

The Effectiveness of Regulations Related to the Relocation of Networked Supermarkets in Tulungagung After the Job Creation Law

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Abstract

The establishment of the Tulungagung Regional Regulation Number 1 of 2018 concerning the Arrangement and Development of People's Markets, Shopping Centers, and Supermarkets to maintain the economic stability of the surrounding community with regulations to relocate networked shops. After the enactment of Law No. 11 of 2020 concerning Job Creation, namely through the implementing regulations of Government Regulation Number 5 of 2021 which regulates the licensing system through Online Single Submission (OSS). This study will discuss the effectiveness of Article 6 paragraph (2) Tulungagung Regional Regulation No. 1 of 2018 After the enactment of the Job Creation Act to run by existing developments in Tulungagung Regency. The problems that will be studied in this paper are 1) the Effectiveness of Article 6 Paragraph (2) Tulungagung Regional Regulation No. 1 of 2018 after the Employment Creation Law; 2) Obstacles in the implementation of Article 6 Paragraph (2) Tulungagung Regional Regulation No. 1 of 2018 After the Job Creation Act. The research method in this paper uses the type of empirical juridical. This study resulted in the first conclusion, the existence of Article 6 paragraph (2) Tulungagung Regional Regulation Number 1 of 2018 is no longer effective after the enactment of Law Number 11 of 2020 concerning Job Creation through its implementing regulation Government Regulation Number 5 of 2021. Second, regarding the authority to issue permits, the authority to supervise and grant business permits, especially SMEs, is currently in the hands of the central government after the enactment of Government Regulation Number 5 of 2021. There are recommendations, namely: Making changes to existing Regional Regulations and improving the quality of Regency Governments based on supervision in issuing permits by looking at the provisions stipulated in Regional Regulations.

Keywords: *Effectiveness; Authority; Supervision; Permission.*

Abstrak

Dibentuknya Peraturan Daerah Tulungagung Nomor 1 Tahun 2018 tentang Penataan dan Pembinaan Market Rakyat, Pusat Perbelanjaan dan Toko Swalayan untuk menjaga stabilitas perekonomian masyarakat sekitar dengan adanya aturan untuk melakukan relokasi terhadap toko berjejaring, pasca lahirnya Undang-Undang No. 11 Tahun 2020 tentang Cipta Kerja, yakni melalui peraturan pelaksanaannya Peraturan Pemerintah Nomor 5 Tahun 2021 yang mengatur mengenai sistem perizinan melalui Online Single Submission (OSS). Sehingga dalam penelitian ini membahas terkait efektivitas pasal 6 ayat (2) Peraturan Daerah Tulungagung No. 1 Tahun 2018 Pasca lahirnya Undang-Undang Cipta Kerja agar berjalan sesuai dengan perkembangan yang ada di Kabupaten Tulungagung. Permasalahan yang akan dikaji dalam tulisan ini adalah 1) Efektivitas Pasal 6 Ayat (2) Peraturan Daerah Tulungagung No. 1 Tahun

2018 Pasca UU Cipta Kerja; 2) Kendala dalam pelaksanaan Pasal 6 Ayat (2) Peraturan Daerah Tulungagung No. 1 Tahun 2018 Pasca UU Cipta Kerja. Adapun metode penelitian dalam tulisan ini adalah menggunakan tipe penelitian hukum empiris. Dalam penelitian ini menghasilkan kesimpulan pertama, keberadaan Pasal 6 ayat (2) Perda Tulungagung No. 1 Tahun 2018 sudah tidak berlaku efektif pasca lahirnya Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja melalui peraturan pelaksanaannya PP No. 5 Tahun 2021. Kedua, berkaitan dengan kewenangan dalam mengeluarkan izin, kewenangan dalam melakukan pengawasan dan pemberian izin berusaha khususnya UMKM saat ini berada di tangan pemerintah pusat pasca lahirnya PP No. 5 Tahun 2021. Dari penelitian ini peneliti merekomendasikan: Melakukan perubahan terhadap Peraturan Daerah juga meningkatkan kualitas pemerintahan.

Keywords: Efektivitas; Kewenangan; Pengawasan; Izin.



