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Indonesia's Omnibus Law in the International Context: Review of Legal and Human Rights Publication Journals

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Abstract---This study explores the views of legal experts on omnibus law in Indonesia, which is a problem related to law and human rights. We have conducted data searches on hundreds of legal articles that discuss issues related to job copyright law. Data collection is carried out using the keyword system on Google Search in many legal journals both at home and abroad. He continued the effort to comprehensively involve the coding system with an in-depth evaluation and high interpretation to understand that it can answer problems by prioritizing the quality and honesty of the data. Most legal experts think it is a tremendous legal reform based on the study data and discussion. However, most of them still question its effectiveness and implementation, considering that the court's recent decision on the Law on Creative Economy and Work is unconstitutional with conditional enforcement. Hopefully, this finding will color the legal review section in Indonesia.

Keywords---conditional enforcement, human rights, international context, legal, omnibus law.

Introduction

News about the Omnibus Law Plan in Indonesia is still being traded after it was decided on November 26, 2021, by the Constitutional Court (Mahy, 2021). The material for the law numbered 11 of 2020 concerning the Law on Job Creation has produced results. Then the Omnibus Law will automatically be declared unconstitutional. Write down that the job creation law is conditionally decided because the decision was made after failing to pass the formal test trial. The Constitutional Court also said that the formation of Law Number 11 of 2020 concerning Job Creation is contrary to the 1945 Constitution and has no legal force considering that it is conditional as long as it does not mean that no improvements have been made within two years since the decision was made (Mazadiyah, 2020).

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The Constitutional Court considers that the incorporation method in the work copyright law is not straightforward whether the form is making a new law or making a revision. Constitution. Based on the controversy over the Constitutional Court's decision, both from various legal experts and intellectuals of Indonesian citizens (Suhardityo, 2020). The law was decided a series of protests are still in effect, although not heavy on protests since the House of Representatives passed the law. We want to get additional views and input from parties outside the circle of Indonesian law and interests, such as the voices echoed by the international community on the Job Creation Law (Kurnia Saleh, 2020).

The cause of the Omnibus law being the subject of public discussion is undoubtedly more complete if it gets additional views from foreign parties considering they are talking more independently (Pambudi, 2020). When viewed from the advantages of the Omnibus Law, the law has gained practicality in correcting the regulations of some problematic laws in Indonesia. With the study of various input views, stakeholders will mature in responding to related laws (Maksum, 2021). In addition, this study also views that the omnibus law can also be a solution to overlapping regulations. Likewise, there are several reasons why the government applies the Omnibus Law method (Allen & McNeely, 2017; Allen, 2018). Another reason is to create an attractive and conducive business climate for investors, especially from outside the country. It will be easier for Indonesia to make economic growth, which is currently not increasing faster considering that Indonesia's economy is the largest in Southeast Asia. One of them is the existence of the Job Creation Law (Agustina & Gómez-Durán, 2012).

Likewise, when viewed from the main objective of the Job Creation Law, it is to encourage investment, accelerate economic transformation, harmonize central-regional policies, provide ease of doing business, overcome overlapping regulatory problems, and eliminate sectoral egos (Adhiantanto, 2020). Then this study also wants to understand foreign parties why the job creation law has been rejected by many parties in the country, especially from labor unions who have asked for the regulation to be revoked. The reason is that many articles are considered detrimental to the workers but benefit the state and foreign investors (Catur et al., 2020).

If the government and the legislature see the need for an Omnibus Law in Indonesia, in reality, the community and legal experts have other reasons (Matompo, 2020). Because of the different views, studying and studying the law and applying it from the Omnibus Law requires finding reasons and views of foreign parties. Another reason that many studies are needed is that Omnibus Law has a method of drafting laws and regulations, which is better known in the Common Law legal system (Ramadani et al., 2021; Otakhonova, 2021). Meanwhile, this legal system is being applied less and less in other countries (Kaharudin, 2020). Then the government wants to adopt it in Indonesia; of course, a study must be followed so that it gets the right reasons, in addition to the reasons for legal studies such as the Omnibus law, which is very phenomenal in terms of social science and legal theories and their applications so that by getting a broad understanding, it will rarely be misinterpreted (Mattei, 1994; Anderson, 2007). Both by the legal community and the public (Abidin et al., 2019). In the end, we hope that the omnibus law study will produce study

material for the sake of legal scholarship. So that the study of omnibus law, especially the views of foreign parties, will have a broad understanding as a series of observations carried out continuously by subsequent researchers in the country (Alamsyah & Misnan, 2021).

