detailed prohibitions and sanctions imposed on large businesses, creating an environment of legal uncertainty and potential injustice. This imbalance could have detrimental consequences, discouraging investment, hindering MSME growth, and ultimately impeding economic development. By allowing MSMEs to operate with limited accountability within partnerships, the Law may inadvertently harm the entities it seeks to protect. This study makes a novel contribution by highlighting this disparity and its potential implications for the Indonesian economy. It argues that the absence of clear sanctions for MSMEs undermines the principles of justice and legal certainty, potentially jeopardizing the sustainability of MSME partnerships. The study recommends a revision of Indonesian MSMEs Law to incorporate explicit sanctions for MSME violations, thereby fostering a balanced legal framework that promotes mutually beneficial partnerships and contributes to robust economic growth in Indonesia.

Keywords

MSME partnerships, legal imbalance, Indonesian MSMEs Law, legal uncertainty, economic development

JEL Classification

K20, K21, K22, K29

INTRODUCTION

Micro, small, and medium enterprises (MSMEs) form the backbone of Indonesia's economy, contributing 57% to the Gross Domestic Product (GDP) and employing 97% of the workforce. Their resilience, particularly during crises like the COVID-19 pandemic, underscores their significance in driving economic recovery (Kementerian Koordinator Bidang Perekonomian Republik Indonesia, 2022). Recognizing this, the government enacted the Indonesian MSMEs Law to promote equitable economic development and empower MSMEs. This Law encourages partnerships between MSMEs and larger enterprises through various models, including core plasma (a nucleus-farmer partnership joint in agriculture), subcontracting (where MSMEs provide goods or services to larger companies), and franchising (allowing MSMEs to operate under an established brand). These partnerships foster mutual benefits, enhance MSME capabilities, stimulate job creation, and drive regional development (Irawan, 2020).

However, a critical imbalance exists within Indonesian MSMEs Law. While it provides for sanctions against large enterprises that violate partnership agreements, it remains silent on MSMEs that breach these agreements. This asymmetry undermines the principles of justice and legal certainty enshrined in Law No. 10/2004, the foundational Law for Indonesian legislation. In this context, justice implies fair treatment and protection of rights for all parties involved. At the same time, legal certainty refers to the predictability and consistency of legal outcomes, enabling businesses to operate confidently. The absence of sanctions for MSMEs creates an unpredictable legal environment where large enterprises face disproportionate risks, potentially discouraging them from engaging in partnerships. This hinders MSME development and has broader economic and social implications, including reduced investment, stifled innovation, and potential job losses.

This imbalance is not merely theoretical. The Indonesian Competition Commission (KPPU) decisions in 2024, which exclusively penalized large businesses for partnership violations, highlight the real-world consequences of this legal gap (KPPU, 2024). Furthermore, MSMEs can and do violate partnership agreements. For instance, in the palm oil sector, some MSMEs within Inti-Plasma partnerships have been found to breach contracts by selling crops to other buyers for higher prices, undermining ethical business practices, and harming their partner companies (Sirait et al., 2022). Therefore, this situation necessitates a critical examination of Indonesian MSMEs Law to assess its alignment with the principles of justice and legal certainty outlined in Law No. 10/2004.

1. LITERATURE REVIEW

The partnership between MSMEs and large companies in Indonesia is vital for economic growth, innovation, and competitiveness. MSMEs represent about 97% of all businesses in Indonesia, playing a crucial role in job creation and financial stability (Rohadin & Yanah, 2019). They significantly contribute to the national GDP and foster market innovation and competition (Wilujeng et al., 2022). MSMEs play a pivotal role in economic development, notably by generating employment opportunities. Furthermore, MSMEs function as a crucial economic buffer, particularly for individuals from lower socioeconomic backgrounds, enabling them to engage in productive economic endeavors (Purwanto et al., 2021). Also, innovation is increasingly perceived as a complex and resource-intensive endeavor, rendering it challenging for many SMEs to undertake independently (Audretsch et al., 2023).

