

# Government's Role to Protect the Small Business of Local Communities Legally in Papua

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## Abstract

National development which covers all the aspects of national life is held together by the communities and government. The special autonomy granted to Papua through the Law Number 21 of 2001 puts the indigenous people of Papua and Papua residents generally as the main subject. In this context of the government's role in field of small business, the government has not optimized the availability of the legislation and the availability of infrastructure and facilities as needed for the small business development in Papua.

**Keywords:** the role of Papua's government, small business, local communities.

## 1. Introduction

Justice and prosperous community under Pancasila and the Constitution of the Republic of Indonesia 1945 are realized through the national development based on economic democracy. The national development basically covers all aspects of national life that is held together by the community and the government. People have become main actors of the development and the government is obliged directly to guide and foster a situation and an environment that supports small businesses, which is one of the main pillars of the national economy.

The Republic of Indonesia is aimed to protect the whole Indonesian nation and the entire country of Indonesia, to promote the general welfare, the intellectual life of the nation according to the mandate of the Constitution of the Republic of Indonesia 1945. The demands of the development bore government obligations to get involved in social life economic and social as a step to achieve public welfare. The Government is involved in a wide range of government action for the benefit of the society. Related to the participation of the government, there is three (3) country's fundamental duty (government), which is: 1) the task of maintaining security and order; (2) the task of justice enforcement; and 3) the task of public infrastructure development.<sup>1</sup>

Associated with it, Rudhi Prasetya<sup>2</sup> said that the main reason why the government needs to intervene in social and economic life of their people because the state is interested in the prosperity and welfare of its citizens. It is presumed generally that in terms of welfare of its citizens, the government needs to intervene the life of economics of it to give more protection to its own citizens. For legal state and mixed economy purpose, furthermore, Wolfgang Friedman<sup>3</sup> emphasizes that one state has 4 (four) function, which are:

- (1) The function of countries as a provider
- (2) The function of countries as a regulator
- (3) The function of countries as an entrepreneur, and
- (4) The function of countries as an empire.

The existence of small businesses in business activities in Indonesia is regulated and protected by the Law Number 20 of 2008 on Micro, Small and Medium Enterprises (hereinafter referred as MSME).

Some of legal economic experts explain that a small-scale of economics activities which are owned by the majority of the people resulted from the result of small business operations. This definition covers the informal and traditional small business.<sup>4</sup> The function and the role of small business activities highly increase the economic activities, mainly happen in developing countries. Those function and roles cover the supply of goods or services, labor absorption, income distribution, values-added products areas and the improvement standards of living. Therefore, they support the improvement of the people's economy.<sup>5</sup> Underdevelopment of small businesses have tended to be misunderstood by the government, business and society. The characteristic of it is underdevelopment of capital, human resources, technology mastery weakness that should be treated as a result of the absence of protection and empowerment adequately.<sup>6</sup>

In terms of it, the government in its economic and politic policy tends to prioritize the interests of large

<sup>1</sup>Ridwan HR. *Administrative Law*, Revised Edition. PT. Raja Grafindo Persada. Jakarta, 2011, p. 19.

<sup>2</sup>Rudhi Prasetya. Economy Analysis of Contract Law to face Globalization Era, *Jurnal Hukum Bisnis*. Vol. 2.1997, p. 2.

<sup>3</sup>Wolfgang Friedman and F.X Joko Priyono. *State and Rule of Law in Mixed Economy System*, Law Faculty, Diponegoro University, Semarang. 2003, p.1.

<sup>4</sup>H. Mulyadi Nitisusatio, *Entrepreneurship and Management of Small Business*, Alfabeta. Bandung, 2010, p. 37.

