

## **OPTIMIZING THE CREATIVE ECONOMY IN INDONESIA: THE LEGAL INTEGRATION OF VILLAGE-OWNED ENTERPRISES AND MICRO, SMALL, AND MEDIUM ENTERPRISES**

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### **ABSTRACT**

The concept of the creative economy revolves around fostering community participation and developing the micro, small, and medium enterprise (MSME) sector. This orientation is closely linked to the presence of Village-Owned Enterprises (BUMDes) institutions. However, legal challenges arise when separate regulations govern MSMEs and BUMDes, hindering the optimization of the creative economy within society. This article aims to address these legal issues by examining the integration of BUMDes and MSMEs to enhance the creative economy in Indonesia. Drawing on normative research, this article takes a conceptual and statutory approach to shed light on the matter. The findings affirm the need for specific legal policies that facilitate the integration of MSMEs and BUMDes, enabling them to collaborate and regulate their potential collectively. Special regulations should be established to govern the various aspects of integration, including the forms of integration, the fields that can be integrated, and the legal processes involved in developing the creative economy. By establishing comprehensive regulations, Indonesia can foster a conducive environment for the creative economy to thrive,

promoting collaboration between MSMEs and BUMDes while harnessing their potential for societal development.

**Keywords:** Creative Economy, Law and Development, Legal Policy, Indonesia.

## INTRODUCTION

The creative economy plays a vital role in promoting economic empowerment within society. One of its distinguishing features is its emphasis on labor-intensive activities, making community participation a key element in this economic endeavor (Prianto, Marian, & Stella, 2021). Additionally, the creative economy highlights the optimization of local economic potential and community empowerment. A crucial aspect of creative economic policies is the synergy between community participation and government entities at the village, regional, and national levels (Sartika et al., 2022). This collaborative synergy aims to maximize the utilization of existing institutions as a means of fostering the growth of the creative economy within society.

The creative economy is an important aspect whose orientation is to increase the level of economic empowerment in society. The distinctive characteristic of the creative economy is that it emphasizes a labor-intensive economy so community participation is the key word in this creative economic activity (Prianto et al., 2021). Apart from emphasizing the labor-intensive aspect, the creative economy also emphasizes the aspect of optimizing local economic potential in the community and its empowerment. What is no less important in creative economic policy is the synergy between community participation and the government at the village, regional and national levels (Sartika et al., 2022). This synergy functions to optimize various existing institutions as a means of growing the creative economy in society.

One aspect that is empowered in the creative economy is the field related to micro, small and medium enterprises (MSMEs). MSMEs are one of the areas that receive special attention so that they can be optimized as the main support for the creative economy in society (Nida, 2022). According to data from the Maritime and

Investment Coordinator, as of June 2023 there will be 66.2 million MSME units throughout Indonesia (Noor, 2023). This number is an increase from the previous year, namely 2022, when there were 65 MSMEs registered with the Ministry of Cooperatives and SMEs (Noor, 2023). This number is an increase from the previous year, namely 2022, when there were 65 MSMEs registered with the Ministry of Cooperatives and SMEs (Kementrian Keuangan, 2023). The increase in the number of MSMEs is also supported by government policies with an orientation towards digital MSMEs. Digital MSMEs is a policy that emphasizes that aspects of digitalization can be utilized by MSMEs in Indonesia to increase competitiveness as well as expand market share.

Apart from policies aimed at improving MSMEs in Indonesia, efforts to increase the creative economy in society are also strengthened by government efforts by increasing the participation of Village-Owned Enterprises (BUMDes). BUMDes itself is one of the institutions in village communities which aims to improve the creative economic level of village communities. In 2023, there will be around 12,945 BUMDes which will even contribute up to 23% of people's income in the village (Yulianto, 2023). This actually shows that the government has oriented the policy of empowering the creative economy of society through the existence of MSMEs and BUMDes.