However, MSMEs often need help with financial access, access to the market, and technology adjustment, which limits their growth and innovation capabilities (Herlina & Kudo, 2020). Partnerships with larger firms can provide vital resources but may lead to over-dependence, potentially stifling innovation (Setyawan et al., 2022). Collaborative ventures between MSMEs and large corporations

offer a dual advantage: they enable large enterprises to broaden their business networks and enhance operational efficiency while simultaneously fostering the growth and advancement of MSMEs (Triana & Winstar, 2023). Such collaborations not only afford large enterprises opportunities to expand their business networks and optimize operational efficiency but also catalyze the growth and development of MSMEs (Irawati et al., 2024). The bedrock of the relationship between a company and its partners is the principle of trust, implying that collaborative endeavors are founded upon confidence between the involved entities (Ardiansyah & Aulawi, 2020). Government policies that enhance MSME's capabilities and foster partnerships are essential for sustainable economic growth (Ismanu & Kusmintarti, 2020). Strategic partnership can improve MSME's operational efficiency and market reach, particularly in innovation-driven sectors (Hariastuti et al., 2021). Power imbalances and stringent quality standards can complicate these collaborations (Werdani et al., 2022).

The Indonesian Competition Commission (KPPU) has assumed a pivotal role in overseeing partnerships. Initially tasked solely with supervising monopolistic practices and unfair business competition, the KPPU's mandate has expanded to encompass monitoring partnership implemen-

tations (Widjaja, 2022). The oversight provided by the KPPU in partnership agreements is essential to ensure equitable standing between MSMEs and large enterprises during the execution of such agreements. This regulatory oversight fosters an environment where mutual need is upheld, preventing one party from dominating the other (Gultom & Kamillah, 2023).

While partnerships between MSMEs and large companies in Indonesia offer significant opportunities, their success hinges on MSMEs' ability to leverage resources while maintaining their identity and innovation potential, supported by equitable government policies. The inherent power imbalance between MSMEs and large enterprises can often foster exploitative practices by the latter, hindering the business growth of MSMEs even within long-standing partnerships (Gultom & Kamillah, 2023).

A pertinent illustration of this concern lies in the dominance of specific payment applications and their potential for monopolistic behavior within the digital marketplace. The Google Pay Billing case exemplifies this, wherein Google allegedly imposes disproportionately high service fees, ranging from 0 to 3%, on application developers for services offered to payment aggregators at a lower cost. This practice has prompted an investigation by the Indonesian Competition Commission (Indithohiroh et al., 2024).

Unequal regulation manifests through systemic inequalities in regulatory frameworks that disproportionately affect marginalized communities. It highlights how citizen participation in regulatory processes is often undermined by inherent social inequalities, limiting the effectiveness of citizen-based regulation (Gray & van Rooij, 2021). Similarly, it discusses the barriers to incorporating health risk inequalities into regulatory impact analyses, emphasizing the need for contextualized approaches that consider environmental justice (Levy, 2021). The regulatory rollbacks observed during the Trump administration further exacerbated these disparities, privileging wealthy corporations while undermining protections for vulnerable populations (Wonders & Danner, 2020). Moreover, the persistence of environmental injustices, particularly

regarding pesticide exposure and air pollution, underscores the regulatory failures perpetuating these inequalities (Donley et al., 2022).

The literature review suggests that without a comprehensive understanding of distributional impacts, regulatory policies may inadvertently reinforce existing disparities, as evidenced by the uneven enforcement of environmental regulations (Konisky & Schario, 2010). Thus, addressing regulatory injustice requires a multifaceted approach integrating equity considerations into regulatory practices and analyses.

The Indonesian MSME Law (Law No. 20 of 2008) aims to promote equitable economic development and empower micro, small, and medium enterprises (MSMEs) by encouraging partnerships with larger enterprises. However, the law is critically imbalanced. It provides sanctions against large enterprises that violate partnership agreements but remains silent on MSMEs that breach these agreements. This asymmetry undermines the principles of justice and legal certainty enshrined in Law No. 10/2004, the foundational law for Indonesian legislation. The absence of sanctions for MSMEs in the Indonesian MSME Law (Law No. 20 of 2008) negatively affects the willingness of large enterprises to engage in partnerships with MSMEs.