<sup>5</sup>Ina Primiana. *Menggerakkan Sektor Riil UKM dan Industri*. 2009. Alfabeta. Bandung. Page 53

<sup>6</sup>Teguh Sulisti, Legal Protection and Empowerment of Small Business in Free Market Economy, *Legal Business Journal*, Vol. 27. Number 1, 2008. Jakarta. p.20.

enterprises. The structural constraints such as market capitalization, and mastery of technology became the factors of underdevelopment of small businesses. These weaknesses tend to be left besides cultural barriers such as education and geographical situation of small entrepreneurs without the changes of significant policy in national economic development. Small businesses are not able to develop properly and the large businesses are getting bigger with "extra attention" of the government due to the proximity conglomerates with state authorities or economic policy is not in favor of the weak entrepreneurs.<sup>1</sup>

Small businesses are able to survive by activating the national economic slump caused by inflation and other factors. Without government subsidies and protection as well as banking, small business is able to add value of the foreign exchange for the state especially the small industries in the informal sector which acts as a buffer to the economy of small communities / lower layers.<sup>2</sup> The small businesses have a strategic value for the economic development efforts of state, among other things: a lot of specific products is done by small businesses, because if a product subsidy done by large and medium enterprises, the margin became uneconomical in business activities. Besides the concentration of economic forces in society, the small businesses in large quantities can help to assist the power of the local economy and the national economy, so as a reasonable small entrepreneurs should be protected from poor business behavior.

The issue of underdevelopment of the small businesses caused by the economic policy of the government is not seriously in implementing a strong political will to protect the interests of the small businesses through the Law Number 9 of 1995 concerning Small Enterprises. The biggest issue is faced with the legislation on the structure of the business world built by New Order followed by a reform movement pragmatically lie within the framework of monopoly and oligopoly by certain businesses. The existence of the Law of SMEs which replaces the Law Number 9 of 1995 is meant to create social justice in the spirit of economic democracy as mandated by Article 33 of the Constitution 1945. The Law of SMEs does not eliminate the obsession of the founders of state (the founding fathers) to achieve national goals, which is just and prosperous society.<sup>3</sup>

Lack of legal protection for small businesses have become problem for most the society of Indonesia in the supply of raw materials, manufacture, distribution, and/or trade in goods and services to consumers. The small businesses receive less priority and serious attention by the government to provide empowerment and protection with adequate legal tools as mandated by the Constitution 1945. The reality shows that lack of optimization of various legal protection for small businesses is because of lack of guidance for small businesses in Indonesia in general and financing access and the availability of markets for small businesses particularly in the province of Papua, as mandated by the Law of SMEs.

To strengthen the financing of SMEs, the government lists several articles on this subject under the Law of SMEs, such as Article 21 determines the role of government and large enterprises (hereinafter referred to as LE) to help the funding of SMEs, especially Micro (hereinafter abbreviated Micro); (a) government (including local governments) to provide financing for the Micro; (b) State Owned Enterprises can provide majority funding of preliminary annual profit which allocated to the Micro in the form of loans, grants and other financing; (c) LE (including foreign companies in Indonesia) can provide financing for Micro and the Micros are also in the same forms as in clause (c); and, (d) the government (including local government) and LE can provide grants, aid from foreign, and other sources of financing legitimately and does not bind for the Micro and the Small Business; and (e) government (central and local) can provide incentives in the form of ease of requirements, licensing, tariff relief facilities and infrastructure, and other incentive forms in accordance with the provisions of the legislation to the LE that provides financing for Micro and the Small Business.<sup>4</sup>

Article 22 of the Law of SMEs further determines that the efforts which may be undertaken by the government in improving financing for of SMEs, which is: (a) the development of sources of funding of bank credit and non-bank financial institutions; (b) the development of venture capital institutions; (c) institutionalization of the factoring transactions; (d) improvement of micro business cooperation and small businesses through credit unions and cooperatives conventional and Islamic financial services; and (e) the development of other sources of financing in accordance with the statutory provisions.