Even so, juridical problems occur when creative economic policies in society do not yet integrate optimizing the function of BUMDes as a means of developing MSMEs. Initially, regulations regarding MSMEs were regulated in Law no. 20 of 2008 concerning MSMEs (UMKM Law) which was later amended through Law no. 6 of 2023 concerning Job Creation (Creation Law). Meanwhile, BUMDes itself was initially regulated in Law no. 6 of 2014 concerning Villages (Village Law) and then revised through the Job Creation Law. The regulation of the management of BUMDes and MSMEs in an "paying law" called the Job Creation Law actually aims to ensure that BUMDes and MSMEs can improve the community's economy after the passing of the Job Creation Law. However, further regulations regarding BUMDes and MSMEs are regulated separately so that the

integration aspect between BUMDes and MSMEs has not been realized even though it is hoped that it can improve aspects of the creative economy in society.

This article analyzes and formulates legal policies related to the integration between BUMDes and MSMEs in optimizing the creative economy in society from the perspective of legal and development theory. This article seeks to answer two legal issues, namely: government legal policy in optimizing the creative economy through BUMDes and MSMEs and formulating an integrated legal policy between BUMDes and MSMEs in optimizing society's creative economy from the perspective of legal and development theory. As research that offers legal formulations in the form of integrated legal policies between BUMDes and MSMEs in optimizing society's creative economy, this research is of course the result of the development of three previous studies, which include: first, research conducted by Daroini, et al. with the novelty of optimizing BUMDes and MSMEs with a focus on improving the economy in the agricultural sector (Zunaidah, Askafi, & Daroini, 2021).

The second research was conducted by Fadilla and Marliza whose research was new in the form of increasing the capacity and quality of BUMDes and MSMEs through bookkeeping training (Fadilla & Marliza, 2022). The next or third research was conducted by Bakar, et al who studied the importance of improving institutions between BUMDes and MSMEs (Nurdin, Masud, Syam, Muqsith, & Bakar, 2023). Of the three previous studies, there has been no specific study regarding integrated policies between BUMDes and MSMEs in optimizing society's creative economy, which shows that this research is original research. Moreover, the analysis used in this research is legal and development theory, thus further emphasizing the originality of this research.

## RESEARCH METHOD

This research focuses on legal formulation in the form of integrated legal policies between BUMDes and MSMEs in optimizing society's creative economy, is normative legal research. As normative legal research, each legal material is used, which includes primary, secondary and non-legal legal materials (Fajar & Achmad,

2010). The primary legal materials in this research are the MSME Law, the Village Law, and the Job Creation Law. Secondary legal materials in this research consist of: books, journal articles, websites, as well as research results discussing BUMDes and MSMEs. Non-legal materials are language dictionaries. This research approach is a conceptual and statutory approach. Analysing of legal materials is carried out qualitatively by categorizing each legal material to suit the legal issue being discussed (Butarbutar, 2018). In the analysis process, existing legal materials are analyzed and a prediction is drawn to answer legal issues.

## **RESEARCH OUTCOME AND DISCUSSION**

### **1) Optimizing the Creative Economy Through BUMDes and MSMEs**

Creative economy is actually a term that tends to be "new" in the context of the Indonesian economy. The term creative economy itself developed in the 20th century and became increasingly massive in the 21st century (Wahyuningsih & Satriani, 2019). The term creative economy itself emphasizes the term "creative" which has a change and renewal orientation based on creativity (Dewi & Manggala, 2022). This confirms that the creative economy is a form of economy that relies on aspects of human creativity so that economic value can be maximized with human innovation and creativity. This view is actually relevant to the view of John Howkins who emphasizes that the creativity and excellence of each individual is the most important aspect in the creative economy. From John Howkins' view, every individual and community group is required to always upgrade and be up to date to be able to compete in the creative economy (Wahyu, 2019).

Although in general the creative economy emphasizes the quality and creativity of each individual economic actor, referring to the views of the Institute for Development Economy and Finance, an aspect that is no less important than the creative economy is the development and empowerment of a community-based economy (Agustiawan, Umam, & Maleka, 2022). Community-based economic development and empowerment is an important aspect of the creative economy, especially for groups in the lower middle economic range. There are three urgencies

for implementing the creative economy for groups in the lower middle economic range, namely: first, the creative economy with an empowerment orientation for the lower middle economic range is intended to provide awareness as well as empower better economic values in certain economically weak communities. At this level, the creative economy is more oriented towards exploring local economic potential in society (Widiyono, 2022).

