

Type: **Research Article**

Scrutinizing Perseroan Perorangan: The Brainchild of Societas Unius Personae in the Realm of Indonesian Company Laws

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Abstract *The Indonesian government has long been committed to developing the business conditions, particularly for micro, small, and medium-sized enterprises (MSMEs). The debut of a single-person limited company (perseroan perorangan) is one of the numerous ambitions of this crucial aspiration. Debates circling this novel kind of company in Indonesia remain a heated debate between practitioners, jurists, scholars, and the government. This article endeavors to elucidate these debates by concentrating on the legal theories encompassing company laws, the practice of single-member limited liability companies overseas and domestically and scrutinizing the single-person limited companies amid the contemporary Indonesian legal dan regulatory regime. This research utilizes doctrinal legal study and secondary data. Dogmatic literature reviews are carried out on scholarly works concerning the subject matter, and the analysis is carried out using the qualitative method. This inquiry reveals that the current single-person limited companies*

in Indonesia are supported adequately by several legal theories. This sort of company has been exercised in numerous nations, mainly in Europe. There is also room for legislative and executive development and juridical enhancement to ultimately maximize the company's potential.

Keywords Perseroan Perorangan, Single-person Limited Company, Company Law

1. Introduction

The Indonesian Government has inaugurated various initiatives related to simplifying enterprise conduct within the Republic of Indonesia to improve entree to the domestic market and enhance the business climate. In particular, the micro, small, and medium-sized enterprises (hereinafter referred to as MSMEs) are the target group of these ambitions. One of which is the single-person limited company. Broadly speaking, business corporations are legal entities organised by people to pool resources and engage in fruitful pursuits. Small and medium-sized enterprises (and micro-ones) appropriate corporations¹ not only for the shared operation of an enterprise with limited liability to attain profits but also for the personal exercise of it. The company law of the western nations satisfies this demand by continuously adjusting the stipulations overseeing public and private corporations dedicated to small and medium-sized enterprises, with few members

¹ In the US, the word 'company' might also indicate a partnership or any other kind of joint ownership and seldom to a sole proprietorship. Whilst incorporated firms are frequently mentioned as "corporations." See Alexander Pepper, "What a Public Corporation Really Is," in *Agency Theory and Executive Pay: The Remuneration Committee's Dilemma*, 1st ed. (London: Palgrave Pivot, 2018), 43–76, https://doi.org/10.1007/978-3-319-99969-2_3.

or totally a single member, private and which do not raise funds by trading shares to the populace.²

From here, we appreciate how significant is the company law of a nation. Corporate law has long acknowledged that the main objective of the business enterprise is to maximize the proceeds for stockholders using a proper measure of business judgement.³ Most nations along with European jurisdictions have allowed the idea of single-person limited companies⁴ as a legal entity, and the

² Barbara De Donno, "From Simplified Companies to One-Man Limited Enterprises," *European Company Law* 11, No. 3 (2014): 155–56, <https://kluwerlawonline.com/journalarticle/European+Company+Law/11.3/EUCL2014032>.

³ Ryne T. Duffy, "Corporate Rights and Moral Theory: The Need for a Coherent Theoretical Justification of Corporate Rights," *Washington University Jurisprudence Review* 12, No. 2 (2020): 267–94, https://openscholarship.wustl.edu/law_jurisprudence/vol12/iss2/7/.

⁴ The Ministry of Law and Human Rights of the Republic of Indonesia popularly employs the English expression "sole proprietorship with limited liability" to denote perseroan perorangan in the realm of Indonesian company law. While it is not incorrect. Nevertheless, the author senses that the better way to name it would be as a "single-person limited company" to distinguish better the unique attribute of its single-person establishment of a firm that possesses legal personality, hence a limited 'liability' company. Employing that term would also generalise the concept of its features with the more popular *societas unius personae* in Europe (and for international readers as well). Besides, using single-person preferably than sole proprietorship would also wholly separate it from the sole proprietor/sole trader (Dutch: *eenmanszaak*), which have been recognised by the company laws in both the common law and civil law tradition as business arrangements without legal personality, which was completely different from the nature of perseroan perorangan that embodies the segregation of liabilities between the company's assets *vis-à-vis* its director's and shareholder's. Nevertheless, this paper uses the term sole proprietorship with limited liability and single-person limited company interchangeably to accommodate readers from both jurisdictions.

European Union (EU) has approved a directive that mainly governs single-person limited companies (known as *Societas Unius Personae*).⁵

This betterment has facilitated the development of micro and small-sized enterprises by lessening the initial investment, simplifying the incorporation system, and slashing down the start-up expenses. The simplified limited liability company is a helpful method for the improvement of start-ups, to be backed by business incubator ventures, beneficial to encourage a transformation from an attitude of being an employee to a prospect of being a businessperson.⁶

One of the significant tests in governing companies is to uncover a solution that is both resilient and reliable.⁷ On the other hand, the regulations should be adequately flexible, so that the business regime is not entirely for those who possess interests in it.⁸ This study brings the single-person limited company laws and regulations in Indonesia as its focal point. It assesses its influence in a comparable study seeing it from different legal domains, its economic impacts, and its theoretical basis after the law and regulation in 2021. This paper is state of the art and novel due to its analytical scrutiny of the governmental approach based on existing laws, legal theories, and legal deliberations from overseas. Far-reaching digging on literature references has helped this paper with critical

⁵ Aslı E. Gürbüz Usluel, "Considerations on the Economic Effect of the New Turkish Commercial Code Provisions Regarding Single Member Companies," *European Journal of Law and Economics* 42, No. 1 (2016): 25–43, <https://doi.org/10.1007/s10657-015-9511-2>.

⁶ De Donno, "From Simplified Companies to One-Man Limited Enterprises."

⁷ Mega Tri Astuti Z, Lu Sudirman, and Junimart Girsang, "Implementation of Criminal Fines On State Financial Recovery in Violations of Criminal Acts of Excise to Support The Achievement of Sustainable Development Objectives," *Legal Brief* 11, No. 3 (2022): 1789–93, <https://doi.org/10.35335/legal.v11i3.399>.

⁸ Karsten Engsig Sørensen and Mette Neville, "Social Enterprises: How Should Company Law Balance Flexibility and Credibility?," *European Business Organization Law Review* 15, No. 2 (2014): 267–308, <https://doi.org/10.1017/S1566752914001128>.

findings to improve the single-person limited company notion. This study is also novel in its own manner due too little to no studies that have been carried to examine the single-person limited company in Indonesia thoroughly.

In this paper, the author analyses whether the Indonesian government's notion concerning the single-person limited company adhered to the plethora of legal theories regarding companies. Afterward, the author also considers both the issue of the concept of a single-person limited company and whether it has been practiced in other nations outside of Indonesia. Ultimately, the author also elaborates on the single-person limited company according to Indonesian laws and regulations and the feasible deliberation for juridical augmentation. This article is confined to dealing with the contemporary and novel matters of company law correlated with a single-person limited company. There will frequently be other regulatory, or policy propositions directed at developing MSMEs.⁹ Yet, these are not bargained with intensively here due to a shortage of expanse.

This study also elevates more far-flung company law scholarship. The paper is structured such that section 1 proffers the background to the introduction of single-person limited companies. This is accompanied by a summary of the research methods used for setting the framework for single-person limited companies (section 2). Section 3 studies the predicaments associated with single-person limited companies (the notion, both abroad and domestic), along with its theoretical discourse. This section also contains discussion of the findings, some summing-up, and recommendations of this research. In section 4, there is a conclusion summing-up all the findings of this research article.

⁹ Unlike many nations overseas that employ the term SMEs, Indonesia practices the term MSMEs to organise a business enterprise based on the amount of investment made into that particular business endeavour.

2. Method

The article employs the doctrinal approach to examine the law and regulation on the single-person limited company. It features a standard review through secondary data. Data were consolidated by intensive literature research and studied using the legal norm approach based on contentions from legal theories. This analysis scheme endeavours to confer a well-organised, genuine, and comprehensive acumen into particular distinctiveness, components, or factors in an appropriate region. It appropriates a qualitative juridical interpretation based on rational-legal analysis, reasoning, and argumentation.¹⁰

3. Result & Discussion

A. Theoretical Discourse of Firms as Legal/Juristic Persons

This article revisits and examines the “theory of the firm” and corporate personhood, which render the theoretical backdrop to scholarly, judicial, and legislative approaches to these and other inquiries. To emit light on the prevailing law encompassing legal entities, this paper primarily outlines historical approaches to creating legal entities, concentrating on whether a corporation is real, fictional, or an aggregate.¹¹ In corporate law, the impact of the conventional

¹⁰ David Tan, “Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum,” *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 8, No. 8 (2021): 2463–78, <https://doi.org/10.31604/jips.v8i8.2021.2463-2478>.

¹¹ Martin Petrin, “Reconceptualizing the Theory of the Firm – From Nature to Function,” *Penn State Law Review* 118, No. 1 (2013): 1–53, <https://doi.org/10.2139/ssrn.2225447>.

theories of the companies evidences itself in a myriad of methods.¹² With respect to the company's association with third parties and the focal gist of this study, the most striking areas are conceivably limited liability, veil piercing,¹³ and corporate social responsibility.¹⁴

1) The Fiction Theory

There is, after all, no such thing as the firm. It is a *persona ficta*,¹⁵ born into actuality by the process of statutory edicts.¹⁶ The Roman law sparked "fiction

¹² Iris H. Chiu, "The Meaning of Share Ownership and the Governance Role of Shareholder Activism in the United Kingdom," *Richmond Journal of Global Law and Business* 8, No. 2 (2008): 117–60, <https://scholarship.richmond.edu/global/vol8/iss2/2>.

¹³ Even though most legal systems encounter obstacles in observing a uniform approach in consolidating personal liability within the current structure of company law. See Michael Nietsch, "Corporate Illegal Conduct and Directors' Liability: An Approach to Personal Accountability for Violations of Corporate Legal Compliance," *Journal of Corporate Law Studies* 18, No. 1 (2018): 151–84, <https://doi.org/10.1080/14735970.2017.1365460>.

