

OMNIBUS LAW AS AN ANSWER TO EMPLOYMENT LAW PROBLEMS IN INDONESIA

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Abstract

Most people think that the Omnibus Law, the Labor Law, and/or the Job Creation Law are the same, but they are different. This study aims to analyze the Omnibus Law. The research method used in this research is a juridical qualitative method. The result of this research is that the Omnibus Law needs to be understood as a scientific method of forming laws, while the Job Creation Law is a legal product regarding employment which is the result of the Omnibus Law. Thus, the focus on reforming legislation must be on the substance of Law no. 11 of 2020 concerning Copyright and not the Omnibus Law. So, it can be concluded that there needs to be a special understanding of.

Keywords : Problematic, Omnibus Law; Job Creation Law

INTRODUCTION

Indonesia as a legal state that adheres to a civil law system certainly has various regulations to realize the country's goals in the form of laws and regulations, customs, and jurisprudence (Widowati, 2019). In the process, as a country, the development of technology and information also influences the development of existing laws in society as well as written regulations issued by the government (Ramadhan, 2022). There are so many laws and regulations that often confuse the public to solve a legal problem. Reflecting on this experience, the Indonesian government during the leadership of President Joko Widodo started to implement the Omnibus Law as an effort to streamline the number of laws and regulations, with the hope that there would be no more overlapping regulations and confusion of legal products, not least by implementing the Omnibus Law on the Job Creation Act.

Omnibus Law itself is not something new for Legal Academics (Busroh, 2017). However, this has caused fear among the public who do not understand the spirit and purpose of the Omnibus Act itself. Lack of understanding makes the issue of Omnibus Law grow wild, especially when it is associated with changes to the Manpower Act. Thus, there are many pros and cons in society, when the Indonesian government wants to revise the Manpower Law into the Job Creation Law (Marthen Arie, 2022).

The word "omnibus" comes from the Latin "omnibus" or "many". In the sense of omnibus, there are many laws whose regulation is carried out across sectors, so that they can revoke or cancel conflicting provisions. It can be concluded that the concept of omnibus law is a method of making regulations that combine several rules with different regulatory substances into one regulation under one legal umbrella. The concept is also known as the omnibus bill which is often used in countries that adhere to the common law system such as the United States when forming a regulation (Setiadi, 2020).

Exactly in 2021, the concept of the Omnibus Law was echoed by President Joko Widodo by looking at the situation at that time, where there were 1,244 Articles and 79 laws in one regulation, so it needed to be trimmed to make it more effective, and efficient, and the legal objectives were clear. One of the laws that are incorporated into the Omnibus Law is the

Manpower Act. In the Omnibus Law on Job Creation, 11 changes will be made, including simplification of licensing, investment requirements, foreign workers, working hours, rights and protection of workers, adding types of layoffs, and strengthening social security.

It is uneasy to provide direct understanding to the community, which is still dominated by labor workers or employees in this amendment to the Job Creation Law. The workers think that if the Omnibus Law is implemented, it will reduce their rights. In addition, there are concerns about the arrival of foreign workers who will invade Indonesia, further exacerbating the negative sentiment towards the Job Creation Law. So, it is not surprising that there are many demonstrations aimed at rejecting the Job Creation Law and the Omnibus Law (Achmad et al., 2022). It contradicts the intention of the Indonesian government itself, which considers the Omnibus Law as an answer to the messy laws in this country.

Omnibus Law can be understood simply, as a concept or method, which is carried out to add or reduce laws and regulations, to create new legal products by targeting major issues, which as Manpower, to become the latest Job Creation Law (Purwanto & Lubis, 2022). It is easier to understand and apply as an answer to the problems often faced by Indonesian workers so that in the future, there will be no more regulatory differences or discrepancies between statutory norms and other regulations/regulations. It makes the author feel the need to raise the research theme with the title around the problems of the Omnibus Law and the Job Creation Act (Sarjana, 2022).

In the legislation formation, Omnibus Law has a crucial role, namely ensuring protection for workers (Bareta et al., 2020). Omnibus Law is not something to be afraid of, but with omnibus law, legal products that are made can guarantee the lives of workers/laborers, by improving the articles in them so that they become relevant in their application in the real world. In addition, legal products in the form of Law no. 11 of 2020 concerning Job Creation is an answer to the ineffectiveness and inefficiency of the previous law, which was too convoluted, and overlapped with other regulations in force in Indonesia. “

METHOD RESEARCH

The method used in writing this applied paper is the descriptive analytical method, namely by using data that clearly describes the problems directly in the field, analyzing, and then concluding to reach a problem solution. The process of collecting data is through observation and literature study to obtain problem-solving in the preparation of this paper.

Sociological juridical approach, namely the juridical approach method used to examine problems in terms of law and systematics, and as a guide to the rules that can be used as the basis for analyzing legal phenomena that arise (Purwati, 2020). A sociological approach is an approach used to examine a problem in society or the community environment with the intent and purpose of obtaining facts, which is followed by finding problems, identifying problems, and finding solutions to problems.

RESULT AND DISCUSSION

A. Omnibus Law Definition

The translation of the Omnibus Law is: “Omnibus: relating to or dealing with numerous objects or items at once; including many things or having various purposes.” It means that omnibus law has to do with various objects or things at once, and has several purposes. [4] That is, it is related to/or deals with various objects or items at once; includes many things, or has multiple purposes. If the word "Law" is added, it can be defined as a law that is related to various objects/items.