The government attempts to assist the funding of SMEs as stated in Presidential Decree Number 5 of 2008 on Economic Focus Program 2008-2009. The Decree is carried on the Presidential Decree Number 6 of 2007 concerning the Riel Placement Policy System Development and Empowerment of Small Medium Enterprise which contains the policy on financing access expansion of microfinance. This Decree is also the concrete actions of the government with the goal of increasing access to microfinance realization for of Small Medium Enterprise.<sup>5</sup> To support the Decree, there is the Law Number 25 of Year 2000 concerning the National

<sup>1</sup>R.W. Supryanto. *Entrepreneurship: Concepts and Facts in Small Business*, Alfabeta. Bandung, 2012, p.23

<sup>2</sup>TulusTambunan. *The Role of Small Business in national Economy*,. Majalah Usahawan No. 7. Jakarta, 2002, p.16.

<sup>3</sup>Satjipto Gandasutomo. *Empowering of MSMEs in Indonesia*. LaksBangPressindo. Yogyakarta. 2009, p. 49.

<sup>4</sup>TulusTambunan, *Micro, Small, and Medium Enterprises in Indonesia*, LP3ES., Jakarta, 2012, pp.155-156.

<sup>5</sup>Kusmuljono, *Empowerment of Micro, Small, and Medium Enterprises through micro Financial Institution*, Makalah Simposium Paper, Bappenas, Jakarta,2008, p. 6.

Development Program 2000-2004. The economic development in this Law is expressed in the form of democratic economy with the policy direction of small businesses in the form of facilities assistance granted selectively by state and it mainly become the protection of business and technology competition, capital and business location.

To grow the business climate in the aspect of protection, the government through the Law of SMEs has established a wide range of policy to determine the designation of a place of business which includes the provision of location in the market, shopping area, the location of industrial centers, the location of smallholder agriculture, community mining location, and other locations. It is also to back up the type of business activities which have the strength process, labor intensive, and has a value of art and culture that is specific and from generation to generation.

In terms of the provision of Special Autonomy for Papua, it is intended to achieve justice, law enforcement, supremacy, respect of human rights, the acceleration of economic development, improving the welfare, and progress of the society in Papua in the context of equality and balance with the progress of other provinces. The Law Number 21 of 2001 on Special Autonomy (called Perdasus) puts the indigenous people of Papua and Papua population in general as the main subject, as originating from the Melanesian race group. Meanwhile, the population of Papua, are all those who according to the applicable provisions are registered and living in the province of Papua. Thus, the small business of local community meaning in this dissertation is the indigenous Papuans or people who accepted and recognized as an indigenous people of Papua by indigenous Papuans.

As we know, the economy of Papua Province which is part of the national and global economy is directed and intended to create prosperity and welfare for the people of Papua, with upholding the principles of justice and equity. Economic aspects in Papua Province is utilized by considering the natural resources, respecting to indigenous people, ensuring legal certainty for employers, and the principles of environmental protection and sustainable development which shall be stipulated by Perdasus. The existence of the local small businesses community in Papua is clearly regulated in Article 38 paragraph (2), Article 39 and Article 42 of the Perdasus. Article 42 paragraph (1) determines the democracy-based on development implemented by giving opportunities widely to indigenous and /or local communities.

The local communities in Papua become front-line area of meeting between the power of global capital to utilizing the natural resources and human resources. Competition for access to the political economy becomes inevitable. Tensions have flared between local people of Papua with migrants in seizing economic access. Spaces like the market economy, bureaucracies and certainly the entry of multinational companies became the fertile fields of competition. In the middle of modern market space, it is filled by the power of capital in the form of a block leasing business largely dominated by migrants. This has become one of the real difficulties portraits for small businesses of local communities to gain access to the market. While the central market which provide stores for small businesses to perform activities, it's also dominated by the vendors who have large capital for its ability to elaborate with local government officials to pay the rent of the stores at a high price.