This study aims to analyze the legal framework governing partnerships between micro, small, and medium enterprises (MSMEs) and large businesses in Indonesia, as stipulated by Law Number 20 of 2008. Specifically, it is necessary to investigate the Law's alignment with the principles of substantive and formal justice and legal certainty enshrined in Law No. 10/2004.

2. METHOD

This paper utilizes a mixed-methods approach, combining normative juridical analysis of Law No. 20/2008 and Law No. 10/2004 with empirical data from semi-structured interviews with representatives from relevant agencies, large businesses, and MSMEs. Thematic analysis is employed to analyze legal texts, interview transcripts, and supporting documents, identifying key themes and patterns related to large business-MSME partnerships. An

abductive reasoning approach integrates findings from legal analysis and empirical data, exploring the alignment between the legal framework and real-world practices and generating insights into the factors that influence the effectiveness of these partnerships (Suherman, 2019).

3. RESULTS

3.1. Indonesian MSMEs Law violates the principles of legislation formation in Law No. 10/2004

Indonesian MSMEs Law is a crucial legislative framework that updates Law No.9/1995 on Small Businesses, broadening its scope to include micro and medium enterprises in Indonesia. This Law aims to create a more inclusive regulatory environment, promoting certainty and fairness essential for the growth of MSMEs (Christianingrum et al., 2023). It follows the procedural guidelines of Law No. 10/2004, which emphasizes clarity, institutional appropriateness, and legal certainty for effective governance (Suharto et al., 2023). However, the analysis indicates that principles such as justice and equality should be addressed in Indonesian MSMEs Law, raising concerns about its capacity to protect and support MSMEs, which are vital to Indonesia's economy (Khakim & Firmansyah, 2023). This misalignment may hinder the Law's effectiveness in fostering a fair business environment for all stakeholders (Ramli et al., 2023).

The principle of justice in legislative norms is crucial for ensuring laws reflect proportional justice for all citizens. It guides the formation and application of laws, promoting fairness and societal benefit. Justice, rooted in various legal traditions, is essential for social order and prosperity. It includes distributive justice, which focuses on fair resource allocation, and commutative justice, which emphasizes fairness in legal relationships. These dimensions ensure accountability and legal certainty across all life aspects. Additionally, responsive laws must consider functional and procedural elements, aligning with societal needs and values (Deplazes-zemp, 2018).

The principle of justice is both a theoretical construct and a practical necessity in legal frameworks. Distributive justice relates to the fair dis-

tribution of resources, vital in legislative processes, while commutative justice emphasizes fairness in exchanges and transactions. This duality fosters trust in legal institutions and encourages compliance with laws. The interplay between these forms of justice is crucial for developing laws that respond to societal needs and maintain the integrity of legal systems (Deplazes-zemp, 2018).

The principle of justice is integral to developing and implementing legislative norms. It ensures that laws are equitable and fair and reflect societal values. By adhering to distributive and commutative justice principles, legislative frameworks can promote social order and foster a sense of legitimacy among citizens. This, in turn, enhances the effectiveness of laws and regulations, making them more responsive to society's dynamic needs (Michelon, 2014).

When examining the norms in Indonesian MSMEs Law, it becomes evident that specific provisions may be perceived as unfair. Specifically, the Law lacks comprehensive regulations outlining the rights and obligations of MSMEs in partnership agreements and the associated sanctions for any violations committed by these enterprises. This discrepancy is particularly notable as the Law predominantly addresses prohibitions and sanctions applicable to larger businesses, neglecting the regulatory framework necessary for partnership MSMEs (Ayu & Musjtari, 2020). Despite the intention of Indonesian MSMEs Law to focus on the protection, development, and empowerment of MSMEs, it inadvertently creates an imbalance by not extending similar legal protections to large businesses, which are also stakeholders mandated to engage with MSMEs under various legal frameworks (Ayu & Musjtari, 2020). Moreover, Indonesian MSMEs Law does not delineate any prohibitions specifically targeting MSME actors within the context of partnership implementation. This omission is significant, as it has been observed that numerous MSME actors engage in practices that may harm larger businesses during partnerships, highlighting an accountability gap (Armas, 2019). In contrast, Law No.8/1999, which serves as the legal foundation for consumer protection in Indonesia, effectively regulates the rights and obligations of business actors, including protections against consumers acting in bad faith. This comparative analysis underscores the necessity for a

more balanced legal framework that addresses the rights and responsibilities of all parties involved in partnerships, ensuring equitable treatment and protection under the Law (Armas, 2019).