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A. INTRODUCTION

Local governments have a very large role in terms of public services. The government has a function in terms of organizing development activities and services to the community.^{1,2} It aims to achieve social welfare of the people in the area. Especially in terms of public services, the goal is to realize efficient and effective public services.^{3,4}

In its development, the presence of networked retail stores in the community increasingly complements the choice of places to shop. In addition, its location in strategic places can no longer be avoided.⁵ The presence of netted retail stores reduces the income of traditional traders due to the community protesting as a form of dissatisfaction with the existence of netted retail stores located less than 500 meters away, while according to Article 6 Paragraph (2) of Regional Regulation No. 1 of 2018 concerning the Arrangement and Development of People's Markets, Shopping Centers and Convenience Stores is 1000 meters from the People's Market, namely:

"The distance between shopping centers, convenience stores, and people's markets is determined with the following conditions:⁶

¹ Abd. Rohman and Yayang Hanafi, "Penerapan Prinsip-Prinsip Good Governance Dalam Meningkatkan Kualitas Pelayanan Publik," *REFORMASI* 9, no. 2 (October 4, 2019): 153, <https://doi.org/10.33366/rfr.v9i2.1469>.

² Siti Hajar Hajar, Khaidir Ali, and Agung Saputra, "Optimalisasi Pelayanan Publik Dalam Tata Kelola Pemerintahan Desa Di Desa Pematang Johar," *Jurnal Ilmiah Muqoddimah: Jurnal Ilmu Sosial, Politik Dan Humaniora* 6, no. 1 (September 30, 2021): 136, <https://doi.org/10.31604/jim.v6i1.2022.136-142>.

³ Fitria Esfandiari and Arsyi Manggali Arya Putra, "Implementation Of Consistent Pilkada In Malang District From Precautionary Principles," *Audito Comparative Law Journal (ACLJ)* 2, no. 1 (February 17, 2021): 11–18, <https://doi.org/10.22219/aclj.v2i1.15157>.

⁴ Riska Chyntia Dewi and Suparno Suparno, "Mewujudkan Good Governance Melalui Pelayanan Publik," *Jurnal Media Administrasi* 7, No. 1 (July 16, 2022): 78–90, <https://doi.org/10.56444/jma.v7i1.67>.

⁵ Fitria Esfandiari et al., "Pendampingan Akad Dan Sertifikasi Halal MUI Serta Edukasi Jaminan Produk Halal Pada Minuman Cangloh Di Mergosono Kota Malang," *Jurnal Dedikasi Hukum* 1, no. 2 (August 28, 2021): 87–99, <https://doi.org/10.22219/jdh.v1i2.17607>.

⁶ Agus Triono and HS Tisnanta, "Pasar Rakyat Vs. Pasar Modern Ketimpangan Pengaturan Produk Hukum Daerah," *Pancasila: Jurnal Keindonesiaan*, April 25, 2022, 12–36, <https://doi.org/10.52738/pjk.v2i1.80>.

1. The distance between the shopping center and the people's market is as close as 1000 (one thousand) meters; and
2. The distance between the netted convenience store and the people's market is as close as 1000 (one thousand) meters"

Related to this, in 2021, the netted shop business located less than 1000 meters from the People's Market in Tulungagung Regency has been enforced by being asked to relocate the business according to a predetermined time and it has been carried out properly because the netted shop has closed or stopped operating.

Various regulations aimed at simplifying and trimming regulations have been made since the Job Creation Law was passed to facilitate MSME actors. There are advantages and disadvantages for the community in terms of granting business licenses. One example is a netted retail store in Tulungagung Regency that has stopped operating, reopening by changing its name and registering as an MSME actor.

This made the People's Market quiet because of the lack of shopping interest from the people of Tulungagung Regency itself so that the sellers in the market greatly reduced their income, not to mention when netted shops that had stopped operating and relocated their businesses began to mushroom again on behalf of themselves as MSMEs.

In order to achieve the expectation of effectiveness in accordance with Article 6 Paragraph (2) of Tulungagung Regional Regulation Number 1 of 2018 after the passing of the Job Creation Law. As an implementing regulation of the Job Creation Law, namely Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing. Regarding the integrated licensing system through *Online Single Submission (OSS)*, there are still forms of violations of these regulations, solutions are needed in solving existing problems. So, based on the background description that has been submitted above, the author is interested in making a scientific paper with the title "The Effectiveness of Article 6 Paragraph (2) of Tulungagung Regency Regional Regulation Number 1 of 2018 After the Job Creation Law".

