

## **Contemporary Study of Legal Regulation in the Perspective of Sociological Jurisprudence to Enabling and Encouraging Entrepreneurial Ecosystems: Evidence in Indonesia**

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### **Abstract**

This study aims to investigate and examine legal regulations in the perspective of sociological jurisprudence in Indonesia related to the entrepreneurship sector. The research method used is normative law, and data collection techniques are carried out through literature studies, primary, secondary, and tertiary legal materials from scientific contributions published in research academic databases. While the data analysis used in this study is a descriptive qualitative analysis. The findings of this research are that the various existing laws and regulations and their derivatives are currently considered unable to encourage a conducive entrepreneurship sector in Indonesia. It is hoped that this study will be of interest to the government together with the House of Representatives of the Republic of Indonesia and other stakeholders to immediately plan, compile, stipulate, ratify, and implement legal regulations that are in accordance with public needs, and involve universities as agents of change in terms of the availability of human resources. . In the end, this scientific contribution concludes that the importance of legal regulation in the perspective of sociological jurisprudence to to enabling and encouraging the entrepreneurial ecosystem in Indonesia.

**Keywords:** legal regulations, sociological jurisprudence, entrepreneurship, Indonesia

## 1. Introduction

At this time, regulations/legal regulations are very important to activate and encourage the entrepreneurial ecosystem in the context of economic development in various countries in the world, including Indonesia. Legal regulations include laws and regulations made by the legislature in the form of primary laws and subordinate/secondary regulations issued by the executive, as public regulations that have external effects (Hauerstein,2019). While sociological jurisprudence can be a science of law based on anthropology and ethnology which considers law as a product of social forces (Pound,1912:490-494). In this case, sociological jurisprudence observes how the law with all its characteristics is applied and used in and used by society (Junaidi,2016). Furthermore, Junaidi (2018) states that sociological jurisprudence talks about the social meaning of law, and social meaning is given to law through contacts with the social environment in which the law is applied. Then, the entrepreneurial ecosystem is a set of interdependent actors and factors that are coordinated in such a way as to enable productive entrepreneurship (Stam,2015).

The entrepreneurial ecosystem is one of the most popular new economic development policies in this decade (Spigel and Kitagawa, 2020). Therefore, the role of legal regulation is to foster individual activities in the context of productive entrepreneurship (Audretsch et.al.,2021; Anastasya,2019), and the role of the government is to encourage community economic strengthening (Hamid,2020). Legal regulation is a citizen-oriented legal policy in the form of problem solving regulation (Audretsch et.al.,2021; Anastasya,2019) to increase entrepreneurship as national competitiveness in the era of globalization (Zulkieflimansyah,2015) in the perspective of sociological jurisprudence.Regarding entrepreneurship, the Indonesian government has regulated it with a positive legal approach (Ius Positium or Ius Constitutum) in the form of various laws and regulations and their derivatives, either directly or indirectly. In this context, positive law regulated by the state should be able to provide justice to the community in real life practice (Hartono,1975).

However, in legal practice, the law is still considered impartial to the community because the laws and regulations that are regulated in a very strict format need to be transformed into real legal realities in society (Hartono,1975).The problem that exists in Indonesia is that various laws and regulations related to legal regulations that specifically regulate the entrepreneurship sector have not yet existed. The concept of regulation regarding entrepreneurship is currently still

scattered in various laws and regulations and has not been regulated in an integrated and comprehensive manner (Consideration point c of the Draft Law of the Republic of Indonesia on National Entrepreneurship or Draft of the Republic of Indonesia Bill on National Entrepreneurship). Then, it is even more concerning that there are no rules regarding the form of corporate legal entities, namely social entrepreneurship legal entities, both in the form of foundations and in the form of associations/organizations, and cooperatives which are mentioned and stipulated explicitly in the articles of the Draft Law of the Republic of Indonesia on National Entrepreneurship (Anastasya,2019).

According to Anastasya (2019), social entrepreneurship and social entrepreneurship should have a corporate legal entity because social entrepreneurship is a hybrid organization that pursues both social and business goals. Zulkieflimansyah (2015) stated that entrepreneurship problems related to regulations regarding entrepreneurship in Indonesia at this time are as follows: (1). Still scattered in various laws and regulations;(2).Not yet regulated in an integrated and comprehensive manner;and (3).There has been no special attention from the existing laws and regulations for novice entrepreneurs.

Based on these various descriptions, it can be interpreted that legal regulation is an essential one in Indonesia. Furthermore, one of the things related to the livelihood of many people according to the 1945 Constitution of the Republic of Indonesia (UUD 1945) is the right to work and a decent living (Hamid, 3021). According to the 1945 Constitution, Article 27 paragraph (2) states that: "Every citizen has the right to work and a decent living for humanity", and Article 28 D paragraph (2) states that "Everyone has the right to decent work". and livelihoods (Hamid,2021). Therefore, a contemporary study of legal regulation in the perspective of sociological jurisprudence in Indonesia is to activate and encourage the entrepreneurial ecosystem to become novelty (state of the art) from this research. In this study, researchers focus on examining several laws and regulations and their derivative regulations which become legal regulations in the perspective of sociological jurisprudence.

Thus, this article is entitled: "Contemporary Study of Legal Regulation in the Perspective of Sociological Jurisprudence to to Enabling and Encouraging Entrepreneurial Ecosystem: Evidence in Indonesia". The researcher tries to focus on the formulation of the research problem as follows: "What and how is legal regulation in the perspective of sociological jurisprudence to to enabling and encouraging entrepreneurial ecosystem in Indonesia?" Then, this article

sequentially discusses and concludes about juridical review, legal regulation in the perspective of sociological jurisprudence, legal regulation to activate and encourage the entrepreneurial ecosystem in Indonesia, and this article ends with conclusions and suggestions.

## **2.Methods**

### **2.1. Research Methodology**

The research method used is normative law, research methods on the rules of law both in terms of the hierarchical point of view of legislation (vertical), as well as the harmonious relationship of legislation (horizontally) (Marzuki,2008). The specification of the normative legal research method is to emphasize the science of law which is conceptualized as what is written in the legislation or the law is conceptualized as a rule or norm which is a benchmark for human behavior that is considered appropriate (Amiruddin and Asikin,2006: 118).

