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### The Effect of Globalization on One Person Company Business Models

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#### Abstract

Individual companies are legal entities as a new business model applied in the community to build businesses through micro and small enterprises based on the Job Creation Law. The emergence of norm conflicts between the UULLC and the Law in the legal concept of a One Person Company needs to be clarified, especially in terms of the position of a One Person Company as a legal entity and the liability of the founder of a One Person Company. The existence of a One Person Company, which is now included in the category of movers in national economic development, causes the need to understand the legal concept of a One Person Company and its legal position based on the principles of utilitarianism philosophy. This research uses the normative juridical method with a statutory approach and conceptual approach, and legal materials are analyzed using the

deductive method. The results of this study show that the influence of globalization on the legal concept of a One Person Company in Indonesia has positive and negative sides, positive because this business model can be applied as a new business model for the development of a competitive national economy, but the negative side is that resources and capital are limited. At the same time, third parties may not necessarily agree to partner with a One Person Company due to the high level of risk, and the legal position of the One Person Company based on the principle of utilitarianism is in line with Bentham's thinking in meeting individual needs, namely the One Person Company. However, one must still pay attention to Mill's thinking in fulfilling the greatest happiness as the concept of Economic Analysis of Law.

**Keywords:** Influence of Globalization, Business Model, One Person Company

#### 1. Introduction

The rapid development of science and technology has much influence on all lines, especially in terms of the national economy. The growth of society influences the occurrence of globalization. The essence of national economic development aims to improve the welfare of society, and then society and the economy will depend on each other in the development of globalization. Economic growth, according to Rostow, is a process of changing people's lives, especially the structure of economic activity and social values.<sup>1</sup> A country can be said to have experienced economic growth if there is an increase in providing the production of goods and services for the community, including technological developments through digitalization, which results in transactions both between individuals within a country and between countries when carrying out economic activities.

Globalization is the process of society being interconnected with the international world in terms of socio-culture, politics, economy, environment, technology, and law. This is the positive side of globalization, namely the ease of carrying out economic activities with an open trading system so as to create a conducive investment climate. The rapidly developing business world depends on demand, which encourages businesses to continue to innovate in meeting consumer needs, including adapting to the development of technological facilities. Micro, Small, and Medium Enterprises (from now on referred to as MSMEs) are drivers, drivers, and milestones in economic growth in a country because they are labor-intensive businesses using local resources as providers of goods and services through the establishment of companies. MSMEs play an essential role in the national economic activity sector because they are a source of innovation for the economic market, increase labor opportunities, and maintain the balance of a country's exports and imports. However, the productivity of

<sup>1</sup> Rostow, The stages of economic growth, The Economic History Review, Vol 12, No.01, 1959, h. 1-16.

MSMEs will only improve if it is balanced with appropriate capital criteria, limited market information, technology, human resources, and an unfavorable business climate.

People who carry out economic activities through the establishment of companies contribute to national economic growth because they have great potential for increasing state revenues. Robert mentioned that 3 (three) forms of companies consist of individual companies (sole proprietorship), partnership companies (partnership), and companies (company or corporation).<sup>2</sup> A One Person Company consists of a trading business, an alliance company consists of a civil partnership (matchup), a commander partnership (commanditaire vennootschap) (from now on referred to as CV), and a firm partnership. In contrast, a company is a limited liability company. The forms of business entities generally consist of Trade Company, Civil Partnership, Firm, Commanditaire Vennootschap, and Limited Liability Company (from now on referred to as LLC).<sup>3</sup> A company has a broader meaning than a business entity because a company is an activity that carries out trading activities, while a business entity is one of the elements owned by a company as an institution or entity that carries out business activities. The activities carried out by the company are regular and legally valid, with the aim of obtaining financial benefits. Therefore, companies and business entities are the same.

LLC is a legal entity that lives because it is required by law.<sup>4</sup> LLC consists of the word "*Sero*," which means shares, while limited means limited liability for shareholders based on the number of shares owned.<sup>5</sup> LLC is a legal entity of capital alliance established based on an agreement. It conducts business activities with authorized capital, which is entirely divided into shares and fulfills the provisions in the legislation.<sup>6</sup> LLC is a business entity established based on an agreement with an overall capital divided into shares, each shareholder is limited in liability to the amount of the value of the shares owned.

Based on Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law (from now on referred to as the Job Creation Law), a new concept of individual legal entity form is introduced which is intended and specialized for Micro and Small Enterprises (from now on referred to as MSEs) in an effort to facilitate business development through the form of LLC, which aims to achieve ease of investment climate and increase MSEs including improving

<sup>2</sup> Ida Bagus Abhimantara, "*Kedudukan Persekutuan Komanditer (Commanditaire Vennootschap) sebagai Corporate Guarantee*", 2019, Jurnal Notaire, 2(3), h. 360.