To give protection of the Small Businesses, on December 22 Government of Papua Province together with the Papuan Legislative Council have set a special regional regulation (Perdasus) Number 18 of 2008 on the Democracy-Based on Economic Affairs. These areas contain the regulations concerning the application of affirmative policies against the indigenous people of Papua; creation and market expansion; capital adequacy; coaching and mentoring; and the development of an entrepreneurial culture. The problems which need to be solved by the presence of the Perdasus generally similar to the problems faced by small businesses around Indonesia, which is: limited access to sources of finance and capital, limited control of technology and information, market limited access, the limitations of the organization and management plus the alignments against the indigenous people of Papua.

## **2. The formation of Regulation Legislation**

As a country with bases on Pancasila and the Constitution of the Republic of Indonesia In 1945, every aspect of life in the areas of social, national, and state including the government shall always be based on the legal. In order to achieve state of the law, it is required to have the legislation. The orderly establishment of the legislation should be initiated since time of planning until the publication. To form and to have the legislation are both needed various requirements which associated with the system, principles, procedures for submission and discussion, drafting and enforcement of the laws.

The formation of the laws by several legal experts is said as an obligation of the state in order to implement the equity and justice. Thus, in order to implement them, the government has been justified to force the law in terms of intervening individual rights, including the right to freedom. The Government is required to implement the rules impartially, equally and generally accepted. The formation of the legislation is governed by the Law Number 10 of 2014, Article 1 paragraph 1 determines that "the formation of the laws is the process of legislation making which basically started from the planning, preparation, drafting techniques, formulation,

discussion, approval, promulgation, and dissemination". In form of the legislation, it should be based on the principle of the establishment of good legislation, which includes:

- a. Clarity of purpose;
- b. Institutional or appropriate organs of government;
- c. Compatibility between types and substance;
- d. Workable;
- e. Usefulness and have the results;
- f. Clarity of formulation; and
- g. Openness.

Every formation of the legislation has to have the objective to be achieved and concern about the effectiveness of the legislation within society either philosophically, juridically, or sociologically. The governance system of the Republic of Indonesia according to the Constitution of the Republic of Indonesia 1945 admits and respects the local government specifically in the context equality and uniformity of social and cultural life of Papuan society as governed in the establishment of Special Autonomy. Enforcement of the specific policies is based on the basic values including ethics and morals, the basic rights of indigenous peoples, human rights, supremacy of the legal, democracy, pluralism, and cooperation position, rights and obligations as citizens.

The Special Autonomy for Papua Province is basically put to give a large authorization to the Papua Province and the Papuan people to organize and take care of themselves in the Unitary State of Republic of Indonesia. The authority of the Papua Province and the People of Papua to govern and regulate the utilization of natural resources in it for the greater welfare of the people of Papua as part of Indonesia according with the people's authority is to empower the potential of socio-cultural and the economy of Papuan society, including to provide sufficient role for the indigenous people of Papua through the representatives of customs, religion, and the women. The role of them is to formulate the regional policies; to determine the development strategy by respecting equality and diversity of Papuan community life; to preserve the cultural and natural environment of Papua, which is reflected through the change's name from Irian Jaya to Papua, symbol of the regional flag as a form of actualization identity of Papuan, and the recognition of the existence of customary rights and law, as wells as indigenous peoples..

Based on the description above, the role of the Papua's government to provide protection of the small businesses of local community can be seen in the implementation of the Law Number 21 of 2001 on The Special Autonomy for Papua Province. Chapter X on Economic Affairs, Article 38 determines:

- 1) The economy of Papua Province is part of the national and global economy. It is directed and intended to create prosperity and welfare for the people of Papuan by upholding the principles justice and equity.
- 2) Economic activities in Papua Province utilize the natural resources. They are conducted by respecting the rights of indigenous peoples, ensuring legal certainty for employers, and the principles of environmental protection and sustainable development, as stipulated by Perdasus.