Second, the application of the creative economy for groups in the middle to lower economic range is also expected to improve partnership relationships that are mutualistic or mutually beneficial. The implementation of a partnership-based creative economy with an orientation towards empowering certain economically weak communities is actually in line with the Sustainable Development Goals' Village (SDG's Village) program, one of the orientations of which is to build villages and small community groups to partner in developing the economy (Iskandar, 2020). In this context, the application of the creative economy is to build and expand networks so that certain economically weak communities can improve their economic level. Third, the implementation of the creative economy for groups in the lower middle economic range actually requires the government to pursue certain legal policies to optimize the economy of lower middle class communities. In this context, optimizing the creative economy is always synonymous with developing and empowering MSMEs which are the basis of the national economy (Waspiah, Rodiyah, Latifiani, & Arifin, 2020). Not only MSMEs, the development of the creative economy also requires the development of BUMDes as business entities that focus on profit orientation for village communities.

The orientation of MSMEs as a means of realizing a creative economy in society is actually confirmed in Article 5 letter c of the MSME Law which confirms that the MSME Law aims to realize the role of MSMEs in developing regions, empowering communities, so that they can create jobs and be able to realize community welfare. However, in its development, the MSME criteria as stated in Article 6 of the MSME Law received updates based on the Job Creation Law. Updates or revisions related to the MSME criteria in the Job Creation Law have at least two objectives, namely: first, changes to the MSME criteria in the Job Creation

Law are intended to emphasize the development of capital and the business world so that because Article 6 of the MSME Law is deemed to no longer accommodate existing capital and business world developments so that amended by the Job Creation Law (Kasturi & Ayunda, 2022). Second, the changes to the MSME criteria in the Job Creation Law are intended to emphasize the position of the Job Creation Law which is pro-UMKM and pro small business legislation so that the changes in the MSME Law are intended to make the policy for the prosperity and empowerment of MSMEs a success. After the Job Creation Law, the criteria for MSMEs became (Hasibuan, Chairi, & Aflah, 2022): (i) micro businesses, maximum business capital of one billion rupiah and not including land and business buildings, (ii) small businesses, namely maximum business capital of one billion rupiah to five billion rupiah not including land and business buildings, and, (iii) medium businesses with business capital of five billion rupiah to ten billion rupiah.

Referring to the changes to the MSME criteria in the MSME Law which were amended by the Job Creation Law above, the changes to the MSME criteria in the Job Creation Law are more appropriate because they are further regulated in the Government Regulation (PP). This provision is more relevant than the formulation of the MSME Law which regulates MSME criteria in law. In fact, in accordance with developments in business and the business world, the criteria for MSMEs in the future are also very likely to change and therefore by placing MSME criteria specifically in the PP, it is easier to change the criteria for MSMEs in facing future developments in business and the business world.

In its development, apart from MSMEs, the community economy also emphasizes the formation and role of BUMDes so that the creative economy can improve the welfare of village communities. The formation of BUMDes was initially specifically regulated in The Law No. 6 2014 of Concerning Village (Gumilar, Hilmi, Wulandari, & Annisa, 2023). Even so, referring to Article 87 paragraph (1) of The Law No. 6 2014 of Concerning Village, establishing a BUMDes is still optional so that every village is not required to form a BUMDes. The characteristics of BUMDes are also emphasized in Article 87 paragraph (2) of The Law No. 6 2014 of Concerning Village which emphasizes the aspect of mutual

cooperation as the main essence of BUMDes management. If analyzed carefully, the aspect of mutual cooperation as the main essence of BUMDes management refers to three interrelated things, namely: first, mutual cooperation in the establishment process which involves village institutions and the community. This confirms that basically BUMDes is not a "capital association" but rather a business association of village communities (Izzah & Kolopaking, 2020). Second, mutual cooperation in the management process. In the management process, mutual cooperation is emphasized in the BUMDes management process which also emphasizes the participation of all parties, including village communities. Third, in the process of profit sharing or profit sharing, mutual cooperation is emphasized that the distribution of BUMDes businesses is carried out mutually and fairly in order to improve the economic level of the community..