<sup>3</sup> Kurniawan, *Hukum Perusahaan: Karakteristik Badan Usaha Berbadan Hukum dan Tidak Berbadan Hukum Di Indonesia* (Yogyakarta: Genta Publishing, 2014), h. 12.

<sup>4</sup> Yahya Harahap, *Separate Entity, Limited Liability Dan Piercing the Corporate Veil*, Jurnal Hukum Bisnis, Vol. 26, No. 03, 2007, h. 44, diakses pada tanggal 22 November 2021 pukul 20.00 WIB.

<sup>5</sup> R. Murjiyanto, *Pengantar Hukum Dagang: Aspek-Aspek Hukum Perusahaan Dan Larangan Praktek Monopoli*, Cet. 1 (Yogyakarta: Liberty bekerjasama dengan Badan Penerbitan Fakultas Hukum Universitas Janabadra, 2002), h. 17.

<sup>6</sup> Lihat ketentuan Pasal 1 angka 1 Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas.

human resources. Article 109 number 1 of the Job Creation Law amends the provisions of LLC as in Law Number 40 of 2007 concerning Limited Liability Companies (from now on referred to as UULLC), which states that LLC is a legal entity which is an alliance of capital, established based on an agreement, conducting business activities with authorized capital divided into shares, has been changed to LLC is a legal entity which is an alliance of capital, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares or Individual Legal Entities that meet the MSE criteria as regulated in the MSE regulations. This then causes a conflict of norms between the Company Law and the Job Creation Law because both regulations are still in effect, confusing in determining the legal construction of LLC as a legal entity as referred to in the Company Law and LLC as an individual legal entity as referred to in the Job Creation Law.

Problems also arise considering that the legal concept of LLC is a legal entity that has a separation of assets between company property and personal property of business actors with corporate organizational structures such as GMS, Directors, and Commissioners, while in an One Person Company which is basically only established by 1 (one) founder clearly creates a conflict of norms as in the UULLC regarding the organizational structure of the company, this will also have an impact on the responsibility of the founder of the One Person Company in carrying out its economic activities as Directors, Commissioners, and conducting GMS as the highest holder of the LLC structure. Therefore, it will be interesting to study the legal position of Individual Companies in Indonesia from the point of view of the utilitarianism school of philosophy.

## 2. Legal Issues

Based on this description, the problem formulations to be studied are:

1. How does globalization affect the legal concept of the One Person Company in Indonesia?
2. Has the legal position of the One Person Company in Indonesia guaranteed legal expediency based on the principle of utilitarianism?

## 3. Method

The type of research used is normative juridical, with a statutory approach, historical approach, and philosophical conceptual approach. The legal materials used are primary legal materials, secondary legal materials, and non-legal materials, which are collected by the literature study method and analyzed by the deductive analysis method.

## 4. Discussion

### 4.1 The Effect of Globalization on the Legal Concept of the One Person Company

The birth of the globalization phenomenon, along with the era of modernization in the industrial sector, affects economic, social, cultural, political, and legal aspects. Giddens states that globalization is a force from all aspects that affect politics and economics in society.<sup>7</sup> Globalization is a concept of thought that changes the economic structure of a system to increase the role of the market. The emergence of globalization then has an impact on structural

<sup>7</sup> Martin Wolf, *Globalisasi Jalan Menuju Kesejahteraan*, (Jakarta: Yayasan Obor Indonesia, 2007), h. 16

changes in the world economy, which is accelerating rapidly in line with advances in science and technology, so that it not only creates dependence on competition between countries but also levels of domestic competition related to production and investment. The influence of globalization on the economy is based on the process of national and international economic activities getting closer, thus opening up market opportunities for competitive and innovative products. Through globalization, physical and economic control and voluntarism, like in the Dutch colonial era, no longer apply because globalization is one of the concepts used by the government in realizing an equitable national economic strategy through sustainable development and innovation.

Globalization is a complex process that affects politics and economics because globalization simultaneously creates a new system transformation embodied in public policy. The flow of globalization since the Dutch colonial rule in medieval times has become a fundamental value in encouraging globalization through the industrial revolution based on the factor of the scope of the impact of globalization and the speed of a country in developing science and technology. The consequences of globalization occur because of the interactions and transactions of both individuals and countries that give rise to economic, political, social, and cultural consequences at a higher level, both nationally and internationally. This can be seen based on public policies that regulate the national economy and its relation to the international economy to expand and deepen the global market.

Lyman argues that globalization is not limited to the context of growing trade but is also driven by technological capabilities that facilitate changes in the transaction system, including social changes in society in carrying out economic activities nationally and internationally.<sup>8</sup> This can be seen with an open economic system as a global economic principle to open up opportunities for national and international economic cooperation through investment and export-import. The community as a business actor also adapts to the development of globalization by increasing competitive and innovative business competition and utilizing resources optimally to increase company profits.

