

Law Number 4 of 2023 in the Perspective of Values in Law

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ABSTRACT: At the beginning of 2023, Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Services Sector (now referred to as the PPSK Law) was enacted, which had juridical consequences for many other regulations. The PPSK Law is positive as an embodiment of the values of legal certainty, expediency, and justice, as stated by Gustav Radbruch. The research aims to find and analyze the urgency of the PPSK Law from the perspective of legal certainty, usefulness, and justice in Law for economic actors. This research is a type of normative research that uses secondary data. The research results show that the PPSK Law, as a positive law, has attempted normatively to realize the value of expediency and justice, which takes work to realize. The value of legal certainty in the form of the enactment of the PPSK Law is an effort to realize the value of justice and benefit further.

KEYWORDS: Law, Finance, Value, Urgency, Juridical,

I. INTRODUCTION

Intermediation in a solid financial sector supports the financial sector, encouraging robust economic growth. Regulation is essential in financial services (A. et al., 2022). In this regard, reform is needed in the financial sector. Concerning Financial sector reform, at the beginning of 2023, Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Services Sector (from now on referred to as the PPSK Law) was enacted. There are consequences of changes in many regulations with the enactment of the PPSK Law. The enactment of the PPSK Law affects the position of the Deposit Insurance Corporation, Bank Indonesia, the Financial Services Authority, and other vital institutions in the financial sector in Indonesia. This paper is the result of research that will discuss how the urgency of the PPSK Law is viewed from

the perspective of legal objectives to realize the value of legal certainty and benefits and justice for economic actors. The embodiment of the values of expediency, legal certainty, and justice in positive Law, as stated by Gustav Radbruch.

Previous research that has been conducted on the urgency analysis of the PPSK Law from the perspective of legal objectives to realize the value of legal certainty and benefits and justice for economic actors has yet to be found. Law No. 4 of 2023 was just promulgated in early 2023. Previous research discussing the Duties and Authorities of the Financial Services Authority was conducted by Dhian Indah A Etc (2015), Dhian Indah Astanti and Subaidah Ratna Juita (2017), Surti Yustiantia (2017). Other research was also conducted by Maria Widyastuti and Stephanie Astrid Ayu (2020). This research discusses the Financial Services Authority and Bank Indonesia but has yet to be linked to Law No. 4 of 2023. Other studies discuss central banking institutions and the Financial Services Authority, studied from a regulatory perspective in other countries. Other research was also carried out by Monnet (2023), Lars P Feld, Volker Wieland (2021), Thomas F Huertas (2022), Istrefi, K. & Piloiu A (2020), Jones, E. and Knaack, P. (2019). This research analyzes that the Financial Services Authority has yet to use the perspective of the PPSK Law. This research discusses the Financial Services Authority from the regulation perspective in other countries. Or the regulations prior to the formation of the PPSK Law. The novelty of this research is compared to previous research. This research discusses the duties and authorities of the Financial Services Authority from the perspective of the PPSK Law, which previous researchers have never done. The purpose of writing this Law is to analyze the urgency of the PPSK Law from the perspective of legal objectives to provide legal certainty and benefits for economic actors. The legal issue raised is How is the urgency of the PPSK Law viewed

from the perspective of the values of legal certainty, Benefit, and justice in Law for economic actors?

II. METHODS OF RESEARCH

This research is normative. Research that uses secondary data. The secondary data used are Primary Legal Materials and Secondary Legal Materials. The data analysis technique used is the qualitative analysis technique . They are concluding using deductive conclusions.

III. RESULT AND DISCUSSION

III. 1. Urgency of Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector In the perspective of legal objectives to realize legal values,

Urgency comes from the primary word urgent, which in the Big Indonesian Dictionary means it is urgent to implement it; significant (urgent, urgent, requiring immediate action): the current food crisis is far more -- to respond to than any other crisis. (KBBI Online, 2023). Based on that understanding, in this paper, the urgency can be that this research finds and analyses what urgent matters must be addressed to form the PPSK Law. Based on the general explanation contained in the PPSK Law, the urgency and purpose of establishing the PPSK Law can be studied. Based on the Explanation of the PPSK Law, it can be studied that The urgency of establishing the PPSK Law is: First, increasing the role of intermediary in the financial sector, as well as strengthening the resilience of the national financial system. A deep, innovative, efficient, inclusive, trustworthy, strong, and stable financial sector will support strong, balanced, inclusive, and sustainable economic growth, which is very much needed in realizing a just, prosperous, and prosperous Indonesian society based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Second, there are fundamental problems in the financial sector. The proportion of assets in the national financial sector is unevenly distributed. Domination of the banking sector compared to other financial sectors. The portion of assets in the non-bank financial industry that can support development financing is still relatively small. It illustrates that fundraising by the financial industry is still relatively limited, while the potential for deepening the national financial market is still relatively large. In the banking sector, fundamental problems are reflected, among others, in the high-interest rate on loans and the imbalance in the number of accounts and deposits between small and large customers. Third, the

problem is the low market capitalization of national stocks and bonds compared to other countries, as well as the limited financial instruments for investment and risk management (hedging), especially for financial products that are complex and high risk (high risk).