Accommodating parties' interests in legislation ensures the protection and recognition of legal rights, fostering balance in interpersonal interactions (Rodiyah et al., 2023). Therefore, Law No. 10/2004 mandates that the House of Representatives disseminate draft laws through various media, including the Internet and print, to engage the public and facilitate citizen input for effective legislative programs (Rodiyah et al., 2023).

The principle of order and legal certainty in Law No. 10/2004 mandates that legal norms must foster societal order and guarantee legal certainty. Order is crucial for social harmony and the protection of individual rights. These principles ensure that individual rights do not compromise collective security and societal peace. Public order encompasses security, peace of mind, and conditions necessary for communal living (Hadden & Harvey, 1995). Legal certainty, a vital element of the rule of Law, highlights the need for clear legal standards to ensure consistent application of laws, preventing arbitrariness and promoting predictable legal outcomes (Shcherbanyuk et al., 2023). This principle is not merely theoretical but integral to judicial practice and interpretations, affecting various legal relations between the state and individuals, particularly in human and civil rights (Shcherbanyuk et al., 2023).

Upon further review, Indonesian MSMEs Law stipulates that the supervision of MSME's partnerships with large businesses is overseen by an institution that conducts business competition supervision. Furthermore, PP No.17/2013 jo. PP No.7/2021 emphasizes the Indonesian Competition Commission (KPPU) as the institution supervising MSME partnerships with large businesses. In implementing the supervision of MSME partnerships with large businesses, KPPU has examined and decided seven cases related to violations of MSME partnerships where the reported parties are large businesses (KPPU, 2024). Of the seven cases, four KPPU decisions in partnership cases punish the reported business actors for violating the provisions of Article 35 of the Indonesian MSMEs Law (KPPU, 2024).

The convicted business actors primarily included large enterprises engaged in partnership programs with MSMEs, as mandated by Law in sectors like plantations and livestock. However, small businesses also commit violations of partnership agreements. A 2021 study by the Universitas Sumatera Utara research team highlighted instances where MSME actors breached agreements in the palm oil plasma core partnership model (Sirait et al., 2022). The study revealed that as partners in this scheme, several farmers violated agreements with core oil palm plantation companies by transferring plasma land to third parties and selling crops to non-partners. This raises questions about the supervision of MSMEs and the sanctions imposed on those violating partnership agreements with larger businesses.

No MSMEs, like large businesses, have been punished or sanctioned for violating the partnership agreement (KPPU, 2024). Indonesian MSMEs Law does not regulate sanctions for MSMEs for these actions. This is undoubtedly unfair and tends to be discriminatory. This condition will create chaos in the implementation of MSME partnerships with large businesses due to the legal vacuum governing sanctions for MSMEs that commit violations in the implementation of partnership agreements, potentially leading to MSME non-compliance with laws and regulations and partnership agreements that have been made.

In addition, this condition will create legal uncertainty because Indonesian MSMEs Law is partial and seems to provide privileges for MSMEs, which in turn can make MSMEs act at will due to the absence of restrictions related to rights and obligations as well as sanctions for MSMEs. If this condition is checked, partnerships with MSMEs will become an obstacle for large businesses. Technical laws and regulations such as the Plantation Law, Livestock Law, and so on require businesses to organize partnerships with MSMEs. In addition, this will make MSMEs a business entity that does not develop and become independent following the original purpose of MSME partnerships with large businesses.