The positive influence of globalization is the free international market, the ease of exporting and importing, and the creation of digitized businesses, besides that it also affects changes in the values and attitudes of society, the development of science and technology, and the standard of living increases with the conveniences facilitated by updating and upgrading as well as evaluating so that communication between humans in thinking can be better. Negative influences can be seen in the presence of excessive consumptive behavior for the community, individualism, social inequality, excessive import activities, and the growth of local industries.

The development of trade in Indonesia at the beginning of the independence period slowly made adaptive adjustments. It focused on the needs of the country at that time, such as

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<sup>8</sup> Amanda Ayu Rizkia dan Suci Rahmawati, Faktor-Faktor yang mempengaruhi Anti Monopoli dan Persaingan Bisnis Tidak Sehat: Globalisasi Ekonomi, Persaingan Usaha, dan Pelaku Usaha (Literature Review Etika), *Dinasti Review: Jurnal Ilmu Manajemen Terapan*, Vol. 2, No. 5, 2021, h. 634

legal, political, and constitutional provisions, so that regulations regarding LLCs were still guided by the principle of concordance, namely the Commercial Code and the Transitional Rules of the 1945 Constitution of the Republic of Indonesia, as well as the provisions of the Indonesian Andil Airline Ordinance as a form of government in nationalizing foreign companies (mainly Dutch) in Indonesia with the principle of territoriality. Dutch companies that were still in Indonesia were then determined and declared wholly owned by Indonesia through the issuance of Law Number 86 of 1958 concerning the Nationalization of Dutch-owned companies with its implementing regulations in the form of Government Regulation Number 2 of 1959.<sup>9</sup> Since then, every company established in Indonesia (incorporated or unincorporated) must be governed by Indonesian Citizens (WNI) and or the government, as an effort to anticipate foreign companies operating in Indonesia.

Law No. 1 of 1967 during the New Order era concerning Foreign Investment which was the beginning of foreign discretion in re-establishing LLC in Indonesia which triggered changes in the provisions of LLC in Indonesia so that the form of LLC appeared which was divided into Company Jawatan (PERJAN), Perusahaan Umum (PERUM) and Perusahaan Perseroan (PERSERO). The provisions of LLC, which were previously only regulated through the Commercial Code and the Civil Code, were deemed less relevant and not dynamic when adjusted to economic developments during the New Order period, as well as legal dualism since the enactment of the Indonesian Andil Airline Ordinance, so that on March 7, 1995 Law Number 1 of 1995 concerning Limited Liability Companies (LLC Law) was issued which is expected to increase national economic development with legal certainty, legal benefits, and legal justice for community business activities. Technological and economic developments in the world entering the 20th century, which increased rapidly, led to the need for new regulations that were more dynamic and flexible as a form of adjustment to the times. Especially in the field of business, business activities began to be intensified by the community, so regulations are needed that are able to protect, accommodate, and provide certainty and legal benefits for the community to legalize business activities in Indonesia. The provisions of Law No. 1/1995 on Limited Liability Companies were deemed insufficient to facilitate the business activities of the community, so Law No. 1/1995 was revoked and replaced with Law No. 40/2007 on Limited Liability Companies.

According to the general elucidation of Law No. 40 of 2007, the reason why Law No. 1 of 1995 was revoked and declared inapplicable was that the economy, science, and technology had developed so rapidly that it increased the demand for more effective and efficient services and legal certainty with the principles of Good Corporate Governance, as a form of improvement of Law No. 1 of 1995. Law Number 40 of 2007 then regulates new provisions regarding the submission of applications and granting of legal entity status authorization and approval of amendments to the articles of association, as well as the submission and receipt of notifications of amendments to the articles of association

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<sup>9</sup> Syahrullah dan Nasrullah, *Sejarah Perkembangan Perseroan Terbatas di Indonesia*, *Jurnal Fundamental*, Vol. 09, No. 01, 2020, h. 73.

or other data changes carried out electronically with the Legal Entity Administration System. In principle, several provisions are simplified to make it easier for the public, such as the simplification of the articles of association of LLC, the process of submission to notification is carried out electronically through SABH, the existence of a General Meeting of Shareholders (from now on referred to as GMS) conducted by teleconference. The announcement of the company's articles of association regarding the establishment and amendment of the articles of association, which a Notary previously carried out, is now carried out by the Minister.

Molengraff defines a company as an action that is carried out continuously by acting out to get income by entering into a trade agreement.<sup>10</sup> Article 1 letter a of Law Number 3 of 1982 concerning the Obligatory Register of Companies states that a company is a form of business that is permanent, continuous, established, working, and domiciled within the territory of the Republic of Indonesia with the aim of making a profit. Article 1 point 1 of Law Number 8 of 1997 concerning Company Documents determines that a company is a form of business that carries out activities permanently and continuously for profit, which is carried out by individuals, legal entities, and unincorporated business entities domiciled in Indonesia. The company has elements, namely a form of business, carries out activities permanently and continuously, and aims to make a profit.