On the other hand, Indonesia's financial sector is also facing challenges from the emergence of complex and high-risk financial instruments such as cryptocurrencies, and the assessment of financial sector governance and law enforcement in various recent assessments is also low. Fourth, external challenges exist, such as technological disruption and the emergence of new financial risks related to climate change and the geopolitical situation. Human resources in the financial sector still need to catch up in quantity and quality. With several of these problems and challenges, reform is needed in the financial sector. This financial sector reform is expected to deepen and increase the efficiency of the Indonesian financial sector through various efforts such as expanding the reach, products, and investor base, promoting long-term investment, increasing competition to support efficiency, strengthening risk mitigation, and increasing investor and consumer protection. Fifth, the embodiment of regulatory financial reform regarding the financial sector is spread in various old laws, so they are not yet optimal in accommodating the regulation and supervision of the latest financial industry activities, products, and developments. While establishing this Law is to regulate, First, strengthen supervisory and regulatory relations between institutions in the financial sector to realize Financial System Stability, in this case, between the Financial Services Authority, Bank Indonesia, the Deposit Insurance Corporation, and the Ministry of Finance. One way is through the Financial System Stability Committee as a mechanism for macroprudential and micro-prudential oversight in the financial system safety net. Furthermore, strengthening institutions authorized as regulators and supervisors of the financial sector is carried out to maintain the stability of the financial sector industry and increase public confidence. Second, strengthening the financial system safety net within the framework of the Financial System Stability Committee is indispensable in ensuring the handling of banking problems and maintaining financial system stability. The targets this Law addresses are handling bank problems, strengthening coordination between institutions, and strengthening institutional authority in the financial sector to prevent banking failures that

could disrupt the financial system. It is done through strengthening and improving coordination mechanisms and exchange of information as well as governance so that decisions are made to deal with problems in the financial sector more effectively. It is thirdly, strengthening the role of Bank Indonesia, strengthening the institutions of the Financial Services Authority, and establishing a supervisory body at the Financial Services Authority. Reinforce the mandate of the Financial Services Authority to carry out integrated regulation and supervision and financial conglomeration. Increasing the authority of the Financial Services Authority to regulate and supervise cooperatives engaged in the financial sector, digital asset activities, Financial Sector Technology Innovation (ITSK), strengthening the education function, Consumer Protection, and monitoring market behaviour (market conduct), which aims to bring the national financial sector is more substantial and growing. Fourth Strengthening of the Deposit Insurance Corporation is one of the supporting institutions for economic stability through its role in the banking world, which is also given the strengthening of authority in this Law. In addition to strengthening the authority of the Deposit Insurance Corporation in carrying out its deposit insurance and bank resolution functions, the Deposit Insurance Corporation has also received a new mandate as the organizer of the insurance policy guarantee program, which will be accompanied by an increase in the supervisory and regulatory functions by the insurance supervisory authority. Fifth, strengthening the role and authority of the KSSK, Bank Indonesia, the Financial Services Authority, and the Deposit Insurance Corporation. Strengthening roles and authorities is achieved through strengthening instruments for preventing and handling bank problems, such as bank recovery and resolution plans, arrangements for short-term liquidity loans or sharia short-term liquidity financing, placement of funds by the Deposit Insurance Corporation, and affirming the role of the Deposit Insurance Corporation as a resolution institution with a mandate risk reduction (risk minimizer), as well as strengthening macroprudential-micro prudential and macroprudential-micro prudential coordination. Sixth, Strengthening the financial industry and strengthening the insurance sector and Strengthening regulations on the Capital Market, Pension Fund industry, other service industries, and microfinance institutions, and supervision of cooperatives operating in the financial sector.

Seventh Increasing the role of the financial sector in financing sustainable activities, strengthening the quality of sector human resources finance, and increasing financial literacy and inclusion, strengthening efforts to support Micro, Small, and Medium Enterprises. Eighth Types of Violations and criminal acts in the financial sector This is done to protect financial sector activities.

