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INCLUSIVE AND IMPLEMENTABLE LEGAL RULES FOR E-COMMERCE: A COMPARATIVE STUDY OF INDONESIA AND VIETNAM

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Abstract

Both Vietnam and Indonesia have large populations that promise major markets for e-commerce. The two nations record high internet coverage and large numbers of social media users. Recently, the countries have been trying to support e-commerce with new legal rules. In November 2019, Indonesia's government introduced Government Regulation No. 80 of 2019 on Trading through Electronic Systems (GR 80, 2019). GR 80 requires e-commerce businesses to obtain business licenses, report taxes, and preserve consumer protections and rights. Similarly, Vietnam has issued a number of resolutions and guidelines since its Decree on E-Commerce in 2013 (Decree No. 52/2013/NĐ-CP). While these legal documents cover nearly all aspects of e-commerce, little of their implementability and inclusiveness has been studied. Using the individualized comparison methodology and case studies, the authors analyze the legal rules in the two countries and discover that (i) the e-commerce regulations in both countries lack implementability in terms of connection and interest among stakeholders; (ii) the regulations are implementable for big businesses with formal websites but pose a significant burden for smaller businesses, which ultimately means the lack of inclusiveness. It is recommended for both to work hard and efficiently to set up their immediate response schemes, cooperatively, to expand the participation of small online businesses and multiple other stakeholders. A strategy of cross-border collaboration to build trust in e-commerce for business owners could be studied in the future.

Keywords: e-commerce, implementability, inclusiveness, legal rules, small business

Abstrak

Vietnam dan Indonesia memiliki populasi besar yang menjanjikan ukuran pasar potensial untuk e-commerce. Kedua negara tersebut juga mencatat cakupan internet yang tinggi dan jumlah pengguna media sosial yang besar. Baru-baru ini, kedua negara berusaha mendukung e-commerce dengan aturan hukum baru. Pemerintah Indonesia telah memperkenalkan Peraturan Pemerintah Nomor 80 Tahun 2019 tentang Perdagangan Melalui Sistem Elektronik (GR 80, 2019) pada November 2019. GR 80 mewajibkan pelaku usaha e-commerce untuk mendapatkan izin usaha, melaporkan pajak, dan melindungi perlindungan dan hak konsumen. Demikian pula, Vietnam terus mengeluarkan sejumlah resolusi dan keputusan panduan setelah Dekrit tentang E-Commerce tahun 2013. Meskipun dokumen hukum ini mencakup hampir semua aspek e-commerce secara mendetail, hanya sedikit penerapan dan inklusivitas yang telah dipelajari. Dengan menggunakan metodologi perbandingan individual dan studi kasus, penulis menganalisis aturan hukum di kedua negara dan menemukan bahwa: (i) peraturan kedua negara tentang e-commerce kurang dapat diterapkan dalam hal hubungan dan kepentingan di antara para pemangku kepentingan; (ii) peraturan dapat diterapkan untuk bisnis besar dengan situs web formal tetapi membebani bisnis berukuran kecil secara dramatis yang menyiratkan

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kurangnya inklusivitas. Direkomendasikan bahwa keduanya harus bekerja keras dan efisien untuk menyiapkan skema tanggapan langsung mereka, dengan ramah untuk menyertakan bisnis online kecil dan meningkatkan partisipasi berbagai pemangku kepentingan. Peta jalan kolaborasi lintas batas untuk meningkatkan kepercayaan pada e-commerce bagi pemilik bisnis dapat dipelajari di masa depan.

Kata Kunci: e-commerce, implementability, inklusif, aturan hukum, bisnis kecil

I. INTRODUCTION

A. Potentials for E-Commerce in Indonesia and Vietnam

Both Vietnam and Indonesia have large populations that promise major markets for e-commerce. Both countries are among the most populated in Asia, with 267.7 million³ people in Indonesia and 95.58 million⁴ in Vietnam. The two nations also record strong internet coverage and social media use. In Indonesia, about 75% of Indonesia's online customers shop on their mobile devices, "a much higher rate than neighboring Malaysia (62%) and the farther US (39%)."⁵ Indonesia has always been considered to have much more opportunity for e-commerce than other emerging Asian economies, with its "e-market at US\$130 billion [in] 2020 (coming third behind China and India)."⁶ Vietnam is also growing to be a large e-commerce market. Some 71% of e-commerce transactions in Vietnam are made from desktop computers, while 18% of purchases are from a mobile device, which is quite a bit lower than Indonesia. Vietnam has the smallest number of Southeast Asian merchants to offer credit card payments. The most popular payment method in Vietnam is cash on delivery (COD), which is why 60% of merchants prefer hiring shippers, post services, or self-delivery for COD payment collection. However, due to its large population and high internet coverage, Vietnam's market size is still projected to hit US\$33 billion by 2025. At that rate, it would rank third in Southeast Asia, only after Indonesia and Thailand.⁷

Indonesia and Vietnam have similar rankings in ease-of-doing-business, ranking 73 and 70,^{8,9} respectively, according to the country-profile reports of *Doing Business* in 2020. Both countries have middle-income level gross domestic products (GDP) per capita, which promises consumption development.

Both countries face the dominance of giant e-commerce international players. In Indonesia, smaller e-commerce players, including "Elevenia, Blibli, and Blanja, are finding it more challenging to compete with international giants like Lazada" that dominate the e-commerce market share there.¹⁰ However, in Vietnam, the game

³ World Bank, "Population, Total - Indonesia | Data," <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=ID>, accessed 15 May 2020.

⁴ World Bank, "Population, Total - Vietnam | Data," <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=VN>, accessed May 15, 2020.

⁵ "The Rise of E-Commerce in Indonesia," The ASEAN Post, <https://theaseanpost.com/article/rise-e-commerce-indonesia>, accessed 15 May 2020.

⁶ Harsono Hugh, "Indonesia will be Asia's Next Biggest E-Commerce Market", (30/7/2016), <https://techcrunch.com/2016/07/29/indonesia-will-be-asias-next-biggest-e-commerce-market/>, accessed 10 May 2020.

⁷ Dang Hoang Linh, "Vietnam's Booming E-Commerce Market Analysis," (1/01/2020), SSI, <https://www.ssi.com.vn/index.php/en/individual-customer/economic/news/518713>, accessed 10 May 2020.

⁸ World Bank, *Doing Business 2020 Report: Country Profile of Indonesia*, <https://www.doingbusiness.org/content/dam/doingBusiness/country/i/indonesia/IDN.pdf>, accessed 10 May 2020.

⁹ World Bank, *Doing Business 2020 Report: Country Profile of Vietnam*, <https://www.doingbusiness.org/content/dam/doingBusiness/country/v/vietnam/VNM.pdf>, accessed 10 May 2020.