The company is a place where a production activity occurs whose establishment is legally registered and has a business entity as the status of the company officially.<sup>11</sup> R. Rochmat Soemitro argues that a company is an economic unit of work and aims to make a profit by forming a business entity to organize a company, including a business entity that arises because of a cooperation agreement of several allies.<sup>12</sup> The company is an economic activity that forms a business entity as a legal entity and aims to make a profit. Economic activities are carried out continuously, permanently, legally, and aim to make a profit based on trade results, then the results are recorded in the books in the form of a balance sheet.

A business entity is a juridical and economic unit using capital and labor to make a profit.<sup>13</sup> Article 1 point 3 of Law Number 6 of 1983 as amended by Law Number 28 of 2007 concerning General Provisions and Tax Procedures determines that a business entity is a LLC, Perseroan komanditer, State-Owned Enterprises (from now on BUMN) or Regional-Owned Enterprises (from now on BUMD) with a fixed name and business form. A business entity is an economic, juridical entity that runs a permanent and continuous business established with the aim of making a

profit.<sup>14</sup> A business entity is a juridical and economic form of a company with a fixed name and form that runs a regular and continuous business to make a profit.

Dominick Salvatore believes that a business entity is an organization that coordinates resources with the aim of producing traded goods or services.<sup>15</sup> A business entity is an activity carried out by economic actors in the field of trade or industry that affects economic development by providing goods or services to the community. So, a business entity is different from a company. Companies have a broader understanding than business entities. These, namely, business activities, are carried out continuously and permanently, and the results of their profits and losses are recorded in the balance sheet. In contrast, business entities are the status of companies that are legally registered juridically and are economical in producing traded goods or services. Still, between companies and business entities, the same goal is to make a profit.

The company consists of private and state companies.<sup>16</sup> Private companies are companies whose entire capital is owned by the private sector, such as national private companies, foreign private companies, as well as national and foreign private companies that cooperate in joint venture agreements, with the form of individual companies, partnership companies, companies with incorporated business entities and companies with unincorporated business entities. State companies are companies whose capital is partially or wholly owned by the state, referred to as State-Owned Enterprises (BUMN), which are generally incorporated as LLC, such as Company Companies, Service Companies, and Public Companies. This causes the need for a regular company organization and separate wealth between founders and shareholders and state assets.

The form of business entity generally consists of Trading Business, Civil Federation, Firm, CV, and LLC.<sup>17</sup> The company has a broader meaning than a business entity; a company is an activity that runs a trading business, while a business entity is one of the elements owned by the company as an institution or entity that runs business activities. Companies and business entities are one unit because the company will have a business entity as an entity that oversees the company's activities, which are carried out continuously, legally valid, aims to get profit, and does financial bookkeeping.

LLC business entities have the advantage of developing capital capitalization that provides benefits for founders and shareholders.<sup>18</sup> The preamble of the LLC Law states that the LLC business entity is one of the pillars in the development of the national economy and plays a vital role as a solid foundation for the business world in the face of scientific

<sup>10</sup> H. M. N. Purwosucipto, *Pengertian Pokok Hukum Dagang Indonesia* (Jakarta: Djambatan, 2003), h. 9.

<sup>11</sup> Zainal Asikin, L. Wira Pria Suhartana, *Pengantar Hukum Perusahaan*, (Jakarta: Prenada Media Group, 2018), h. 4.

<sup>12</sup> Djoko Imbawani Amadjaja, *Hukum Dagang Indonesia : Sejarah, Pengertian, dan Prinsip-Prinsip Hukum Dagang*, (Malang: Setara Press, 2011), h. 21.

<sup>13</sup> Johannes Ibrahim Kosasih dan Anak Agung Sagung Laksmi Dewi, *Problematika Hukum Perseroan Komanditer (Commanditaire Vennootschap/CV) Dalam Ranah Hukum Bisnis Dan Perbankan*, (Bandung: Refika Aditama, 2019), h. 27.

<sup>14</sup> Zaeni Asyhadie, *Hukum Bisnis : Prinsip Dan Pelaksanaanya Di Indonesia* (Jakarta: Rajawali Pers, 2014), h. 34.

<sup>15</sup> Johannes Ibrahim Kosasih dan Anak Agung Sagung Laksmi Dewi, *Op.Cit.*, h. 27

<sup>16</sup> Cindawati, *Hukum Dagang Dan Perkembangannya*, (Palembang: Putra Penuntun, 2014), h. 39.

<sup>17</sup> Kurniawan, *Hukum Perusahaan : Karakteristik Badan Usaha Berbadan Hukum dan Tidak Berbadan Hukum Di Indonesia* (Yogyakarta: Genta Publishing, 2014), h. 12.