¹⁴ Despite the fact that separate legal personality and limited liability are entirely acknowledged as bedrock corporate law beliefs, they are not undeniable. Under the veil piercing doctrine, the judiciary may dismiss separate corporate identity and keep stockholders and other people privately liable for corporate liabilities without limiting their obligation by the amount of their stake in the firm's equity. See Peter B. Oh, "Veil-Piercing Unbound," *Boston University Law Review* 93, No. 1 (2013): 89–137, <https://doi.org/10.2139/ssrn.1925009>.

¹⁵ A legal person can bear rights and duties (although legal persons do not automatically hold rights and duties). Legal persons need not be human beings or even include human beings; they can be *persona ficta*: a doctrine received into English law in the sixteenth century. See Susan Mary Watson, "The Corporate Legal Person," *Journal of Corporate Law Studies* 19, No. 1 (2019): 137–66, <https://doi.org/10.1080/14735970.2018.1435951>.

¹⁶ Colin Mackie, "Corporate Groups, Common Officers and the Relevance of 'Capacity' in Questions of Knowledge Attribution," *Journal of Corporate Law Studies* 20, No. 1 (2020): 1–38, <https://doi.org/10.1080/14735970.2019.1604607>.

theory¹⁷ was the original “logical” theory of legal entities to emerge. Early English corporate law consolidated the fiction theory into the common law, and the theory is believed to have commanded American corporate theory “from the founding to the mid-nineteenth century.”¹⁸ Notwithstanding, the fiction theory is securely correlated to German jurist Friedrich Carl von Savigny, whose work on the matter hugely inspired common-law scholars. Savigny disputed that because legal persons could only possess acknowledged rights and duties as an outcome of an action of the state,¹⁹ they were nothing but artificial beings or fictions.²⁰ He and other fiction theorists maintained that a company could only possess a very limited assortment of rights and duties due to its artificial being, specifically those

¹⁷ Additionally, known as the “fictitious personality theory,” the “artificial personality theory,” the “concession theory,” or the “grant theory.” See Ron Harris, “The Transplantation of the Legal Discourse on Corporate Personality Theories: From German Codification to British Political Pluralism and American Big Business,” *Washington and Lee Law Review* 63, No. 4 (2006): 1421–78,

<https://www.proquest.com/openview/44ec1f4803cc9b15bf0b114b26cc5df0/1?pq-origsite=gscholar&cbl=5472>.

¹⁸ Darrell A. H. Miller, “Guns, Inc.: Citizens United, McDonald, and the Future of Corporate Constitutional Rights,” *New York University Law Review* 86, No. 4 (2011): 887–957, <https://www.nyulawreview.org/issues/volume-86-number-4/guns-inc-citizens-united-mcdonald-and-the-future-of-corporate-constitutional-rights/>.

¹⁹ Petrin, “Reconceptualizing the Theory of the Firm – From Nature to Function.”

²⁰ The fiction theory prevailed in England and the United States throughout the first half of the nineteenth century. Hereabouts, this theory was also kened as the “concession theory” or “grant theory” because, in that era, firms could only be incorporated based on a state legislature’s award of a particular concession, grant, or charter. Nonetheless, some scholars separate the fiction theory from the concession theory, asserting that the former is an antiquated doctrine that is philosophical in essence. In contrast, the latter is based on the succeeding doctrine that firms existed solely due to an act of state.

concerning the property.²¹ The quality of legal persons, which factored but a tiny portion of a human's character, did not recognise non-monetary rights and duties. Because of these constraints, the fiction theory also regarded those legal entities—aside from strict liability cases—could not themselves be accountable, either civilly or criminally.²²

2) The Real Entity Theory or Organic Theory

In response to the fiction theory, especially as proclaimed by Savigny, another group of German scholars—under the guidance of historian and legal academic Otto von Gierke—developed the late nineteenth century “real entity theory” or “organic theory.”²³ According to this axiom, legal entities were not fictions. Instead, they were real and able of owning their mind and determination. In addition, legal entities possessed any rights and duties that they could practice.²⁴

²¹ Considering legal entities' capability to transfer property rights and enter into contracts. But its inability to travel to polling stations and put its vote inside a ballot box.

²² In addition to the point that a tort or crime was not required for executing property rights, the rationale for this is that accountability was accustomed to affirming culpability or *mens rea*. *Mens rea* (the intention or awareness of wrongdoing that composes a portion of a crime, as opposed to the act or manner of the accused, which is understood as *actus reus*), however, was something that a legal person, if the thought of as only an artificial being, could not hold. According to Savigny, a legal person could nevermore be accountable, but a legal person's delegates or agents who perpetrated a tort or a crime could be. Conversely, because of the absence of *mens rea* elements, the fiction theory provided for legal persons to be the subject of strict liability.

²³ Other significant patrons of the real entity theory were Georg Beseler and Johann Caspar Bluntschli. See Martin Gelter, “Taming or Protecting the Modern Corporation? Shareholder-Stakeholder Debates in a Comparative Light,” *NYU Journal of Law and Business* 7, No. 2 (2010): 641–730, <https://www.nyuylb.org/copy-of-7-1>.

²⁴ Nonetheless, real entity theory still restricted a legal entity's capability to sustain rights by acknowledging that there are several rights that legal entities cannot practice, such as those associating with family affairs or constitutional and legal rights generally associated with

While the real entity theory acknowledged that legal entities obtained their personality²⁵ through the law and an act of the state,²⁶ its proponents still contested that the legal person was not something invented by the law but somewhat a pre-existing actuality that was entirely “found” and accepted by the law.²⁷

In contradiction to the fiction theory, the real entity viewpoint believed that the firm is a well-defined, independent entity separate from, and more than just

natural persons. *See* Petrin, “Reconceptualizing the Theory of the Firm – From Nature to Function.”

²⁵ Kelsen's Theory of Legal Personality has advanced the debate for what is a legal personality under the law. Kelsen's understanding of a personality at law in a normative perspective as every human being possesses fundamental natural rights, recognisable by logic and by sense, and hence regarded as a person. Legal personality is not granted only to natural persons, but also to juristic persons. Unlike natural persons, juristic persons are generally not viewed as “persons in a natural understanding of the term.” Of a more conceptual viewpoint exercised by Hans Kelsen, the juristic person embodies a legal substance to which rights and duties fit as its legal quality. “The belief that the person holds duties and rights, includes the association of substance and quality.” In Kelsen's mind, being a person or possessing a legal personality is identical to owning legal obligations and subjective rights. This is why a human being is interpreted as an abstract owner of subjective rights rather than the person in a legal reason. Unlike conventional dogmas, normativism regards rights as juridical norms. This conception results in the normative construction of a person. The person is deemed to be an insignificant point, an excellent, and never real fact. Kelsen indicates this case as a “personification of the set of norms” governing the behaviour of a human being. *See* Karel Beran, “The Person at Law From the Point of View of Pure Legal Science,” *The Lawyer Quarterly* 3, No. 1 (2013): 29–42, <https://tlq.ilaw.cas.cz/index.php/tlq/article/view/59>.

²⁶ Law endures as a tool of civil order and control. It builds organisations and schemes to structure the civil order toward the ends of guarding well-being and freedom, balancing advantages and responsibilities, and settling disagreements without resort to personal strength. *See* Douglas Lind, “The Pragmatic Value of Legal Fictions,” in *Legal Fictions in Theory and Practice*, ed. Maksymilian Del Mar and William Twining, 1st ed. (Cham: Springer International Publishing, 2015), 83–109, https://doi.org/10.1007/978-3-319-09232-4_5.

²⁷ Harris, “The Transplantation of the Legal Discourse on Corporate Personality Theories: From German Codification to British Political Pluralism and American Big Business.”

the sum of, its personal (human) parts. The legal entity, following this proposition, directs its own “life” in the discernment of psychological or sociological existence and was believed to possess properties not seen among its human components. The single distinction among firms and human beings was that legal entities did not designate corporal organisms but rather composite, social organisms.²⁸ Nonetheless, real entity theorists were faced with the apparent predicament that a legal entity, despite understanding to be “real” and equated to a living person, could not act by itself. Nevertheless, they resolved this dilemma by rendering the entity with “organs,” its metaphorical “hands and mouth.” Actions undertaken by those organs—regularly higher-ranking executives inside the legal entity—were entirely and immediately binding upon the legal entity. However, these organs were not seen as agents. Instead, real entity theorists debated that the organs were component of, and considered, the legal entity itself. The real entity theory further recognised that legal entities, as “living beings,” could be held accountable both under tort and criminal law.²⁹

While the real entity theory was not as thriving in the common law as in the civil law,³⁰ where it obviously overwhelmed the fiction theory, it did achieve

²⁸ Petrin, “Reconceptualizing the Theory of the Firm – From Nature to Function.”

²⁹ However, because they were solely capable of running through their organs, legal entities could only incur obligation due to a tort or criminal offense if perpetrated by one or more organs acting within their official capabilities. These people, furthermore, remained privately accountable to third parties. Contrariwise, wrongdoing by lower-level workers, who were not deemed to be organs, was inadequate to incite accountability for the legal entity. Significantly hence, corporate responsibility is based on the seniority of the person or employee perpetrating the offense.

³⁰ In civil law, the dialectic was settled around 1900, principally favouring the real entity theorists. In the wash of the industrialisation of Europe, Continental European courts were compassionate toward the real entity theory. They frequently started to welcome the thought that legal entities were “real” beings, discovering that firms could be accountable for torts.

significant influence, and both the UK and the US courts of law started to depend more on the beliefs it incorporated.³¹ Likewise, the impact of the real entity theory bolstered the inclination by Anglo-American courts to acknowledge the tortious accountability of firms. Besides, the real entity theory's ascendance helped reinforce the inclination to bestow corporate entities limited liability and the idea of business judgement rule.³²

3) The Aggregate or Contractualist Theory

The aggregate or contractualist theory developed more prominently in the United States throughout the latter half of the nineteenth century.³³ The aggregate or contractualist theory alleged that companies and other legal entities composed aggregations of natural persons whose bonds were structured through reciprocal arrangements. As such, both a legal entity's juridical rights and obligations were frequently perceived, in an obscure or derivative fashion, as utterly those of its stockholders or other people that established the entity. In other words, based on the aggregate theory, rights and duties taken by individuals can be interpreted to reflect upon the legal entity itself. In the setting of constitutional rights, a court in

Afterwards, the introduction of European civil codes, plenty of which elevated the real entity's fundamental beliefs into statutory law, widely defused the civil law discussion encircling the essence of the firm. Until lately, however, civil law jurisdictions adhered to the fiction theory in the sphere of criminal law.