In further developments, the Job Creation Law then revised various provisions in BUMDes regulations. This is emphasized in Article 117 of the Job Creation Law which substantively changes the provisions of Article 87 paragraph (2) of The Law No. 6 2014 of Concerning Village, specifically by adding provisions in paragraphs (4) and (5). The main substance in the provisions of paragraphs (4) and (5) of Article 117 of the Job Creation Law actually confirms that BUMDes can form business units that are legal entities. Judging from its objectives, the formation of BUMDes business units that are legal entities is intended to increase the competitiveness of BUMDes so that they can compete locally, nationally, and even globally. With the orientation of being able to form legal entity business units, BUMDes are expected to be able to develop their business value while still upholding the spirit of mutual cooperation.

Based on the regulations related to MSMEs and BUMDes above, efforts to facilitate MSMEs and BUMDes have actually been seen in the substance of Article 117 of the Job Creation Law which actually confirms that BUMDes can form business units with legal entities. Even so, the formulation of the provisions of Article 117 of the Job Creation Law is actually still not strong enough to integrate MSMEs and BUMDes so that they can work together to create a creative economy in society. This can be seen because each legal policy for both MSMEs and

BUMDes which is regulated through the PP is specifically regulated individually and does not have a point of intersection or meeting point for the two to be integrated (Nazran & Siregar, 2022).. In fact, by regulating MSMEs and BUMDes individually, it actually has the potential to make MSMEs and BUMDes compete with each other in the business world, even though MSMEs and BUMDes aim to develop a people-based creative economy.

The urgency to formulate certain legal policies so that MSMEs and BUMDes can be integrated in carrying out business and business processes in society is actually needed to ensure legal certainty regarding the function of MSMEs and BUMDes in developing the creative economy in society. The formulation of certain legal policies so that MSMEs and BUMDes can be integrated in carrying out business and business processes in the community can be carried out by establishing special regulations under PP UMKM and BUMDes which can in an integrated way regulate the potential and cooperation patterns of MSMEs and BUMDes to develop the creative economy in public.

## **2) Integrating Legal Policy Between BUMDes and MSMEs in Optimizing the Creative Economy**

The integrated legal policy between MSMEs and BUMDes has a common ground for mutual cooperation and collaboration in order to make the creative economy in society a success. The term integrated legal policy itself refers to the term integrated which in the Big Indonesian Dictionary (KBBI) means centralized, coordinated and interconnected (Pusat Bahasa Departemen Pendidikan Nasional, 2008). Referring to the term integrated in the KBBI, the integrated legal policy between MSMEs and BUMDes places greater emphasis on an interconnected character. The integrated policy with the essence of being interconnected between MSMEs and BUMDes means that even though MSMEs and BUMDes are regulated separately, because they both have intersections to be able to improve society's creative economy, the interconnected integrated policy is intended so that MSMEs and BUMDes have certain legal policies that can coordinate and collaborate in optimizing the creative economy (Djarmiko & Pudyastiwi, 2020) .

The formulation of integrated legal policies between MSMEs and BUMDes is actually based on three considerations, namely: first, philosophically, both MSMEs and BUMDes have the same economic orientation, namely the orientation of empowering the people's economy (Fitria, 2020). The term people's economy itself is a term in the economic field that emphasizes empowerment and optimization of small and medium-sized economies in society (Yuanitasari & Suparto, 2020). This people's economy is actually in line with the creative economy concept which emphasizes optimizing the local economic potential of regions and villages to be optimized for economic development in society.

Second, viewed from sociological considerations, both MSMEs and BUMDes actually have the same locus of economic development, namely in the realm of villages and other small social institutions (Purwaningsih, Muslikh, & Suhaeri, 2022).. Sociologically, village communities tend to see MSMEs and BUMDes as a synergy of two aspects in village economic development. Therefore, the orientation of integrated legal policy in sociological considerations actually emphasizes that MSMEs and BUMDes be coordinated and connected to each other. Third, judging from juridical considerations, after the passing of the Job Creation Law, both MSMEs and BUMDes have actually been directed to develop the economy from a micro level in villages and regions. As mandated by the Job Creation Law to empower the community's economy, MSMEs and BUMDes actually have the same spirit as mandated in the Job Creation Law, thus opening up opportunities for special regulations to be formulated that integrate these two aspects.