As a part of sustainable development in Papua Province, the Provincial government is obliged to allocate some of the revenue Budget and expenditure of Papua Province obtained from the exploitation of Papua's natural resources for savings in form of trust fund and the results (advantages) of it can be used to finance some future development.

Article 39 furthermore states, in order to utilize advanced process of the natural resources as mentioned in Article 38, The Papua Province is sticking on the principles of economic freshly, efficiently, and competitively. Article 40 also determines:

- 1) Licensing and cooperation agreements that have been made by the government and/or the provincial government with other parties remain enforced and respected.
- 2) License and agreements as mentioned in paragraph (1) which declared legally by the court decision are defected, the provisions of this law shall be reviewed, without prejudice to the legal obligations imposed on permit holder or the relevant agreement.

Article 41 then stipulates:

- 1) The Government of Papua Province may make capital participation in State-Owned Enterprises and private companies which domiciled and operated in Papua.
- 2) The procedures of capital participation as referred to in paragraph (1) shall be regulated by Perdasi.

Article 42 emphasizes that:

- 1) Economic development based on economic community is implemented by providing the widest opportunities to indigenous people and/or local communities.
- 2) Investors who invest their money in Papua Province shall acknowledge and respect to the rights of the indigenous people.
- 3) The business opportunities as referred in paragraph (1) shall be conducted in terms of the empowerment of indigenous peoples in order to play a role in the economy widely.

Further management in terms of those articles as mentioned above is process of raw materials resulting from the utilization of the Papua's natural resources for example oil and gas, mining, forestry, marine, and agricultural products. It is intended to increase the added values of the resources, which have a positive impact for Province's income, creating jobs, and increasing the utilization and development of science and technology, as well as other uses. The advanced business processing is implemented by considering the interests of society in Papua and stick to the principles of economy freshly, efficiently, and competitively. It means that if the process does not meet the principles of economy, the process can be carried out in other areas to utilize investment opportunities to be existed for the welfare of Papua's society. Indeed, it must consider the principles of environmental preservation and sustainable development.

In order to push investment in Papua, the Government and the Government of Papua Province shall create a conducive policy and ensure the legal certainty and protection for businesses as referred to Article 40 paragraph (1). In terms of licence and cooperation agreements that have established before the Law Number 21 of 2001, they shall remain to be forced until the end of each licenses or cooperation agreement. In the context of legally flawed and/or detrimental to the rights of life and is contrary to the Law Number 21 of 2001, it must be proven and stated in a court decision which has have legally binding. The court's decision includes a statement regarding one of the legal considerations that the licenses or agreement is concerned the legal flaw or harm to the public's right to life. Therefore, the court's decision on the agreement can be reformulated substantively by both parties. Reformulation means that the agreement is able to be altered, amended, or terminated.

In the context of capital investment conducted by the Provincial Government on State-Owned Enterprises (SOEs) or private company domiciled in the Province of Papua conducted through a direct assessment of the advantages or disadvantages that can be caused by the legislation. The business opportunities that the government provided are actually the empowerment of indigenous peoples to participate in this area. Article 38 to Article 42 of the Law Number 21 of 2001 clearly show that there is no regulation specifically regarding to the role of the Papua's government in providing protection to the small businesses of local community. Thus, it is necessary to enact special regulation on Small Businesses. The Law Number 18 of 2008 regarding the Democracy-Based Economic Affairs, however, has stipulated protection to small businesses.

A rationale of making Perdasus can be seen in its explanatory, as stated: "Special Autonomy for Papua Province stipulated by the Law Number 21 of 2001 that has provided broad authority for the Government of Papua to formulate policies in favor of the Papuans. One of the policies is in the field of economic as stipulated in Article 38, 39 and 42 of the Law Number 21 of 2001. Those articles make policy in the utilization of natural resources and provide an opportunity for indigenous peoples to participate widely in economic activity, including an opportunity for business actors to conduct the capital investment by involving indigenous peoples. This authority is firmly offered an opportunity for the local governments to build the economics of Papuans with a community-based in order to be perceived by the Papuans. The proper strategic is to plan and formulate economic policies in the form of local regulation (called Perda). Perda contains, as following:

- The application of affirmative policies against indigenous Papuans.
- Creation and market expansion.
- Capital supply.
- Coaching and mentoring.
- The development of an entrepreneurial culture.