<sup>18</sup> Agus Budiarto, *Kedudukan Hukum & Tanggung Jawab Pendiri Perseroan Terbatas*, (Jakarta: Ghalia Indonesia, 2002), h. 13.

and economic developments. The position of LLC as a legal entity is explicitly stated in the LLC Law as a definition of LLC, which is a legal entity of capital alliance. A legal entity is an association that has rights and can perform actions like humans, has its wealth, and can sue or be sued in court.<sup>19</sup> LLC as a business entity is a legal subject called *rechtspersoon* so LLC can perform legal acts like humans, namely having rights, obligations, and responsibility for a legal act.

Ali Rido states that the elements of a LLC as a legal entity are the existence of separate assets, specific objectives, own interests or legal relations, and regular organization.<sup>20</sup> Separate assets in a LLC can be known from the authorized capital of the LLC, which is divided into authorized capital, issued capital, and paid-up capital, which consists of the entire value of shares, which can be in the form of movable or immovable objects. The purpose of the existence of a specific purpose can be known from the purpose of the LLC established as outlined in the articles of association of the LLC, namely conducting business activities in a particular field for profit. Regarding the interest or legal relationship itself, it is intended that there is a company organ, namely the Board of Directors, which is responsible for the management of the LLC, including the representation of the LLC in court and outside the court, while regarding the regular organization, it can be seen from the existence of company organs that have their respective authorities and obligations in accordance with the provisions of the articles of association of the LLC.

Since the enactment of the Job Creation Law, a One Person Company has been one of the exciting business choices that business actors can make. The trend of the One Person Company business model can then encourage the government to regulate and supervise information disclosure effectively, which has an impact on regular tax payments because individuals carry it out. The governance and establishment of a One Person Company are more straightforward, and they encourage people to increase new business opportunities that will absorb labor and grow the national economy. This also has an impact on business actors; for example, there is no need for nominees to avoid shareholder conflicts as in the organ structure of a LLC because the One Person Company has complete control over the running of the company. A One Person Company, which is the sole shareholder, will find it easier to make decisions.

A One Person Company as an independent legal subject can increase the trust of business partners rather than individual companies because a One Person Company is obliged to comply with regulations and disclose important information to the public. Business partners can access company information before deciding to partner with a One Person Company. Broader market access allows individual companies to be able to access the global market so that business actors are also encouraged to innovate products and services in an effort to compete competitively, this means that business actors can respond more quickly to market demand because the scope of the company is smaller and flexible, including cost management can be done effectively and efficiently. The concept of a One Person Company owned by business actors also has an impact on the

confidentiality of company information, which is kept more private, in contrast to a LLC, which requires a more complex structure for safeguarding company information.

However, a One Person Company also has negative influences such as limited resources due to intense competition between individual companies and LLCs in general, thus requiring more significant business opportunities, this will also limit the growth of the company in business expansion. Limited capital is also an obstacle because banks and investors may not necessarily approve the offer of an One Person Company because the level of risk of companies run by individuals is higher, this is also related to the risk of company sustainability, which is vulnerable to changes in the conditions and personal situation of business actors, because management in an One Person Company has a high level of difficulty and responsibility from operational, administrative, strategic aspects, all borne by individuals. In addition, the naming of a One Person Company is also limited because it must include a Limited Liability Company in the name chosen in the establishment administration process, the imposition of formation costs and ongoing costs such as annual reports and taxes if borne by the business actors themselves will be a large nominal. A One Person Company is obliged to comply with the laws and regulations, including making periodic reports on the operation of its company as is done by a LLC, if it fails to make periodic reports then the One Person Company will be dissolved.

#### 4.2 Legal Position of One Person Company based on Utilitarianism Principle

The term utilitarianism philosophy comes from Latin, namely "utilis," which means benefit. This school of law emphasizes usefulness or benefits, pioneered by Jeremy Bentham (1748-1789) and John Stuart Mill (1806-1873). According to the view of the utilitarian school, the law can be said to be fair if it has brought happiness, because the good and bad of something is seen based on how much happiness is obtained. The utilitarian principle applies that actions or deeds carried out aim to obtain the greatest possible happiness and reduce suffering.<sup>21</sup> This is based on social philosophy, namely that every human being desires happiness, and one of the instruments is obtained through law.

Utilitarianism emerged from Thomas Hobbes' criticism of Aristotle in the school of natural law, which stated that a contract in forming a state occurs by natural right.<sup>22</sup> Aristotle mentioned that there are people who are destined to lead and some are destined to serve, Hobbes considers that leading or being led does not come from human nature but is created based on knowledge and expertise. Hobbes mentions that law and political order cannot be done based on nature, but because it is perfected through human effort in learning knowledge so that it can rebuild society to be more just for society because it is formed based on human effort and creation, this is the origin of utilitarianism.