B. METHOD

The method used in this legal research is empirical juridical or legal research method by looking at facts taken from people's behavior either through direct observation or interviews. The empirical legal research method involves assessing the actual conditions in society with the aim of identifying facts related to the research issue. This method examines secondary data or data obtained from theoretical foundations such as expert opinions or writings, as well as primary data from the interview process.⁷ The primary data used in this study were data obtained directly by means of interviews conducted together with members of the Tulungagung Regency DPRD. This aims to provide information and documentation related to the author's research and secondary data, namely additional data that is not obtained directly from the field, such as written reports and literature studies.

⁷ Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (April 1, 2020): 20–33, <https://doi.org/10.14710/gk.2020.7504>.

C. RESULTS AND DISCUSSIONS

1. The Effectiveness of Article 6 Paragraph (2) of Tulungagung Regional Regulation Number 1 of 2018 concerning the Arrangement and Development of People's Markets, Shopping Centers and Convenience Stores After the Job Creation Law (Case Study in Tulungagung Regency)

Before describing the effectiveness of Article 6 Paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 concerning the Arrangement and Development of People's Markets, Shopping Centers and Convenience Stores (Tulungagung Regional Regulation No. 1 of 2018) After the Job Creation Law, the author will first present data or information related to the number of networked modern markets that have been closed by the Tulungagung Regency Government for violating Article 6 Paragraph (2) of the Tulungagung Regional Regulation and the number of network stores that do not violate Article 6 Paragraph (2) of Tulungagung Regional Regulation. The description is as follows:

Table 1. Network Store That Does Not Meet the Establishment Requirements in Tulungagung Area in 2021

No.	Name	Location
1.	Alfamart	Boyolangu Village
2.	Alfamart	Ngunut Village
3.	Alfamart	Panjerejo Village
4.	Alfamart	Jl. Semeru Kalangbret, Kauman
5.	Alfamart	Kalangbret Village

Table 1. above is the number of chain stores closed by the Tulungagung Regency Government in 2021 for violating Article 6 Paragraph (2) of Regional Regulation No. 1 of 2018 with details of 6 alfamarts located in Boyolangu, Ngunut, Panjerejo, Kauman, Kalangbret, and Jl. Raya Blitar Ngunut as well as 10 indomaret located in Boyolangu Village, Ngunut, Tunggangri, Bandung, Gondang, Rejotangan, Kauman, Campurdarat and Karangrejo. The 16 chain stores were established starting in 2010 with a distance of less than 1000 meters from the people's market in each village.

Through a coordination meeting between the Tulungagung Regency DPRD, the Trade Office, the Civil Service Police Unit, the Tulungagung Regional Secretariat for the economy and the Investment and One-Stop Integrated Services Office, an agreement was made to close the chain store that violated the Tulungagung Regional Regulation by enforcement by Satpol PP by providing written warning letters, sealing and granting circulars related to business relocation.

Of the 16 network stores that have violated Article 6 Paragraph (2) of Regional Regulation No. 1 of 2018 above, 13 (thirteen) of them are operating again on behalf of Micro, Small and Medium Enterprises (MSMEs), spread across 6 districts, namely Boyolangu, Kauman, Campurdarat, Bandung, Ngunut and Rejotangan.

Table 2. Network Stores That Comply with Establishment Requirements in Tulungagung Area

No.	District	Number of Network Stores
1.	Besuki	1
2.	Bandung	7

3.	Pakel	5
4.	Campurdarat	5
5.	Tanggunggunung	-
6.	Kalidawir	4
7.	Pucanglaban	1
8.	Rejotangan	14
9.	Ngunut	17
10.	Sumbergempol	6
11.	Boyolangu	11
12.	Tulungagung	22
13.	Kedungwaru	17
14.	Ngantru	3
15.	Karangrejo	3
16.	Kauman	7
17.	Gondang	4
18.	Pagerwojo	-
19.	Sendang	-
	Total	127

Table 2 above is the number of chain stores in Tulungagung that meet the establishment requirements, either Indomaret or Alfamart operating from 2010 until now spread across 19 districts in the Tulungagung Region

Meanwhile, the number of traditional markets in Tulungagung Regency can be seen through the following table:

Table 3. Number of Traditional Markets in Tulungagung Regency

No.	Name	Address/Location
1.	Market Tamanan	Jl. Ki Mangun Sarkoro, Kel. Tamanan
2.	Market Karangrejo	Desa Karangrejo, Kec. Karangrejo
3.	Market Pojok	Jl. Raya Desa Pojok Kec. Ngantru
4.	Market Kliwon	Jl. Semeru 32 Desa Kauman, Kec. Kauman
5.	Market Ngeplak	Jl. KH Abdul Fattah Desa Botoran, Tulungagung
6.	Market Ngunut	Jl. Raya Ngunut, Tulungagung
7.	Market Dono	Jl. Raya Desa Dono, Kec. Sendang
8.	Market Campurdarat	Jl. Raya Desa Campurdarat
9.	Market Wage	Jl. WR Supratman Desa Kenayan, Tulungagung
10.	Market Boyolangu	Jl. Raya Desa Boyolangu
11.	Market Bandung	Jl. Raya Desa Bandung
12.	Market Sumbergempol	Jl. Raya Desa Sumberdadi, Sumbergempol, Tulungagung
13.	Market Bendilwungu	Desa Bendilwungu Kec. Sumbergempol
14.	Market Gondang	Desa Gondang, Kec. Gondang
15.	Market Hewan	Jl. Ki Hajar Dewantoro Beji, Boyolangu
16.	Market Burung	Jl. Ki Mangun Sarkoro

17.	Market Ngentrong	Jl. Raya Ngentrong, Campurdarat
18.	Market Tanggunggunung	Desa Tanggunggunung
19.	Market Pakel	Jl. Raya Pakel Tulungagung
20.	Market Pagerwojo	Jl. Raya Pagerwojo
21.	Market Besuki	Desa Tanggulwelahan, Kec. Besuki
22.	Market Rejotangan	Jl. Raya Desa Rejotangam
23.	Market Panjerejo	Jl. Raya Desa Panjerejo, Rejotangan
24.	Market Karangtalun	Jl. Raya Desa Karangtalun Kec. Kalidawir
25.	Market Domasan	Jl. Raya Desa Domasan Kec. Kalidawir
26.	Market Sendang	Jl. Raya Desa Sendang
27.	Market Srikaton	Jl. Raya Desa Srikaton, Ngantru
28.	Market Mulyosari	Jl. Raya Desa Mulyosari, Pagerwojo
29.	Market Karangsono	Jl. Raya Desa Karangsono, Ngunut
30.	Market Ngebong	Jl. Raya Ngebong, Pakel
31.	Market Senggol	Jl. Raya Bangoan Kec. Kedungwaru
32.	Market Sobontoro	Moyoketen, Boyolangu
	Total	127

Table 3 above is 32 people's markets in 19 sub-districts in the Tulungagung region that began operating in 1992 with the oldest market in Tulungagung being Ngemplak Market.

Against the data above, namely with many network stores that have been disbanded but are back in operation with the status of MSMEs, the author will elaborate and further examine the effectiveness of Article 6 Paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 concerning the Arrangement and Development of People's Markets, Shopping Centers and Convenience Stores After the Job Creation Law in Tulungagung Regency.

In order to realize legal products that are functional and can apply effectively in their application in the community, on this basis, Tulungagung Regional Regulation Number 1 of 2018 concerning the Arrangement and Development of People's Markets, Shopping Centers and Convenience Stores (Tulungagung Regional Regulation No. 1 of 2018) was formed. The bylaw was formed with the aim of providing guidelines in structuring the existence of people's markets, shopping centers, and convenience stores. This can be seen through the existence of Article 6 paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 which stipulates that:

- (2) The distance between shopping malls, convenience stores, and people's markets shall be determined under the following conditions:
 - a. the distance between the shopping center and the people's market is the closest 1000 (one thousand) meters; and
 - b. The distance between networked convenience stores and people's markets is as close as 1000 (one thousand) meters.

Through the provisions of Article 6 paragraph (2) above, it can be seen that there should be no networked convenience stores adjacent to the people's market, and the closest distance regulated by the Regional Regulation is 1 km. These provisions are actually quite effective in organizing people's markets, shopping centers, and convenience stores in maintaining the

economic stability of the surrounding community. As the results of the interview with AD, that⁸ "Since the inception of the Regional Regulation, in early 2021, there have been as many as 16 netted shops that have been asked to relocate their businesses with a predetermined vulnerable time, if they exceed that vulnerable time, the consequence is that their business licenses will be revoked". With the relocation of networked shops near the people's market in Tulungagung Regency, it has succeeded in creating a stable business climate between networked convenience stores and people's markets.