Method

In this method section, the author describes the procedure for carrying out this legal review study starting with problem formulation, data collection, data analysis, and reporting of results (Benuf & Azhar, 2020). The purpose of the study is to gain an understanding of the views of international legal and human rights experts on Indonesia's Omnibus law from various collections of views of legal publications, both national and international (Prasetio, 2021; Titko et al., 2021). Our data collection is done virtually on some legal and human rights publications, especially those discussing international perspectives on the existence of the very controversial job creation law or Omnibus law (Facca et al., 2020; Gbaguidi & Allagbe, 2018) become a national issue since the House of Representatives ratified the Law in November 2020, until now it has become a public debate until it reaches the Constitutional Court which finally says that the Court's Decision on the Copyright Law is conditional (Munawar et al., 2021).

Gaining a deep understanding and answering the questions of this study, we will first examine the data with several approaches (Traxler & Winter, 2012; Alm et al., 2012). The first is an effort to code the data, followed by a critical evaluation followed by in-depth interpretation so that the data can be understood and conclusions are drawn to be used as findings to answer questions studies are valid and convincing (Hashem et al., 2015). Our data search strategy is carried out with the help of Google searching with a keyboard-assisted search system such as the word omnibus law, international context, legal complications, the Indonesian constitutional court (Harfianty et al., 2020). This legal study entirely relies on secondary data, meaning previously published literature sources from various national and international journals. In this report, we choose a descriptive qualitative data system by following the guidelines for reviewing the legal literature that has been in the factory (Andersen & Kheam, 1998; Berthon et al., 2012). We chose our data because the issue of the omnibus law controversy or the copyright law is hotly discussed and has become a study of various legal perspectives, and this problem is a national issue, so that literature review is more supportive strategic (Rukajat, 2018).

Discussion

The significance of the omnibus law

Looking from the existence of Indonesia, which is a significant economic activity and with its mainstay, it will continue to be the seventh economy in the world, and it is estimated that in 2030 it will be able to beat the German and British economies (Floater et al., 2014). Indonesia is a country with the fourth-largest Muslim population in the world, so building the economy must begin with various reforms and reforms where when a country enters an economy that is now increasingly advanced, reform in the field of emergency law is still a hit (Spranz et al., 2012). However, the condition of the Indonesian economy, which shows that

being under the existence of this enormous country, illustrates that there are things that are not following economic practices where the current economy is viewed as very troublesome and competitive compared to several other large countries (Bendell, 2016). So, in this case, a large country like Indonesia needs a mechanism that facilitates the implementation of business, where the biggest one is migration. How is this now? He has run a bureaucratic system oriented towards results and even becomes one of the countries that listens when he wants to invest in Indonesia as a whole Indonesia needs reform with the potential that is there to be sure after it will become a country that is consistently making changes (Gellert, 2019).

The omnibus law aims to simplify the regulation of environmental laws, which were previously considered very problematic and the complexity of which could hinder the increase in various investments, including foreign investment employment, obtaining business licenses for corporate taxation, and the legal system related to land acquisition in Indonesia (Wahyuni et al., 2021). Furthermore, and in other words, the implementation of the omnibus, basically wants to change more than 40,000 rules which contain 39 regulations that have not been conducive to regulating foreign business and investment systems regarding the business permit management system, work system, development of special economic zones for national development investment and many more changes were made through the enactment of the work procedure law (Kirchhoff & Tsuji, 2014).