¹⁰ Wilfred Tan Kwang Shean, "Can Local E-Commerce Players Compete in Southeast Asia?" (03/4/2018), The ASEAN Post, <https://theaseanpost.com/article/can-local-e-commerce-players-compete-southeast-asia>, accessed 12 May 2020.

is more balanced by local players. The number of visits to the Lazada and Shopee websites in Malaysia, Thailand, the Philippines, and Singapore account for 80–90% of total visits but just 35% of the market share in Vietnam.¹¹

B. Legal Rules and Their Implementability

While legal rules are developed and frequently studied, the literature of their implementability is limited. Attention is rarely paid to “the relationship between [the regulatory] models and the practices and events that they are expected to generate or legitimize.”¹² However, writing lengthy legal regulations is one thing, implementing them is quite another. Current policy makers should recognize “that policy implementation is as much a process as is content.”¹³

The disconnect between policy design and its implementation stems not from the lack of foresight. Rather, the stakeholders in regulation implementation – designers, implementers, and target groups¹⁴ – “have different interests and agendas.”¹⁵ In the absence of literature, most implementation research consists of case studies that offer “desultory and vague” advice.¹⁶

It is logical to expect that difficulties in implementation also occur with legal rules for e-commerce. According to the United Nations Conference on Trade and Development (UNCTAD), both Indonesia and Viet Nam have legislation in all four surveyed fields, including electronic transactions, consumer protection, privacy and data protection, and cybercrime,¹⁷ However, the two countries still debate on how to either add more regulations for specific aspects of e-commerce or let the stakeholders dig into existing laws for further information. On the other hand, businesspeople normally do not have “time or inclination to wade through a lengthy policy document.” Surely their e-commerce activities would be much more developed if policies were “applicable to a business.”¹⁸

Recently, the two countries have been trying to support e-commerce with new regulations. In November 2019, Indonesia’s government introduced Government Regulation No. 80 of 2019 on Trading through Electronic Systems (GR 80, 2019)¹⁹

¹¹ VietNamNet News, “Shopee, Lazada Struggle to Dominate Vietnam’s e-Commerce Market,” VietNamNet, <https://vietnamnet.vn/en/business/shopee-lazada-struggle-to-dominate-vietnam-s-e-commerce-market-625570.html>, accessed 12 May 2020.

¹² David Mosse, “Is Good Policy Unimplementable? Reflections on the Ethnography of Aid Policy and Practice,” *Development and Change* 35, no. 4 (2004): 639–71, accessed 10 May 2020, <https://doi.org/10.1111/j.0012-155X.2004.00374.x>.

¹³ Derick W. Brinkerhoff, “Process Perspectives on Policy Change: Highlighting Implementation,” *World Development*, Implementing Policy Change, 24, no. 9 (September 1, 1996): 1395–1401, accessed 10 May 2020, [https://doi.org/10.1016/0305-750X\(96\)00056-3](https://doi.org/10.1016/0305-750X(96)00056-3).

¹⁴ , Robert Hoppe, Henk Van De Graaf and Dijk, Asje Van, “Implementation Research and Policy Design: Problem Tractability, Policy Theory, and Feasibility Testing,” *International Review of Administrative Sciences*, Vol. 53 issue 4, (1987): 581–604, accessed 10 May 2020, doi.org/10.1177/002085238705300407.

¹⁵ Gordon Chase, “Implementing a Human Services Program: How Hard Will It Be?,” *Public Policy*, (01 Jan 1979) 27(4):385-435.

¹⁶ F. Richard Elmore, “Backward Mapping: Implementation Research and Policy Decisions,” *Political Science Quarterly*, Vol. 94, No. 4 (Winter, 1979-1980): 601-616.

¹⁷ United Nations Conference on Trade and Development. Summary of Adoption of E-Commerce Legislation Worldwide, (02/4/2020), https://unctad.org/en/Pages/DTL/STI_and ICTs/ICT4D-Legislation/eCom-Global-Legislation.aspx, accessed 12 May 2020.

¹⁸ Kadam W. Avinash, “Information Security Policy Development and Implementation,” *Information Systems Security*, 16:5 (November 2007): 246-256, accessed 10 May 2020, [10.1080/10658980701744861](https://doi.org/10.1080/10658980701744861).

¹⁹ Indonesia, Government Regulation No. 80 of 2019 (GR 80) on Trading Through Electronic Systems,

that requires e-commerce businesses to obtain business licenses, report taxes, and uphold consumer protections and rights. Vietnam has continually issued a number of guiding resolutions and decrees after passing its law on e-commerce in 2013. The legal documents involve various ministries and agencies that pose concerns about coordination. The two countries are making tremendous efforts to update the contents to meet the frequent rapid changes of e-commerce activities and digital technology, mostly in tax collection, registration, consumption protection, and intellectual property – all at once – which is obviously not easy. Many of the issues of e-commerce are global challenges that are, however, not discussed globally. For example, “while business is already truly global, the world’s tax regimes are still largely parochial and uncoordinated.”²⁰

C. Inclusive Legal Rules for Small Businesses in E-Commerce

The challenge of implementability of legal rules directs the regulation design of most visible online business activities. It also distracts attention from small businesses who participate in e-commerce with modest technological investment, capital, and legal expertise. In many cases, such as street vendors in public spaces, a lack of regulation for small and informal businesses “criminalizes the lives of the poor.”²¹ The benefits of property rights protections and credit access are not benefiting the underground economy.²²

Big corporations have been proven to have more advantages in using technology for business than small ones. Large firms may have started utilizing technology and

<https://www.kemendag.go.id/id/newsroom/press-release/pp-nomor-80-tahun-2019-pemerintah-lahirkan-peraturan-pemerintah-tentang-perdagangan-melalui-sistem-elektronik-1#:~:text=Kementerian%20Perdagangan%20Republik%20Indonesia%20%7C%20PP,tentang%20Perdagangan%20Melalui%20Sistem%20Elektronik>

²⁰ Subhajib Basu, “Direct taxation and E-commerce: Possibility and Desirability,” *International Journal of Innovation in the Digital Economy (IJIDE)*, accessed 10 May 2020, 10.4018/jide.2010091503.