The existence of Article 6 paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 was philosophically born as a form of intervention from the government to realize people's welfare based on social justice. This means that the participation of the Tulungagung Regency Government in realizing the concept of a welfare state has been carried out by making legal instruments in the form of Regional Regulations. However, after the birth of Law Number 11 of 2020 concerning Job Creation (Job Creation Law), namely through its implementing regulation (Government Regulation Number 5 of 2021 or called "PP No. 5 of 2021") which regulates the integrated licensing system in the central government, so that the authority of the district is no longer valid in issuing permits for alfamart, indomaret, giant, hypermart or national networked stores.⁹

Table 4. Comparison Table Related to Regulations on Licensing

No.	Discussion	Job Creation Law	PP No. 5/2021	Bylaws of Kab. Tulungagung No. 1/2018
1.	Fill	Discusses efforts to bring investment through simplification of business licensing and bureaucracy	Discuss the implementation of risk-based business licensing	Discuss the distance of establishment and business licensing in the region.
2.	Place	Related to MSME licensing is regulated in chapter III articles 7,8,9,10	Regulate overall related to the OSS system for MSMEs as well as non-individuals	Related to business establishment and distance are regulated in article 6 paragraph (2) and article 7
3.	Characteristic	The Job Creation Law is conditionally unconstitutional	Government Regulation No. 5/2021 is binding and effective	Tulungagung Regional Regulation No. 1/2018 is not effective after the enactment of the Job Creation Law through its implementing regulation, namely PP. No. 5/2021

⁸ Interview with AD on 08 August 2022.

⁹ Dimas Fandikha Satria, Catur Wido Haruni, and Fitria Esfandiari, "Kepastian Hukum Terhadap Iuran Peserta BPJS Pasca Putusan Mahkamah Agung Nomor 7P/HUM/2020," *Indonesia Law Reform Journal* 1, no. 2 (July 26, 2021): 153–64, <https://doi.org/10.22219/ilrej.v1i2.16934>.

Table 4 above is a comparison related to regulations on licensing between the Job Creation Law, PP 5/2021 and Tulungagung Regency Regional Regulation No. 1/2018. Which in the Job Creation Law regulates efforts to bring investment through simplification of business licensing and bureaucracy which are all regulated in chapter III Articles 7, 8, 9, 10 related to business licensing for MSMEs which are currently conditionally unconstitutional. Also in PP 5/2021, it regulates the implementation of risk-based business licensing, regulated as a whole related to the OSS system for MSMEs as well as non-individuals which are binding and effective, further also regulated in Tulungagung Regency Regional Regulation No.1/2018 discusses the distance of establishment and business licensing in areas regulated in Article 6 Paragraph (2) and Article 7 which are currently no longer effective after the passing of the Job Creation Law through its Implementing Regulation, namely PP 5/2021.

So that with the birth of the Job Creation Law, the existence of Article 6 paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 is no longer effective. Because through PP No. 5 of 2021, it has provided a gap for convenience stores to operate on behalf of MSMEs.

Because Article 7 of Tulungagung Regional Regulation No. 1 of 2018 stipulates that: "The provisions regarding networked minimarkets as referred to in Article 6 do not apply to minimarkets managed by cooperatives, MSMEs, BUMDs, and BUMDes located within the Regional area". This means that the provisions of Article 6 paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 which regulates the distance between networked convenience stores and people's markets closest to 1 km can no longer be applied if the networked convenience stores change their status to MSMEs, especially with the integrated licensing system through Online Single Submission (OSS) in the central government.

As can be seen from the previous explanation, one of the efforts of the Tulungagung Regency Government in responding to the existence of network stores that changed their status to MSMEs is to impose a provision, namely selling local products in the Tulungagung area as much as 28% and must be placed at the front.

In addition, regarding the aspect of supervision by the region after the passing of the Job Creation Law, the Tulungagung Regency Government continues to make adjustments (balancing) with existing regional regulations, this aims to help facilitate local residents so that their products can enter modern network stores.¹⁰

Then through the Integrated Unit Service Center (PLUT), in addition to Ngantru Market which is the main task and function of the Cooperative Office and also MSMEs of Tulungagung Regency, the Tulungagung Regency Government also continues to hold training and marketing services for MSMEs as a form of government support and efforts in developing the local economic sector.