Based on those statements above, it appears that the problem which want to be solved with the presence of Perdasus generally similar to the problems faced by small businesses in Indonesia which is: limited access to financing sources and capital, limited control of technology and information, market access limitations, the limitations of the organization and management coupled with partiality against indigenous Papuans.

The author found through the Perdasus that the Papua's Government and the Local House of representative (called DPRD) decide to declare about the fundamental problems faced by economic actors of the indigenous Papuans which is same as the common issues are faced by small businesses in Indonesia. Thus, if these problems can be overcome also with programs such as the partiality protection that has been applied for thirteen years, the indigenous people of Papua will be developed. It can not be denied that the commitment of the government in the democratic economy perspective should completely be directed to solve the problems mentioned above and need to be confirmed by Perdasus in order to deal with all issues related to small business activities. However, when it is said that the five-point policy to be taken in the Perdasus as mentioned above can solve an economic empowerment of indigenous people of Papua, it is too simplistic. When it comes to partiality, capital adequacy and market access, all programs that have been run by the government and district / city throughout Papua since New Order until now are on track. As we know, community empowerment programs has existed since the New Order, either it is channelled through the financial institutions in form of credit and a crash program or programs that channelled directly to the community. Although, it has a large sound, the effects on the economic empowerment of local communities, especially in Papua has not appeared at all. One of the failures of

community empowerment programs is because of the pragmatism approach. It means that the programs which have been running for more "provide fish instead of hook", so the assisted community never had the ability to fish their own as what they need. Reflecting on this experience, what the Papuans needs today is a rule which has stood for communities and local entrepreneurs as well as providing space for the operation of the market mechanism as a regulator of the balance in the economy.

Since the stipulation of the Special Autonomy on Papua, innumerable programs of local communities empowerment that have been launched either in regional scale by the Provincial Government and Regency/City Government or in national level by the Central Government through Respect and PNPM Mandiri programs. Both national programs are the most obtrusive. Respect program by the Governor Barnabas Suebu up to current the Governor of Luke Enembe annually disbursed billions of dollars directly to the villages, also for the PNPM Mandiri program, the funding received by each village is much greater. Not only with these programs, there is also a new program called "Jamkrida Papua" which provides low-interest loans for the indigenous people of Papua in Bank Papua and Rural Bank Sentosa (hereinafter BPR Sentosa). If the people are not able to be paid, the payment can be charged to the Government of Papua Province.

Even though there are lot of economic empowerment programs which directly touch the people on the lower level and implemented by the government and non-government organizations (NGOs), but in case of Papua, it still becomes the top ranks of the poorest province in Indonesia in which most of the people still live as traditional fishermen and farmers who's simply trying to fulfill their daily lives. The highest level of achievement obtained from intended programs is only limited to the emergence of consciousness thinking and desire to move forward. But the awareness is never followed by concrete action in the form of changes in behavior to conduct market-oriented economy.

It can not be denied that to build the economics of Papuans with the democratic economy requires political commitment. It is impossible to reassure the democratic economy with practice of dividing the money to the common people. It is a big mistake in the correct perspective of the democratic economy. The practice of dividing the money to the common people is not very profitable for any party, including the common people. This approach is clearly different from what meant by affirmative action. The action of dividing money unconsciously cause to the small businesses managed by indigenous people of Papua who have been powerless to compete the market mechanism. They become very dependent on the intended action. Actually, the one which should exist in the hands of affirmative object's action is an opportunity to develop the healthy market mechanism, not cash money / cash material.