²¹ Alison Brown, “Claiming the Streets: Property Rights and Legal Empowerment in the Urban Informal Economy,” *World Development* 76 (December 1, 2015): 238–48, <https://doi.org/10.1016/j.worlddev.2015.07.001>.exploring the potential collective rights in the public domain to underpin a more equitable approach to the management of public space and challenge inappropriate regulation that criminalizes the lives of the poor. The focus is on street trade and the informal economy. The hypotheses are that: collective use rights extend to public land and are crucial to the livelihoods of the urban poor; such use provides public good as well as private profit, and legal traditions in sub-Saharan Africa can often accommodate the broad definition of rights entailed. The literature review interrogates debates on property rights, legal empowerment, and public space, to suggest that urban public space should be considered as a common resource where open access remains. Fieldwork draws on comparative studies of Dakar, Senegal, and Dar es Salaam, Tanzania, based on in-depth interviews with street traders and key informants, and a legal review in each city. The findings suggest very different trajectories in each city. In Dakar collective action with political support has created space for dialog, while in Dar es Salaam lack of solidarity among traders meant that evictions were uncontested. In both cities the balance between public and private gain was moderated through complex social processes to create the hybrid space of the street, defined here as a ‘collective pool resource’. Finally the paper explores bundles of rights that might include access and beneficial use but with collective management to establish such a ‘collective pool resource’. Thus the paper challenges the usual conception of the public domain as state land, to recognize the collective claim for the street that is core to the operation of urban informal economies.”; container-title: “World Development”; DOI: “10.1016/j.worlddev.2015.07.001”; ISSN: “0305-750X”; journalAbbreviation: “World Development”; language: “en”; page: “238-248”; source: “ScienceDirect”; title: “Claiming the Streets: Property Rights and Legal Empowerment in the Urban Informal Economy”; title-short: “Claiming the Streets”; volume: “76”; author: [{"family": “Brown”, given: “Alison”}], issued: [{"date-parts": [{"2015", 12, 1}]}], schema: “https://github.com/citation-style-language/schema/raw/master/csl-citation.json”

²² Mr Adil Mohommad, Mr Anoop Singh, and Sonali Jain-Chandra, *Inclusive Growth, Institutions, and the Underground Economy* (International Monetary Fund, 2012).

the internet much earlier and have now reached a more advanced stage than small firms have. Big firms are also able to invest in the internet when the market demand is strong enough to profit while small firms “depend on individuals’ technology capabilities and commitments.”²³

Many small and micro businesses got started by selling in social media. “Consumers tend to trust the opinions of their peers more than those presented by traditional advertisements.”²⁴ All over the world, “Facebook estimates it hosts 50 million SMEs on its platform.” In Vietnam in 2018, businesses on social media accounted for US\$ 1.6 billion in value.²⁵

Small businesses, especially micro ones, often have less access to associations to raise their voices. Their business are small and might be discounted by policymakers, yet in total, they bring jobs and income to a large number of households and enhance social stability. Many small businesses are struggling with the lack of logistical services to compete with big players who have their own shipping systems.²⁶ “SMEs’ small operations tend to be heavily taxed when they experience growth spurts,” especially when they move from social media pages to more professional websites.²⁷

II. METHODOLOGY

A. Data collection

A list of relevant legal documents from Indonesia and Vietnam are collected from the websites of relevant ministries and central governments of the two countries and posted on the search engine at <https://www.global-regulation.com/search-country/Indonesia.html>. The foci are the two comprehensive e-commerce regulations of Indonesia and Vietnam: GR 80 and Decree 52/2013/NĐ-CP. The contents are assessed for *the inclusiveness and implementability of these regulations*.

First are two case studies offered as empirical research components. They are based on reports, news, and interviews with online business owners and e-commerce experts about real-life cases involving small online businesses in Indonesia and Vietnam.

Case 1: Street vendors going online in a project of Warung Pintar, a startup that provides digitized copies of the traditional streetside kiosk where so much of Indonesian commerce, especially food sales, takes place. Data about the case was

²³ Maria Bengtsson, et al, “Integrating the Internet and Marketing Operations: A Study of Antecedents in Firms of Different Size,” *The International Small Business Journal (ISBJ)*, Vol 25 no 1 (February 2007): 27-48, accessed 10 May 2020, doi.org/10.1177/0266242607071780.

²⁴ International Trade Centre, “Bringing SMEs onto the e-Commerce Highway,” ITC, Geneva, English, http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/Bringing%20SMEs%20onto%20the%20e-Commerce%20Highway_final_250516_Low-res.pdf?fbclid=IwAR1b1jeM9ItZXT0oCw2K_X4BYjo7VGvXF5TWTxf-Enci7fm6c9CoGWCuQ9g, accessed 10 May 2020.

²⁵ Do Van Hung, “Social Commerce và Lời Giải Cho Bài Toán Trải Nghiệm Khách Hàng của Doanh Nghiệp” [Social Commerce and the Answers to the Question on the Experience of Customers], https://www.brands-vietnam.com/congdong/topic/16580-Social-Commerce-va-loi-giai-cho-bai-toan-trai-nghiem-khach-hang-cua-doanh-nghiep?fbclid=IwAR3hcIcQMs_C1kWAkXomaezgxd723UYnqc1hWpVgUXy5Lr10IXwKS-BtaltA, accessed 5 May 2020.

²⁶ Nguyen Thi Bich Ngoc, Asia-Pacific Economic Cooperation (APEC) Publications, “APEC Program of Supporting Women in Starting Online Business.” March 2020, pp. 54-67, <http://apec.org/Publications/2020/03/Supporting-Women-in-Starting-Online-Business-Program>, accessed 10 May 2020.

²⁷ APEC Publications, “Promoting E-commerce to Globalize MSMEs,” October 2017, p. 69, http://publications.apec.org/-/media/APEC/Publications/2017/11/Promoting-E-commerce-to-Globalize-MSMEs/217_PSU_Promoting-Ecommerce-to-Globalize-MSME.pdf, accessed 10 May 2020.

collected from the following news and reports:

- i) Jon Russell, Indonesia's vegetable hawkers are going digital thanks to a new startup, https://techcrunch.com/2019/05/28/kedai-sayur-vegetable-hawker/amp/?fbclid=IwAR30KRcuyQBYix9GFa_mF0m6DioeL04nWErrHeDnAWGXNpH6Ua7fodRMGKY
- ii) Jon Russell, Warung Pintar raises \$27.5M to digitize Indonesia's street vendors, <https://techcrunch.com/2019/01/21/warung-pintar-raises-27-5m/?fbclid=IwAR280CWrvKbFzo6aJrNZXsMfq48ewuODUZ9gZmEY4ZbJJPV-0oDYjXiXJ9Y>
- iii) Jon Russell, New project outfits Indonesia's street vendors with free Wi-Fi and smart tech, <https://techcrunch.com/2018/02/12/warung-pintar-indonesia-smart-kiosk/>
- iv) Google Cloud, Warung Pintar: Aiming to digitize millions of family-owned stalls and small shops with Google Cloud, <https://cloud.google.com/customers/warung-pintar>
- v) AIM2Flourish, The Transformation of Traditional Kiosk, <https://aim2flourish.com/innovations/the-transformation-of-traditional-kiosk>

Summary of Case 1: Family-owned stalls and small shops are referred to as *warungs* in Indonesia. They are important contributors to the economy. The startup Warung Pintar began in 2017 with an investment from the venture capital firm East Ventures. The startup has provided street kiosk vendors with the kiosk design, and technology such as digital POS, free Wi-Fi, LCD screen, and power bank chargers, which could help them to gain scale through online orders. In 2017, the venture announced a \$4 million seed round. In 2019, it pulled in \$27.5 million from investors.