It is important to note that the legal relationship between large businesses and MSMEs in implementing partnership agreements is a civil law relationship. MSMEs and large businesses are bound

by the rights and obligations arising under the partnership agreement. If one party violates the agreement's contents, the aggrieved party should file a civil lawsuit for default to the District Court (Major, 1990). However, the current factual condition is that when MSMEs feel aggrieved by an act of default by a large business, MSMEs do not file a civil lawsuit at the District Court by the absolute competence of the institution but instead report the large business that is their partner to KPPU. KPPU, with its authority, can enforce the Law against large businesses based on Indonesian MSMEs Law No. 7/2021.

Conversely, when MSMEs make defaults that harm large businesses, there are no provisions governing law enforcement and the imposition of sanctions for MSMEs because this is not regulated at all in Indonesian MSMEs Law No. 7/2021 and other derivative regulations. Another possible legal remedy option for large businesses is to file a civil lawsuit against MSMEs in the District Court. This can lead to legal uncertainty related to legal protection for parties that run MSME partnerships with large businesses. This condition is undoubtedly very contradictory in encouraging the creation of legal certainty from a statutory regulation whose implications can create an order for legal subjects in carrying out legal norms in a law.

Legal certainty is a crucial element in statutory norms. Legal certainty will create predictability, which can be a picture for legal subjects regarding the legal consequences of an action. By knowing the legal implications of every action taken, the legal subject can comply with the provisions of the applicable laws and regulations, which will impact the creation of social order in community life (Ávila, 2016). Therefore, Law No. 10/2004 makes this principle essential to a legislative norm.

The principle of balance, alignment, and harmony is one of the content principles in Law No. 10/2004. It means that legislative norms must reflect the balance, alignment, and harmony between the interests of individuals and society and the interests of the nation and state.

Balance in a legal norm is essential to ensure respect and recognition of the rights and obligations of legal subjects of a law. If this is set aside, there

will be parties who feel privileged by a law, which can make parties who feel privileged by a law act arbitrarily (Mahendrawati, 2021).

Indonesian MSMEs Law determines that the imposition of sanctions for violations in partnerships is only imposed on large businesses without any arrangements related to sanctions for MSMEs that violate partnership agreements, indicating that the norm content in the Law is not balanced in accommodating the interests of the parties involved in MSME partnerships. This will be an obstacle in achieving the partnership objectives specified in Indonesian MSMEs Law because large businesses will be the aggrieved party if, in implementing the partnership, only large businesses can be subject to sanctions if they commit violations. At the same time, MSMEs cannot be subject to them because they are not regulated in Indonesian MSMEs Law. Ultimately, this condition will result in the implementation of MSME partnerships with large businesses only as a formality to fulfill the law in specific business sectors. In other words, implementing MSME partnerships with large businesses is based on compulsion rather than on a relationship of mutual need, trust, strengthening, and benefit.

3.2. Legal consequences of unfair norms in Indonesian MSMEs Law

Norm inequity in Law is a complex and multifaceted issue that has attracted significant attention from scholars across various disciplines. This phenomenon occurs when societal norms and legal frameworks diverge, leading to a gap between what is legally permissible and socially acceptable. Such discrepancies can result in social opposition to unjust laws, which in turn can trigger the formation of conflicting social norms. These norms can significantly impact legal interventions, often contradicting the expected outcomes of the Law itself (Carbonara et al., 2012).

Fuller (1964) introduced the concept of "the inner morality of law," which refers to the internal characteristics that distinguish law from other forms of social control. According to Fuller (1964), eight elements contribute to the inner morality of law. The first is related to generality, where laws must apply generally to anyone without discriminating against legal subjects. The

second is related to the promulgation and publication of the law so that all legal subjects can know it. The third is non-retroactivity, where the law should not be applied retroactively to punish the actions of people in the past. Fourth, it is related to clarity, where all legal subjects must understand the regulation's substance and norms that can cause multiple interpretations to be prevented. The fifth is consistency, where the substance of the law must be consistent in content and not contradictory between one norm and another. Sixth is related to constancy, where an institution that enforces the law is needed to ensure the enforceability of the law. The seventh is congruence, where regulations tend to be stable and stay the same quickly, making it difficult for legal subjects to comply with the law. The eighth is effectiveness, as the laws made must be able to achieve the effectiveness of achieving goals and benefits for legal subjects (Tucker, 1965).