The history of Omnibus law in the country was first introduced in President Joko Widodo's state address after being appointed president of the Republic of Indonesia for a term of office from 2019 to 2024, which was the first time in the history of law in Indonesia to bring such extensive changes to the legal people through a single law (Saifullah, 2020). When viewed from the point of view of the omnibus law, seen from the meaning of the word, it is a public vehicle which is usually designed to carry many passengers, so the bus takes place in a community where both bulbs contain several works on all stories (Negara & Ramayandi, 2020). It was created to observe all the number of products and bill amounts allocated together to create an omnibus or minibus. This bill or bill is the right money to run the federal government and make national policies in some areas, so it aims to stimulate investment both domestic and foreign to change the improvement of business governance in what is the largest economy in Southeast Asia (Yu, 2017; Rinarta et al., 2018).

Bureaucratic reasons

The emergence of the omnibus law draft, part of the bureaucratic reform carried out by the president of the Republic of Indonesia Joko Widodo, is directly related to investment, which is often constrained, or the rules can be said overlap with various regulations (Rozenberg, 2021). So the presence of this new law in the omnibus law framework will undoubtedly overcome the problem of overlapping regulations in Indonesia and save high economic transaction costs when investors invest in Indonesia (Meßerschmidt, 2021). When viewed from the data from the coordinating ministry for the economy last year, approximately 190 investment cases experienced obstacles or 2-32.5% due to problems with licensing

governance both at the center and at the regions (PNH Simanjuntak, 2017). So, in this case, although the government has adopted online licensing online, there has not been much change in the region or in its implementation in facilitating investors (Gluck, 2021). For this reason, the government firmly needs more concrete and extreme steps to make Indonesia one of the more effective countries in terms of bureaucratic governance so that later regulation with the existence of an omnibus law is undoubtedly expected to be more effective in the bureaucratic chain, which has been considered to be still rolling and expensive (Kirchhoff & Tsuji, 2014).

Many parties consider that Indonesia is strong with excessive foreign investment regulations, so it burdens foreign investors (Qayyum, 2013). Investment in Indonesia, namely "Law Number 11 of 1970 concerning Amendments and Supplements to Law Number 1 of 1967 concerning Foreign Investment and Law Number 6 of 1968," is indeed when viewed from the old law, it is very restrictive of movement and percentage of foreign ownership in each industrial sector (Yuniar, 2021). This is considered one of the biggest obstacles for those who wish to invest. Only with a minimum of foreign investment can enter Indonesia to invest. So it is clear that the minimum value of foreign investment in Indonesia is 10 billion; this does not include the price of land and buildings. The minimum amount of paid-up capital to banks in Indonesia is 2.5 billion (Dewi, 2021).

Likewise, the procedure for establishing a foreign-owned company is complex, from applying for a permit, completing verification documents, verification results, and all investment activity reports must be completed. These are the stages by which investment in Indonesia is assessed (De la Medina Soto & Ghossein, 2013). Likewise, the legal basis for foreign investors in Indonesia, which is considered very encouraging for foreigners to invest based on this law, has created a new law, all contained in the omnibus law.

Whereas if it is returned to the provisions and rules for liberalizing foreign investment, which is included in the omnibus law, all business sectors are included (McNally & Trosow, 2013). Except for those that are reserved for the Indonesian government, for example, the manufacturing of weapons or industries that are entirely prohibited, namely narcotics products and gambling activities, all of which promise fiscal and non-fiscal investments, such as licensing for the provision of infrastructure and energy for all businesses that are ordered to be regulated in the provisions for liberalization of investment in Indonesia. The new law, namely the omnibus law (Yan Ing & Losari, 2021).