This thing indicates that there is another problem beyond the problems of funding and more fundamental partiality which inviting the indigenous people to become economic actors who are reliable. The fundamental problems are system and cultural value of entrenched cultured in people's self economic actors in Papua for its generations. The cultural value system of people determine the behavior of economic actors in Papua, including the perspective of the business, the level of profits, the attitude towards partners and competitors, and the strategy to face the risk and others. Therefore, the economic empowerment of the people, especially in Papua should be assessed with the socio-cultural engineering programs to change the inner life and the condition of a society to accomodate the demands of the market. It is a new model with another approach called cultural approach.

By compiling Perdasus as elaborated above, it can be concluded there is no different with Perdasus with other local regulation in Indonesia. They fail to deal with community empowerment issues. They do not realize that development of the people economy must be developed on the basis of the domestic economy (if necessary in the level Regency/City) with a high degree of independence, confidence and equality, view the business opportunities and revenue, participatory, healthy competition, openness/democratic, fair and equitable distribution. It is needed the maturity of the local community businesses to be targeted as the affirmative action policy.

The presence of the government is expected to be a catalyst or driver through regulation which allows the market mechanism to have efficiently and effectively functioned. Then, the government should have a definite plan when the government reduce forms of interference in its affirmative action policy to encourage the development of the democratic economy. Intervention in form of affirmative action should be carried out within the framework of encouraging the market mechanism to work optimally in order to form an independent and the democratic economy based on the culture and the local potential. Therefore, either the provisions of Chapter X on the Economy, Article 38 to Article 42 of the Law Number 21 of 2001 on Special Autonomy for Papua Province or of Perdasus Number 18 of 2008 needs to be revised to refer to the conditions of the culture of Papuans and clearly define a plan of the government to use the local culture and build the economics of Papuans with democratic economic basis to encourage the indigenous people of Papua from just the business actors that aim to meet needs into a market-oriented businesses.

Those laws as mentioned above are legal protection provided by the government to the small businesses. But, there is no further elaboration regulation (Perda) in the level of District/City government.

Basically, regulation in lowest level will bring advantage to improve the community empowerment and protect small business from private companies and from unfair competition. Therefore, it can be concluded that role of Papua's government have not been up to provide legal protection to the small businesses from the local society aspects of the legislation formation.

### 3. Development of Supported Infrastructure

In the concept of welfare state as adopted by the Republic of Indonesia, one of the functions of the state is the organizing function (*de Dresteranckle*). The functions related or aimed to the type of interference's state in terms of public benefit, the development and maintenance of physical infrastructure or infrastructure development, social security, health subsidies, and others. Everything is organized by the state in order to get the prosperity for the society. According to some legal experts, government intervention in a country is an attribution given (given). It is just about interference spread which is distorted and does not require production in counter to the activity of the people and national economic resilience. In other words, the existence of government intervention is firmly consequence of the function and purpose of the state.

Implementation of government intervention in social and economic fields can be found in Article 7 paragraph (1) the Law Number 20 of 2008 on Micro, Small and Medium Enterprises. The Article stipulates that "the Government and the Local Government foster a business climate by establishing legislation with policies that include aspects:

- a. Financing;
- b. Facilities and infrastructure;
- c. Business information;
- d. Partnerships;
- e. Business Licensing;
- f. Business opportunities;
- g. Trade promotion; and
- h. Institutional support.

Article 9 furthermore determines "aspects of facilities and infrastructure referred to in Article 7 paragraph (1) letter b is intended for:

- a. Held a public infrastructure that can encourage and develop the growth of micro and small enterprises; and
- b. Give specific infrastructure tariff relief for small and micro businesses.

Providing certain infrastructure tariff reduction is a distinction tariff treatment based on the provisions of the Government and Local Government either directly or indirectly to provide relief.