³¹ The real entity theory ultimately grew into the most prominent explanation of the corporate 'person' in the early twentieth century. See Jess M. Krannich, "The Corporate 'Person': A New Analytical Approach to a Flawed Method of Constitutional Interpretation," *Loyola University Chicago Law Journal* 37, No. 1 (2005): 61–109, <https://lawcommons.luc.edu/luclj/vol37/iss1/4>.

³² Reuven S. Avi-Yonah, "Citizens United and the Corporate Form," *Accounting, Economics, and Law* 1, No. 3 (2011): 1–54, <https://doi.org/10.2202/2152-2820.1048>.

³³ Krannich, "The Corporate 'Person': A New Analytical Approach to a Flawed Method of Constitutional Interpretation."

the United States designated private firms as “aggregations of people assembled for some licit business” and opined that it would be odd if a constitutional stipulation for the protection of individuals.³⁴ Nonetheless, the aggregate theory failed to produce a reasonable rationale for the conferment of limited liability for firms and the decoupling of company and personal rights and obligations in general.³⁵

4) **The Collaboration Theory**

This theory by Eric C. Chaffee is regarded as recently discovered and was expressed to explain the concerns not elucidated by earlier theories. Preceding theories underemphasised the position of the state and individuals in establishing, managing, and owning the firm by concentrating on the firm as a separate being or underplay the role of the state in the incorporation of the firm by centring on the people who compose, manage, and control the firm and the relations between them. Surpassing that, every general theory of the company centres on how the firm exists without understanding why the firm exists. The topic of why a firm exists should be a component of forming every essentialist theory of the firm because the birth of firms is well recorded, and because comprehending why firms exist goes to their essential nature.³⁶ The collaboration theory, a brand-new essentialist theory of the corporation, proposes that firms are collaborations between the state governments and the individuals who build, manage, and own

³⁴ Petrin, “Reconceptualizing the Theory of the Firm – From Nature to Function.”

³⁵ Reuven S. Avi-Yonah, “The Cyclical Transformation of the Corporate Form: A Historical Perspective on Corporate Social Responsibility,” *Delaware Journal of Corporate Law* 30, No. 3 (2005): 767–818, <https://doi.org/10.2139/ssrn.672601>.

³⁶ Eric C. Chaffee, “Collaboration Theory: A Theory of the Charitable Tax Exempt Nonprofit Corporation,” *UC Davis Law Review* 49, No. 5 (2016): 1719–81, <https://doi.org/10.2139/ssrn.2694366>.

them. It assumes that as an outcome of collaboration, a firm arrogates a distinct presence from both the state and the person who create, run, and own the firm because it can accomplish something that the state and the individuals could not or have preferred not to achieve individually. This theory demonstrates why the administration and the people making, running, and owning the company hold the authority to regulate and restrict the firm's actions. This theory also reveals why the collaborating individuals hold a duty to lead the firm in a socially accountable manner. In a representational democracy, the government embodies the interests of the members of that society.³⁷ When the government is a representative democracy collaborates with people building, managing, and owning a corporate entity, the company must engage in a socially responsible fashion because it is indebted for its being to the administration of that representational democracy. In addition, the people building, managing, and owning a firm should seek socially responsible way because the contractual spirit of a firm formulates a fiduciary duty of good faith between the collaborating participants to treat each other well within the terms of the arrangement that they have committed concerning the creation and running of the corporate entity.³⁸

³⁷ Democracy is an arrangement of government that represents the people. Any democratic order is based on the confidence that the public has ousted in their political leaders, the trust that they will deliver according to the public morals, and the well-being of the collective good. The heart of representational democracy is that the government stewards the people. The people, accordingly, must be capable of communicating their ideas and hopes to their representatives, who are presumed to be receptive to them. Democracy symbolises a brushoff of supreme power because the personality of its leaders depicts a contingent choice by the people. The principal grounds that underlie this choice, and people's communication with legislators and governmental offices, is that the administration should be compassionate to people's preferences.

³⁸ Eric C. Chaffee, "The Origins of Corporate Social Responsibility," *University of Cincinnati Law Review* 85, No. 1 (2017): 353–79, <https://ssrn.com/abstract=2957820>.

B. The Notion of a Single-person Limited Company

The character of a firm in law appears with two main characters, specifically limited liability and legal personality.³⁹ Nonetheless, it is meriting to regard that legal personality is not limited liability.⁴⁰ The member's responsibility is restricted to the subscribed shares exclusively. The firm's legal personality necessitates that a firm is disparate from its members and possesses its own rights and duties. Limited liability requires that creditors' interests could no longer stretch to the stockholders' personal assets but confined to the firm's properties as the firm retains asset in its own name. The stockholders are shielded by what is understood as the corporate veil of incorporation⁴¹ as a consequence of limited liability and

³⁹ The corporation's idea of being a legal person in its own right, whereby it can sue and be sued in its own name, presents the corporation with the legal personality. It has been contended that the purpose is to inflict or bestow specific properties on the corporation that allow it to perform legal relations similar to a natural person. These legal relations associate with the notions of legal science like title, possession, rights, and duties, which connects to title or possession of the property. This suggests that the property pertains to the corporation and not to its members. Neither a member nor a creditor unless secured has an incurable interest in the assets of the corporation. *See* Len Sealy and Sarah Worthington, *Sealy & Worthington's Cases and Materials in Company Law*, 10th ed. (Oxford: Oxford University Press, 2013).

⁴⁰ Jurists saw the company as owning some distinguishing attributes. Most importantly, it possessed a legal personality distinct from that of its members. The establishment of a company formed asset partitioning. The company, as a legal personality, could enjoy a separate pool of assets. People who served as agents on its behalf could dispatch its assets and negotiate on its behalf subservient to authorisation. This was the result of the company's legal personality. It created asset partitioning that had nothing to do with owner shielding from creditors. It had nothing to do with the future characteristic of limited liability in its contemporary understanding. *See* Ron Harris, "A New Understanding of the History of Limited Liability: An Invitation For Theoretical Reframing," *Journal of Institutional Economics* 16, No. 5 (2020): 643–64, <https://doi.org/10.1017/S1744137420000181>.

⁴¹ Nevertheless, there are several occurrences in which the courts have lifted or pierced the veil to keep the stockholders responsible for the corporation's activities, but this is an uncommon phenomenon girdled by abnormalities. Although this can be viewed as a tool to preserve

legal personality. Consequently, despite being a known hazard to creditors, it can be detrimental to their business.⁴² Additionally, like all companies, single-person limited companies beget the intention and impact of economising transaction costs.⁴³

One of the essential precepts of contemporary company law is that it is a legal entity distinct from its stockholders. The actions and interests of the firm may be assigned only to the firm itself and not to its stockholders, even should they be the sole stockholder of that firm.⁴⁴ An essential peculiarity of the autonomous company personality is limited liability. The notion of limited liability rooted in the limitation of the duty of a firm's stockholder to render investment funds. The economic purpose of such a restriction is that a stockholder should not be compelled to afford more considerable funds than it admitted. Consequently, the limited liability of a firm's stockholders facilitates sensible diversification of business pursuit and reasonable allocation of risk.⁴⁵ Consequently, stockholders

creditors, there are other tools that creditors could employ for their protection in light of limited liability. Veil-piercing is an equitable remedy. This modest acumen has been forgotten over time. What began as a mechanism for corporate creditors to stretch into the private assets of a stockholder due to a doctrinal black hole. The conservative approach is to observe veil-piercing as an exemption to limited liability that is justified. *See* Oh, "Veil-Piercing Unbound."

⁴² Eneless Nyoni and Tina Hart, "The Concept of Limited Liability and the Plight of Creditors Within Corporate Governance and Company Law: A UK Perspective," *InterEULawEast: Journal for the International and European Law, Economics and Market Integrations* 5, No. 2 (2018): 309–22, <https://doi.org/10.22598/iele.2018.5.2.11>.

⁴³ Usluel, "Considerations on the Economic Effect of the New Turkish Commercial Code Provisions Regarding Single Member Companies."

⁴⁴ Aleksandra Krawczyk-Giehsman, "Shareholders' Liability for Ruining a Company in Light of the CJEU's Judgment in Kornhaas," *European Business Organization Law Review* 21, No. 2 (2020): 475–504, <https://doi.org/10.1007/s40804-019-00142-2>.

⁴⁵ Michał Romanowski, "Czy Spółka Może Być Nadczłowiekiem Lub Przynajmniej Dronem – Czyli o Skłonnościach Do Przypisywania Interesowi Spółki Pozoru Rzeczywistości," *Monit Prawa Handlowego* 2 (2014): 45–48, <https://czasopisma.beck.pl/monitor-prawa-handlowego/arttykul/czy-spolka-moze-byc-nadczlowiekiem-lub-przynajmniej-dronem-czyli-o-sklonnosciach-do-przypisywania-interesowi-spolki-pozoru-rzeczywistosci/>.

are responsible for a firm's obligations entirely up to the number of funds invested initially, and only the firm's properties serve to satisfy its debts towards its creditors.⁴⁶ Based on a study, the firm's severance of assets and its members is the only inherent benefit of company law over contract law. From an economic perspective, company law allows significant efficiency benefits compared to a venture as a sole proprietor, such as decreasing the cost of credit by decreasing monitoring expenses, shielding against unanticipated liquidation of assets, and allowing efficient allocation of risk.⁴⁷ Following the commencement of the notion of limited liability in the mid-19th century, doing business with incorporated firms suggested that creditors risk was increased.⁴⁸

However, limited liability is not regarded as absolute.⁴⁹ A firm is not an actual entity but only a sort of juridical classification. In reality, it holds no concerns or purposes of its own and serves simply as a vessel for its member(s), allowing them in particular to curb their responsibility should the venture go south. Limited liability begets its price, which inconspicuously has to be borne by its creditors when the business goes south.⁵⁰ Limited liability can also be abused as it may taunt the funds' providers to take a considerable risk and engage in ethical hazard. Moreover, in some instances, the characteristics of both the firm (e.g., one-person

⁴⁶ Bicar Franki Leonardo Manurung, Elza Syarief, and Rina Shahriyani Shahrullah, "Legal Consequences of Bankruptcy and Postponement of Debt Payment Obligations: Are They Similar?," *Journal of Law and Policy Transformation* 7, No. 1 (2022): 85–96, <https://doi.org/10.37253/jlpt.v7i1.6746>.