Furthermore, Fuller (1964) emphasizes that procedural justice in lawmaking is essential. This is because law formation must be carried out through fair and transparent procedures so that the community has the space to participate and deliberate to express their opinions in making a law. In addition, procedural justice is essential in lawmaking as it ensures that laws are enacted through a democratic and inclusive process. If all of these things are achieved, the laws can create stability and predictability and guarantee the protection of individual rights (Rodiyah et al., 2023).

The existence of contradictions between one norm and other norms within the same law or across different laws is a significant factor contributing to the failure of legal frameworks. This is particularly evident in Law No. 20/2008 concerning Indonesia's Micro, Small, and Medium Enterprises (MSMEs). According to Fuller's (1964) perspective, such contradictions can arise in the substantive provisions of the law, where the objectives of partnerships between MSMEs and larger enterprises may conflict with the supervisory regulations intended to govern these partnerships. This misalignment can hinder the practical realization of MSME objectives, which include enhancing access to essential resources, expanding market reach, and improving overall business performance through better managerial practices (Sirait et al., 2022).

The objectives of MSME partnerships with larger businesses are multifaceted. These partnerships can provide MSMEs with critical resources, facilitating improved business performance and managerial quality (Tira et al., 2023). Secondly, they serve as a conduit for knowledge transfer, equipping MSMEs with enhanced skills and operational capabilities essential for competing in broader markets (Tira et al., 2023). Thirdly, such collaborations contribute positively to local economic growth by generating new employment opportunities, increasing income levels, and stimulating business activities at the community level (Tira et al., 2023). Lastly, partnerships with larger enterprises can grant MSMEs access to advanced technologies and innovations, which they might need help to adopt independently, thereby optimizing their performance (Tira et al., 2023). In summary, the contradictions inherent in Law No. 20/2008 can significantly impede the intended benefits of MSME partnerships with larger businesses. Addressing these inconsistencies is crucial for fostering an environment where MSMEs can thrive, contributing to economic growth and development.

The imbalance of norms in Indonesian MSMEs Law, primarily related to partnerships between MSMEs and large businesses, can hinder the achievement of the objectives of MSME partnerships with large companies. Implementing MSME partnerships with large businesses must uphold several basic principles, such as mutual benefit, strengthening, trust, and need for each other to create a symbiotic relationship of mutualism between the two (Portuese et al., 2017). However, the norms in Indonesian MSMEs Law do not align with these principles. If this condition is left unchecked, it will result in the implementation of partnerships between MSMEs and large businesses only as a compulsion to fulfill the formal requirements mandated by the Law, not because of the relationship of mutual need, trust, strengthening, and benefit as the principle basis for the implementation of the partnership. In addition, the imbalance of norms in legislation will impact the attitude of resistance and non-compliance with the provisions of the legislation by parties who feel their interests are not accommodated in a law (Carbonara et al., 2012).

This will lead to various negative impacts, such as conflicts between MSMEs and large businesses, reduced investor interest in investing in Indonesia, pressure to change laws and regulations to elimi-

nate partnership obligations, etc. For example, this is starting to be seen in the Job Creation Law as in the amendment to the provisions of Article 56 paragraph (3) of Law Number 13 Year 2010 on Horticulture regarding the obligation of large businesses in the horticultural business sector to carry out partnerships with MSME actors that are removed. With the change in the provisions of the article in the Job Creation Law, implementing partnerships in the horticultural business sector is no longer mandatory but a voluntary matter for large businesses. This is considered positive for large businesses engaged in horticulture because it will ease the burden and responsibility of carrying out business activities. Meanwhile, for MSME players, this will impact the development of MSMEs engaged in the horticulture business because there is no guidance and empowerment from large businesses with superior capabilities and technology.

Another case is that KPPU has decided several violations of MSME partnerships with large businesses (KPPU, 2024). This proves that the implementation of MSME partnerships with large businesses is still not by the partnership principles specified in Indonesian MSMEs Law, and partnerships are only implemented out of compulsion and compassion and are limited to fulfilling the formality requirements determined by the Law. This is very

reasonable because Indonesian MSMEs Law does not accommodate the interests of large businesses, especially regarding sanctions for MSMEs that violate the partnership agreement (Carbonara et al., 2012). This is further exacerbated by law enforcement conducted by KPPU in MSME partnerships with large businesses that tend to be repressive toward large businesses (Table 1).