Case 2: The Vietnamese government collects taxes from people who conduct their small businesses on Facebook. Data about the case was collected from in-depth interviews with a manager from the (Vietnam) Enterprise Development Agency, a group of online business owners, and the following news reports:

- i) Tuoi tre News, Bán hàng qua Facebook: Trên 1 triệu đồng/lần phải nộp thuế? [Selling goods on Facebook, transaction of more than 1 million VND has to pay tax], <https://tuoitre.vn/ban-hang-qua-facebook-tren-1-trieu-dong-lan-phai-nop-thue-20171110092211626.htm>
- ii) Café News, Truy thu thuế hàng ngàn chủ tài khoản Facebook, có người 9 tỉ [Collecting tax arrears from thousands of Facebook users, one has to pay 9 billion VND], <https://cafef.vn/truy-thu-thue-hang-ngan-chu-tai-khoan-facebook-congnoi-9-ti-20180809163321839.chn>
- iii) VietnamNet News, Truy thu thuế người kiếm tiền tỷ trên Facebook, YouTube thế nào? [How to collect [taxes from] business owners who earn billions of VND on Facebook, Youtube], <https://vietnamnet.vn/vn/kinh-doanh/tai-chinh/truy-thu-thue-nguoi-kiem-tien-ty-tren-facebook-youtube-the-nao-576486.html>
- iv) Zing News, Bán hàng trên Facebook phải nộp bao nhiêu loại thuế? [How many types of taxes you have to pay if you are selling goods on Facebook?] <https://zingnews.vn/ban-hang-tren-facebook-phai-nop-bao-nhieu-loai-thue-post760793.html>

Summary of Case 2: The Vietnamese government investigates people who run businesses from Facebook social media accounts. Thousands of Facebook account users have been requested to pay tax arrears after several years avoiding taxes. Individual transactions are recommended to be taxed by the Ministry of Finance, which now watches business transactions more closely out of concern that information could be

easily falsified on the internet. The traditional tax types, including value-added tax (VAT), income tax, and license tax are being applied to these online businesses. The data from the interviews reflect how the government is insisting on collecting more taxes and pursuing business owners who report their taxes less than honestly, while the owners fear they are investigated without guidance or support.

B. Analyses

The authors follow the classification of Tilly,²⁸ which distinguishes four types of comparative analysis: individualizing, universalizing, variation-finding, and encompassing as follows:

- Individualizing compares “a small number of cases to grasp the peculiarities of each one.”²⁹
- Universalizing “aims to establish that every instance of a phenomenon follows essentially the same rule(s).”³⁰
- Variation-finding could “establish a principle of variation in the character or intensity of a phenomenon by examining systematic differences between instances.”³¹
- Encompassing compares “different instances at various locations” within one system “to explain their characteristics as a function of their varying relationships to the system as a whole.”³²

Since the authors focus on analyzing the *inclusiveness and implementability* of the policies for e-commerce development in Indonesia and Vietnam, *individualizing comparison* suits the research question to grasp the peculiarities of each case. At the same time, it helps set the groundwork for universalizing comparisons to test if the countries establishing regulations for e-commerce experience similar results. Inclusiveness and implementability are assessed in the aspects of:

- i) Connection among policy designers, implementers, and target groups³³: Have their implementers and all target groups participated into the development of the regulations on e-commerce?
- ii) Interests of different stakeholders:³⁴ Have the interests and benefits of different stakeholders – including implementers, *businesses of all sizes*, and consumers – been considered in the development of the regulations on e-commerce?
- iii) Similarities and differences are summarized.
- iv) A conclusion is offered to suggest how to improve the situation in both countries.

Descriptive case study was applied to explore how different stakeholders are included in e-commerce legal rules. Research questions applied to these two cases are presented as follows:

Case 1: How have small online businesses, in this case street vendors, been connected and included in the establishment and implementation of the legal rules

²⁸ Charles Tilly, *Big Structures, Large Processes, Huge Comparisons*, New York: Russell Sage Foundation, 1984, pp. 82-83.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.*

³³ Robert Hoppe, Henk Van De Graaf and Dijk, Asje Van, *op.cit.*

³⁴ Gordon Chase, *op.cit.*

on e-commerce?

Case 2: How have the interests of policy implementers and businesspersons been considered in the tax arrears collection?

Coding and thematic analyses are then applied to answer the above research questions.

III. POLICIES FOR E-COMMERCE DEVELOPMENT IN INDONESIA AND VIETNAM

A. Indonesia

Indonesia has completed and issued its GR 80, one of the regulations mandated under Presidential Regulation No. 74 of 2017 on the National E-Commerce Road Map 2017–2019 (specifically under the Consumer Protection Program) (“PR 74,” in brief) in November 2019. However, there are some aspects where it requires players to search for existing laws. First, the taxation provisions and mechanisms under the prevailing laws and regulations apply to e-commerce business activities, i.e., are subject to VAT and withholding tax regulations. In the consumer protection area, GR 80, 2019 only requires businesspersons to comply with prevailing laws and regulations with regard to consumer protection (including providing a consumer complaint service) and anti-competition.

Studying the legal regulation documents and the case studies relevant to e-commerce of Indonesia, the authors analyze their inclusiveness and implementability as follows:

1. Connection with Implementers

Presidential Regulation No. 74 of 2017 on E-Commerce Roadmap (E-Commerce Roadmap) has a *shared direction for different agencies* to pursue one goal for the country. This could support budget and human resources allocation of relevant agencies in implementing regulations to support e-commerce. Bank Indonesia (BI) Regulation, Financial Services Authority, Chairman of the Capital Investment Coordinating Board (Badan Koordinasi Penanaman Modal), Ministry of Trade, Minister of Communication and Information Technology, Minister of Health, President Office are all stated to be in charge of their various relevant regulations. However, a one-stop online agency to coordinate all the regulations and a hotline to immediately support new regulations are missing.

2. Connection with Target Groups who Are Business Actors of All Sizes

It is not mentioned in all the regulations studied whether business actors have any public or specialized platforms to discuss or recommend adjustments to the regulations from their side. Small and informal businesses on social media networks that are not in business associations have even less chance to raise their voices.

The first case study reflects that street vendors in Indonesia depend on the startup in many respects. Street vendors are dependent on the training provided by the startup to bring their businesses online. The trainings focus mostly on marketing and management skills while legal backgrounds to support street vendors to understand e-commerce legal rules are limited. There is little participation of street vendors in how to establish and implement the regulations in e-commerce to best favor their conditions and futures. Those who are more technologically advanced have better

chances as players in e-commerce platforms and on *making decisions on how and what roles street vendors can play*. While the case represents a good collaboration of the startup with advanced technology and street vendors, it has also reflected how the legal environment has not created an inclusive playground for underground businesses like street vendors. There are connections among enterprises with technology capabilities and investors while street vendors, despite being crowded, rely on these main players to be connected.