However, after the birth of the Job Creation Law with the implementing regulation in the form of PP No. 5 of 2021, if it is related to the theory of legal effectiveness according to Soerjono Soekanto, it was found that there are five factors that determine the effectiveness of a law:

- a. Legal aspects themselves (Law);
- b. Factors affecting law enforcement, such as those who make and enforce laws;
- c. Factors related to law enforcement supporting facilities or facilities;

¹⁰ Interview with AD on 08 August 2022

- d. Community factors, in particular the context in which the law is applied;
- e. Cultural factors, especially as a result of human initiative in social life and creativity and taste.¹¹

The five factors above are described by the author, as follows:

a. Legal Factors

Law serves for justice, certainty and expediency.^{12,13,14} In the practice of law administration in the field, there are times when there is a conflict between legal certainty and justice. Especially in relation to the effectiveness of Article 6 Paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018, that after the birth of PP No. 5 of 2021, Article 6 in the Regional Regulation is no longer effective. If studied philosophically, the birth of Article 6 of the Regional Regulation is to control the existence of modern markets or network stores with traditional markets to create a good business climate and create justice.

b. Law Enforcement Factors

In the functioning of the law, the involvement of law enforcement officials (in this case the government as the authority that enforces the rules) plays an important role.¹⁵ So when there is a regulation that has the potential to cause injustice in the community, the government must immediately make efforts so that the existing rules can run and also provide a sense of fairness for the community.¹⁶

Such is the case in Tulungagung Regency, law enforcement in this case Satpol PP has cracked down on network stores that violate Article 6 Paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018.

c. Facility or Facility Factor

As a means to achieve goals, supporting facilities can be easily developed. Physical facilities that are supporting factors constitute most of the scope. Support facilities include well-trained and organized personnel, adequate equipment, sufficient funds, and so on.

The meaning of facilities or facilities in this study is the availability of buildings or buildings that are used as offices then the completeness of tools in the office such as cars, computers, printers, providing knowledge expansion for members, member welfare, and so on.

¹¹ Soerjono Soekanto, "Penelitian Hukum Dan Pendidikan Hukum," *Jurnal Hukum & Pembangunan*, 2017, <https://doi.org/10.21143/jhp.vol6.no6.716>.

¹² Suwardi Sagama, "Analisis Konsep Keadilan, Kepastian Hukum Dan Kemanfaatan Dalam Pengelolaan Lingkungan," *MAZAHIB* 15, no. 1 (December 15, 2016), <https://doi.org/10.21093/mj.v15i1.590>.

¹³ Abdul Hakim, "MENAKAR RASA KEADILAN PADA PUTUSAN HAKIM PERDATA TERHADAP PIHAK KETIGA YANG BUKAN PIHAK BERDASARKAN PERSPEKTIF NEGARA HUKUM PANCASILA," *Jurnal Hukum Dan Peradilan* 6, no. 3 (November 30, 2017): 361, <https://doi.org/10.25216/jhp.6.3.2017.361-378>.

¹⁴ Kendry Tan and Hari Sutra Disemadi, "Politik Hukum Pembentukan Hukum Yang Responsif Dalam Mewujudkan Tujuan Negara Indonesia," *Jurnal Meta-Yuridis* 5, no. 1 (March 1, 2022): 60–72, <https://doi.org/10.26877/m-y.v5i1.8803>.

¹⁵ Asep Saepullah, "Revitalisasi Peran Lembaga Peradilan Di Indonesia," *Mahkamah : Jurnal Kajian Hukum Islam* 2, no. 1 (June 11, 2017), <https://doi.org/10.24235/mahkamah.v2i1.1614>.

¹⁶ Suparno Ria Ayu Novita, Agung Basuki Prasetyo, "Efektivitas Pelaksanaan Undang-Undang Nomor 2 Tahun 1960 Tentang Perjanjian Bagi Hasil Tanah Pertanian (Tanah Kering) Di Desa Bringin, Kecamatan Bayan, Kabupaten Purworejo. Diponegoro," *Law Journal* 6, no. 2 (2017): 5.

d. Community Factors

In essence, the purpose of law enforcement is to achieve what the law intends,¹⁷ which is to attain balance so that the relationships arising from the interests of society do not result in chaos.¹⁸ This refers to his awareness of a law and regulation, commonly referred to as the degree of compliance. The existence of Article 6 Paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018, in addition to being effective because of the role of the government is also due to the role of the community. Community participation, especially business actors who are network stores must obey Article 6 paragraph (2). Although then every network store wants to change its status to MSME, local products and provisions that have been stipulated in the Regional Regulation must be obeyed.

e. Cultural Factors

Soerjono Soekanto argued that culture plays an important role in both human behavior and society. It regulates behavior so that people can understand how to behave and how they react to their surroundings. As a result, culture is a fundamental code of ethics that establishes guidelines for what is acceptable and unacceptable.¹⁹

Cultural factors in this case are related to people's attitudes and habits. Whether or not a regulation is effective, which in this case is Article 6 paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018, is also largely determined by the culture of the community, such as lifestyle, community consumption culture, and others. A consumptive lifestyle due to environmental influences makes society prestige and not what it is.