Labor law reform

The omnibus law or labor law is presented to design and protect the workforce from various exploitation models and facilitate disciplinary action or fire employees whose performance is sloppy (Fealy, 2020). So the omnibus law or job copyright law combines regulations and tries to summarize several articles of the law governing employment that was previously into flexible and simple regulations (Mahy, 2021). Even though the situation is whether the previous law is still in effect, the answer is that law number 13 of 2003 regarding employment will still apply even though the work copyright law has been passed before the

issue of the law we work that can handle these workers has not received certainty as referred to (Arifin, 2021). Indeed, in the law, there are impacts and losses for workers where the abolition of the minimum wage, social security severance pay, sanctions for criminal sanctions for companies, expansion of the types of work that can be searched until the entry of the aa skill deck, both eliminate spouses (Mietzner, 2020).

The new job copyright law provisions show that many employers complain only half-joking that they cannot fire an employee in Indonesia if the latter is a convicted murderer and must be convicted to warrant dismissal. Likewise, the complicated work permit application process also discourages foreign workers from working in Indonesia, which causes a shortage of labor in the technology and other professional services sector, which has been an obstacle for foreign workers (Purcell et al., 2011). Of course, all laws have provisions as a reform of the existing labor law in the omnibus law which expands the reason that an employee can be dismissed and reduces the use of a spouse according to the law from a maximum salary of 30 days to a salary not sad from 19 days this is indeed lousy compare with the previous law (Felker & Jomo, 2013).

The omnibus law seems to have a simple, convenient purpose, the methods of applying for a work permit make it easier to apply for a work permit for foreign workers and various sectors, including technology and scientific research. This relaxed work permit requirement makes essential points for foreign workers so that they are interested in working in Indonesia (Setijadi, 2021). In other words, the omnibus law has violated laws relating to applications for permanent employment contracts as well as outsourcing rules that were more prevalent in the previous regulations so that this allows foreign employers to be more flexible because they are more prominent in planning their workforce needs (Allen, 2016).

Tax law

The rules are also examined through the presence of the Omnibus law, which is considered a rule in the old law, namely on November 2, 2020, a significant leap forward in the legal field in Indonesia was brought to the world by order of the Job Creation Law through the omnibus law plan. The new law stipulates that all implementing guidelines will be announced no later than 3 (90 days, especially February 2, 2021 (Samawati & Sari, 2020). Following these regulations, the Government Regulation (GR) that implements the Copyright Law was finally proclaimed, including PP Number 9 of 2021 concerning Tax Treatment to Support Ease of Doing Business.

Surprisingly, the GR regulates things that are directly regulated in the Job Creation Law and remembers the changes in several GRs for local tax collections affected by the Job Creation Act. Thus, as far as legislative drafting is concerned, the PP, which implements the Employment Science and Technology Law in the field of tax assessment, remains as its parent using an omnibus law conspiracy in which one guideline controls and changes several or many guidelines that are different from government regulations (Saptono & Khozen, 2020). By taking advantage of the omnibus law conspiracy, daily PP 9/2021 regulates the reduction of Article 26 income tax rates for guarantee contributions for foreign

nationals, which is a direct order of the Copyright Law, revised PP 94 of 2010, PP 1 of 2012, and PP 74 of 2011 which is the implementation of the Income Tax Law (PPH), the Value Added Tax Law (PPN) and the Law on General Provisions and Tax Procedures (Chairil, 2020).

Following PP 9/2021, the Minister of Finance Regulation (PMK), which is a child of the Job Creation Law also uses an omnibus plan, in particular PMK Number 18/PMK.03/2021, concerning the Implementation of the Job Creation Law in the fields of PPh, PPN, and KUP (Bagja, 2021). Practically like GR 9/2021, this PMK regulates accommodation in the field of tax collection and changes several PMKs that are affected by order of the Job Creation Law, considering the PMK on Tax Payment and Deposit Procedures, Tax Return PMK, Procedures Inspection PMK, PMK Regarding Taxpayers Procedures for Issuing Tax Assessment Letters and Tax Collection Letters, PMK concerning Procedures for Examination of Preliminary Evidence of Criminal Acts in the Taxation Sector and PMK concerning Procedures for Application for Termination of Investigation of Criminal Acts in the Taxation Sector for the Interest of State Revenue (Cockfield, 2018).

Can the omnibus law be implemented?