The unit of industry, commerce, and cooperative either in the Papua Government or in Regency/City Government has been implementing various development programs and maintenance the physical infrastructure or infrastructure development for local community's empowerment and small business development including to the small businesses interests of local communities.

Implementation of product development programs is conducted by selecting several products that have the capacity supply and demand market and big enough to move the small companies which are able to produce, according to market demand, through the industrial clusters and industrial centers. The purpose of this activities, come up together with industrial development relate to each other, either as a supporting industry or the smallest industry. The development of supported infrastructure on the region has not been adequate and impacted to the productivity and economic of the local small business community. Where it is exacerbated by the persistence of the attitude and culture of the government and society who have not yet fully aware of the importance of development.

Increasing of cost of transportation and transportation facilities have the negative impact on the flow of goods and services through the stabilization procurement and distribution in order to establish a reasonable price and the effect on the results of market expansion of production areas in order to increase manufacturers revenue. If the construction of infra structure by the Government of the District / City is adequate as the achievement of several sectoral programs, it is expected to protect the interests of consumers and to encourage and support the small traders through the creation of supportive climate, upgrading of attempted, and the implementation of business partnership.

In order to accelerate the construction of supported infrastructure for local communities empowerment and small business development as declared by the Provincial Government and District/City Government, the indigenous people then should be given an opportunity and bigger role in the procurement of government goods/services as governed the Presidential Decree Number 54 of 2010 concerning Procurement of Government Goods/Services, as has already been twice amended by the Presidential Decree Number 70 of 2012. For this purpose, the government has issued the Presidential Decree Number 84 of 2013 concerning Procurement of Government Goods/Services in the Context of Acceleration of Development of Papua and West Papua.

Local entrepreneur as set out in Article 1 point 8 is "the provider of Goods/Services which is owned by

indigenous Papuans and domiciled/resident in Papua or West Papua Province. Local entrepreneurs who follow direct procurement is not obliged to have experience as providers of goods/services in the 4 years period 4, both in public and private sector, including sub-contract experience". To support the implementation of the procurement of goods/services in Papua, the Government and its related agencies shall carry out activities that can improve the human resource capacity of indigenous Papuans in the Procurement of Good Services.

According to the author, the development of industrial centers, training centers and traditional markets/local which implemented by District/City which has the highest valued Rp. 500,000,000 (five hundred million) can be carried out with the mechanism of direct procurement by institutions linked to the priorities to providers of goods from local to the small businesses community. But it is necessary in the selection and to avoid the unfair business practices which the certain business people use indigenous Papuans to be included in the management of the company without an active role in running the company's operations.

Pursuant to the author, there have not seen and enjoyed the appropriate infrastructure development from the Government for local communities empowerment and small business development of Papuans. As an example of transportation's facilities which is not reaching the rural areas to get the raw materials for small industries household of Papua. It is also the supply of home-trade and the promotion of small industrial centers, human resource training centers to enhance the indigenous Papuans in the process of production, the process of raw materials, auxiliary materials and packaging. In addition, the lack of designation of a place of business which includes the provision of location in market, shopping area, the location of agriculture and mining sites for the benefit of the people which clear to the small businesses of Papuans.

It cannot be denied that the Government has made some regulations to protect the small local businesses community, as well as market development for others small businesses, by giving priority to indigenous Papuans, but they cannot be developed by business actors because of their limited capital to take advantage of the existing opportunities, which in markets even this Instruction businesses controlled by outsiders.

#### 4. Conclusion

The role of Papua's government have not been up to provide legal protection to the small businesses from the local society aspects of the legislation formation. It means that its lack of specific regulation regarding the role of the Papua provincial government in providing protection to the small local businesses community. Therefore, it is necessary to make the special regional regulation on Small Businesses. On the other side, the government must pay attention fully to develop infrastructure. The great infrastructure is needed to accelerate the development in general in Papua.

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