### **2.2. Data Collection Technique**

Data collection techniques were carried out through literature study and focused on collecting secondary data which were primary, secondary, and tertiary legal materials (Soekanto and Mamudji,2006:14-15). This study uses secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials. Primary legal materials are binding legal materials in the form of laws as norms or basic rules, namely the 1945 Constitution of the Republic of Indonesia (*Undang-Undang Dasar Tahun 1945* or UUD 1945). Meanwhile, several other laws and regulations that regulate directly and indirectly and their derivatives related to the entrepreneurial sector in Indonesia are as follows: (1).Law Number 25 of 2007 concerning Investment (*Undang-Undang Nomor 25 Tahun 2007 tentang Penanaman Modal* or UU No. 25/2007); (2).Law Number 20 of 2008 concerning MSMEs (*Undang-Undang Nomor 20 Tahun 2008 tentang UMKMor* UU No. 20/2008);(3).Law Number 40 of 2009 concerning Youth (*Undang-Undang Nomor 40 Tahun 2009 tentang Kepemudaan* or UU No. 40/2009); (4).Law Number 1 of 2013 concerning Microfinance Institutions or MFIs ( *Undang-Undang Nomor 1 Tahun 2013 tentang Lembaga Keuangan Mikro atau LKM* or UU No.1/2013);(5).Law Number 3 of 2014 concerning Industry (*Undang-Undang Nomor 3 Tahun 2014 tentang Perindustrian* or UU No.3/2014);(6).Law Number 7 of 2014 concerning Trade (*Undang-Undang Nomor 7 Tahun 2014 tentang Perdagangan* or UU No. 7/2014);and (7).Law Number 23 of 2014 concerning

Regional Government (*Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah* UU No. 23/2014); and the last one is the Draft Law of the Republic of Indonesia) concerning National Entrepreneurship ((*Draft Rancangan Undang-Undang Republik Indonesia tentang Kewirausahaan Nasional* or RUU Kewirausahaan tahun 2022), Concept, January 25, 2022 which has not been ratified by the House of Representatives of the Republic of Indonesia together with the Government.:(8). Government Regulation (*Peraturan Pemerintah* or PP) as follows: (a). Instructions of the President of the Republic of Indonesia Number 4 of 1995 concerning the National Movement to Promote and Cultivate Entrepreneurship (*Instruksi Presiden Republik Indonesia Nomor 4 Tahun 1995 tentang Gerakan Nasional Memasyarakatkan Dan Membudayakan Kewirausahaan* or Inpres No. 4/1995).;(b).Government Regulation Number 41 of 2011 concerning Entrepreneurship Development and Youth Pioneering and Provision of Infrastructure and Youth Facilities, (*Peraturan Pemerintah Nomor 41 Tahun 2011 tentang Pengembangan Kewirausahaan dan*

*Kepeloporan Pemuda serta Penyediaan Prasarana dan Sarana Kepemudaan* or PP No. 41/2011);(c).Government Regulation No. 60 of 2013 concerning Personnel Organizational Structure and Working Mechanisms of Youth Entrepreneurship Capital Institutions (*Peraturan Pemerintah No. 60 Tahun 2013 tentang Susunan Organisasi Personalia Dan Mekanisme Kerja Lembaga Permodalan Kewirausahaan Pemuda* or PP No. 60/2013);(d).Presidential Regulation Number 27 of 2013 concerning Entrepreneurial Incubators (*Peraturan Presiden Nomor 27 Tahun 2013 tentang Inkubator Wirausaha* or Perpres No. 27/2013);(e).Presidential Regulation Number 2 of 2015 concerning the National Medium Term Development Plan (*Peraturan Presiden Nomor 2 Tahun 2015 tentang Rencana Pembangunan Jangka Menengah Nasional 2015 – 2019* or PP No. 2/2015);and (f).Presidential Regulation of the Republic of Indonesia Number 2 of 2022 concerning National Entrepreneurship Development 2021 -2024 (*Peraturan Presiden Republik Indonesia Nomor 2 Tahun 2022 Tentang Pengembangan Kewirausahaan Nasional Tahun 2021 -2024* or Perpres No 2/2022).

### **2.3. Data Analysis Method**

The data analysis method used in this research is descriptive qualitative analysis.

## 2.4. Findings

Referring to the preamble point c of the Draft Law of the Republic of Indonesia on National Entrepreneurship (Draft RUU RI on National Entrepreneurship) that the concept of regulation regarding entrepreneurship is currently still scattered in various laws and regulations and has not been regulated in an integrated and comprehensive manner. Then, it is even more concerning that there are no rules regarding the form of corporate legal entities, namely social entrepreneurship legal entities, both in the form of foundations and in the form of associations/organizations, and cooperatives which are mentioned and stipulated explicitly in the articles of the Draft Law of the Republic of Indonesia on National Entrepreneurship (*Draft Rancangan Undang-Undang Republik Indonesia tentang Kewirausahaan Nasional* or Draft RUU RI tentang Kewirausahaan Nasional). The Draft Law on National Entrepreneurship (2022) defines entrepreneurship as the spirit, attitude, behavior, and ability to manage a business that leads to seeking opportunities and creating productive business activities by effectively utilizing economic and social resources to produce goods and services that are affordable, value-added, competitive, and sustainable.

Furthermore, legal regulations related to entrepreneurship, either directly or indirectly, have been regulated in various laws and regulations, including the following:

**Table 1. Legal Regulations related to Entrepreneurship in Indonesia**

No	Legal Regulation	Rules related to Entrepreneurship	Description
1	Law Number 25 of 2007 concerning Investment ( <i>Undang-Undang Nomor 25 Tahun 2007 tentang Penanaman Modal</i> or UU No.25/2007)	In particular, Law No. 25/2007 is not directly related to regulating the development of entrepreneurship in Indonesia. However, regulatory aspects related to the creation of a conducive, promotive investment climate, as well as providing legal certainty, justice and efficiency based on national economic interests are important matters in the development of entrepreneurship which are regulated in: -Article 3 paragraph 1 - Aspects of regulation related to investment are carried out based on the following principles:(a).Legal certainty;(b).Disclosure;(c).Accountability;(d).Equal treatment and regardless of country of origin;(e).Togetherness;(f).Fair efficiency;(g).Sustainable;(h).Environmentally friendly; (i).Independence; and (j). The balance of progress and national economic unity. -Article 3 paragraph 2. The objectives of implementing investment are, among others, to: (a). Increase national economic growth; b). Create job	Law No. 25/2007 provides a juridical basis for the Government to conduct guidance and development of MSMEs and cooperatives through partnership programs, increasing competitiveness, providing encouragement for innovation and market expansion, and disseminating information as widely as possible.