The omnibus law is a law that is made to target major issues and may revoke or amend

some laws (Sari et al., 2021). The purpose of the Omnibus Law is to streamline regulations in terms of numbers, in addition to simplifying regulations to make them more targeted. The idea is not only simplification in terms of quantity, but also terms of consistency and neatness of arrangement. So it can be called a procedure as well to make it simpler and more targeted [6]. So according to the expert, it can be concluded that the Omnibus law is a product of the law that can revoke or amend several existing laws in several regulations, to then be streamlined into one law to make it more targeted.

It can also be seen that the purpose of the Omnibus Law idea being raised is (1) to resolve conflicting laws and regulations quickly, effectively, and efficiently; (2) to uniform government policies both at the central and regional levels to support the investment climate; (3) to make licensing management more integrated, efficient and effective; (4) to break the lingering chain of administrative bureaucracy; (5) to improve coordination relations between related agencies because it has been regulated in an integrated omnibus regulation policy; and (6) as a guarantee of legal certainty and protection for policymakers.

B. Problems Around Employment Law as a Legal Rule Included in the Omnibus Law Agenda

From the previous preliminary explanation, it is known that the purpose of the Omnibus Law and the Job Creation Act is to streamline around 79 laws, and as many as 1239 articles into 15 chapters, which include 11 clusters of 31 Ministries and other Government Institutions. Several articles in the Job Creation Law need to be highlighted or studied, for example:

1. Not paying attention to the hierarchy of laws and regulations as contained in Article 170 paragraphs 1, 2, and 3 of the Job Creation Law, where in the regulation it is explained that "In the context of accelerating the implementation of strategic job creation policies, as referred to in Article 4 paragraph 1, this Law, the Central Government has the authority to amend the provisions of this Law, and/or amend the provisions of this Law which are not amended in this Law.
2. Furthermore, it is explained that any "Changes to the provisions as referred to in paragraph 1 shall be regulated by a Government Regulation."
3. The implication is that there is a clear violation of the provisions of Law no. 12 of 2001 concerning the Establishment of Legislation which expressly stipulates that Government Regulation (PP) is under the Act. Thus, the PP cannot cancel or change the provisions contained in the Law, because the PP is the implementing regulation of the Law itself.
4. It is unclear whether the minimum limit for long breaks for workers/laborers is specified in the provisions of Article 79 of Law no. 13 of 2003 concerning Manpower. Initially, the sound of Article 79 paragraph 2 letter b reads "A long break of at least 2 (two) months, and is carried out in the seventh and eighth year for 1 (one) month each for workers/laborers who have worked for 6 (six) months. years continuously at the same company, provided that the worker is no longer entitled to his annual rest in the current 2 (two) years and thereafter applies to every multiple of the working period of 6 (six) years." However, in the Job Creation Law, Article 79 paragraph (2) letter b is abolished and is not regulated more clearly. What is regulated is only Article 79 (5) of the Job Creation Law, which states that long leave is regulated through a work agreement, or collective work agreement, which has implications for the weakness of the existing legal force, when compared to the binding power that exists in the law.

The omnibus law is one of the opportunities seen by the president where this could be the answer to the problems that exist in Indonesia due to the many complicated policies, but

in the eyes of the public, especially the workers/laborers, it is judged by the loss of several regulations will cause uncertainty which has been previously regulated in Law Number 13 of 2003 concerning Manpower. Moreover, some regulations have not been abolished, only conceptually replaced, and other disputes, especially regarding the rights of local workers who are Indonesian citizens and need to be protected by fair laws. may have effects that may lead to implications (Arliman, 2015).

To create order and legal certainty, the role of Omnibus Law is to make the latest legal products represented by Law Number 11 of 2020 concerning Job Creation. Quoting the provisions of Article 1 point 1 of the Job Creation Law, what is meant by job creation is an effort to create work through facilitating efforts, protecting and empowering micro, small and medium enterprises, improving the investment ecosystem, and facilitating business and investment by the central government and accelerating national strategic projects. The law is one of the formal sources of law. Sources of law in a formal sense relate to problems and various problems to obtain or find provisions that regulate human life in society. While the law is materially written regulations that apply in general and are made by the central authorities or legal parties.

The form of government responsibility that wants to prove itself as a driver of workforce empowerment is manifested in this Job Creation Law (Purnomo, 2016). Nevertheless, it is necessary to re-examine the articles in the Job Creation Law that have the potential to harm workers/laborers, such as those related to exploitation and discrimination in the work environment, and the rights of women workers. Where the rights of women workers have previously been regulated in Law no. 13 of 2003 concerning Manpower (Koto & Hanifah, 2021).

In addition, related to employment, which is applied by the work copyright law, there appears to be a significant reduction in workers' rights as contained in Article 93 paragraph (1) which regulates wage rights for workers if they do not come to work. It needs to be reviewed and re-examined so that the Job Creation Law can be an answer as well as a solution for workers/laborers who seek justice by taking refuge and are guided by the Job Creation Law.

Another problem is related to the Job Creation Act, namely the investment problem. The initial objective of implementing the omnibus law in preparation for the Job Creation Law is to create job opportunities by providing convenience, providing protection and empowerment of micro, small and medium enterprises, improving the investment ecosystem, and facilitating business and investment initiated by the central government as well as accelerating national projects strategic in nature. Of course, in-depth mediation efforts are needed between the government and investors by paying attention to the needs and interests of the community, so that in the future there will be no more parties who feel disadvantaged (Rahmawati, 2016).

CONCLUSION

To create order and legal certainty, the role of the Omnibus Law is to produce the latest legal products represented by Law Number 11 of 2020 concerning Job Creation. Quoting the provisions of Article 1 point 1 of the Job Creation Law, what is meant by job creation is an effort to create jobs through ease of doing business, protecting and empowering micro, small and medium enterprises, enhancing the investment ecosystem, and facilitating business and investment. by the central government and acceleration of national strategic projects.

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