<sup>21</sup> Zainuddin Ali, *Filsafat Hukum*, (Jakarta: Sinar Grafika, 2010), h. 59

<sup>22</sup> Indra Rahmatullah, *Filsafat Hukum Utilitarianisme: Konsep dan Aktualisasinya dalam Hukum di Indonesia*, *Jurnal Adalah: Buletin Hukum dan Keadilan*, Vol. 5, No. 4, 2021, h. 2

<sup>19</sup> Chidir Ali, *Badan Hukum*, (Bandung: Alumni, 2011), h. 21.

<sup>20</sup> Chidir Ali, *Op.Cit.*, h. 16

The utilitarian school of philosophy was identified in the late eighteenth century with 3 (three) early figures, namely William Paley (1785), Jeremy Bentham, and William Godwin (1793).<sup>23</sup> William Paley, a minister of the Church of England, argued that expediency is a way of determining the will of God based on the principle that God wants humans to act reasonably to increase happiness.<sup>24</sup> William Godwin is a social and political radical who has an extreme point of view regarding utilitarianism, that morality is impartial without any place for special attachment to the closest person, it is stated that if trapped in a burning building with the Archbishop and the chambermaid who must be saved is the Archbishop because his life is more valuable and valuable for human benefit and happiness than saving the chambermaid, even though the maid is his mother. Jeremy Bentham was the son of a lawyer who was expected to open a law practice, Bentham argued that science should be observed through the senses and physical objects with empirical principles on human actions.<sup>25</sup> At that time, legal products were made and compiled by judges, not government parliaments, so Bentham offered legal goals with utilitarian principles with the legal goal of greatest happiness (the greatest happiness principle). It is intended that the compiler of laws and regulations uses science and its authority to design and compile laws in order to maximize human happiness.

Jeremy Bentham, through his work entitled *Introduction to the Principles of Morals and Legislation*, reveals that the concept of happiness is the foundation in constructing regulatory values called act-utilitarianism.<sup>26</sup> Bentham states that nature provides a place for humans to feel power, pleasure, and distress, so that humans can have ideas in the aim of increasing happiness and reducing distress, legally it can be interpreted that the law is tasked with preventing crime as a sense of distress and caring for or increasing happiness with goodness that is useful for humans. Bentham's opinion rests on individual happiness, so the law in question must fulfill individual happiness. However, the interests of society are still considered, so there needs to be a limit to achieving the goal of individual happiness. Bentham provides 7 (seven) dimensions related to pleasure and pain, namely related to the intensity of the experience, the duration of pleasure or pain, certainty in the future, the proximity of time, the opportunity to feel, its purity, and its breadth, namely the number of people who feel.<sup>27</sup>

Legislation should achieve the goal of happiness through:<sup>28</sup>

- a. *To provide subsistence*
- b. *To provide abundance*
- c. *To provide security*

<sup>23</sup> A'an Efendi dan Dyah Ochtorina Susanti, *Ilmu Hukum*, (Jakarta:Kencana, 2021), h. 164

<sup>24</sup> Bart Schuldz, *The Happiness Philosophers the Lives and Works of the Great Utilitarians*, (Princeton & Oxford: Princeton University Press, 2017), h. 8

<sup>25</sup> Bart Schuldz, *Ibid.*, h. 9

<sup>26</sup> Asep Saepullah, Konsep Utilitarianisme John Stuart Mill: Relevansinya terhadap Ilmu-Ilmu atau Pemikiran Keislaman, *Jurnal Filsafat dan Teologi Islam*, Vol. 11, No. 2, 2020, h. 245

<sup>27</sup> Yogie Pranowo, Prinsip Utilitarianisme sebagai Dasar Hidup Bermasyarakat, *Jurnal Filsafat, Sains, Teknologi dan Sosial Budaya*, Vol. 26, No. 02, 2020, h. 176

<sup>28</sup> A'an Efendi dan Dyah Ochtorina Susanti, *Op.Cit.* h. 168

#### d. *To attain equality*

According to Bentham, a regulation is a law if it aims to achieve abundance, protection of status and ownership, and minimization of crime or injustice, with means that create happiness for the community. The weakness of Bentham's opinion can be seen from the intensity in 7 (seven) dimensions that are not necessarily all measurable, and the comparison of happiness and distress for each individual is different. This will cause the ruler to underestimate the individualization of policies and the application of law, Bentham cannot explain the balance between individual interests and community interests.<sup>29</sup> In addition, the weakness can be seen from the interpretation of how to measure happiness, namely how much happiness is obtained based on what humans want, or obtained from things that humans like, or based on things that will satisfy humans.