⁴⁷ Krawczyk-Giehsman, "Shareholders' Liability for Ruining a Company in Light of the CJEU's Judgment in Kornhaas."

⁴⁸ Bob Tricker, "Re-Inventing the Limited Liability Company," *Corporate Governance* 19, No. 4 (2011): 384–93, <https://doi.org/10.1111/j.1467-8683.2011.00851.x>.

⁴⁹ A judgement that a legal person and its stockholders required to be prescribed as one when this may be acquitted by good faith. As a consequence, the stockholders may *inter alia* be held immediately accountable for the corporation's obligations.

⁵⁰ Christopher W. Peterson, "Piercing the Corporate Veil by Tort Creditors," *Journal of Business & Technology Law* 13, No. 1 (2017): 63–95, <https://digitalcommons.law.umaryland.edu/jbtl/vol13/iss1/4/>.

firm, family-owned firm) or its appropriate creditors (e.g., tort creditors) may give rise to reservations about whether limited liability must be conferred in every circumstance.⁵¹ Legal systems globally employ various means to mitigate adverse outcomes of limited liability, mainly to implement protection for the firm's creditors.⁵²

The goal of chartering firms with limited liability was to support company pursuits for the stockholders and, in a manner, defend them from responsibility. Limited liability is one of the default edicts building up the conventional form contract that is corporate law. The intention of an assortment of default, or 'off the shelf', rules is to reduce the expense of transacting. They strive to attain equilibrium between the goal of stockholder revenue maximisation and the shield of those unfavourably influenced by the company's pursuits.⁵³ One of the most reliable methods of building a business for a businessperson is to establish a 'limited liability' company, considering it allows the businessperson to allocate a small amount of investment and diminish risk by diversification and liquidation of his investment instantly. Furthermore, conducting business through a firm enables businesspeople to transact efficiently by employing a separate entity and thus reducing business contracting expense. The idea of 'limited liability' is a

⁵¹ Krawczyk-Giehsman, "Shareholders' Liability for Ruining a Company in Light of the CJEU's Judgment in Kornhaas."

⁵² In numerous European legal regimes, the leading mechanism to defend creditors is (more or less stringent) laws on minimum authorised capital. In most circumstances, minimum capital provisions are not intended to prescribe adequate capitalisation for a particular corporation. Another popular tool of creditor protection is the corporation's directors' private and criminal accountability, the intention of which is in particular restraint of ethical risk on the part of the directors. Other likelihoods are securing loans and insurance. An apparatus mainly devised to afford some minimum degree of creditor protection is insolvency law. Its rules correlating to fraudulent transfers and the unenforceability of juridical actions are harmful to all creditors.

⁵³ Helen Anderson, "Challenging the Limited Liability of Parent Companies: A Reform Agenda for Piercing the Corporate Veil," *Australian Accounting Review* 22, No. 2 (2012): 129–41, <https://doi.org/10.1111/j.1835-2561.2012.00168.x>.

requirement for business people who crave to build business through a firm where they can be separated from any of the perils of their business venture.⁵⁴

Tricker claimed that the discovery of limited liability was a notable concession of the civilisation, which elevated economic pursuits with definite goals but now the idea has become besmirched. This was fuelled by the ambition to expedite business venture, which was motivated and created by the industrial revolution⁵⁵ and has been contended that this theory was very flourishing and well-defined as to the determination until later when it began being abused to the disadvantage of creditors. Hence, we must be more prudent in bargaining with strategies concerning limited liability for a firm.⁵⁶

Another means of business engagement with the solitary system is the sole proprietorship. Although, it became an ineffective design for business exercises. Surely, a businessperson who desires to establish a sole proprietorship is in danger of being accountable with their undivided assets towards creditors. Creditors possess an equivalent preference against the whole properties of the debtor (the entrepreneur) and cannot just modify this rule by setting terms into contracts. In particular, a businessperson partaking in sole proprietorship cannot savour the ample advantages of limited liability like the more economical cost of transaction,

⁵⁴ Usluel, "Considerations on the Economic Effect of the New Turkish Commercial Code Provisions Regarding Single Member Companies."

⁵⁵ This was a time of economic growth, and there was a sensible demand for external capital to grow businesses rapidly and yield profits. See Bob Tricker, *Corporate Governance: Principles, Policies, and Practices*, 3rd ed. (Oxford: Oxford University Press, 2015).

⁵⁶ Tricker, "Re-Inventing the Limited Liability Company."

severance and diversification of business, shields the company from creditors of the owner,⁵⁷ and the partition of wealth to allocate business risk.⁵⁸

Single-person limited company directly suggests that only a single person owns the entire shares⁵⁹ of the limited (liability) company. To be cogent, over the past three decades, juridical exercise abroad rarely encountered problems with the sole-member notion for private LLCs.⁶⁰ Typically, the reality of the single-member company served to arrange the fabrication of including token stockholders to suffice minimum stockholder provisions fixed by the laws. Due to the fact that, stockholder disagreements are told to be the Achilles heel of numerous firms. They

⁵⁷ As a legal entity, the firm is shielded by robust asset partitioning, and it avails from total entity shielding. The creditors of the owners or stockholders own no claims over the assets of the corporate entity. See Marie-Laure Djelic, "When Limited Liability Was (Still) an Issue: Mobilization and Politics of Signification in 19th-Century England," *Organization Studies* 34, No. 5–6 (2013): 595–621, <https://doi.org/10.1177/0170840613479223>.

⁵⁸ Usluel, "Considerations on the Economic Effect of the New Turkish Commercial Code Provisions Regarding Single Member Companies."

⁵⁹ Shares as an object of hybrid property rights belong to an expansive notion of something larger than merely outlining a contractual situation. Hohfeld explains contractual rights as right resulting from the firm's articles or operating protocols as property rights. The share is a juridical arrangement of a complicated aggregate of rights (claims), which comprises a package of authority and economic rights concerning the status their owner possesses in the firm based on the articles of association or operating protocol, and which comprises of several rights, privileges, authorities, and immunities as well as their correlative obligations, no-rights, liabilities, and disabilities. See Lécia Vicente, "The Hohfeldian Concept of Share in Limited Liability Companies: A View from the Common and Civil Law Traditions," *Tulane European and Civil Law Forum* 33, No. 1 (2018): 41–74, <https://journals.tulane.edu/teclf/article/view/1307>.

⁶⁰ Stephan Rammeloo, "The 2015 Proposal for an EU Directive on the Societas Unius Personae (SUP): Another Attempt to Square the Circle?," *The Dovenschmidt Quarterly* 3, No. 2 (2016): 54–63, <https://doi.org/10.5553/doqu/221199812015003002003>.

emerge in various forms and patterns, mainly in the form of majority domination, minority abuse, or stockholder stalemates.⁶¹

Before its reception in most jurisdictions, *de facto* single-person limited companies were instituted to profit from the economic benefits of this business model. Below are some benefits of practising single-person limited company:⁶²

- a) To comply with the statutory terms on the least number of stockholders, most investors created *de facto* single-person limited companies with their family members or even nominee arrangements. Though, due to disagreements amongst family members given the absence of professionalism and management, such firms did not last long. Hence, recognising single-person limited companies as licit entities legitimises the continuation of *de facto* single-person limited companies and assisted in making such businesses' incorporation simpler and convenient.
- b) In the single-person limited company design, the stockholder does not coerce to elect fellow stockholders owning comparable assets and risk inclinations. Consequently, the single stockholder will not face negotiating expenses, considering he would not need to study the other potential future stockholders and face negotiating costs. Besides, the single stockholder may not fret about being taken advantage of by another business partner or directors/managers.⁶³

⁶¹ Peter Agstner, *Shareholder Conflicts in Close Corporations between Theory and Practice: Evidence from Italian Private Limited Liability Companies*, *European Business Organization Law Review*, vol. 21 (Springer International Publishing, 2020), <https://doi.org/10.1007/s40804-019-00165-9>.

⁶² Usluel, "Considerations on the Economic Effect of the New Turkish Commercial Code Provisions Regarding Single Member Companies."

⁶³ Directors may be watched sub standardly and may discover approaches to drive the firm to a configuration situation that profits them at the cost of the firm's stockholders. Furthermore, in some firms, a controlling member doubles as the firm's director. In that circumstance, the controlling member may profit from practices that avail directors at the cost of other members, because he receives each of the perks of the appropriate rules in his role as the director of the firm while sharing only a portion of the expenses—notably, the fraction that corresponds to

- c) Single-person limited companies give an excellent position for sole entrepreneurs who aspire to infiltrate into the market singly but expect to go public following a determined period of time. Considering there is a present firm already, without funding on the creation of another new firm and decreasing transaction costs,⁶⁴ single-person limited companies can quickly go public by offering their shares that enhances the performance of the market. After all, the foremost advantage of limited liability was the passage to a broader impersonal pool of equity investors to tap into.⁶⁵
- d) Single-person limited company permits for swift and agile entrance to the market by a sole entrepreneur without the requirement to obtain fellow businesspeople holding related properties, attribute, experiences, and risk preferences. The sole entrepreneur does not need to negotiate for the partner's participation to the firm too.
- e) Further, single-person limited companies are the acceptable method for affiliated businesses. For instance, a business in the oil sector can organise three different single-person limited companies for oil production, manufacturing, and marketing. In the event of a default, each corporation would be responsible

his portion of the ownership of the firm. See Jens Dammann and Matthias Schündeln, "Where Are Limited Liability Companies Formed? An Empirical Analysis," *The Journal of Law and Economics* 55, No. 4 (2012): 741–91, <https://doi.org/10.1086/666724>.

⁶⁴ In real life, a series of transaction costs exist that impair business transaction. Hence, people maintain or internalise the transaction method by employing long-term contracts and non-proprietary firms or decrease transaction costs by trading in erudition or exercising juridical methods other than contracts. Transaction costs originate from four primary sources—uncertainty, asset specificity, complexity, and frequency. See C W Maughan and Kevin McGuinness, "Towards an Economic Theory of the Corporation," *Journal of Corporate Law Studies* 1, No. 1 (2001): 141–80, <https://doi.org/10.1108/EUM00000000000444>.