When viewed how the process of implementing Article 6 paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 has actually been obeyed by the community (networked convenience store merchants). However, after the birth of the Job Creation Law, namely with the Online Single Submission (OSS) system in the central government through PP No. 5 of 2021, one of the problems arose so that Article 6 paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 was no longer effective.

The factor that affects the effectiveness of the law according to Soerjono Soekanto is the first factor regarding the law or the law itself, namely: "The existing regulations regarding certain areas of life are not synchronized, hierarchically and horizontally there are conflicts". Meanwhile, in this case, the authority to issue permits related to MSMEs is no longer in the hands of the Tulungagung Regency Government, because the licensing system has changed as mentioned above, namely through Online Single Submission. As revealed by the Army related to the effectiveness of Article 6 paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 that:²⁰

Actually, according to the rules, if we are from the DPRD from the district government, it is very ineffective with this policy because our Regional Regulation

¹⁷ Herdiansyah Hamzah, "Politik Hukum Sumber Daya Alam," *Jurisprudentie : Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum* 6, no. 2 (December 31, 2019): 85, <https://doi.org/10.24252/jurisprudentie.v6i2.11079>.

¹⁸ Nur Ifitah Isnantiana, "Hukum Dan Sistem Hukum Sebagai Pilar Negara," *JURNAL HUKUM EKONOMI SYARIAH* 2, no. 1 (May 21, 2019): 19, <https://doi.org/10.30595/jhes.v2i1.4470>.

¹⁹ Soekanto, "Penelitian Hukum Dan Pendidikan Hukum."

²⁰ Interview with AD on 08 August 2022

is inferior to the Job Creation Law on OSS, which can be directly accessed independently and the permit is through the Ministry of Trade. What we are worried about is local traders and the People's Market, because in our opinion, the right one must be 1000 meters away according to our Regional Regulations, we have clear that the Regional Regulations have been socialized and network stores have closed and relocated. But this is the policy of the center nor can we ignore.

So based on the results of the interview above, it can be said that there is a dissynchronization or conflict between Tulungagung Regional Regulation No. 1 of 2018 and PP No. 5 of 2021, where hierarchically government regulations have a higher position than regional regulations. So as a result, the Tulungagung Regency Government must find a middle way to carry out its duties by not ignoring existing regulations and not neglecting the welfare of its people.

Tulungagung Regency is also not solely focused on implementing laws and regulations, but also continues to carry out supervisory functions, namely through PLUT-KUMKM which is the tupoksi of the Cooperative and Micro Business Office.

In this case, PLUT-KUMKM is also a non-financial institution that helps increase competitiveness through increasing production, marketing, and human resource development through increasing entrepreneurial, technical, and managerial capacity, as well as the institutional performance of MSMEs with national network stores by conducting class activities or workshops as well as training according to the needs of business actors. Because, if there is no supervision and control over the types of businesses that can register as MSMEs, of course, this condition will also have the potential to create an unbalanced business climate in Tulungagung Regency.

2. Obstacles in the Implementation of Article 6 Paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 Arrangement and Development of People's Markets, Shopping Centers and Convenience Stores After the Job Creation Law (Case Study in Tulungagung Regency)

Before the author discusses the obstacles in the implementation of Article 6 Paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 concerning the Arrangement and Development of People's Markets, Shopping Centers and Convenience Stores After the Job Creation Law in Tulungagung Regency, the author first wants to describe the impact of the existence of netted shops or modern markets on the income of traders in the Tulungagung People's Market.

a. The Impact of the Existence of Netted Shops or Modern Markets on the Income of Traders in Tulungagung People's Market

The existence of a modern market that is able to meet customer needs with better facilities and more professional management, certainly has a lot of potential to change the role of the people's market in society.²¹ From one side, the people's market does have a number of weaknesses, including its location which sometimes causes congestion, slums, and chaos. However, the people's market still has a place in supporting the