		opportunities; (c).Improve sustainable economic development;(d)Improve the competitiveness of the national business world;(e).Improve the capacity and capability of national technology; (f). Encouraging the development of the people's economy; (g). Processing potential economies into real economic strength by using funds originating from within the country and from abroad; and h. Improving people's welfare.	
2	Law Number 20 of 2008 concerning MSMEs ( <i>Undang-Undang Nomor 20 Tahun 2008 tentang Usaha Mikro, Kecil, dan Menengah</i> ) UU No.20/2009)	Law Number 20 of 2008 concerning MSMEs which regulates the empowerment of MSMEs through the development of a conducive business climate and business development as regulated as follows: -Article 19 letter a, to promote and cultivate entrepreneurship -Article 19 letter c, establish and develop educational and training institutions to conduct education, training, counseling, motivation and business creativity, and the creation of new entrepreneurs	Law No.20/2009, which regulates business development is carried out through the provision of mentoring facilities and strengthening assistance to grow and improve the ability and competitiveness of MSMEs as regulated in Law No. 20 of 2008 concerning MSMEs.
3	Law Number 40 of 2009 concerning Youth ( <i>Undang-Undang Nomor 40 Tahun 2009 tentang Kepemudaan</i> ) UU No.40/2009)	Several articles that specifically regulate youth entrepreneurship development are: - Article 27 (1) The development of youth entrepreneurship is carried out in accordance with the interests, talents, potential of youth, regional potential, and the direction of national development. (2) The implementation of youth entrepreneurship development as referred to in paragraph 1 shall be facilitated by the Government, regional governments, communities, and/or youth organizations. (3). Youth entrepreneurship development as referred to in paragraph 2 is carried out through:(a).training;(b).apprenticeship;(c).guidance; (d).mentoring;(e).partnership ;(f) promotion; and/or (g). capital access assistance (4) Further provisions regarding the development of entrepreneurship as referred to in paragraph (1), paragraph (2), and paragraph (3) shall be regulated in a Government Regulation. -Article 28 stipulates that the Government, regional government, and/or the community can establish and develop youth entrepreneurship centers. -Article 30 stipulates that the Government is obliged to carry out cross-sectoral strategic coordination to streamline the implementation of youth services which can include synergistic programs between sectors in terms of awareness, empowerment, and leadership development, entrepreneurship, and youth pioneering. -Article 40 stipulates that youth organizations function to support national interests, empower potential, and develop leadership, entrepreneurship, and youth pioneering. -Article 48 regulates the role of the community, one	Law No.20/2009, which regulates business development is carried out through the provision of mentoring facilities and strengthening assistance to grow and improve the ability and competitiveness of MSMEs as regulated in Law No. 20 of 2008 concerning MSMEs. Law Number 40 of 2009 concerning Youth which states that youth development is directed at creating youth who believe and fear God Almighty, have noble character, are healthy, intelligent, creative, innovative, independent, democratic, responsible, competitive, and have a leadership spirit. entrepreneurship, pioneering, and nationality based on Pancasila and the 1945 Constitution of the Republic of Indonesia within the framework of the Unitary State of the Republic of Indonesia.

		of which is to train youth in leadership development, entrepreneurship, and youth pioneering. -Article 51 regulates the obligation of the Government and Regional Governments to provide funds and access to capital to support the development of youth entrepreneurship by establishing youth entrepreneurship capital institutions which will be further regulated through Government Regulations.	
4	Law Number 1 of 2013 concerning Microfinance Institutions or MFIs ( <i>Undang-Undang Nomor 1 Tahun 2013 tentang Lembaga Keuangan Mikro</i> or UU No.1/2013)	Law No.1/2013 is not directly related to entrepreneurship development, but provides a legal basis for the establishment of an entrepreneurial ecosystem, particularly in providing loans or financing, managing savings and providing business development consulting services for members and the community.	Law No.1/2013 related to The existence of Microfinance Institutions (LKM) is expected to increase access to micro-scale funding for the community, help increase economic empowerment and community productivity, and help increase people's income and welfare, especially the poor and/or low-income. The services provided by MFIs are expected to reach people who will start a business, so that they can support the development of new entrepreneurs.
5	Law Number 3 of 2014 concerning Industry ( <i>Undang-Undang Nomor 3 Tahun 2014 tentang Perindustrian</i> or UU No.3/2014)	Article 17 which regulates targets, development/activity patterns, and activity implementers, as follows: (1). Industrial entrepreneurship development is carried out to produce entrepreneurs who have entrepreneurial character and mentality and have competencies according to their business fields including: (a). technical competence; (b). managerial competence; and (c). creativity and innovation; (2) Industrial entrepreneurship development as referred to in paragraph 1 is carried out at least through the following activities: (a). education and training; (b). Industrial incubators; and (c). partnership; (3) Development of Industrial entrepreneurship as referred to in paragraph 2 shall be carried out on prospective Industrial entrepreneurs and Industrial entrepreneurs who have carried out their business activities; (4) Activities as referred to in paragraph 2 are carried out by: (a). formal educational institutions in accordance with the provisions of laws and regulations; (b). non-formal educational institutions; or (c). accredited research and development institutions; and (5) Further provisions regarding the procedure for organizing activities as referred to in paragraphs 2 and 4 shall be regulated by a Ministerial Regulation.	-Law No.3/2014 is the legal basis for creating advanced industrial development which is realized through strengthening the industrial structure that is independent, healthy, and competitive, by utilizing resources optimally and efficiently, as well as encouraging industrial development throughout Indonesia. -Several aspects regulated through this law include the development of industrial resources, which consist of human resource development (HR), utilization of natural resources, development and utilization of industrial technology, development and utilization of creativity and innovation, and provision of financing sources. Human resource development specifically includes the development of industrial entrepreneurs.
6	Law Number 7 of 2014 concerning Trade ( <i>Undang-Undang Nomor 7 Tahun 2014</i> )	-Article 10 states that Distribution Business Actors carry out Goods Distribution in accordance with the provisions of laws and regulations as well as economic and business ethics in the context of business order, and the form of distribution	-Law No.7/2014 is actually not directly related to entrepreneurial activities, but supports the creation of a conducive entrepreneurial ecosystem