In connection with the previous description that talks about the idea of the legal validity of Gustav Radbruch (Alexy, Robert, 2021). recognize a law above positive Law, which applies as a norm of the legal system. According to Radbruch (Fernando Manullang, 2022), legal validity is part of the concept of legal certainty. Therefore, before discussing legal validity, it is necessary to reflect on Radbruch's ideas regarding the purpose of Law, one of which is legal certainty. The concept of Law is a cultural concept. It means that the concept is connected with the value. Every value that exists in Law will have a legal idea. Every Law is interpreted as an effort to serve that legal idea. The idea is justice, Benefit, and legal certainty. Justice is generally interpreted as an effort to provide equality. This effort is not easy because equality is only in substantially unequal relationships. The Benefit is interpreted as an effort to serve the diverse desires of various parties. This effort can be fulfilled in relative terms because various parties have different and endless views. Fernando Manullang then stated that Radbruch offered the idea of legal certainty.

In this context, the Law is determined positively. Because through positive Law, differences will be crushed. The three ideas in the value of Law have an antinomy between justice, legal certainty, and usefulness. The antinomy Radbruch puts the justice and usefulness of the antinomy with legal certainty. Validity becomes an essential part of legal certainty. Positive legal norms are created to realize ideal values that lead to good for society. These values are the value of legal certainty, the value of benefits, and the value of justice. Law No. 4 of 2023 Concerning the Development and Strengthening of the Financial Sector (UU PPSK) was made and enacted to be able to realize the value of legal certainty, the value of benefits, and the value of justice, for society, for financial service actors and parties related to activities in the financial sector.

III. 2 Substance of Law Number 4 of 2023 Concerning the Development and Strengthening of the Financial Sector

Law Number 4 of 2023 concerning the development and strengthening of the financial sector as considering that this Law can create a just, prosperous, and prosperous Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia, the state needs to realize sustainable national development supported by a resilient economy through more optimal development and strengthening of the financial sector. The act was performed to support and realize efforts to develop and strengthen the financial sector in Indonesia in line with the increasingly complex development of the financial services industry and efforts to new regulations and adjustments to various regulations in the financial sector. It is possible to amend laws in the financial sector using the omnibus method to harmonize the arrangements contained in various laws into 1 (one) Law comprehensively. Regulations were formed in order to clarify and enforce several laws and regulations governing finance, as the regulations referred to in regulations for the development and strengthening of the financial sector are as follows, namely: Law Number 7 of 1992 concerning Banking (State Gazette of the Republic of Indonesia of 1992) Number 31, Supplement to State Gazette of the Republic of Indonesia Number 3472) as amended several times, most recently by Government Regulation instead of Law Number 2 of 2022 concerning Job Creation (State Gazette of the Republic of Indonesia of 2022 Number 238, Supplement to State Gazette of the Republic of Indonesia Number 6841). Law Number 25 of 1992 concerning Cooperatives (State Gazette of the Republic of Indonesia of 1992 Number 116, Supplement to the State Gazette of the Republic of Indonesia Number 3502) as amended by Government Regulation instead of Law Number 2 of 2022 concerning Job Creation (State Gazette of the Republic of Indonesia of 2022 Number 238, Supplement to the State Gazette of the Republic of Indonesia Number 6841). Law Number 8 of 1995 concerning Capital Markets (State Gazette of the Republic of Indonesia of 1995 Number 64, Supplement to the State Gazette of the Republic of Indonesia Number 3608). Law Number 32 of 1997 concerning Commodity Futures Trading (State Gazette of the Republic of Indonesia of 1997 Number 93, Supplement to the State Gazette of the Republic of Indonesia Number 3720) as amended by Law Number 10 of 2011 concerning Amendments to Law Number 32 of 1997 concerning Trading Commodity Futures (State Gazette of the Republic of Indonesia of 2011 Number 79, Supplement to the State Gazette of the