⁶⁵ Ron Harris, "The Private Origins of the Private Company: Britain 1862-1907," *Oxford Journal of Legal Studies* 33, No. 2 (2013): 339–78, <https://doi.org/10.1093/ojls/gqt001>.

for the corporation debts with its own assets. Considering single-person limited companies anticipate possible disputes, such as guarding minority stockholders in the affiliated corporate structure and enhancing business effectiveness, single-person limited companies are the quintessential means in creating 100 per cent owned subsidiaries.

- f) It is vital to remark that the correlation between efficiency and the firm's size is one of the most severe issues of corporate theory. Sole stockholder decreases the governance expenses by reducing decision-making, bureaucracy expense of the firm. This point is critical when the sole stockholder and the sole board member are an identical natural or legal person. It not only promotes the courses of decision making, but also diminishes the agency expenses since disagreements among directors and stockholders and disputes among stockholders cannot occur.⁶⁶

Notwithstanding the numerous benefits of single-person limited companies, they also display possible risks. Below are some risks of single-person limited company:⁶⁷

- a) There is a likelihood that a sole member's assets and the firm's assets get stirred up, which could displace the stockholder's debts to the single-person limited companies. Furthermore, because there is only one stockholder for the direction and surveillance of the organs and directors of single-person limited companies, the expense of transpired damage might escalate in case of an infringement.

⁶⁶ Furthermore, the severance of ownership and authority principle believed in limited liability dogma generates an asymmetric information dilemma, which occurs in the stockholder's dearth of experience concerning the firm's administration. Still, the single-member companies asymmetric information issues do not happen when the sole owner doubles up as the sole director.

⁶⁷ Usluel, "Considerations on the Economic Effect of the New Turkish Commercial Code Provisions Regarding Single Member Companies."

- b) One of the uncertainties that modest firms, such as single-person limited companies, bear is that establishment of limited liability sometimes cannot allot risk that in the long run impairs the firm and favours the creditors. Moreover, under particular situations, limited liability cannot diminish the transaction and monitoring expenses. In some regards, the plausible actuality of limited liability adds expenses, such as the expense of disclosure.
- c) Single-person limited companies may even be more inclined to misuse and exploit by the sole stockholder, such as proffering unsecured credits to stockholders.
- d) The administration of single-person limited companies is genuinely reliant on the experiences and know-how of the sole entrepreneur. A wrong managerial judgement will endanger the continuation of the business. One example is that analysing the business's liquidity must be contemplated before making payments to stockholders.⁶⁸

Although single-person limited companies induce hazards in their operation, the cost and benefit analysis express that their advantages ⁶⁹ prevail over risks

⁶⁸ Hylde Boschma, Loes Lennarts, and Hanny Schutte-Veenstra, "The Reform of Dutch Private Company Law: New Rules for the Protection of Creditors," *European Business Organization Law Review* 8, No. 4 (2007): 567–604, <https://doi.org/10.1017/S1566752907005678>.

⁶⁹ Plenty has established that the presence of single-member private limited liability companies is genuinely essential. Numerous of which in Europe are small and medium-sized enterprises (SMEs) which are the spine of the EU economy: the 20.7 million SMEs contribute 58 per cent of EU GDP and value for 67 per cent of total employment in the private sector. See Hana Horak, "Societas Unius Personae – Possibility for Enhancing Cross Border Business of Small and Medium Sized Enterprises?," in *31st International Scientific Conference on Economic and Social Development - "Legal Challenges of Modern World,"* ed. Marijan Cingula, Douglas Rhein, and Mustapha Machrafi (Split, Croatia, 2018), 180–86, https://bib.irb.hr/datoteka/942389.Book_of_Proceedings_esdSplit2018_Online.pdf#page=189.

because risks can be impeded by admitting some protection, such as the doctrine⁷⁰ for piercing the corporate veil.⁷¹

C. Single-person Limited Companies in Other Countries

In the United Kingdom, *Salomon v A Salomon & Co Ltd.* is the prominent case in which *de facto* single-person limited companies were recognised in England.⁷² The outcome of the House of Lords' unanimous judgement was to enforce the doctrine of corporate personality persistently, as set out in the Companies Act 1862, so that creditors of an insolvent firm could not sue the firm's stockholders for repayment of outstanding debts. In this judgement, the House of Lords allowed establishing a firm with a single member, although the Joint Stock Companies Act 1856 ordered the companies with limited liability to possess at least seven members. Today, juridical stipulations governing single-person limited companies in England have been set out in Section 7 of the Companies Act 2006, which permits establishing any company with a single person.⁷³

⁷⁰ The author stresses the term doctrine, because as far as we are aware, China is the single nation to have organised a general statutory veil-lifting stipulation. Every other jurisdiction still relies primarily on case law to set out a spectrum of conditions when stockholders may be accountable for the firm's liabilities. Even civil law jurisdictions such as Germany, Japan, and South Korea do not possess general veil-lifting stipulations in their company law ordinance but rely mainly on judge-made jurisprudential edicts. See Colin Hawes, Alex K.L. Lau, and Angus Young, "Lifting the Corporate Veil in China: Statutory Vagueness, Shareholder Ignorance and Case Precedents in a Civil Law System," *Journal of Corporate Law Studies* 15, No. 2 (2015): 341–76, <https://doi.org/10.1080/14735970.2015.1057965>.

⁷¹ Usluel, "Considerations on the Economic Effect of the New Turkish Commercial Code Provisions Regarding Single Member Companies."

⁷² *Salomon v Salomon & Co Ltd* [1896] UKHL 1, [1897] AC 22

⁷³ Paul Davies, *Gower & Davies: Principles of Modern Company Law*, 9th ed. (London: Sweet & Maxwell, 2012).

The Dutch classify legal persons into three categories, particularly public legal persons,⁷⁴ churches and other religious communities, and private legal persons.⁷⁵ The private legal persons are then employed by private members to participate in business ventures, such as public limited companies (*naamloze vennootschappen*) or private limited companies (*besloten vennootschappen*). The laws in the Netherlands permit for the founding of private limited companies (BV) with just one person only. Until the 2012 company law amendment, a minimum capital of €18,000 (US\$21,477.28) was required for the establishment of a BV. Following the new regime, that minimum capital provision has been removed. The legislature maintained the requirement of minimum capital of €45,000 (US\$53,693.20) for NVs because EU law obligates all member countries to establish a minimum capital provision for public companies restricted by shares, such as the NV.⁷⁶

⁷⁴ Article 2:1 of the Dutch Civil Code declares that public legal persons comprise of the State, the provinces, the municipalities, the Water Boards or Water Authorities (*waterschappen*), and every other body to which legislative authority has been bestowed under the Dutch Constitution have legal personality. Other bodies entrusted with governmental functions only possess legal personality if this stems from what has been stipulated by or according to the law.

⁷⁵ Article 2:3 of the Dutch Civil Code asserts that private legal persons comprise of associations (*verenigingen*), cooperatives (*coöperaties*), mutual insurance societies (*onderlinge waarborgmaatschappijen*), open corporations or public limited companies (*naamloze vennootschappen*), closed corporations or private limited companies (*besloten vennootschappen*), and foundations (*stichtingen*) possess legal personality. Moreover, Article 2:4 of the Dutch Civil Code declares that a legal person cannot come to existence in the absence of a deed made before a notary insofar the law dictates such an act for the establishment of this kind of legal person.

⁷⁶ Legislator will typically propose a minimum capital provision for incorporating firms. The foremost logic for including such a requirement was to safeguard the creditors of the firm. Though, it seems that a minimum capital provision is not a particularly effective means of protecting creditors, because it simply necessitates a set minimum for establishing a firm. It does not assure that following the incorporation, the minimum capital will be sustained. Besides, it does not expect companies to register for insolvency once the capital drops beneath the minimum capital threshold. See Lars van Vliet, "The Netherlands - New Developments in

Besides, other countries like Denmark, Belgium, Germany,⁷⁷ Turkey,⁷⁸ Poland,⁷⁹ Serbia,⁸⁰ and the Nordic countries⁸¹ also allow for the incorporation of limited liability company (hereinafter referred to as LLC) with one or more members—there is no restriction concerning their number, hence, a single person can literally establish an LLC.

D. Single-person Limited Companies in Indonesia: The Laws, Regulations, and Consideration for Enhancement

1) The Laws and Regulations regarding Single-person Limited Companies in Indonesia

The Act No. 11 of 2020 regarding Job Creation, particularly in assisting MSMEs, has brought with it new developments like the establishment of the *perseroan perorangan* or single-person limited company in the Indonesian company law regime. Despite being declared as conditionally unconstitutional,⁸² the Job Creation law has brought so much legal innovations. The legal innovation, or the incorporation of the single-person limited company in Indonesia, savoured

Dutch Company Law: The 'Flexible' Close Corporation," *Journal of Civil Law Studies* 7, No. 1 (2014): 271–86, <https://digitalcommons.law.lsu.edu/jcls/vol7/iss1/8/>.

⁷⁷ De Donno, "From Simplified Companies to One-Man Limited Enterprises."

⁷⁸ Usluel, "Considerations on the Economic Effect of the New Turkish Commercial Code Provisions Regarding Single Member Companies."

⁷⁹ Rafał Adamus, "Limited Liability Companies in Poland," *Central European Journal of Comparative Law* 1, No. 1 (2020): 7–25, <https://doi.org/10.47078/2020.1.7-25>.

⁸⁰ Vladimir Marjanski and Attila Dudás, "Some Current Problems with the Regulation of Limited Liability Companies in Serbia," *Central European Journal of Comparative Law* 1, No. 1 (2020): 131–45, <https://doi.org/10.47078/2020.1.131-145>.

⁸¹ Fredrik Westman, "Nordic Company Law Regulation and Why Harmonisation Through Competition Is Necessary," *European Business Organization Law Review* 15, No. 3 (2014): 357–86, <https://doi.org/10.1017/S1566752914001177>.