<i>tentangPerdagangan</i> <i>nor UU No.7/2014)</i>	<p>business actor can be in the form of distribution, agent or franchise, which can be a form of small and medium business.</p> <p>-Article 12 relating to Distribution Business Actors states that business actors (whether together with the Government or Regional Governments or individually) develop Trading facilities.</p> <p>-Article 73 regulates as follows:</p> <p>(1).The Government and/or Regional Government shall empower cooperatives and micro, small, and medium enterprises in the trade sector;(2).Empowerment as referred to in paragraph 1 may be in the form of providing facilities, incentives, technical guidance, access and/or capital assistance, promotion and marketing assistance;</p> <p>(3).The Government and/or Regional Governments in empowering cooperatives and micro, small and medium enterprises in the trade sector as referred to in paragraph 2 may cooperate with other parties other; and (4). Further provisions regarding the empowerment of cooperatives and micro, small and medium enterprises in the trade sector as referred to in paragraph 1 shall be regulated by or based on a Presidential Regulation.</p>	<p>through the role of trade including in meeting domestic production and consumption needs, improving trade facilities, and infrastructure, enhancing partnerships between businesses. large enterprises and cooperatives and MSMEs, increasing the competitiveness of national products and businesses, enhancing the image of domestic products, access to markets and exports, as well as increasing trade in products based on the creative economy. This law also specifically provides support for the empowerment of cooperatives and MSMEs.</p> <p>-In the explanation of Article 73 of Law No.7/2014 it is also stated that the technical guidancegiven in the context of empowering cooperatives and SMEs also includes:entrepreneurial development.Cooperatives and MSMEs also have the opportunity, protection and convenience under the regulation of other articles relating to domestic trade, foreign trade, border trade, standardization, e-commerce, export development, international trade cooperation, and trade information systems.</p>
<p>7 Law Number 23 of 2014 concerning Regional Government (Undang-Undang Nomor 23 Tahun 2014 tentangPemerintah an Daerahor UU No.23/2014)</p>	<p>-Article 12 paragraph (2) Mandatory Government Affairs that are not related to Basic Services as referred to in Article 11 paragraph (2) include: letter g. community and village empowerment; letter k. cooperatives, small and medium enterprises; etc. letter l. capital investment.</p> <p>-Article 12 paragraph (3) Preferred Government Affairs as referred to in Article 11 paragraph (1) include: (a). marine and fisheries; (b). tourism; (c). agriculture ;(d). forestry; (e). energy and Mineral Resources; (f). trading; (g). industry; and (h). transmigration.</p> <p>-Attachment to Law No.23/2014 shows the division of authority and duties between the Central Government and local governments in the development of cooperatives and SMEs. The division of authority and duties between the Central Government and Regional Governments related to entrepreneurship is in the areas of: (1) Manpower, particularly with regard to job training and labor productivity; and (2). Youth, especially related to youth development and youth.</p>	<p>Law No.23/2014 regulates the administration of government affairs, one of which must be implemented in the form of basic services relating to cooperatives, small and medium enterprises (SMEs).</p>

8	<p>The 2022 Draft Law of the Republic of Indonesia) concerning National Entrepreneurship (<i>Draft Rancangan Undang-Undang Republik Indonesia tentang Kewirausahaan Nasional, Konsep, 25 Januari 2022</i> or RUUKewirausahaan tahun 2022)</p>	<p>-Article 1 points 2, 4 and 6 of the 2022 Draft Law (RUU Kewirausahaan 2022), social entrepreneurship is entrepreneurship that has a vision and mission to solve social problems and/or provide positive changes to the welfare of society and the environment through planning, coaching, development and empowerment that has a measurable impact, and reinvests most of the profits in support of the mission. -Article 10 of the 2022 Entrepreneurship Bill describes the characteristics of social entrepreneurship as follows: (1). Having a social vision and mission to solve the community's social problems, most of the profits are used again to carry out the social vision and mission; (2). Involving participation and empowering the community, and (3). Applying the principles of good business governance.</p>	<p>Referring to the 2022 Draft Law on Entrepreneurship, it can be interpreted that there are no rules regarding the legal form of companies, social entrepreneurship legal entities in Indonesia, for example, Article 11 of the 2022 Entrepreneurship Bill explains the legal entities of social entrepreneurship, “.....between other foundations, associations, and cooperatives.” (point 1), but not mentioning the company is of course very surprising (Anastasya, 2019).</p>
9	<p>Government Regulations/(<i>Peraturan Pemerintah</i> or PP) as follows:</p>	<p>9.1. Instructions of the President of the Republic of Indonesia Number 4 of 1995 concerning the National Movement to Promote and Cultivate Entrepreneurship (<i>Instruksi Presiden Republik Indonesia Nomor 4 Tahun 1995 tentang Gerakan Nasional Memasyarakatkan Dan Membudayakan Kewirausahaan</i> or Inpres No 4/1995).</p>	<p>Instructions of the President of the Republic of Indonesia Number 4 of 1995 instructs all relevant Ministers, Governors of Bank Indonesia, and Governors of Level I Regional Heads to jointly carry out the movement to socialize and cultivate entrepreneurship in their respective sectors in accordance with their duties, authorities and responsibilities.</p>
	<p>9.2. Government Regulation Number 41 of 2011 concerning Entrepreneurship Development and Youth Pioneering and Provision of Infrastructure and Youth Facilities (<i>Peraturan Pemerintah</i></p>	<p>, Government Regulation Number 41 of 2011 which is the implementing regulation of Law Number 40 of 2009 concerning Youth. Related to entrepreneurship, it regulates the duties and responsibilities of the Government and Local Government in entrepreneurship development, planning for entrepreneurship development, the scope of youth entrepreneurship development, providing infrastructure and facilities that support youth entrepreneurship development, as well as funding.</p>	<p>Entrepreneurship development, youth pioneering in Government Regulation Number 41 of 2011 is facilitated by the Government, local governments, youth organizations, and/or the community. Youth and/or community organizations are given broad opportunities together with the Government and local governments to carry out</p>