Referring to the three considerations above, it can actually be concluded that there is an orientation towards integrated management between MSMEs and BUMDes to work together in optimizing the creative economy. Even so, integrated legal policies between MSMEs and BUMDes have not been realized because MSMEs and BUMDes are further regulated in separate regulations (in this case, both MSMEs and BUMDes are regulated by their respective PPs). The orientation to regulate MSMEs and BUMDes in an integrated manner actually finds relevance when linked to legal and development theory. Law and development theory is a legal theory that emphasizes the main task of law to engineer society according to

certain goals (Kusumaatmadja, 2002). The theory of law and development itself is actually related to two interrelated things, namely the relationship of law to society and the relationship of society to law.

In the relationship between law and society, legal and development theory sees law as guidelines and norms that must be obeyed and aims to change people's behavior according to certain desired goals. In this relationship between law and society, what is emphasized apart from society's compliance with the law is related to society's legal awareness so that with this obedience and awareness, legal norms can be obeyed and are able to engineer society towards orderly and just goals (Aulia, 2019). In the relationship between society and law, legal and development theory analyzes the patterns, structures and cultural dimensions of a society towards the legal norms themselves (Supriyadi & Ahamed, 2021). This is because society as a place of law in society does not only see law as a set of norms that are written and ready to be enforced. Society in its relationship with law also considers aspects of pattern, structure and cultural dimensions so that legal norms can be maximally applied (Abshor, 2022).

In relation to optimizing the creative economy, the theory of law and development as proposed by Mochtar Kusumaatmadja also has the orientation that law must be a means of engineering society so that it can optimize the development of the existing creative economy (Shidarta, 2020). Even so, the problematic development of law and the economy is not always linear and harmonious. Sometimes, economic developments are actually ahead of legal developments so that economic behavior sometimes takes place without any legal basis. This phenomenon is actually a normal thing and what is important is that even if the law is lagging behind, the law must accommodate economic developments as quickly as possible (Mugasha, 2017). In another perspective, if economic development has not been formulated on a massive scale then the law also needs to anticipate economic development by formulating certain legal rules or policies related to economic development (Yulianti et al., 2022).

Referring to the existing development of the creative economy, legal and development theory as proposed by Mochtar Kusumaatmadja emphasizes the

existence of creative economic legal policies that are able to support the implementation of the creative economy and emphasize the existence of law as a means of engineering society in economic activities (Mulyadi, 2019). The orientation of legal theory and development through legal policy is actually in line with Roscoe Pound's ideas. In Roscoe Pound's view, as a means of engineering society, law must be present as a facilitator and regulator of the development of the creative economy (As-Suvi & Zainullah, 2022). As a facilitator, the law is required to be able to facilitate various economic developments to be regulated in detail through legal products. Regulations here are needed so that economic development does not take place freely without any rules that frame it (Sudirman & Disemadi, 2023). Apart from that, as a facilitator, in its regulations, the law must also openly and continuously look at the potential for creative economic development in the future. As a regulator, the function of law is to regulate and determine limits regarding creative economic practices (Hernowo, Zaid, & Erawan, 2021).

The absence of regulations regarding the relationship between MSMEs and BUMDes can in fact have an impact on the development of the rural creative economy which is not synergistic and even tends to stagnate in relation to the management of BUMDes. After the COVID-19 pandemic, MSMEs play an important role in supporting the Indonesian economy. In fact, according to Kompas.com, in 2023 MSMEs will contribute to Indonesia's Gross Domestic Product (GDP) reaching more than 8000 trillion or a percentage of around 60% of Indonesia's entire GDP (Yulianto, 2023). The important role of MSMEs is actually in contrast to BUMDes, where in 2023 there will still be 42% of villages that do not have BUMDes and there are 2,188 BUMDes that will no longer operate due to being unable to compete with MSMEs (Yulianto, 2023). This means that there is competition between MSMEs and BUMDes, even though the two can be synergized to mutually support the community economy at the village level.

The absence of regulations regarding the relationship between MSMEs and BUMDes is requires regulation in form of Government Regulations. The importance of Government Regulations in regulating the relationship between MSMEs and BUMDes is because Government Regulations are regulations that

hierarchically implement laws. Apart from that, a Government Regulation that regulates the relationship between MSMEs and BUMDes is needed as a guide for the relevant ministries to formulate productive policies regarding the relationship between MSMEs and BUMDes that can optimize the role of the creative economy in villages.