3. Connection with Consumer Target Groups

Nor is it mentioned in all the regulations studied whether consumers have any public specialized platforms to discuss or update the regulations from their side.

The case study in Indonesia has shown how consumers who find and buy the products also rely on the main players with their technology. Consumers and street vendors are arranged on the platform created by the startup that has been extended by the investors. Therefore, consumers also hold less bargaining power regarding how they are connected to and buy products from street vendors, how products are displayed online, and how they are suggested to buy specific products. While GR 80 regulates that consumers can make complaints, they are still in passive positions to receive information about the products from the platform created by the startup.

4. Interests of Implementers

It is not possible for implementers to have any interests or benefits in developing a huge number of separate regulation documents. However, GR 80 tries to cover many core aspects of e-commerce to focus the implementation under GR 80. The law regulates that if consumers have complaints against e-commerce players, the latter must respond, which is an *innovative management solution* to increase corporate responsibility and *filter businesses* for supervision that benefits both consumers and implementers.

5. Interests of Target Groups Who are Business Actors of All Sizes:

GR 80 has covered most of the important areas in one document, which includes elaboration on businesspeople involved in an e-commerce practice, a compliance checklist for e-commerce operators, electronic contracts and evidence, personal data protection, trade practices including taxation, payment, trading contract, consumer protection, and shipping and logistics. This could be *fairly close to a one-stop document* for business actors. However, there are still requirements to review other laws in term of taxes, advertisements, personal data protection such as Indonesia Law No. 7 of 1983 on Income Tax as amended several times, most recently in Law No. 36 of 2008 on the Fourth Amendment to Law No. 7 of 1983 on Income Tax, Director General of Tax Circular Letter No. SE- 62/2013, Law No. 11 of 2008 as amended by Law No. 19 of 2016 on Electronic Information and Transactions or the ITE Law, Law No. 8 of 1999 on Consumer Protection (Consumer Protection Law), Law No. 19 of 2016 on the Amendment to Law No. 11 of 2008 on Electronic Information and Transactions, Law No. 20 of 2016 on Trade Mark and Geographic Indication, and MOCI Regulation No. 7 of 2016 on the Administration of the Investigation and Prosecution of Criminal Acts in the Field of Information Technology and Electronic Transactions (MOCI Reg 7/2016).

Again, the case study in Indonesia has shown that little about the interest of street vendors when going online could be included in this long list of regulations. A friendly, short, and easy-to-understand guide for micro and small businesses is still missing.

GR 80 regulates “trade in which transactions are carried out through a series of electronic devices and procedures.” It is not 100% clear whether social media is included. Moreover, the definition of business actors has not covered the details of *frequency of business activities*. Those people who sell on social media as part-time jobs or irregular income activities may find it hard to recognize their legal status.

MOCI Regulation No. 23 of 2013 on the Management of Domain Names (Domain Name Regulation) supports intellectual property rights. However, *it is not for small businesses*, especially those who may not have websites to protect their intellectual property and may prefer protecting the names on their social media pages.

Regulations on e-money has given businesses and consumers more choices in transactions such as Bank Indonesia (BI) Regulation No. 20/6/PBI/2018 on Electronic Money (E-Money Regulation). Still, Indonesia ensures security by regulating that: (i) minimum paid-up capital guarantees the financial sustainability of the operators, thus providing optimal economic benefits; (ii) 51% of the shareholder composition of e-money issuers must be controlled by a domestic party to increase the resilience and competitiveness of the national e-money industry. The Financial Services Authority (Otoritas Jasa Keuangan) (OJK) Regulation No. 77/POJK.01/2016 on Information Technology-Based Money Lending Services (Money Lending Regulation) supports Fintech Peer-to-Peer lending platforms, which are new financing alternatives for businesses and consumers, beside conventional financial services.

BI Regulation No. 18/40/PBI/2016 regarding Payment Transaction Processing Operations (BI Reg 18/2016) proves the Indonesian government has made efforts *to respond to the digital technology era* in regulating switching infrastructure, electronic money, and/or funds transfers, Payment Gateway, and Electronic Wallet, which could make payments safe and attractive to businesses and investors.

Presidential Regulation No. 44 of 2016 on the List of Closed Business Activities and Business Activities Opened with Requirements in the Field of Capital Investment (Negative Investment List) gives more opportunities than previously to both foreign investors and small businesses in e-commerce. E-commerce was allocated to 100% domestic ownership but the revised Negative List will open this business field to foreign ownership. E-commerce is ripe for 100% foreign ownership with *partnership schemes with small and medium enterprises*.³⁵

The regulations on negative contents, including Minister of Communication and Information Technology Regulation No. 19 of 2014 on Control of *Websites Containing Negative Content*, the MOCI Regulation No. 19 of 2014 on the Handling of Websites that Contain Negative Content (MOCI Regulation 19/2014), and MOCI Circular Letter No. 5 of 2016 on Limitations and Liabilities of Platform Providers and Merchants in Conducting Electronic Commerce in the Form of User-Generated Content (Circular Letter 5/2016), guide business actors with details about what contents are prohibited. However, enforcement is uneven. For example, it is unclear whether providers can

³⁵ PMA-Japan, Presidential Regulation of the Republic of Indonesia Number 44 Year 2016 Concerning Lists of Business Fields that are Closed To and Business Fields that are Open with Conditions to Investment, DNI Seminar (2nd) For Japanese Companies Jakarta (06/9/2016), http://www.pma-japan.or.id/bundles/bsibkpm/download/20160906%20-%20Negative%20List%20Revision%20-%20JICA%20-%20Vers%202_8.pdf, accessed 20 May 2020.

claim that they are not liable for the contents uploaded by the merchants on these platforms.³⁶

GR 80 has a *two-year transition* that supports businesses to study the regulation and gradually apply the rules to their businesses.

6. Interests of Target Groups Who are Consumers:

The contents of GR 80 pertaining to personal data protection cover one aspect of consumer interests. GR 80 stipulates that should consumers have complaints against e-commerce players, the latter must respond to the complaints. Again, this is an innovative management solution to increase corporate responsibility and sift out businesses for supervision that *benefits both consumers and implementers*. However, the scheme for enforcing this regulation is not clear; it needs a *reporting scheme for consumers*.

Besides, the regulations on negative contents cover the *interests of consumers by dispensing information* in immediate response to Indonesian government tips of false information spread on the internet.