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<p><i>tahNomor 41 Tahun 2011 tentangPengembangan Kewirausahaan dan KepeloporanPemuda asertaPenyediaanP rasarana dan Sarana Kepemudaan or PP No.41/2011)</i></p>		<p>entrepreneurial development.</p>
<p>9.3.Government Regulation No. 60 of 2013 concerning Personnel Organizational Structure and Working Mechanisms of Youth Entrepreneurship Capital Institutions (PeraturanPemerintah No. 60 Tahun 2013 tentangSusunanOrganisasiPersonalia Dan MekanismeKerja Lembaga PermodalanKewirausahaanPemuda/LKP - PP No.60/2013)</p>	<p>Government Regulation No. 60 of 2013 which is the implementing regulation of Law Number 40 of 2009 concerning Youth. LPKP is expected to facilitate access to capital for young, novice entrepreneurs to start their business.</p>	<p>Government Regulation No. 60 of 2013 regulates the capital provided for young young entrepreneurs including grants, revolving funds, guarantees and/or interest subsidies, venture capital, and/or other forms of capital. LPKP is also expected to be developed at the provincial and district/city levels according to need.</p>
<p>9.4.Presidential Regulation Number 27 of 2013 concerning Entrepreneurial Incubators (PeraturanPresiden Nomor 27 Tahun 2013 tentangInkubatorWirausahaor Perpres No. 27/2013)</p>	<p>Presidential Decree No. 27/2013 which directs the development of entrepreneurial incubators to be able to create and develop new businesses that have economic value and high competitiveness, as well as optimize educated human resources in driving the economy by utilizing science.</p>	<p>Regulations in Presidential Regulation No. 27/2013 includes targets for developing entrepreneurial incubators, organizing entrepreneurial incubators, incubation participants, priorities and incubation periods, as well as coordinating the development of entrepreneurial incubators.</p>
<p>9.5.Presidential Regulation Number 2 of 2015 concerning the National Medium Term Development Plan (PeraturanPresiden Nomor 2 Tahun 2015)</p>	<p>Article 2 paragraph 2 of Presidential Regulation Number 2 of 2015 reads that the National RPJM contains a national development strategy, general policies, programs of Ministries/Agencies and across Ministries/Agencies, regional and cross-regional, as well as a macroeconomic framework that includes a comprehensive picture of the economy including the direction of fiscal policy in a work plan in the form of a regulatory framework and a funding framework that indicative.</p>	<p>In Article 2 paragraph 4 of Presidential Regulation Number 2 of 2015 reads that the National RPJM can be a reference for the community participate in the implementation of development national.</p>

tentang Rencana  
Pembangunan  
Jangka Menengah  
Nasional or  
RPJMN) 2015 –  
2019 (PP  
No.2/2015)

<p>9.6. Presidential Regulation of the Republic of Indonesia Number 2 of 2022 concerning National Entrepreneurship Development 2021-2024 (Peraturan Presiden Republik Indonesia Nomor 2 Tahun 2022 Tentang Pengembangan Kewirausahaan Nasional Tahun 2021 -2024 or Perpres No 2/2022)</p>	<p>-Article 1 paragraph 2 of Presidential Decree No. 2/2022 defines Micro Enterprises as productive economic businesses owned by individuals and/or individual business entities that meet the criteria for micro enterprises as stipulated in the law concerning micro, small and medium enterprises. -Article 1, paragraph 3 of Presidential Decree No. 2/2022, the definition of Small Business is a productive economic business that stands alone, which is carried out by individuals or business entities that are not subsidiaries or not branches of companies that are owned, controlled, or become part either directly or indirectly of medium-sized businesses. or large businesses that meet the criteria for Small Businesses as regulated in the law concerning Micro, small and medium-sized enterprises. -Article 2 paragraph 17 of Presidential Regulation No. 2/2022 reads that Micro and Small Business Actors, hereinafter referred to as (<i>Pelaku Usaha Mikro dan Usaha Kecil</i> or PUMK), are individuals and/or individual business entities that have Micro or Small Businesses.</p>	<p>Presidential Decree No. 2/2022 becomes a guideline for ministries/agencies, local governments, and stakeholders in carrying out National Entrepreneurship Development which is set for the period 2021--2024</p>
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**Source:** Legal Regulations related to Entrepreneurship in Indonesia from various sources (processed)

Referring to table 1, it can be seen that there are 7 (seven) laws and regulations that do not directly regulate entrepreneurship in Indonesia, and 5 (five) laws and regulations that are passed down in Government Regulations/Presidential Regulations/Ministerial Regulations. Various laws and regulations and their derivatives that specifically regulate entrepreneurship do not yet exist in Indonesia, with the exception of Presidential Decree No. 2/2022, where in the hierarchy of laws, Presidential Decree No. 2/2022 is still under the law (*Undang-Undang* or UU). Then, the current legal regulations, especially those related to entrepreneurship in Indonesia in the perspective of sociological jurisprudence, tend to not fulfill and direct their attention to the position and function of law in society, legal reality. For example, various existing laws and regulations and their derivatives related to entrepreneurship have not been able to answer the legal reality. Legal reality in the perspective of sociological jurisprudence can be interpreted as a legal product in the form of legislation and its derivatives based on public will (Putra,2014).

Legal regulation in the perspective of sociological jurisprudence is an important issue because it has implications for Indonesia's ranking in the Global Entrepreneurship Index (GEI). The GEI is an annual index that measures the health of the entrepreneurial ecosystem in 137 countries, and the performance rankings provide an overview of how each country is performing in both domestic and international contexts (GEDI,2022). GEDI (2022) has released that Indonesia's position in 2018 is still ranked 94th out of 137 countries in the world in 2018 with the Global Entrepreneurship Index (GEI), which is 21. The Ministry of Cooperatives and SMEs (2022) states that at least there are several factors that The background and what affect Indonesia's ranking is still far from the GEDI data (2022) among others are the ease of regulation, access to capital, the low quality of human resources, and the mindset factor that is part of the culture of most Indonesian people, preferring to work than doing business. .