Law in the context of determining boundaries is intended so that the creative economic process takes place in an orderly and orderly manner with certain guidelines and rules. In relation to MSMEs and BUMDes in developing the creative economy, legal and development theory, especially in the facilitator and regulator aspects, has three orientations, namely: first, law can formulate certain legal policies so that MSMEs and BUMDes can be formulated in an integrated manner in optimizing the creative economy. In this context, legal norms can provide the basics regarding the processes, procedures and principles of integration between MSMEs and BUMDes in developing the creative economy. Second, law in the facilitator aspect can provide creative space for MSMEs and BUMDes to develop mutually integrated cooperation. In this context, the legal policy that will be formulated to facilitate integration between MSMEs and BUMDes in developing the creative economy does not have to be rigid rules, but also includes providing solutions and facilitative orientation regarding the development of the creative economy which is increasingly developing all the time (Lubis, 2020).

Third, the law can also be oriented towards providing legal protection regarding cooperation between MSMEs and BUMDes in developing the creative economy. This legal protection can take the form of certain guidelines so that integration and cooperation between MSMEs and BUMDes is based on written agreements that can guarantee legal protection and certainty. Referring to the three orientations of legal and development theory related to integration between MSMEs and BUMDes in developing the creative economy, it is necessary to formulate certain legal rules as a means to carry out engineering on society, especially in making the integration between MSMEs and BUMDes a success. Certain legal regulations can be in the form of Presidential Regulations (Perpres) which substantially regulate the integration between MSMEs and BUMDes in developing

the creative economy. This Presidential Decree legal product was chosen because both MSMEs and BUMDes have actually been regulated in their respective PPs as implementation of the Job Creation Law.

Therefore, by regulating the integration between MSMEs and BUMDes in developing the creative economy through the Presidential Decree, it is hoped that it can provide a legal basis and guidance in implementing integration between MSMEs and BUMDes in developing the creative economy. Regarding the substance of the integration arrangements between MSMEs and BUMDes in developing the creative economy in the Presidential Decree, it is actually necessary to pay attention to three main aspects, namely: (i) the form of integration, (ii) fields that can be integrated, and (iii) the process and legal protection of integration between MSMEs and BUMDes in developing the creative economy. This regulation regarding the form of integration between MSMEs and BUMDes is to explain what kind of cooperation models can be carried out by MSMEs and BUMDes. The next arrangement is regarding fields that can be integrated by MSMEs and BUMDes so that it is clear what fields can be collaborated on. Regulations that are no less important are related to the process and legal protection of integration between MSMEs and BUMDes in developing the creative economy so that they can provide legal certainty and protection regarding integration between MSMEs and BUMDes.

## CONCLUSION

The government's legal policy aims to facilitate the integration of Micro, Small, and Medium Enterprises (MSMEs) and Village-Owned Enterprises (BUMDes) into the development of the creative economy within society. This is done to ensure a seamless incorporation of these entities into various business activities and processes, thereby establishing legal certainty regarding their functions in the creative economy. To achieve this goal, specific legal measures are formulated under the regulations of PP UMKM and BUMDes. These regulations are designed to comprehensively address the potential and collaborative frameworks of MSMEs and BUMDes. The intent is to regulate their roles in a

manner that fosters integration and synergy, promoting the growth of the creative economy at the community level. Through these dedicated legal frameworks, the government seeks to create an environment that encourages and supports the active participation of MSMEs and BUMDes in shaping and advancing the creative economy within the public sphere.

An integrated legal policy governing the collaboration between Village-Owned Enterprises (BUMDes) and Micro, Small, and Medium Enterprises (MSMEs) is crucial for optimizing the creative economy within society. From both legal and developmental theoretical perspectives, emphasis is placed on the role of legal mechanisms as tools for shaping and engineering societal structures. In this context, the creation of specialized legal frameworks becomes imperative to effectively regulate the integration between MSMEs and BUMDes, ensuring the optimal development of the creative economy. To address this, legal products must encompass three key aspects: defining the form of integration, identifying areas amenable to integration, and establishing a clear process with legal safeguards for the integration between MSMEs and BUMDes. By carefully attending to these aspects, the legal framework can facilitate a harmonized collaboration that fosters the growth of the creative economy in society.

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