B. Vietnam

The three main components for the legal foundation for e-commerce were passed in 2005 – the Commercial Law, the Civil Law, and the Law on E-transactions. E-commerce activities and the settlement of disputes in e-commerce are regulated by various laws, including 2006 Law on Information Technology, the 2009 Telecommunications Law, the 1999 Penal Code (amended in 2009), the 2010 Law on Protection of Consumer Interests, the 2012 Advertising Law, the 2014 Law on Investment, and the 2014 Law on Enterprises. To guide and manage transactions and activities related to e-commerce and the handling of violations in e-commerce, the Vietnamese government and ministries have issued a huge number of decrees and circulars. Among them, Government Decree No. 52/2013/NĐ-CP of May 16, 2013 on E-Commerce establishes the most important principles for e-commerce activities.

Studying the legal regulation documents relevant to e-commerce of Vietnam, the authors analyze their implementability as follows:

1. Connection with Implementers:

The line ministries and agencies, including the Ministry of Information and Technology, the Ministry of Planning and Investment, the Ministry of Industry and Trade (MOIT), the Ministry of Police, the State Bank of Vietnam, the Ministry of Justice, the Supreme People's Procuracy, and the Supreme People's Court are all declared to be in charge of their relevant regulations. However, a *one-stop agency online to coordinate all the regulations and a hotline to immediately support new regulations are missing*.

Decree No. 52/2013/NĐ-CP regulates that MOIT will be in charge of the reports from business actors who register for website establishment. However, it does not state an exact agency or a website link in MOIT, which could be vague to implementers.

³⁶ White & Case, "Indonesia Implements a Safe Harbor Policy for E-Commerce (Marketplace) Platforms," <https://www.whitecase.com/publications/alert/indonesia-implements-safe-harbor-policy-e-commerce-marketplace-platforms>, accessed 10 May 2020.

Later, MOIT had to issue another document to regulate these details, that is, Circular 47/2014/TT-BCT, dated 05/12/2014 by Ministry of Industry and Commerce on e-commerce website management. The Circular 47/2014/TT-BCT dated 05/12/2014 repeats a number of contents of the Decree No. 52/2013/NĐ-CP and clarifies the address to report about business activities.

Among a few coordinated regulations is the Joint Circular 10/2012/TTLT-BCA-BQP-BTP-BTTTT-VKSNDTC-TANDTC dated 10/9/2012 among the Ministry of Police, the Ministry of Justice, the Ministry of Information and Communication, and the Supreme People's Court on guidance for the Criminal Procedure Code's regulations on criminals and information technology and communication. It demands coordination in the area of criminals, which is very limited in scope.

2. Connection with Target Groups Who are Business Actors of All Sizes

It is not mentioned in the regulations whether business actors have any platforms to discuss or provide comments on the regulations from their sides.

Decree No. 52/2013/NĐ-CP regulates that MOIT would be in charge of reports from business actors who register for website establishment. However, it does not state an exact agency or a website link in MOIT, which could be confusing for business owners no less than implementers could. They may have to wait for another document from MOIT to regulate these details, that is, Circular 47/2014/TT-BCT dated 05/12/2014 by Ministry of Industry and Commerce on e-commerce website management. The Circular 47/2014/TT-BCT dated 05/12/2014 repeats a number of contents of the Decree No. 52/2013/NĐ-CP and clarifies the address to report about business activities.

Businesses without websites and businesses on social media are not specifically mentioned in Decree No. 52/2013/NĐ-CP. The document only mentions in Article 25 that those who use smart phone applications to connect with other people to do business also must obey the laws related to website regulation. This shows *lack of clarification on what businesspeople should do*, as there is no dedicated webpage. However, Article 6 of the Circular 47/2014/TT-BCT dated 05/12/2014 specifically mentions businesses on social media to comply with Article 37 of the Decree No. 52/2013/NĐ-CP. This is a burden to business owners as they have to check a separate circular to learn that they actually have to be regulated under another decree.

Circular 26/2009/TT-BTTTT on 31/07/2009 by the Ministry of Information and Communication regulating information provisions and ensuring convenient access to websites of government agencies regulates ease of connection to state agencies. However, it is not clear about the *immediate response or ease of communicating to officials* in the regulation.

3. Connection with Target Groups Who are Consumers:

It is not mentioned in all regulations whether consumers have any platforms to discuss or update the regulations.

4. Interests of Implementers:

Similar to the situation in Indonesia, it is not possible for implementers in Vietnam to have any interests or benefits in developing a large number of separate regulation documents.

Decree 43/2011/NĐ-CP dated 13/06/2011 regulating the information provision and e-public services on the websites or portals of government agencies only covers

general conditions, such as a government agency should have “*enough human resources*” to deal with online duties, which are not clear enough for implementers to prepare budget plans to effectively support businesses online.

Decree 181/2013/NĐ-CP dated 14/11/2013 regulates in detail some articles in Advertisement Law, and Decree 158/2013/NĐ-CP dated 12/11/2013 regulates administrative violations in culture, sport, tourism, and advertisement, and different contents of advertising areas which would be difficult for implementers.

The case study of tax arrears collection has shown that the whole process has been discussed favoring implementers in collection tax. Ironically, trying to closely watch each transaction or applying conventional types of tax could make it hard to manage accounts doing business on social media. Doing businesses on the internet is very different from traditional business. While some district governments sent out 600 requests to Facebook accounts, 20% of them actually arrived at the office and most reported themselves as too small to be taxed. This reflects inefficient and also costly management and tax collection. On the other hand, the atmosphere of excessive regulation appears to be top-down with requests sent to businesses unexpectedly, which could scare new and small businesses on social media.

5. Interests of Target Groups who are Business Actors of All Sizes:

The Decree No. 52/2013/NĐ-CP tries to cover several aspects of e-commerce. However, businesses still have to review other laws including the Criminal Procedure Code 1999, the Law on Information Technology 2006, the Law on Telecommunication 2008, Consumer Protection Law 2010, Vietnam Law on Advertisement 2012, Decree 7/2/2013/NĐ-CP dated 15/7/2013 by the Central Government on Managing, Providing and Using the Internet Service and the Information on the Internet, Law on Investment 2014, and the Law on Enterprise 2014.

There are three decrees concerning e-signatures that could facilitate business actors in transactions. They are: (i) Decree 26/2007/NĐ-CP dated 15/02/2007 detailing the implementation of the law on e-transactions of digital signatures and digital signature certification service; (ii) Decree 106/2011/NĐ-CP dated 23/11/2011 amending and complementing Decree 26/2007/NĐ-CP on e-signatures and e-signature certification service; and (iii) Decree 170/2013/NĐ-CP dated 13/11/2013 amending and complementing some articles in the Decree 26/2007/NĐ-CP dated 15/02/2007 which regulates in detail the E-Transaction Law on E-Signature and the Service of E-Signature Certification and the Decree 106/2011/NĐ-CP dated 23/11/2011 amending and complementing some articles of the Decree 26/2007/NĐ-CP dated 15/02/2007. The decrees show the efforts of the government to capture digital technology development and its speed in applying new forms of signatures. However, e-signatures are often applied to contracts among large businesses and products or services of high value. *Small businesses* that are active in retailing consumption goods *have less interest* in these regulations of e-signatures.