⁸² Joel Jordan Tobing and Lu Sudirman, "Conditional Unconstitutional Omnibus Law: The Implications on Patent Regulation," *Jurnal Komunitas Yustisia* 5, No. 1 (2022): 325–39, <https://doi.org/10.23887/jatayu.v5i1.46076>.

colossal reputation, notably for its daring and unprecedented strategy to encourage economic growth by disregarding the traditional belief that a company must be established by at least two parties. In Indonesia, *de lege lata* (the law as it exists) implements juridical division into civil law and commercial law – with several more divisions in the form of distinct specific acts or statutes.⁸³ The primary reference for Indonesian law regarding limited liability companies (including the single-person limited company) is Act No. 40 of 2007 regarding Limited Liability Companies, which has been amended by the new Act No. 11 of 2020 regarding Job Creation. In matters not covered by the acts, statutes or commercial code, and the firm’s articles of association,⁸⁴ then the civil code shall be referred. LLC may erect branches. Though, the firm’s branch holds no separate legal personality.⁸⁵

The name of the LLC can be preferred deliberately; though, it should carry the supplementary label ‘*perseroan terbatas*’ (limited liability company), which is generally shortened into PT (LLC). The statutory requirements develop specific conditions for the corporation’s name, such as the policy of identity of the name, the use of the Indonesian language, the principle of uniqueness of the name, etc. LLCs are subjected to listing in the registry authorised by the Ministry of Law and Human Rights of the Republic of Indonesia and acquire legal personality upon listing in this registry. Consequently, the single-person limited company will be a

⁸³ Hanim Hamzah, Agnesya M. Narang, and Anggi Yusari, “Legal Systems in Indonesia: Overview,” Thomson Reuters Practical Law, 2021, [https://uk.practicallaw.thomsonreuters.com/w-010-7310?transitionType=Default&contextData=\(sc.Default\)](https://uk.practicallaw.thomsonreuters.com/w-010-7310?transitionType=Default&contextData=(sc.Default)).

⁸⁴ A firm’s core constitutional paper is its articles of association. In Great Britain, it has been asserted as ‘an exceptional hallmark of British company law is the degree to which it entrusted regulation of the in-house matters of a firm to the firm itself by rules put down in its constitution, in particular in its articles of association’. See Jonathan Hardman, *Articles of Association in UK Private Companies: An Empirical Leximetric Study*, *European Business Organization Law Review* (Springer International Publishing, 2021), <https://doi.org/10.1007/s40804-021-00213-3>.

⁸⁵ Adamus, “Limited Liability Companies in Poland.”

supplementary company law framework, co-existing with LLC for single-member private limited liability companies in Indonesia.⁸⁶

The implementation stage of law-making ordinarily commences after a law is passed. In Indonesia, this indicates the duty for the administration to make regulations required to comprehensively implement the intentions of the law.⁸⁷ To follow up on the conception of the single-person limited company by Act No. 11 of 2020 regarding Job Creation, the Indonesian government has promulgated the Government Regulation No. 8 of 2021 concerning Company's Authorised Capital and Registration of Establishment, Amendment, and Dissolution of Companies that Meet the Criteria for Micro and Small Businesses, as a mandate to fulfil the requirements of Article 109 and Article 185 letter b of Act No. 11 of 2020 regarding Job Creation.

LLC (both the ordinary LLC and single-person limited company) ought to at least paid up to 25 per cent of the authorised capital. Single-person limited company can only be founded by an Indonesian citizen through filling out the form⁸⁸ electronically on the webpage administered by the Ministry of Law and Human Rights of the Republic of Indonesia. It will receive its legal personality

⁸⁶ Harold Koster, "EU Legal Entities: New Options?," *European Company Law* 12, No. 1 (2015): 5–6, <https://kluwerlawonline.com/journalarticle/European+Company+Law/12.1/EUCL2015001>.

⁸⁷ Implementation after law-making is essential, unless the law-making practice was mainly symbolic in nature (such as enacting a bill to assuage international or domestic constituencies), or unless the law was displayed in a fashion that made its implementation challenging. See Roman Tomasic, "Company Law Implementation in the PRC: The Rule of Law in the Shadow of the State," *Journal of Corporate Law Studies* 15, No. 2 (2015): 285–309, <https://doi.org/10.1080/14735970.2015.1044769>.

⁸⁸ The form includes information associated with the name and domicile of the company; the period of establishment of the company; the purposes and objectives as well as the company's business ventures; the amount of authorised capital, issued capital, and paid-up capital; nominal value and number of shares; company's address; as well as the full name, place and date of birth, occupation, place of residence, identification card number, and tax identification number of the founder serving as the director and stockholder of the single-person limited company.

following registration to the Ministry of Law and Human Rights of the Republic of Indonesia and confirmed by the issuance of a computerised certificate of registration. According to Article 9 paragraph (1) of the government regulation, the single-person limited company must upgrade itself into an ordinary LLC if it has more than one stockholder or does not fit the criteria for micro and small-sized businesses classification.⁸⁹

In a single-person limited company, the sole stockholder (who doubles as the director) exercises all prerogatives vested in the shareholders' meeting, and the stipulations concerning the meeting of shareholders shall apply correspondingly.⁹⁰ The sole stockholder, which is also the director, is compelled to maintain accounting records (bookkeeping) of the assets and obligations of the firm and everything concerning the exercises of the legal person following the provisions resulting from these ventures. It needs to file the records, papers, and other information storage media in such a manner that at all times the rights and duties of the legal person can be distinguished. The fiscal statements of account of single-person limited companies are reported within six months following the end of the accounting year.

A company director, aside from owing the firm a fiduciary duty,⁹¹ is also under an obligation to practice diligence and skill when performing his or her

⁸⁹ The Government of the Republic of Indonesia through Government Regulation No. 7 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises, has stipulated in Article 35 that the criteria for the MSMEs' classification are based on criteria such as business capital (not including the land and buildings for business premises) or annual sales. Microbusinesses have a business capital of up to a maximum of IDR 1 billion (US\$69,149.84). Small-sized businesses have a business capital of more than IDR 1 billion (US\$69,149.84) up to a maximum of IDR 5 billion (US\$345,749.19). Medium-sized businesses have a business capital of more than IDR 5 billion (US\$345,749.19) up to a maximum of IDR 10 billion (US\$691,498.37).

⁹⁰ Adamus, "Limited Liability Companies in Poland."

⁹¹ It is inside the legal postulate that directors must perform in good faith in the firm's interests that stockholder value reasoning is thought to attain its most straightforward and plain eloquence. The duty of good faith sets the foundation of directors' answerability and

responsibilities. A director's duty of prudence and diligence requires that he or she need to carry out the duties of his or her office and execute the authorities of that office *bona fide* for the interest of the firm. If a director did not execute care and skill in performing his or her responsibilities, he or she would be accountable for any damage sustained by the firm due to his or her demeanour. The director's accountability derives from delict and, in some cases, from an infringement of contract.⁹²

2) *The Raison d'être of Single-person Limited Companies in Indonesia*

Although the laws and regulations concerning single-person limited companies are lately introduced in Indonesia, *de facto* single-person limited company designs have been practised for approximately a century in the USA, Europe, and Turkey due to economic rationalism. In other words, economic demands have urged authorities to admit a single-person limited company as a legitimate and lawful being. European jurisdictions can be regarded as pilgrims of the use of single-person limited companies. Primarily England and Lichtenstein possess considerable significance in the chronicle of a single-person limited company.⁹³ After all, a single-person limited company is intended for the interest

represents a focal role in centring directors on the firm's best interests, guaranteeing that it is steered towards the firm's interests when directors exercise discretionary administrative powers. See Daniel Attenborough, "Misreading the Directors' Fiduciary Duty of Good Faith," *Journal of Corporate Law Studies* 20, No. 1 (2020): 73–98, <https://doi.org/10.1080/14735970.2019.1631516>.

⁹² Jean Chrysostome Kanamugire and Terence Vincent Chimuka, "The Directors' Duty to Exercise Care and Skill in Contemporary South African Company Law and the Business Judgment Rule," *Mediterranean Journal of Social Sciences* 5, No. 20 (2014): 70–78, <https://doi.org/10.5901/mjss.2014.v5n20p70>.

⁹³ Usluel, "Considerations on the Economic Effect of the New Turkish Commercial Code Provisions Regarding Single Member Companies."

of a faster and more economical means of establishing an LLC⁹⁴ for MSMEs.⁹⁵ These advancements prompted the administration and legislature to invest in law, making use of inciting the production of 'new' jobs, preferably 'just around the corner' and to be 'created' by MSMEs, conceivably even larger than by giant enterprises.⁹⁶

This boost is also what we demanded right now to recuperate from the lethal shock prompted by the Covid-19 pandemic. This reset has formed a bizarre historical moment for the reappraisal of our regulative strategies across various realms and revealed our regulatory standards' inadequacy to better align to a less arbitrated, more decentralised environment.⁹⁷ After all, Indonesian company law, as illustrated by Pistor et al.'s framework, has reported to patterns of stagnation. Nevertheless, the tools for reform and agents of stagnation turn out to be somewhat more intricate due to the peculiarities of Indonesia's juridical and political history. Evidence hints that juridical progression and reform in Indonesia has long been encouraged by resets such as the financial crisis.⁹⁸

⁹⁴ Iris Wuisman, "The Societas Unius Personae (SUP)," *European Company Law* 12, No. 1 (2015): 34–44,

<https://kluwerlawonline.com/journalarticle/European+Company+Law/12.1/EUCL2015006>.

⁹⁵ Pierre-Henri Conac, "The Societas Unius Personae (SUP): A 'Passport' for Job Creation and Growth," *European Company and Financial Law Review* 12, No. 2 (2015): 139–176, <https://doi.org/10.1515/ecfr-2015-0139>.

⁹⁶ Rammeloo, "The 2015 Proposal for an EU Directive on the Societas Unius Personae (SUP): Another Attempt to Square the Circle?"

⁹⁷ Coronavirus is the first global crisis of the digital age. The ramification in policy responses reveals the difficulty of operating in an unprecedented global setting under circumstances of tremendous obscurity. See Mark Fenwick, Joseph A. McCahery, and Erik P.M. Vermeulen, "Will the World Ever Be the Same After COVID-19? Two Lessons from the First Global Crisis of a Digital Age," *European Business Organization Law Review* 22, No. 1 (2021): 125–45, <https://doi.org/10.1007/s40804-020-00194-9>.

⁹⁸ Petra Mahy, "The Evolution of Company Law in Indonesia: An Exploration of Legal Innovation and Stagnation," *American Journal of Comparative Law* 61, No. 2 (2013): 377–432, <https://doi.org/10.5131/AJCL.2012.0023>.