From a series of studies on the essential components in the legal changes to the new omnibus law rules, a series of questions need to be understood how the changes mentioned in the new law are still being challenged by the national constitution where implementing regulations in Indonesia are indeed known to be very inconsistent. consistent (Fankhauser et al., 2015). In other words, the implementers of today's laws will undoubtedly take a long time to realize even if this is implemented, considering the current regime will end in 2024 (Khozen et al., 2021). Various observations, both politically and economically, of course, have a sense of nationalism. They will voice their hope that the new omnibus law will significantly improve the economy and socio-culture in Indonesia, where the business climate and steps to advance the economy will become more flexible, especially the market (Azhar, 2019).

Of course, these changes will have a good impact. Indeed, the hopes and dreams that come from various fires certainly think that the reform and regulatory agenda, if implemented correctly, can increase the Indonesian economy's level towards new prosperity, which reduces the inability to carry out all policies (Bank, 2020). Likewise, warnings about the various optimisms of the cabinet and Jokowi's government seem excessive, even though the omnibus law is a positive goal for investment activities. However, these steps will take a long time and require energy to be implemented, such as limiting their optimism on the prospects for implementing reforms both the government and the climate businesses whose implementation is based on existing laws in Indonesia that often do not bring optimal results (Mietzner, 2020).

Omnibus law matter

The problem is that if the omnibus law has no impact on the economy, will Indonesian citizens be excited? To answer whether in the future the omnibus law can be implemented is a difficult thing to answer because a series of politics and

power, and interests always accompany every legal product enactment (Alifia & Fraser, 2021). Many things can be said, and many examples can be seen of how countries have carried out trials with new laws such as the Omnibus law. With the significant steps they have tried to attract many foreign investors by freeing business sector regulations, developing various infrastructure facilities that support business, and carrying out legal and economic reforms, they expect extraordinary tax disbursement (Ahluwalia, 2011). Then dare the Indonesian people to say this is a breakthrough that may be too much for Indonesia as a big country in Southeast Asia. So, various responses need to be heard from various points of view, especially independent observations, such as legal experts from outside Indonesia (Rezara, 2021).

With an independent attitude, they will see various points of view about Indonesia that if Indonesian businesses progress because of the effectiveness of the Omnibus law, then they will, at all costs, want to invest in Indonesia (Borsuk, 2021). However, the omnibus law, which is already considered an extraordinary deviation or perhaps the government's mindset that has taken root until now, shows the courage to hope for the willingness of foreign parties to invest. At the same time, we hope that many parties will listen to complaints about what will happen if foreign investors will not make investments that rely on a buoyant economy (Fealy, 2020). So the answer is just waiting for implementation to see if it is something magical. So the international community who like doing business and investing international will choose Indonesia, which is now starting to open up. The omnibus law of the work copyright law will become a reality implemented in Indonesia (Chander, 2013).

Conclusion

We repeat that this study aims to gain a comprehensive understanding of the international context in Indonesia's omnibus law. With hundreds of papers on omnibus law in Indonesia from various understanding contexts. We believe this study has attempted to answer the question with high validity and reliability. We only from the implementation of this study, of course, get various limitations and shortcomings, input and suggestions are highly expected to improve studies in the future. As for the points that we can summarize, we have understood the importance of the Omnibus Law in place of the existing law in Indonesia.

Furthermore, we also mention the very bureaucratic reasons, so that the issuance of this work copyright law has received much criticism and even demonstrations from all levels of society. The following detail is that we find reforms in Indonesian labor regulations where everything is made easier with this law. The following report is that the omnibus law has also reformed various legal products to make it easier for foreign investors to hold capital in Indonesia related to regulations that hinder the government's work. Furthermore, we also asked whether this Omni meatball will be fermented in Indonesia with various arguments we have proven that? Because this law is a matter of optimism, they want to formulate all laws and regulations to invite foreign investment to come to Indonesia. This contribution will serve as input that will facilitate Indonesia's development, especially in investment and workforce.

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