Specific matters of e-commerce such as e-signatures and spam mails have been regulated in a large number of documents, including those that amend previous ones. This could give business owners added pressure and time constraints. For example, the Circular 03/2009/TT-BTC dated 2/03/2009 of the Ministry of Finance regulating the management codes for the advertisement service providers using email messages; internet message service providers; and guidance on the implementation of the Decree 90/2008/NĐ-CP] regulating a specific matter in advertising area. Another

example is Decree 181/2013/NĐ-CP dated 14/11/2013 regulating in detail some articles in Advertisement Law and Decree 158/2013/NĐ-CP dated 12/11/2013 regulating administrative violation in culture, sport, tourism, and advertisements regulating different contents of advertising areas which would be difficult for business owners. Small businesses with fewer human resources may feel even more pressure to check all legal documents related to their activities. Another example are payment matters regulated in Circular 39/2014/TT-NHNN dated 11/12/2014 by General Director, State Bank of Vietnam on intermediary payment services; Decree 23/2010/TT-NHNN dated 9/11/2010 by the General Director, State Bank of Vietnam on management, operation and usage of interbank payment system; and Decree 101/2012/NĐ-CP dated 22/11/2012 on non-cash payments.

Decree 27/2007/NĐ-CP dated 23/02/2007 on e-transactions in financial activities and Vietnam Decree 35/2007/NĐ-CP dated 08/03/2007 in e-transactions in banking activities share quite a number of contents such as the destruction of e-receipts and the transfer of e-receipts into hard-copy ones. However, business owners need to read the separated documents.

The definition of businesses participating in e-commerce does not cover the details of the *frequency of business activities*. Those people who sell on social media as part-time jobs or irregular income activities may find it hard to recognize their legal status.

Some requirements such as those on receipts in Decree 32/2011/TT-BTC dated 14/3/2011 by the Ministry of Finance on creating, disseminating, and using e-receipts for goods and services and Decree 153/2010/TT-BTC dated 28/9/2010 by the Ministry of Finance providing guidance on Decree 51/2010/NĐ-CP dated 14/5/2010 by the government on receipts of goods and services *would be burdens to small businesses retailing goods and services of low value*. Those who wish to use e-receipts have to meet other requirements on websites and e-signatures. A simple guideline and a simple format of receipts for small businesses are missing.

Technical legal regulations such as Decree 154/2013/NĐ-CP dated 08/11/2013 regulating the central information technology; Decree 209/2010/TT-BTC dated 20/12/2010 by the Ministry of Finance regulating e-transactions in professional activities of the State Treasury; Decree 180/2010/TT-BTC dated 9/11/2010 by the Ministry of Finance providing guidance on taxation in e-transactions; Decree 17/2010/TT-BKH dated 22/07/2010 by the Ministry of Planning and Investment regulating details of a pilot project of procurement on the internet, Circular 50/2009/TT-BTC dated 16/03/2009 by Ministry of Finance on the guidance on e-transactions on security market requires *business owners to have technical knowledge equivalent to government officials to interpret and apply the regulations while a consumer friendliness in the writing of guidance materials has not been considered*.

Decree 174/2013/NĐ-CP dated 13/11/2013 regulates administrative violations in post, telecommunication, information technology, and radio frequency including regulations on the fines for providing wrong address information which could be *beneficial to businesses to avoid fraudulent orders*. However, *it is not clear how to enforce* these fines since a hotline to report the cases is missing.

The case study in Vietnam shows how little was discussed about how Facebook users could find tax collection simply and easily. Friendly guidance and help hotlines were omitted while official requests were sent directly to Facebook account users to request meetings with officials.

6. Interests of Target Groups Who are Consumers:

Consumer Protection Law 2010 highlights a new aspect that was previously invisible: consumer rights. Consumers could check the benefits by reading just one law. However, also due to its novelty, the consumers could not capture their new rights quickly. Support for consumers to understand and practice their rights *was not available* at this stage.

Many other regulations support the rights of consumers such as Decree 124/2015/NĐ-CP dated 19/11/2015 that amends and complements certain articles in Decree 185/2013/NĐ-CP dated 15/11/2013, regulating administrative violations in trade and production of counterfeit goods and consumer protections; Decree 25/2014/NĐ-CP dated 07/4/2014 regulating the prevention of criminal violations related to high technology; and Decree 25/2010/TT-BTTTT dated 15/11/2010 by the Ministry of Information and Communication regulating the collection, usage, and sharing of private information, while ensuring its safety and protection on the websites and portals of government agencies. However, *the roles of consumers in reporting the cases are not well guided.*

V. ANALYSIS

A. Small Businesses in Both Countries Have Not Well Supported by Legal Rules

Small businesses with small investments or run their businesses on social media have not been studied or strongly considered in the regulations on e-commerce in both Indonesia and Vietnam. The sophisticated regulations are better explained to big e-commerce players with their own websites. Businesses on social media must find their own ways to regulations on taxes, consumer protections, and intellectual property. In the case study in Indonesia, street vendors are hardly included in the design and implementation of legal rules. Little is discussed about how to make regulations friendly and easy to street vendors.

Those people who sell on social media as part-time jobs or irregular income activities such as teaching yoga online at lunch time once a week, or selling home-grown groceries every weekend, may find *it hard to recognize their legal status even as the digital technology era is supposed to help people work flexibly in different areas at the same time.* Those who produce home-made products may find it hard to *achieve certifications due to their unclear status*, which may lead to more complicated issues in the end.

A one-stop social media link to support their registration with ease or tax reduction or exemption regulations for their sizes are not yet mentioned. There has also not been a platform for these small businesses to *raise their voices and express their interests and concerns.* There is very *little connection* between them and the policy makers. It is time to recognize the role and importance of businesses on social media networks and give them full legal status and one-stop support links on their platforms so that they could contribute taxes and be confident to expand their businesses. Moreover, “technological infrastructure and legal framework, and a climate that will foster the commercial application developers”³⁷ to support businesses should be far more closely considered.

³⁷ Mesut Savrul, Ahmet Incekara and Sefer Sener, “The Potential of E-commerce for SMEs in a Globalizing Business Environment,” *Procedia - Social and Behavioral Sciences* 150 Vol 1 no 44 / vol 44 no 1 (Sep 2014), 10.1016/j.sbspro.2014.09.005

B. Implementability in E-Commerce Regulation Design Has Not Received Enough Attention in Both Countries

The analyses show copious details on regulation are frequently added to meet the development of e-commerce. However, how to implement all of these regulations smoothly and synchronously is often missing. While Indonesia has shown efforts in incorporating different sectors in one regulation on e-commerce, Vietnam is still studying how to develop more regulations to manage the industry. It is necessary to have a synchronous consciousness of the *importance of implementability of the regulations before continuously issuing different circulars and decrees*. This is an essential step to make sure laws are easily and reasonably enforced later.