Based on the overall data of the case, there are four KPPU decisions in partnership cases that punish reported business actors for being proven to have violated the provisions of Article 35 of Indonesian MSMEs Law, namely in the decision of Case Number 03/KPPU-K/2021 on behalf of the reported PT Suryabumi Tunggal Perkasa, Case Decision Number 09/KPPU-K/2020 on behalf of the reported PT Sinar Ternak Sejahtera, Case Decision Number 02/KPPU-K/2020 on behalf of the reported PT Aburahmi, and Case Decision on Number 02/KPPU-K/2023 on behalf of the reported PT Hardaya Inti Plantations. The business actors whom KPPU punished in the MSME partnership case all carry out MSME partnership activities with a core plasma pattern.

On the other hand, MSME actors who carry out partnerships with large businesses also commit many violations in partnership agreements. For example, in the case of the core plasma partner-

Table 1. List of MSME partnership cases decided by KPPU

Source: KPPU (2024).

Case Number	About	Date of Verdict
16/KPPU-K/2019	Alleged violation of Article 35 paragraph (1) of Law Number 20 of 2008 related to the implementation of a partnership between PT Pos Indonesia (Persero) and owners/managers of postal agencies throughout Indonesia	February 8, 2022
21/KPPU-K/2019	Alleged violation of Article 35 paragraph (1) of Law Number 20 of 2008 related to the implementation of the partnership between PT Bulungan Citra Agro Persada (PT BCAP) and the Mega Buana Multi-Business Cooperative	June 23, 2022
09/KPPU-K/2020	Alleged violation of Article 35 Paragraph (1) of Law Number 20 of 2008 concerning the Implementation of Plasma Core Pattern Partnership in the Chicken Farming Sector Related to the Development and Modernization of Cages by PT Sinar Ternak Sejahtera	July 29, 2022
03/KPPU-K/2021	Alleged violation of Article 35 paragraph (1) of Law Number 20 of 2008 related to the implementation of partnership by PT Suryabumi Tunggal Perkasa	September 27, 2022
02/KPPU-K/2021	Alleged violation of Article 35 paragraph (1) of Law Number 20 of 2008 related to the implementation of partnership by PT Guthrie Pecconina Indonesia in Musi Banyuasin Regency	September 27, 2022
02/KPPU-K/2020	Alleged violation of Article 35 paragraph (1) of Law Number 20 of 2008 related to the implementation of the partnership between PT Aburahmi and the Penukal Lestari Cooperative	July 11, 2023
02/KPPU-K/2023	Alleged violation of Article 35 Paragraph (1) of Law Number 20 of 2008 Related to the Implementation of Partnership Between PT Hardaya Inti Plantations and the Amanah Plasma Farmers Cooperative	July 9, 2024

ship of oil palm plantations, large businesses are the core, and the plasma farmers represent the community. Based on interviews conducted in this study with various large business actors who carry out the nucleus-plasma partnership pattern of oil palm plantations, various violations are often committed by plasma farmers, such as:

1. Selling crops to third parties. In fact, in the oil palm plantation nucleus-plasma partnership agreement, it has been agreed that the harvest of oil palm fruit must be sold by plasma farmers to large businesses as the core that has facilitated the development of the plantation and become an avalis / guarantor to the bank for the plantation development credit. However, in reality, many plasma farmers sell their crops to third parties.
2. Plasma farmers, as MSMEs, do not pay for installments to develop plantations. In contrast, the development of community gardens facilitated by large businesses is financed from bank loans that must be paid in monthly installments, and large businesses act as guarantors. However, in reality, many plasma farmers do not pay the installments, so large businesses eventually have to pay the loan installments for garden development costs to the bank.
3. Plasma farmers who are members of plantation cooperatives harvest oil palm fruits individually without the cooperative's knowledge. This decreases cooperative yields, which will reduce the remaining business results that will be distributed to all cooperative members.