Republic of Indonesia Number 5232). Law Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia of 1999 Number 66, Supplement to the State Gazette of the Republic of Indonesia Number 3843) as amended several times, most recently by Law Number 6 of 2009 concerning Stipulation of Government Regulations instead of Laws Number 2 of 2008 concerning the Second Amendment to Law Number 23 of 1999 concerning Bank Indonesia to Become a Law (State Gazette of the Republic of Indonesia of 2009 Number 7, Supplement to the State Gazette of the Republic of Indonesia Number 4962). Law Number 24 of 2002 concerning Government Securities (State Gazette of the Republic of Indonesia of 2002 Number 110, Supplement to the State Gazette of the Republic of Indonesia Number 4236). Law Number 24 of 2004 concerning Deposit Insurance Corporation (State Gazette of the Republic of Indonesia of 2004 Number 96, Supplement to the State Gazette of the Republic of Indonesia Number 4420) as amended by Law Number 7 of 2009 concerning Stipulation of Government Regulations instead of Law Number 3 of 2008 concerning Amendments to Law Number 24 of 2004 concerning Deposit Insurance Corporation to Become Law (State Gazette of the Republic of Indonesia of 2009 Number 8, Supplement to State Gazette of the Republic of Indonesia Number 4963). Law Number 40 of 2004 concerning the National Social Security System (State Gazette of the Republic of Indonesia of 2004 Number 150, Supplement to the State Gazette of the Republic of Indonesia Number 4456) as amended by Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation (State et al. of Indonesia of 2022 Number 238, Supplement to the State Gazette of the Republic of Indonesia Number 6841). Law Number 21 of 2008 concerning Sharia Banking (State Gazette of the Republic of Indonesia of 2008 Number 94, Supplement to the State Gazette of the Republic of Indonesia Number 4867) as amended by Government Regulation instead of Law Number 2 of 2022 concerning Job Creation (State Gazette of the Republic of Indonesia of 2022 Number 238, Supplement to the State Gazette of the Republic of Indonesia Number 6841). Law Number 2 of 2009 concerning Indonesian Export Financing Institutions (State Gazette of the Republic of Indonesia of 2009 Number 2, Supplement to the State Gazette of the Republic of Indonesia Number 4957). Law Number 7 of 2011 concerning Currency (State Gazette of the Republic of Indonesia of 2011 Number 64, Supplement to the

State Gazette of the Republic of Indonesia Number 5223). Law Number 21 of 2011 concerning the Financial Services Authority (State Gazette of the Republic of Indonesia of 2011 Number 111, Supplement to the State Gazette of the Republic of Indonesia Number 5253). Law Number 1 of 2013 concerning Microfinance Institutions (State Gazette of the Republic of Indonesia of 2013 Number 12, Supplement to the State Gazette of the Republic of Indonesia Number 5394). Law Number 40 of 2014 concerning Insurance (State Gazette of the Republic of Indonesia of 2014 Number 337, Supplement to the State Gazette of the Republic of Indonesia Number 5618). Law Number 1 of 2016 concerning Guarantees (State Gazette of the Republic of Indonesia of 2016 Number 9, Supplement to the State Gazette of the Republic of Indonesia Number 5835). And Law Number 9 of 2016 concerning the Prevention and Management of Financial System Crisis (State Gazette of the Republic of Indonesia of 2016 Number 70, Supplement to State Gazette of the Republic of Indonesia Number 5872).

Of the several regulations in Law Number 4 of 2023 concerning the development and strengthening of the financial sector, some articles have been amended, and others have been deleted from the Law. The following will explain the contents of the Law on the development of the financial sector, which will start from Chapter I to the last chapter. From the description of the urgency and the substance of the changes, it can be seen that so far, there have been many laws and regulations that have not synchronized with one another; for example, the prevailing Bank Indonesia Law stipulated and regulated the duties and authorities of Bank Indonesia before Law No. 21 of the year 2011 concerning the Financial Services Authority. Even in legal practice, these problems can be overcome and resolved using legal principles. However, the financial services sector, which requires fast practice and quick problem-solving, also requires regulatory guidelines for business actors. The purpose of Law to realize the value of legal certainty is shown in the form of unification of several laws and regulations in one Law. The value of legal certainty, as stated by Gustav Radbrucht, Unification in one Invitation in the form of amendments, additions, and insertions in one article with another for economic actors, will significantly help solve problems in their economic activities. As said, this Law on the Development and Strengthening of the Financial Sector will benefit economic actors and society. It shows the value of benefits embodied in the PPSK Law as

concrete legal regulations, as said by Gustav Radbrucht.

This paper reveals the limitations of the research, namely that values in Law can only be studied from the elucidation of the PPSK Law and carried out normatively.

IV. CONCLUSION

The urgency of the PPSK Law is seen from the perspective of the values of legal certainty, usefulness, and justice in Law for economic actors. Justice is generally interpreted as an effort to provide equality. This effort is not easy because equality is only in substantially unequal relationships. The Benefit is interpreted as an effort to serve the diverse desires of various parties. This effort can be fulfilled because various parties have different and endless views. The legal will realize the value of efficacy and justice is demonstrated by the efforts of the PPSK Law to overcome domestic problems such as low capitalization of stocks and bonds, imbalance in the proportion of assets in the banking sector and other financial sectors, financial solid sector intermediation and external challenges such as technological disruption and the emergence of new financial risks. Attempts are made to overcome problems and challenges, both internal and external, by making and enacting the PPSK Law, as Radbrucht said, offering the idea of legal certainty. In this context, the Law stipulated positively the unification of financial sector regulations in the PPSK Law because, through positive Law, differences will be crushed.

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