Furthermore, in relation to the existing regulations/laws, it has not specifically regulated the entrepreneurship sector in Indonesia at the level of the law in the Indonesian legal system (Hamid and Hasbullah,2021. Therefore, the government and the House of Representatives (*Dewan Perwakilan Rakyat* or DPR) of the Republic of Indonesia are expected to immediately ratify and enact the 2022 Draft Law of the Republic of Indonesia concerning National Entrepreneurship, Concept, January 25,2022 (*Draft Rancangan Undang-Undang Republik Indonesia tentang Kewirausahaan Nasional, Konsep, 25 Januari 2022* or *Draft RUU Kewirausahaan tahun 2022*), with reference to public needs. On the other hand, the government can simultaneously encourage universities to create graduates who are capable of entrepreneurship so that improve human resources (Hamid, 2020), the competitiveness of Indonesian people who are independent, innovative, creative, build entrepreneurship infrastructure based on information and communication technology in the 4.0 era and increase financial inclusion. This is a strategic agenda to enabling and encouraging the entrepreneurial ecosystem in Indonesia.

### **3. Results and Discussions**

#### **3.1. Juridical Review**

Law is a binding custom or practice of a community : a rule of conduct or action prescribed (to lay down as a guide, direction, or rule of action) or formally recognized as binding or enforced by a controlling authority (“Law.” Merriam -Webster.com Dictionary, Merriam-

Webster,2022). Pound (1912:490-494) states that law as a product of social forces is a definite phenomenon that follows human nature, the nature of their relationship so that it is inevitable that the science of law must be based on generalizations from descriptive society. Various community activities are carried out to meet their needs, and the law as a set of rules is needed to regulate the activities of human behavior. Human behavior in general is basically to make closer contact with each other, and they have more desires, or social interests (Willis,1926:204-205).

According to Willis (1926: 204-205), law is a social control scheme, and law seeks to control all social relations as far as social interests exist, and law acquires binding power, because it is manifested in regulations in the form of laws (Hamid,2020). ). Therefore, the notion of law can be interpreted as a system of rules that are made and enforced through social institutions or government to regulate and ensure the behavior of individuals or communities as social control to support the will of the state. Hadjon (2005) states that from this point of view that the science of law has 2 (two) sides as follows:(1).Jurisprudence with its original character as a normative science,and (2).Legal science has empirical aspects. Then, Hadjon (2005) stated that the empirical side of law is a study of empirical legal science such as sociological jurisprudence. According to Pound (1912:490-494), sociological jurisprudence is a legal science based on anthropology and ethnology and has characteristics with more attention to legal work than its abstract content (Singh, N/D).

Sidharta (2022) states that sociological jurisprudence is a reflective legal analysis because it is related to values from a juridical and empirical point of view (perspectives of legal scholars and legal practitioners), and the study is directed to answer real issues. Furthermore, the existence of legal regulations related to entrepreneurship in Indonesia is regulated in various laws and regulations and their derivatives. The first legal regulation related to entrepreneurship in Indonesia was the Presidential Instruction of the Republic of Indonesia Number 4 of 1995 concerning the National Movement to Promote and Cultivate Entrepreneurship (*Instruksi Presiden Republik Indonesia Nomor 4 Tahun 1995 tentang Gerakan Nasional Memasyarakatkan Dan Membudayakan Kewirausahaan or Inpres No. 4/1995*). According to the considerations of INPRES No. 4/1995 a and b that the implementation of national development, the community is the main actor, and the Government is obliged to direct, guide and create a supportive atmosphere; so that efforts are needed to continuously develop the spirit, attitudes, behavior and entrepreneurial abilities of Indonesian human resources.

Presidential Instruction No. 4/1995 defines entrepreneurship as the spirit, attitude, behavior and ability of a person in handling businesses and or activities that lead to efforts to find, create, implement new ways of working, technology and products by increasing efficiency in order to provide better services and or earn a bigger profit. Meanwhile, Article 1 paragraph 2 of Presidential Regulation of the Republic of Indonesia Number 2 of 2022 concerning National Entrepreneurship Development 2021-2024 (*Peraturan Presiden Republik Indonesia Nomor 2 Tahun 2022 Tentang Pengembangan Kewirausahaan Nasional Tahun 2021 -2024* or *Perpres No.2/2022*) defines entrepreneurship as an activity in creating and/or developing an innovative and sustainable business. Presidential Regulation No.2/2022 and officially takes effect on January 3,2022 is aimed at anticipating the void of specific legal regulations related to the development of national entrepreneurship.

According to Kartika (2020) in Johan,2022) that Presidential Decree No.2/2022 has provided more space for entrepreneurship, provides guarantees, and encourages entrepreneurship more broadly and inclusively. Presidential Regulation No.2/2022 also confirms that funding for entrepreneurship development comes from the State Revenue and Expenditure Budget (*Anggaran Pendapatan dan Belanja Negara* or APBN), Regional Revenue and Expenditure Budget (*Anggaran Pendapatan dan Belanja Daerah* or APBD) (and other sources in accordance with the provisions of laws and regulations (Sikumbang,2022).

### **3,2 Legal Regulation in the Perspective of Sociological Jurisprudence**

The rule of law is one ideal in a set of values that dominate liberal political morality: others include democracy, human rights, social justice, and economic freedom (The Stanford Encyclopedia of Philosophy,2021). Humans make legal rules called social norms and rules so that the law continues to be attached to society (Hernowo et.al.,2021). Law is not merely a statutory regulation, but the reality of society is also a legal fact that cannot be ruled out by legislation, and good law is a law that is formed by looking at the laws that apply in society (Rahardjo;2002). Then, the sociological jurisprudence view says that legal regulations in the form of legal regulations cannot force the contents of these regulations to be carried out absolutely, but in many ways are defeated by the social structure in which the law is implemented (Junaidi,2016).

Singh (N/D) stated that the main premise of sociological jurisprudence is that law should be studied in action and not in textbooks, and make law an instrument of social control and social change. Meanwhile, Goffery Sower (1973) in Atmadja (2013) states that sociological jurisprudence is the speculation of legal experts who examine in detail the structure of the legal system, and the emphasis lies on the relationship between law and society, not on metaphysics and formal logic of law. Sociological jurisprudence emphasizes its attention to legal reality which is basically public will, according to the needs of the legal community so that the role of society in law formation and legal orientation is very important (Putra,2014). Therefore, law and society are two aspects that cannot be separated (Cahyani,2021). Where there is a community there must be a law that regulates it, *ubi societas ibi ius* (Mertokusumo,2008;Salvatore 2018). According to Singh (N/D), sociological jurisprudence refers to the adjustment of relationships and regulation of human behavior involved in actual social situations as social phenomena.