The truth is that we need to apprehend is that the idea of company law is to improve social prosperity by fostering the well-being of stockholders, workers, creditors, and other affiliated third parties. Therefore, legal orders concerning business firms are formed to render efficient, express, and straightforward business creation (and that is the way to go indeed).⁹⁹ The legal system could be anticipated to mould behaviour in numerous methods. The legal system does not merely replicate or reinforce civil practices. It also benchmarks them against values which a given society, by one method or another, has awarded merit communal or public articulation, protection, and the rule of law.¹⁰⁰ These communally and publicly verbalised conditions may frequently be in pressure or friction with new social exercises and enduring law relationships. For it to accomplish this responsibility, the legal system needs, to a particular point, to be set apart from, or be independent of, daily social and economic practice, as well as from the political domain.¹⁰¹

The sole proprietorship has long been the odd connection of dealing with limited liability because they were entirely dominated by the LLC, which endured

⁹⁹ Usluel, "Considerations on the Economic Effect of the New Turkish Commercial Code Provisions Regarding Single Member Companies."

¹⁰⁰ The 'rule of law', established, is a delicate apparatus as it conclusively reclines upon social acceptance of the means employed to recognise and enforce the publicly articulated precepts of the legal system. There is remarkable proof that the appearance of a foundational social norm of this character is associated with market-based regulation in the economic realm joined with democratic political participation, yet, evenly, that these circumstances are not self-sustaining, nor an undeniable trait of market-led economic advancement: the model of legal autonomy necessitates it to be actively initiated and preserved. See Ding Chen and Simon Deakin, "On Heaven's Lathe: State, Rule of Law, and Economic Development," *Law and Development Review* 8, No. 1 (2015): 123–145, <https://doi.org/10.1515/ldr-2014-0031>.

¹⁰¹ Simon Deakin, "Tony Lawson's Theory of the Corporation: Towards a Social Ontology of Law," *Cambridge Journal of Economics* 41, No. 5 (2017): 1505–23, <https://doi.org/10.1093/cje/bex044>.

the predominant mode of business entity with limited liability.¹⁰² To negotiate with this trade-off and other determinants have been the driving force of devising the single-person limited company in Indonesia.

3) Reflecting the Emergence of Single-person Limited Companies in Indonesia Based on Prevailing Legal Theories

Lawmakers, on the other hand, have moved towards a particular corporation model, precisely the single-person limited company, which was originally regarded as being against legal theory¹⁰³ in terms of contract formation in general and the traditionalistic corporation notion in particular.¹⁰⁴ The traditional corporation's core is based on *affectio societatis*.¹⁰⁵ Nevertheless, the Indonesian

¹⁰² Jonathan Hardman, "Reconceptualising Scottish Limited Partnership Law," *Journal of Corporate Law Studies* 21, No. 1 (2021): 179–217, <https://doi.org/10.1080/14735970.2020.1803784>.

¹⁰³ For instance, critiques concerning single-person limited companies in Turkey stretched so considerably that some lawyers described the notion as a "cancer of economic life". Even though lawyers scorned the notion of that companies, economic demands in business gave rise to *de facto* resolutions, and the *de facto* single-person limited companies grew into an essential and undeniable element of business exercises in practice. Ultimately, economic reality overpowered lawmakers to admit and regulate single-person limited companies.

¹⁰⁴ Usluel, "Considerations on the Economic Effect of the New Turkish Commercial Code Provisions Regarding Single Member Companies."

¹⁰⁵ *Affectio societatis* is the collective intention of several legal persons or legal entities to fuse into one entity. It is a vital feature of a firm under French law. Under Title IX of Firms and Companies, Articles 1832 and 1833 of the French Civil Code asserts that a firm is founded by two or several persons who agree by a contract to reserve property or their industry for a joint undertaking to share the benefit or profiting from the proceeds which may result therefrom. In the circumstances provided for by law, it may be established by an act of will of a single person. In it, the members bind themselves to commit to losses. Note that the provisions of Articles 1832 and 1833 of the French Civil Code seem similar to Article 1618 of the Indonesian Civil Code; however, the latter is meant to establish public partnership (*maatschap*) in Indonesia. The similarity may be a result of the Napoleonic Code, officially the French Civil Code (*Code civil des Français*), which was adopted in many countries occupied by the French during the Napoleonic Wars, and thus constituted the foundation of the private law systems

legislation now explicitly permits a single natural person to incorporate an LLC (called a single-person limited company) for enterprises that slip under the MSMEs category. Business players must still possess the capital to set up a company even though they fall into the MSME category.¹⁰⁶

Multiple mainstream preeminent law-and-economics scholars view the modern company as a result of private systemisation. If business enterprises are built just from contracting, then corporate legal personality should not really subsist. The ground that corporate legal personality is deemphasised by contractualists, therefore, is that any recognition of its being, however, waned, may be a concession that there is something in and around the contemporary firm that is not just a consequence of contracting. The stakes are high with contentions that firms are totally based on contracts slipping apart at its core if it is admitted that corporate legal personality lives beyond being a convenient heuristic formula.¹⁰⁷

The discourse of various classical legal theories associated with firms and legal personality, in this case, favours the Government of the Republic of Indonesia. Various classical legal theories do not inquire whether a firm can be established with only one person based on the argument that firms are the product of an agreement and contract, but rather the emphasis of the theory is more centred on recognition and granting legal rights and obligations to legal entities who earned their personality through the law and an act of the state. Moreover, shifting away

of Italy, Belgium, Spain, Portugal, Poland, and the Netherlands. The early accounts of the Dutch Civil Code (*Burgerlijk Wetboek*), which were primarily based on the Napoleonic Code was then brought to the Dutch East Indies (Indonesia during the Dutch colonial era) before being substantively reformed in 1992, giving birth to the New Dutch Civil Code (*Nieuw Burgerlijk Wetboek*). The codification of laws before the 1992 reform is still being utilised now in Indonesia as a pinnacle of the private laws.

¹⁰⁶ This separate pool of assets aids the firm's business by reassuring third parties that it will fulfil its contractual obligations. See Laura Macgregor, "Partnerships and Legal Personality: Cautionary Tales from Scotland," *Journal of Corporate Law Studies* 20, No. 1 (2020): 237–62, <https://doi.org/10.1080/14735970.2019.1654805>.

¹⁰⁷ Watson, "The Corporate Legal Person."

from the conventional paradigms and endeavouring to redefine the way we reminisce about the firm is, no doubt, a challenging task. Nonetheless, because it moulds a variety of essential viewpoints of the law, the argument of how to conceptualise the firm and propositions on how to develop these notions are of utmost significance.¹⁰⁸ Responsiveness requires on the independence of legal doctrine and theory *vis-à-vis* social situations. It considers their reciprocal interconnectedness, with the law cracking itself up to the trials posed by social factors and pulling motivation from this for normative innovation.¹⁰⁹

4) The Next Step Ahead for Single-person Limited Companies in Indonesia

The principal solitudes of jurists about single-person limited companies were the organ configuration and handling of corporate mismanagement.¹¹⁰ In a single-person limited company, the single shareholder (who is also the director) practices all rights vested in the shareholders' meeting, and the stipulations concerning the meeting of shareholders shall apply correspondingly.¹¹¹ Therefore, abuse or ill-usage of the single-person limited company by the sole stockholder (and director) may even be deleterious for other individuals due to its legal personality and partition of assets. Hence, stringent scrutiny and comprehensive academic inquiry are necessitated to highlight the existence of single-person limited companies, notably in their concurrent legal order and its implementation in public. If redevelopment of the juridical and regulatory system is required to improve the company even more, then that is the price we need to pay.

¹⁰⁸ Petrin, "Reconceptualizing the Theory of the Firm – From Nature to Function."

¹⁰⁹ Gunther Teubner, "Law and Social Theory: Three Problems," *Asian Journal of Law and Society* 1, No. 2 (2014): 235–54, <https://doi.org/10.1017/als.2014.13>.

¹¹⁰ Usluel, "Considerations on the Economic Effect of the New Turkish Commercial Code Provisions Regarding Single Member Companies."

¹¹¹ Adamus, "Limited Liability Companies in Poland."

The practice in Indonesia related to the incorporation¹¹² of an average LLC is that after the founders execute a notarial deed, the subsequent step is to submit the notarial act to the Ministry of Law and Human Rights of the Republic of Indonesia to obtain a ministerial decree whose role is comparable to the certificates of good standing¹¹³ that have relevance in several jurisdictions. By employing the nomenclature of certificate of registration in a single-person limited company, it is consequently apparent that the certificate in question is simply a registration certificate rather than a certificate of good standing.

In fact, ministerial decree to attest the establishment of business structures with legal personality was not practised as the terminology to illustrate the interaction between the state and other business structures without legal personality such as sole proprietorship (*eenmanszaak*), general or commercial partnership (*firma* or *vennootschap onder firma*), professional or public partnership (*maatschap*), and limited partnership (CV or *commanditaire vennootschap*) in Indonesia, instead the word 'registration' was. As a result of a simple difference in wording, we can reconceptualise that registration is merely for business structures without legal personality for granting limited liability.¹¹⁴ Evermore, conceptually a business structures without legal personality must exist before its registration, unlike legal personalities that exist only upon obtaining ministerial decree. Therefore, the certificate of registration is undeniable evidence that the pre-existing business structure obtained the supplementary features that the structure possesses on the date that the certificate was awarded.

¹¹² The act of incorporation is an action to conceive something new, something where previously there was nothingness. Thus, before establishing a firm, there is no entity: the law does not consider there to be a legal personality prior to incorporation. See Hardman, "Reconceptualising Scottish Limited Partnership Law."

¹¹³ A certificate of good standing verifies that a firm is fitly filed with the state, has met the terms for record filings, and is legitimately allowed to engage in business pursuits in the state. In some countries, it is designated as a certificate of status or certificate of existence.

¹¹⁴ Hardman, "Reconceptualising Scottish Limited Partnership Law."