John Stuart Mill is a socio-political figure whose father is still a close relative of Bentham, making Mill, since childhood, has been utilitarianism.<sup>30</sup> However, at the age of 21, Mill experienced a nervous breakdown that caused a mental crisis, this then triggered Mill to develop a different concept of utilitarianism from Bentham through his work entitled *Utilitarianism*. John Stuart Mill then responded to Bentham's view by assuming that utilitarianism is not intended for individual happiness but rather the most excellent happiness because individual happiness is included in the accumulation of the greatest happiness.<sup>31</sup> Mill reconstructs Bentham's opinion regarding the definition of utilitarianism, which in Bentham's weak points triggers people's assumption as a cult of reason. Besides, Mill also considers that the happiness referred to in the principle of utilitarianism is authentic happiness and temporary happiness according to what humans want, and Mill criticizes the view of utilitarianism as a cult that aims to prioritize individual interests, Mill elaborates on actions in an effort to fulfill individual happiness in Bentham's opinion with the interests of the crowd, where the public interest is more important than individual interests as a form of sacrifice in order to realize greater happiness.

John Stuart Mill qualitatively measures legal expediency as a measure of happiness by assessing happiness and unhappiness. Happiness is obtained from oneself as a measure of social inequality, which then creates happiness for many people. Some points that can be known from John Stuart Mill's opinion are:<sup>32</sup>

1. The concept of expediency is when good actions aim to support justice, and wrong actions aim to support evil.
2. There are 2 (two) principles of happiness, namely ultimate happiness and temporary happiness, one can freely choose happiness.

<sup>29</sup> Zainal B Septiansyah, Muhammad Ghalib, Konsepsi Utilitarianisme dalam Filsafat Hukum dan Implementasinya di Indonesia, *Ijtihad: Jurnal Hukum Islam dan Pranata Sosial*, Vol. 34, No. 1, 2018, h. 30

<sup>30</sup> Franz Magnis Suseno, *13 Tokoh Etika: Sejak Zaman Yunani Sampai Abad Ke-19* (Yogyakarta: Kanisius, 1997), h. 177

<sup>31</sup> Indra Rahmatullah, *Op.Cit.*, h. 7

<sup>32</sup> Asep Saepullah, *Konsep Utilitarianisme John Stuart Mill*, *Jurnal Aqlania: Filsafat Dan Teologi Islam*, Vol. 11, No. 02, 2020, h. 252, diakses pada tanggal 3 Januari 2022 pukul 13.00 WIB.

3. Hedonistic actions are the role of each individual carried out for their interests and the interests of many people so as to cause benefits.
4. A person's seriousness in achieving happiness and awareness of the importance of the value of happiness that a person desires has a standardization of happiness for each.

The principle of utilitarianism or legal expediency for John Stuart Mill is an act that encourages happiness and is wrong if it produces unhappiness. Happiness that is measured qualitatively is based on the human ability to find happiness on their own so that the pleasure obtained is a sense of pleasure that is of high quality and valuable to each individual. Based on this, the principles of utilitarianism can be identified as follows:

- a. An objective basis for judging behavior is based on benefit or happiness, so before determining specific actions, it is necessary to analyze which actions provide happiness and which actions provide distress.
- b. Judgment of morally good or bad actions can be determined by which things provide the most benefits.
- c. An action is morally right and correct when it has caused benefits to individuals and society.

Mill argues that happiness is indeed a goal to be achieved for every human being; morally, humans tend to prevent themselves from things that can harm or make them sick, so every action is aimed at paying attention to happiness. The weakness of Mill's theory can be seen from the assessment of legal expediency achieved by the human will to want happiness that can be realized by reciprocating other actions. A moral rule can be carried out as long as the resulting happiness is considered as good as breaking the law. Happiness is measured qualitatively because the assessment of the form of happiness and benefit for each individual cannot be measured relatively.

Bentham and Mill's opinions have in common that in terms of morals, happiness is the main goal that must be achieved as much as possible. Furthermore, in terms of methods in determining morality, both assume that morality aims for the good and benefit of humans so that the parameters of a norm can be judged good or not based on the principle of benefit, whether it provides happiness, and related morality originating from God is based on the experience of gaining happiness. The difference between Bentham and Mill lies in the development of the assumption that Bentham is oriented towards individual happiness, while Mill is oriented towards happiness on a large scale. This is because the political and social conditions experienced by both are different, Bentham uses the Principle of Utility while Mill uses the Greatest Happiness Principle.

The advantages of utilitarianism can be seen based on the existence of a simple concept of value through morality, which focuses on emphasizing results as a consequence of motives, which contributes to analyzing legal policy. The principles of utilitarianism are a moral substance that aims to increase human happiness and minimize evil or pain. The weakness of utilitarianism can be recognized based on how happiness is measured. Utilitarianism provides a theory about the good and bad of an act, including its consequences, but forgets the principle of morality as justice, namely how to measure happiness more quantitatively than just as an objective, including the

comparison of the size of happiness of each individual, is different. This means that the utilitarianism principle is only oriented towards consequences or results rather than motivation or achieving goals with distributive measurements because there is no justice or equality, this will provide a less comprehensive decision.