According to Rasjidi and Rasjidi (2007), sociological jurisprudence shows a careful compromise between written law as a community need for the creation of legal certainty (positivism law) and living law as a form of appreciation for the important role of society in law formation and legal orientation. The role of society in the formation of law and legal orientation can be interpreted that every person as a citizen conceptually has five basic attributes, including a sense of identity, having certain rights, fulfilling obligations, an interest in being involved in public affairs, and a willingness to accept values. the basic values of society (Cogan and Derricott (1998). According to Rawls (1999), everyone has the right to enjoy the same values and social resources, but at the same time has an obligation to create possibilities that bring benefits to society. overall.

Therefore, legal regulation in the perspective of sociological jurisprudence, namely real legal regulations according to the needs of the community to activate and encourage the entrepreneurial ecosystem in Indonesia as a social enterprise. A social enterprise is a business that trades in the market for a social purpose (Edmonds,2014). According to Edmonds (2021), social enterprises use business tools and techniques to achieve social goals and include a very wide variety of organizations, such as cooperatives, development trusts, community enterprises, housing associations, social enterprises, and recreational institutions. In this context, in Indonesia, it is necessary to set boundaries that are owned by foundations, associations, and cooperatives in doing business to be clearly stated as a possible form of social entrepreneurship



as a special business entity (Anastasya,2019). This view refers to the successful application of legal regulations in the perspective of sociological jurisprudence in order to encourage a conducive entrepreneurial ecosystem.

Anastasya (2019) revealed that in England and the United States, legal regulations are applied by emphasizing the legal status or legal entity of a business or social enterprise as follows:

1. UK - There is a special legal entity for social enterprises, the community interest company (CIC). Regulations related to CIC were issued in 2005 which aim to provide space for social enterprises where these companies were originally designed to utilize their assets and profits for the benefit of the public. This makes the UK the most prominent country in terms of social business development worldwide.
2. United States of America - The existing regulations allow several legal entities that can be utilized by social enterprises, including: a legal entity called a low-profit limited liability company (L3C), a company that does state that its establishment is to bring social benefits, and not to maximize income. Companies that want to apply as L3C are required to prioritize their social benefits, so that their fiduciary duties are prioritized. What is very interesting about L3C regulations is the ease of attracting investment from foundations and private investors so that they can benefit from investing in L3C organizations. Likewise, if you invest in a social purpose corporation (SPC) or a benefit corporation (B Corp). Both are forms of companies that state that in every decision they will consider social and environmental issues, not just the goal of maximizing profits. SPC pursues specific social or environmental goals, while B Corp is more general.

In this context, it can be interpreted that the UK with its community interest company (CIC) and America with its low-profit limited liability company (L3C) regulations have been proven to be able to optimize the entrepreneurial ecosystem by establishing the legal status or legal entity of a business or social enterprise.

Thus, Indonesia, which has different legal backgrounds and needs (Christianto,2020) is expected to be able to transform legal regulations/rules from a sociological jurisprudence perspective to realize the creation of national laws that are truly capable of being a solution to the effectiveness of regulations/rules of law. This is very relevant as sociological jurisprudence which views that to create legal regulations/rules that can be executed absolutely is done on the

basis without having to be coerced, but through the social structure in which the law is implemented (Junaidi.2016).

### **3.3. Legal Regulations to Enabling and Encouraging Entrepreneurial Ecosystems**

Legal regulations/rules consist of legal regulations/rules with formal and procedural principles. Legal regulations/rules with formal principles are related to generality, clarity, publicity, stability, and prospectivity of norms governing society (The Stanford Encyclopedia of Philosophy,2021). these norms are enforced, the institutions—such as courts and independent judiciaries required by their administration, and also certain substantive ideals such as the presumption of liberty and respect for private property (The Stanford Encyclopedia of Philosophy,2021). According to Davis and Trebilcock (1999), law is seen as an instrument for political and social change, which has an important role in terms of constitutional corporate governance, economic and social rights.

Legal regulation in the perspective of sociological jurisprudence is very important where Indonesia is currently trying to create a conducive entrepreneurial ecosystem. The entrepreneurial ecosystem is not only about start-ups and micro, small and medium enterprises (MSMEs), but creative thinking in companies and the government is also very much needed (Josua,2021). Legal regulation in the sociological jurisprudence perspective is a functionalist aspect that functions to analyze the social context in which lawsuits occur and how the rule of law can affect social interaction (Langone, 2016). According to North DC Institutions (1990) in Audretsch et.al.(2021) that institutional arrangements define incentives that guide rational choices of individuals and companies and distinguish between formal rules of the game consisting of laws and regulations and informal or unwritten codes consisting of social arrangements that hinder or encourage business activity. One of the driving factors for creating a conducive entrepreneurial ecosystem is through legal regulations (Hauerstein,2019; Audretsch et.al.,2021; Anastasya,2019; Spigel and Kitagawa,2020).

Then, in a modern country, companies are important engines of economic growth because without companies and entrepreneurs, there will be little innovation, little productivity growth, and few new jobs (GEDI,2022). According to GEDI (2022), entrepreneurial success does not occur in a vacuum, and entrepreneurs exist within the context of their particular geography – be it their local, national, or even supranational economy and society. Wennkers et.al., (2008) stated

that entrepreneurship is an effort to create new businesses that contribute significantly to economic growth and requires support from various parties, including the Government, especially in the 4.0 era. Era 4.0 as the era of industrial digitization, companies are increasingly investing in tools and solutions that enable processes, machines, employees, and even the products themselves, to be integrated into one integrated network for data collection, data analysis, enterprise development evaluation, and performance improvement (Nagy et.al,2018).