Moreover, when the interests of businesses and consumers are mentioned in regulations without hotlines to explain and receive feedback, those stakeholders are less likely to feel interested in protecting their own rights.

The professional and technical legal documents designed for governments officials have not been transferred into friendly platforms for business and consumer users. While lengthy and detailed articles are necessary for law courts, simple and attractive guidance designs are needed for citizens to easily obey the laws.

The case of tax collection in Vietnam has not been effective or pro-business. A scheme to motivate business actors to feel free to report about their businesses is missing.

C. It is Hard to Balance Business Facilitation and Problem-Solving in E-Commerce

While Vietnam is trying to cover every aspect at once in establishing regulations, Indonesia pays more attention to *business facilitation*. Specific phenomena in Indonesia such as negative contents are regulated as immediate responses to the emerging issues of e-commerce. The number of relevant ministries and agencies in charge of different aspects of e-commerce is huge in both countries. However, Indonesia *has a roadmap from the presidential level, which* directs consumers in their implementation more easily than is the case in Vietnam.

Specific issues such as e-signatures have been organized separately in several regulations in Vietnam. The intention is to support businesses but it still requires business actors and consumers to study legal documents with efforts to protect themselves.

Intellectual property, including inventions, trademarks, designs, literature, music, and businesses still challenge regulations as the value of goods is freely negotiated and exchanged by sellers and buyers via the internet.³⁸ Even so, well-known social media such as Facebook, Zalo, Twitter, Viber, and YouTube are drastically exploited by sellers for their concurrent advertising and sales of goods. To avoid facing intellectual property rights disputes, websites such as *suzuki.com.vn* and *shop.viettel.vn* in Vietnam must frequently explain to customers how to recognize their official websites. Vietnam needs further details and guidance in multiple areas related to e-commerce transactions. The expectation is that subordinate legislation will soon be issued

³⁸ Phan Quoc Nguyen, *Một số vấn đề pháp lý về sở hữu trí tuệ liên quan đến luật về không gian mạng trong bối cảnh cách mạng 4.0* [Some Legal Issues of Intellectual Property Relating to Cyber Law under the Context of 4.0], *Revolution 4.0 and Issues for Vietnamese Laws*, Judiciary Publishing House, 2018.

to clarify the practical realities of e-commerce, cybercrime, intellectual property rights, production, trading, importation, and use of civil ciphers (i.e., cryptographic products), which will hopefully include a narrower scope of applicability to facilitate use by business operators in Vietnam.

Indonesia leads Vietnam in the regulation of digital tools and platforms such as e-money and peer-to-peer lending. The country is also quickly regulating intellectual property domain names. Vietnam will have to improve its technical capabilities to update its legal system so as to move to business facilitation instead of struggling to cope with e-commerce issues. E-commerce only reaches its full potential when everyone finds acceptable level of risks in doing business online.³⁹ Lack of trust could hinder the adoption of e-commerce in businesses,⁴⁰ even as regulations on e-money, intellectual property, and consumer protection are inevitable and essential to any government. Thus, Vietnam will likely need to make tremendous efforts in these areas to meet their ambitious goals for e-commerce development. In the future, building trust for business facilitation could benefit from more international cooperation in legal rules, as exporters rarely trust varying national laws, including shifting fiscal regulations and cross-border delivery across countries. Vietnam, Indonesia and other countries in the region could face the challenges of cross-border collaboration in legal rule design and implementation.⁴¹

D. Top-Down Approach in Management Could Burden Businesses in Both Countries

The details of the regulations studied are based on *the needs of management agencies*, including the need to collect taxes in Vietnam.⁴² However, businesses need to be able to obtain and understand regulations conveniently and *easily incorporate them into their businesses*. As e-commerce is a new disruptive change in trade and economic development, it requires changes in many areas that affect different laws in housing, transportation, medical care, and elsewhere. Amending these regulations separately, though, could increase the difficulties of implementation for business actors.

On the other hand, those same businesspeople may know best how to design regulatory enforcement for the maximum efficiency and cooperation. By allowing consumers to describe their greatest challenges with e-transactions, *their voices could be included in the design of regulations, and the improvement of their practicability*.

E. Immediate Support Is the Most Important Consumer Criterion for Unexpected and Frequent Changes in the Digital Technology Era

Legal documents are often years late compared to the actual activities of

³⁹ Subhajit Basu, *Global Perspectives on E-Commerce Taxation Law* (Hampshire: Ashgate Publishing, 2007), p. 25.

⁴⁰ Pauline Ratnasingam, *Inter-Organizational Trust in Business-to-Business E-Commerce* (London: IRM Press, 2003), p.3.

⁴¹ Brychan Thomas and Geoff Simmons, *E-Commerce Adoption and Small Business in the Global Marketplace: Tools for Optimization* (New York: IGI Global, 2010), pp. 15-16.

⁴² Tran Huyen, "Lần đầu tiên «Luật hóa» Quy Định Quản Lý Thuế Với Thương Mại Điện Tử" [The First Time E-Commerce Tax Management is Legalized], (08/07/2019), <http://tapchitaichinh.vn/co-che-chinh-sach/lan-dau-tien-luat-hoa-quy-dinh-quan-ly-thue-voi-thuong-mai-dien-tu-309329.html>, accessed 12 May 2020.

e-commerce. It is time to manage business activities as *a new normal* where a central agency must *respond quickly to real-time changes of technology in business activities*.

The Indonesian experience offers a roadmap for the positive coordination of key government agencies as a one-stop shop for efficient and streamlined e-commerce responses.

Vietnam announced its *Decree on E-Commerce* early in 2013 but has taken nearly seven years to amend and revise the relevant guidelines to implement the law. It is time to consider another approach, namely an immediate professional response agency with deep knowledge instead of *running after every change of the digital technology*.

V. CONCLUSION

Both Vietnam and Indonesia have struggled to manage and support e-commerce, as well as improve the legal environment for it. Implementability and inclusiveness of legal rules *have not been sufficiently addressed by policy makers*.

Connections between stakeholders are limited due to the lack of platforms for business owners and consumers to express their ideas, concerns, and interests. Small businesses may find it hard to expand due to complicated regulations and many unclear guidelines. Social media as a platform for businesses has not been well studied and supported.

Technical knowledge in legal documents has not been revised as friendly messages for stakeholders to understand and easily convert to legal rules. Indonesia has been actively involved in digital commerce with its regulations on e-money and peer-to-peer lending, while Vietnam has advantages in giant local e-commerce players.

It is recommended that both countries work hard and efficiently to establish their immediate response scheme to this era's unexpected and rapid changes. A roadmap of cross-border collaboration in legal rule design and implementation could be prepared to build trust in e-commerce for business owners.

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