Its relevance in relation to the legal position of Individual Companies is that the utilitarianism principle provides an objective and rational side. This means that the improvement of MSMEs through the establishment of many Individual Companies prioritizes the public interest over individual interests. Business actors provide opportunities for other business actors so that the business field not only provides benefits to fulfill individual interests but also provides benefits to the development of the national economy. Company management aims to provide profit, although business dynamics do not rule out the possibility of experiencing losses. However, profits and losses are not solely seen in financial aspects but in moral aspects, such as fulfilling the rights and obligations of allies in the management of the partnership, including fulfilling consumer rights.

The principle of utilitarianism holds that the law must be designed to protect the public interest and social welfare, meaning that the law must ensure that Individual Companies operate in compliance with rules and regulations that benefit society as a whole. Regulatory provisions in Indonesia, especially the provisions of Individual Companies, currently still apply the provisions of the Job Creation Law and UULLC, as long as the laws and regulations reflect philosophical and fundamental values, they have fulfilled the purpose of law, namely legal expediency as argued by John Stuart Mill in the benchmark for assessing the achievement of legal expediency objectively is to see specific policies or regulations can bring valuable benefits to society or otherwise bring harm to society.<sup>33</sup> The measure of legal benefit is assessed based on how good or bad the consequences resulting from the implementation of the legal policy are, it is considered good and brings benefits if the legal policy provides the greatest possible happiness, meaning that it is hoped that the One Person Company as one of the business entities driving MSMEs and national economic development can provide benefits to other business actors so that business actors will comply with the provisions of laws and regulations if they feel the benefits of these regulations in the form of legal certainty and legal justice in carrying out their business activities.

The legal position of a One Person Company in the expansion of its definition under the Job Creation Law means that the concept of a One Person Company is also known as a sole proprietorship, namely business ownership that is wholly owned and controlled by a single owner. This means that business actors in choosing to do business with the form of a sole proprietorship company are motivated by considerations of convenience because it is only formed by 1 (one) individual, so there is no need for a deed of agreement for an establishment with other parties. Thus, a One Person Company means that a person does not always have to have a business partner to run a company, even though the ownership is like a Trading Business. However, a One Person Company still requires approval and ratification

<sup>33</sup> Teguh Prasetyo, *Keadilan Bermartabat*, (Bandung: Nusa Media, 2015), h. 18

for its establishment. The sole owner is a legal entity in the form of a One Person Company. It is a limited liability entity with a separation of assets between the owner and the company.

In contrast to what is intended in UULLC, the Company in question is a capital alliance in which the establishment is carried out by at least 2 (two) people through a deed of the establishment before a Notary as a public official with the aim that the capital can be controlled and supervised by the parties, especially when making decisions and performing the function of checks and balances because every legal action and action taken by the company is a burden borne not only by the founders but also by investors as a result of the deed of agreement. This means that the concept of establishing a One Person Company has expanded in meaning based on the concept of capital partnership as referred to in the Company Law.

The liability of a One Person Company is limited in Article 153 J of the Job Creation Law namely, the shareholders of the MSE Company are not personally liable for the agreements made on behalf of the Company and are not responsible for the Company's losses beyond the shares owned so that when a loss arises, the One Person Company can only be held liable to the extent of the shares owned as the doctrine of piercing the corporate veil. Furthermore, regarding the organ of the One Person Company, which is the sole owner, the duties of the Board of Directors are still attached, namely to make periodic financial reports in Article 10 paragraph (2) of the Job Creation Law.

The position of the One Person Company in the principle of utilitarianism as a new business model in the business world is in line with the concept of Economic Analysis of Law, based on Bentham's thinking as a philosophical basis for moral values and individual happiness (the owner of the One Person Company). However, indeed, the interests of society are still considered as Mill's principle, so in achieving the goal of individual happiness referred to by Bentham, there needs to be a limit. The concept of Economic Analysis of Law states that a rule must be able to provide benefits to society, in a rational concept, the One Person Company policy is aimed at MSME business actors and growing the national economy through legislation to facilitate business actors in doing business that is electronically integrated through administrative digitization.

## 5. Conclusion

1. The influence of globalization on the legal concept of Individual Companies in Indonesia has positive and negative sides, positive because this business model is one of the applications of fresh business models that can foster the development of the national economy even though it is only done individually, but the negative side is limited resources and capital due to intense competition, Banks and investors also do not necessarily agree to partner with Individual Companies because the level of risk is higher,
2. The legal position of the One Person Company based on the principle of utilitarianism is in line with Bentham's thinking, namely to meet individual needs, in this case, the sole owner of the One Person Company, and Mill's thinking, namely to fulfill happiness as much as possible as the concept of Economic Analysis of Law.

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