Once again, this is distinct from the establishment of an LLC. The firm incorporation also renders that the certificate of good standing is definitive proof 'that the firm is appropriately registered under the act/statute', which is essential when the administration through its minister is giving out legal personalities that may have affected millions of third parties through the nature of limited liability.¹¹⁵ A review of separate legal personality has observed that a firm as a juridical fiction suggested that it begot no aggregate mind of its own, and that law was capable to (and required to) view through that fiction periodically. Consequently, this fiction must come from, and the terms of that fiction were determined by the state. The rights of fictional legal persons should be construed narrowly to be simply those expressly bestowed upon them by the state. Furthermore, this further stresses the significance of the state's role in warranting the establishment of business structures with legal personality must adhere to the laws, to be conferred the gift of limited liability.¹¹⁶

A recurring prevailing theory is that a contemporary company's features are a grant from the state. This is debated generally because separate legal personality cannot be achieved without incorporation. This commentary solidifies the normative claims that are presented as to the significance of the state in the founding of the modern firm to acquire limited liability.¹¹⁷ The practical strategies of not conferring ministerial decree (but rather a certificate of registration) to a single-person limited company in Indonesia threaten the normative purity of the

¹¹⁵ Hardman.

¹¹⁶ The conferring of the right for limited liability to firms under the law through the government is highly crucial. Limited liability entails that creditors' claims could no longer stretch to the stockholders' private property but confined to firm assets as the firm retains property in its own name. The stockholders are shielded by what is understood as the corporate veil of incorporation due to limited liability and legal personality. Consequently, despite being a conspicuous risk to creditors and business person, it is detrimental to their business and overall economic ecosystem. *See* Nyoni and Hart, "The Concept of Limited Liability and the Plight of Creditors Within Corporate Governance and Company Law: A UK Perspective."

¹¹⁷ Hardman, "Reconceptualising Scottish Limited Partnership Law."

philosophical quarrel. Therefore, the government must still render a ministerial decree serving as a certificate of good standing, confirming that the founding of the single-person limited company has been appropriately listed under the act/statute and that the attestation has been properly done by the administration who performed his obligation with complete accountability. Not granting a ministerial decree as a certificate of good standing for establishing legal personalities is highly prejudicial, even constitutionally offensive.¹¹⁸ It is a slippery slope that might set up a dangerous precedent with detrimental ramifications.

¹¹⁸ The rationale for stating it as highly prejudicial and constitutionally offensive is that not only the government regulation but also the statute itself, the Act No. 11 of 2020 regarding Job Creation, has promulgated in Article 109 that amended the provision of Article 7 of the Act No. 40 of 2007 regarding Limited Liability Companies that to be conferred upon as a legal personality, an LLC must be registered to the Ministry of Law and Human Rights of the Republic of Indonesia and obtain a proof of registration, hence a certificate of registration. The previous legal regime requires a ministerial decree as a certificate of good standing. This might seem like a trivial issue of terminology. However, sadly the distinct difference in the certificate of registration and the ministerial decree as a certificate of good standing is the fulcrum to determine whether a governmental product/letter as a product of state administration can be brought to the state administrative court for judicial intervention or not. A ministerial decree is considered a state administration decision (*beschikking*) that can be sued in the administrative court, hence taking the government's decision into account and rectifying any errors or omissions (if any). The ramification of changing into a certificate of registration instead of the ministerial decree as a certificate of good standing according to the author's account, even though the legislative process, is constitutionally offensive, since according to Francis Wormuth (1949) and Alexander Hamilton (1966), as cited by Sarah Tan (2019), the conception of constitutionalism sprawls in the understanding that "in devising a government which is to be administered by men over men, the most significant challenge rests in this: you need first empower the government to control the governed, and in the next place compel it to control itself. Simplistically, the theorem for forming a government of law, not of men, appreciates that constraints must be laid upon the powers of government. The notion of practical restraint includes various hallmarks; amidst these is the principle that a constitution is a root of legal rights and is pre-eminent, that regard of law or 'the rule of law' leads all decision. It acknowledges the needful equilibrium between authority and accountability. Hence, at the very heart of constitutionalism are the notions of restraint, regard for the law, and accountable

The establishment of a single-person limited company in Indonesia by just filling out the form electronically on the webpage provided by the Ministry of Law and Human Rights of the Republic of Indonesia, is extremely convenient and straightforward to do. Admittedly, this initiative is praiseworthy for the comfort it renders to MSMEs. Nevertheless, the institution of all legal personalities should be executed through a civil law notary¹¹⁹ enshrined by a notarial act. Because the genuine pursuit of establishing a legal entity is a juridical act in which the founder binds his assets to be partitioned and allotted to the legal entity. They are converting it into separate assets. This engagement will affect third parties, and the necessity for an authentic apparatus to guarantee the trustworthiness and certainty of this event is imminent. The contention against making a notarial deed is the high price and the unavailability of civil law notaries in every region of Indonesia.

Nonetheless, it should be regarded that not all notarial acts have the connotation of incurring very high costs. The government can cooperate with the notary organisations to facilitate and regulate fees that civil law notaries can collect

government. This pressure between authority and accountability is existent in all government systems, today and the past. In light of this picture and the necessity to preserve governmental accountability through checks and balances and rigorous scrutiny. *See Sarah Tan, "Achieving Goal 16 of the Sustainable Development Goals and Environmental Lessons for Malaysia," TRaNS: Trans-Regional and -National Studies of Southeast Asia 7, No. 2 (2019): 233–69, <https://doi.org/10.1017/trn.2019.9>.*

¹¹⁹ Civil law notaries also called Latin notaries, compose a distinguishing characteristic of the continental European legal system (civil law tradition) going back to Roman law. They hold a vital role in rendering non-contentious, preventive justice (*vor-beugende und vorsorgende Rechtspflege*). Unlike lawyers, notaries serve as autonomous and nonpartisan advisors, and their counsel typically stretches to any legal matters raised by the act in question. Unlike public notaries in the Anglo-American realm (common law tradition), civil law notaries are not just qualified to take oaths and attest signatures. However, their involvement is compulsory by law in numerous areas of real estate, family, and company law. Unless enshrined in notarial acts, major transactions such as conveyances, mortgages, last wills, marriage contracts or the incorporation of, or structural alterations in, firms are not valid. Nevertheless, the extent of such compulsory interference differs significantly in various legal systems.

to establish single-person limited companies. Besides, the enormous amount of civil law notaries in Indonesia is the most suitable option for entrusting them with making authentic instruments to establish single-person limited companies. Civil law notaries are also outfitted with adequate experience, expertise, and education to serve the community members in creating single-person limited companies and all the duties of the stockholder or director in the future. As a result, the information that a civil law notary fills out into the electronic form on the government's web page will also be free from error rather than entrusting the ordinary people to fill it out by themselves (which might be prone to error during the filling out of these forms). The public's lack of knowledge also does not rule out the possibility that filling out this kind of forms will urge people to employ the services provided by the service bureau in exchange for monetary compensations.

4. Conclusion

Although the notion of a single-person limited company has been scrutinised by lots of jurists worldwide, notwithstanding in Indonesia, economic players have admitted it for a long time, and the notion has now been accepted in numerous jurisdictions around the globe. The brand-new legislation directing the single-person limited company (*perseroan perorangan*) in Indonesia extends the usability of the LLC legal framework in practice. By abolishing the provision for more than one person or entity to establish a firm with limited liability along with the limits for the amount of registered capital and deposit, it has developed closer to the Dutch's *besloten vennootschap*, due to the probability to incorporate an LLC with just one person with deposits of such an insignificant amount that in this consideration, the benefit of a sole proprietorship (*eenmanszaak*) is dissipated. On the contrary, it conserves limited liability for the firm's accountability as a significant benefit of the LLC. The relaxation of this kind of LLC makes the institution of MSMEs more convenient. The single-person limited company carries with it benefits and potential risk. Nevertheless, cost and benefit analysis prove

that their advantages predominate over risks considering the experience that rendering regulations as safeguards can prevent these hazards.

By reconceptualising the single-person limited company as merely a 'sole proprietorship plus LLC,' I obtain conceptual certainty as to the actual essence of a single-person limited company, from which I can extrapolate further peculiarities of a single-person limited company. In addition to this, I can also see new contentions that the executives have concerning the single-person limited company. Nevertheless, the government's empirical regulatory plan has offshored and blends itself with the impression of legal personality with isolated and limited liability considering the ease of investment for MSMEs. Single-person limited company's impact on the contemporary Indonesian company law and the resulting contortion of the advancement of the regulation is a questionable triumph for MSMEs themselves because deregulation can be costly both to the general public and the government itself to a wider extent. Nonetheless, much more practical work requires to be engaged to map how the rule of law is being implemented in Indonesia through company law tools.

The immediate legislative and executive solutions are as follows. First, the ambition proposed by the Law, and those consequently introduced by the government in their regulation, should be utilised to provide all establishment of single-person limited companies with a ministerial decree serving as a certificate of good standing, confirming that the institution of the said company has adhered to statutory provisions. Second, the establishment of single-person limited companies should be satisfied with the assistance of civil law notary enshrined under an authentic notarial act. Not only to defend obligations against the third party due to the partitioning of assets but also to ensure the professional incorporation and propriety in filling out the administration forms, hence decreasing error or fraud.

5. Declaration of Conflicting Interests

The author states that there is no conflict of interest in the publication of this article.

6. Funding Information

This research was financed by the LPPM Universitas Internasional Batam, Research Grant No: 004/LPPM/KP-UIB/X/2022, which funded the overall research project. The views, information, judgement, or opinions expressed in this article are those of the author's and do not necessarily reflect nor represent those of Universitas Internasional Batam and its employees, or any entity whatsoever with which the author has been, am now, or will be affiliated.

7. Acknowledgment

The author is thankful to the anonymous peer reviewers for their insightful commentaries on aspects of the subject matter of the earlier drafts of this article, and to the editors and proof-readers, for their invaluable remarks. The author also conveyed his sincere thanks to the research grant provider. This article was also written as part of an independent research conducted during study at the Dickson Poon School of Law, King's College London with funding from Chevening, British Government scholarship and fellowship. Aspects of this study was also part of the writer's preliminary data for doctoral research dissertation at the School of Law, Pelita Harapan University. All errors and omissions remain the sole responsibility of the author.

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Scopus[®] 57810244000

How to cite (Chicago style)

Tan, David. "Scrutinizing Perseroan Perorangan: The Brainchild of Societas Unius Personae in the Realm of Indonesian Company Laws". *Lex Scientia Law Review* 6, No. 2 (2022): 391-442 . <https://doi.org/10.15294/lesrev.v6i2.56059>.

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History of Article

Submitted: February 14, 2022

Revised: August 11, 2022

Accepted: October 13, 2022

Available online at: December 20, 2022