The above violations have occurred frequently, especially in this partnership of oil palm plantation plasma. When this happens, the company cannot take legal action because no legal provisions regulate sanctions for plasma farmers who violate the agreement. In addition, maintaining good relations with the community is also a consideration for large businesses not to take legal action against plasma farmers. This harms large businesses and other plasma farmers who do not commit violations.

4. DISCUSSION

Fair regulation is essential for a just society, balancing individual rights with societal obligations to foster mutually beneficial relationships (Rawls, 1999). This ensures that laws are perceived as fair and reasonable, promoting compliance and trust in institutions. Fairness, as a moral principle, upholds the social contract, protects vulnerable groups, and fosters economic stability through predictability and consumer confidence. Thus, a legal system that integrates these intuitions, as both Rawls and, by extension, Dworkin suggest, strives toward a society where fairness and justice are foundational, allowing for both individual flourishing and societal adaptation (Rawls, 1999; Dworkin, 2011).

Regulations that unfairly favor certain parties create a ripple effect of negative consequences. Primarily, they erode investor confidence by fostering legal uncertainty and an uneven playing field, discouraging domestic and foreign investment (Chakraborty et al., 2015). This favoritism distorts market mechanisms, hindering fair competition and stifling innovation, ultimately harming economic growth (Habib & Zurawicki, 2013). Furthermore, such biased regulations breed social and economic injustice, eroding public trust in the government and potentially leading to social unrest (Demena & Afesorgbor, 2020). In the long run, these regulations weaken the overall business environment, making the country less attractive for investment and impeding sustainable economic development.

In addition, it is also important to encourage openness and transparency in formulating regulations and policies by involving various related parties, such as business actors, academics, civil society, and other related parties in MSME partnerships with large businesses. The resulting regulations can accommodate all parties' interests, creating trust and legal certainty for large businesses that partner with MSMEs to realize partnership relationships based on partnership principles (Mondolo, 2019). In the context of globalization, inclusive regulation will also help a country to compete more effectively in the international market. By creating a fair and stable business environment, a country can attract foreign investment and increase the competitiveness of its

products in the global market. This will positively impact economic growth and job creation (Casi & Resmini, 2017). Finally, it is essential to continuously evaluate existing regulations to ensure that they remain relevant and effective in accommodating economic and industrial developments. With a regular evaluation mechanism, regulators can identify potential changes or improvements

in existing regulations to continue supporting investment growth and the economy (Mudalige, 2023). Thus, inclusive and fair regulation is critical to creating an attractive business environment for investors and supporting sustainable economic growth (Mondolo, 2019). Regulations that consider all parties' interests hope to balance investment growth and benefit the community.

CONCLUSION

This study set out to analyze the legal framework governing partnerships between MSMEs and large businesses in Indonesia (Law No. 20 of 2008), focusing on its alignment with the principles of justice and legal certainty (Law No. 10/2004). The findings demonstrate a clear imbalance within the current legal framework. While designed to foster MSME growth and equitable economic development, Indonesian MSMEs Law inadvertently creates an uneven playing field. The Law provides sanctions solely for large businesses that breach partnership agreements while neglecting similar provisions for MSMEs; this results in legal uncertainty and a lack of justice. This asymmetry allows MSMEs to operate with limited accountability, potentially harming large businesses and hindering the intended benefits of partnerships.

A comparison with Law No. 8/1999 on Consumer Protection, which protects both parties involved in transactions, highlights the importance of balance in legal frameworks to ensure justice and legal certainty. The existing imbalance in Indonesian MSMEs Law contradicts the principles of justice, equality before the Law, and legal certainty articulated in Law No. 10/2004.

Consequently, revising the Indonesian MSMEs Law is necessary to establish a more equitable and sustainable partnership environment. The revised Law should incorporate clear and proportionate sanctions for MSMEs that violate partnership agreements, ensuring accountability for all parties and fostering a stable and just business landscape. Such revisions will encourage greater participation in MSME partnerships, ultimately promoting economic growth and contributing to a more balanced and robust Indonesian economy.

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