²¹ Endi Sarwoko, "Dampak Keberadaan Pasar Modern Terhadap Kinerja Pedagang Pasar Tradisional Di Wilayah Kabupaten Malang," *MODERNISASI* 4, no. 2 (2008): 98.

economy of the middle class and below.²²

Although there are other factors that make the people's market continue to decline, the income of people's market traders is still influenced by the existence of the modern market. The amount of money traders make declined after the advent of the modern market. As happened in Tulungagung Regency, based on the results of an interview with one of the traders in Panjerejo Market explained that *"Since there are modern stores, our sales turnover has decreased a lot, of course, it has a negative impact on us in this market"*.²³

Furthermore, Mrs. H added that:

Since there are so many supermarkets in our area, trading has become quiet. In the past, someone came looking for my merchandise so that my merchandise ran out, I didn't need to pack the merchandise because it was out of stock first. My merchandise has a lot of snacks, vegetables, there are also cigarettes, soap, toothpaste, candy, and washing utensils. In the past, we quickly had to order back to the dealer because the stock had run out because of the grab. But now it is very difficult, for cigarettes that used to shop 3 to 4 times a week now we are visited by distributors. Likewise, other goods are almost the same condition. So I need to rack my brain again so that the sales don't accumulate.²⁴

Therefore, based on the results of the interview, it shows that the existence of net shops or modern markets has a significant impact on the decline in the income of traders in the market traditional. In addition, it must be admitted that the competitiveness of the people's market in terms of price is still inferior to modern retail because the selling prices of some commodities in the people's market can be higher than those sold in modern retail. But this weakness can still be eliminated by the characteristics of people's markets that provide a means of bargaining between sellers and buyers, buyers can sometimes negotiate lower prices than in modern retail. This is because, when transacting with customers, sellers strive to reduce profits. The margin he receives from some of the items he sells while taking a larger profit margin for other items.

b. Obstacles in the Implementation of Article 6 Paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018

The parties responsible for enforcing Indonesian laws or policies are set forth in the law. These parties implement legal policies to prevent lawlessness, maintain public order, and ensure that society complies with state norms and regulations. This is not an easy task in social life.²⁵

One of the obstacles to the implementation of Article 6 paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 is related to the bureaucratic structure, namely regarding the authority to issue permits. In terms of structure, the Tulungagung Regency Government is a sub-system of the central government, where the authority to supervise and grant business permits, especially MSMEs, is currently in the hands of the central government after the birth of PP No. 5 of 2021.

So that with the birth of PP No. 5 of 2021, networked convenience stores that had originally been relocated by the Tulungagung Regency Government can change their

²² Arip Rahman Sudrajat et al., "Perumusan Strategi Pengelolaan Pasar Tradisional Di Kabupaten Sumedang," *JPPUMA: Jurnal Ilmu Pemerintahan Dan Sosial Politik Universitas Medan Area* 6, no. 1 (June 6, 2018): 53, <https://doi.org/10.31289/jppuma.v6i1.1600>.

²³ Interview with S, one of the traders at Panjerejo Market, August 2, 2022

²⁴ Idem, August 3, 2022.

²⁵ Esfandiari et al., "Pendampingan Akad Dan Sertifikasi Halal MUI Serta Edukasi Jaminan Produk Halal Pada Minuman Cangloh Di Mergosono Kota Malang."

status to MSMEs and the granting of permits no longer exists in the Tulungagung Regency Government

D. Conclusion

After the enactment of Law No. 11 of 2020 concerning Job Creation, namely through its implementing regulation PP 5/2021 regulating the licensing system through OSS integrated directly by the central government, the existence of Article 6 paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 is no longer effective because through PP No. 5 of 2021 it has provided an opening for convenience stores to operate on behalf of MSMEs. This means that the provisions of Article 6 paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 which regulates the distance between networked convenience stores and people's markets closest to 1 km are no longer effective if the network stores change their status to private/MSME property. The obstacle to the implementation of Article 6 paragraph (2) of Tulungagung Regional Regulation No. 1 of 2018 is related to the authority to issue permits. In terms of structure, the Tulungagung Regency Government is a sub-system of the central government, where the authority to supervise and grant business permits, especially MSMEs, is currently in the hands of the central government after the birth of PP No. 5 of 2021. The supervisory function of local governments is further optimized with the aim of providing its main protection for small and medium entrepreneurs. The Regional Government of Tulungagung Regency can partner with other regions that already have more modern public service schemes so as to improve the welfare of the local community.

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