Therefore, the trend of entrepreneurs in the 4.0 era in general is to maximize the role and function of the internet in developing their business which includes the production process, and the entire digital-based industrial value chain in order to achieve high efficiency and better product quality. Spigel and Kitagawa (2020) define an entrepreneurial ecosystem as a collection of regional actors (such as entrepreneurs, advisors, workers, mentors, and workers) and factors (cultural views, policies, R&D systems, and networks) that all contribute to the creation and survival of and business growth. At present, governments in both developed and developing countries have turned to ecosystem development as a way to create jobs, encourage innovation, and in turn generate economic prosperity (Spigel and Kitagawa,2020).

The entrepreneurial ecosystem is in the form of a mix of attitudes, culture, policies, finance, human resources, markets, institutions and infrastructure that must be related and coordinated both formally and informally (Haratua and and Wijaya,2020). Brown and Mason (2017) state that the entrepreneurial ecosystem is a set of interrelated actors, organizations, institutions, and entrepreneurial processes, which formally and informally unite to connect, mediate, and regulate performance in the local entrepreneurial environment, which involves a dynamic and systemic nature, in a supportive environment. Furthermore, GEDI (2022) states that the entrepreneurial ecosystem is a mix of attitudes, resources, and infrastructure. According to Isenberg (2011), the structure of the entrepreneurial ecosystem includes the following pillars:

1. A conducive culture (tolerance to risk and failure, positive perception of entrepreneurship);
2. Supportive policies and leadership (regulatory incentives, role of public research institutions);
3. Availability of appropriate financing (angel investor, venture capital, micro credit);
4. Human resources (HR) (skilled and unskilled, educational and training institutions);

5. A friendly market in absorbing new products (conducive to new products, consumers are responsive to new products); and
6. Various institutional and infrastructure support (legal and accounting advocacy, information and communication technology, associations that support entrepreneurship development.

Audretsch et al. (2021) state that a conducive entrepreneurial ecosystem has characteristics, namely the protection of property rights, an efficient contract enforcement system, and regulation that will foster individual activities to launch productive entrepreneurship. However, the current problem in Indonesia is legal regulation which is considered to have implications for the number of entrepreneurs or entrepreneurship. Thohir (2021) in Putra (2021) states that the level of the number of entrepreneurs in Indonesia is still lower when compared to other countries in various Southeast Asian countries as follows: (1).Indonesia is around 3.35 percent of the total population of Indonesia, with a population of Indonesia's population is around 269.6 million people (Central Bureau of Statistics,2022), the number of new national entrepreneurs has reached 9.02 million people;(2).Malaysia around 4.74 percent;(3).Thailand is around 4.26 percent,and (4).Singapore is the highest at 8.76 percent of the total population. Wijaya,2020; GEDI,2022).

Referring to the low level of the number of entrepreneurs in Indonesia when compared to Malaysia, Thailand and Singapore, Indonesia needs at least 4 million new entrepreneurs to contribute to strengthening the economic structure (Ministry of Industry of the Republic of Indonesia that Indonesia in Putra,2021). According to Zibell and Madhur (2010), heavy and complex business procedures and regulations—and their inconsistent interpretation or application—are a serious obstacle to increasing investment. According to the Minister of National Development Planning/Head of the National Development Planning Agency, and the Coordinating Minister for Economic Affairs of the Republic of Indonesia (2016) that the entrepreneurial ecosystem must be built from an easily accessible market, the availability of human resources/labor, sources of financing, support systems (mentors, consultants, incubators), , entrepreneurial networks), regulatory frameworks and infrastructure, education and training systems, cultural support, and availability of catalysts (universities),

Universities are catalysts, namely factors (substances, people or objects) that accelerate the causes of change to occur, namely agents of change (Mazzarol et.al.2016). In this case, what attracts attention and becomes a current issue is that universities are the catalysts that will give

birth to entrepreneurs. As providers of higher education, universities contribute to the development of current and future leaders, employees, and citizens (Mazzarol et.al.,2016). According to Mazzarol et.al.,2016, universities have the opportunity to make a direct and significant impact in the entrepreneurial ecosystem by providing high-quality academic programs that equip graduates with the knowledge and skills to lead and manage entrepreneurial enterprises. For example, Kobe University, Japan in 1938, Harvard University pioneered the first university course in entrepreneurship in the United States in 1947, New England University - Australia during 1970 (Mazzarol et.al.,2016). According to Lundvall (2007) in Mazzarol et.al. (2016), university graduates are recognized as key members of the workforce for the knowledge economy and human capital is a key driver of economic growth.

#### **4. Conclusion**

Law is a necessary rule and plays a strategic role in almost every aspect of life. Meanwhile, sociological jurisprudence as one of the schools of legal philosophy, tries to understand the deepest nature of law so that legal regulations/rules have effective solutions. Then, entrepreneurship is one of the strategic and important business sectors to build Indonesia into a more developed country that can contribute to national economic growth, create opportunities and employment opportunities so that many entrepreneurs are needed. On the other hand, the role of universities as a catalyst to activate and encourage the entrepreneurial ecosystem is a necessity. In this context, the university is expected to create graduates who have the basic knowledge and skills to lead and manage entrepreneurial companies such as Lawpreneur for graduates of the Faculty of Law, Ecopreneur for oral Faculty of Economics and Business, Technopreneur for graduates of Faculty of Engineering, Pharmapreneur for graduates of Faculty of Pharmacy, and others. . Thus, the Government together with the House of Representatives (DPR) of the Republic of Indonesia need to include living law in the development of national legal regulations/regulations in the perspective of sociological jurisprudence. This aims to activate and encourage a conducive entrepreneurial ecosystem, especially in the 4.0 era in Indonesia..

## 5. Suggestions

Legal regulation in the perspective of sociological jurisprudence in Indonesia related to entrepreneurship should not just be legislation and its derivatives in terms of law in books and living. Legal regulation in the perspective of sociological jurisprudence, namely real legal regulation according to the needs of the community so that it is necessary to involve the role of the community to create a more attractive environment for private investment (Zibell and Madhur,2010), The importance of the role of the community in law formation and legal orientation that leads to a wider social structure to encourage greater and more tangible productivity (Cronus Law, PLLC,2019). Thus, the Government and the Indonesian House of Representatives are expected to have a strong political inner will to immediately formulate, stipulate, ratify and implement legal regulations from a sociological perspective. jurisprudence to enabling and encouraging the entrepreneurial ecosystem in Indonesia.

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