



Implementation of the Omnibus Law in Fulfilling Labor's Rights

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Abstract

The increase in population in Indonesia is one of the phenomena that must be handled by the Government to support people's welfare. With the enactment of Law Number 11 of 2020 Concerning Job Creation or the Omnibus Law, it is hoped that it will be an alternative in dealing with economic cases because the Law also explains how workers' rights are fulfilled. This study aims to provide an explanation regarding the Implementation of the Omnibus Law in Fulfilling Labor Rights by using the Normative Law writing method with library data sources using the Law approach. In its implementation, the fulfillment of labor rights in Indonesia, according to the Omnibus Law, is still something that is pro and con and must be reviewed, whereas if labor rights are not fulfilled, the sanctions obtained are criminal and administrative sanctions. With so it is expected to be an alternative in the welfare of the people.

Keywords: *Omnibus Law; Rights; Labor*

Introduction

Indonesia is the country with the largest population, reaching more than 2 million in 2023 and will continue to increase over time, not to mention that in the coming year it is estimated that Indonesia will get a demographic bonus that will allow for a population explosion. This is of course a matter that must be a concern of the government. With the increasing population in Indonesia, it requires the government to develop or add several aspects in supporting human resources, both in the aspects of tourism, health, education and employment.¹

Today, the more the need increases, the more Indonesian people have to improve their skills to find work or maintain their previous jobs. The increase in population in Indonesia also has an impact on

¹ Tarsan Umarama. 2021. "Constitutional Question di Mahkamah Konstitusi Sebagai Pelindung Hak Konstitusional Warga Negara Perspektif Siyasah Qadlaiyyah. *Krtha Bhayangkara*". Vol 15. No. 1. Pp 45

prospective employers to open job vacancies or some companies feel that they need more workers for their companies. Growth and opportunities for job vacancies are two things that cannot be separated because they are interrelated, where the higher the population growth, the higher the household needs, so the only way to meet household needs is to work.²

In 2020, Indonesia is starting a new chapter in which the Indonesian government issues laws that are hoped to be able to become reforms and are expected to be able to become laws that can prosper the people of Indonesia, especially workers. With this new breakthrough from the government, it contains a lot of pros and cons from the community, with a lot of weights, one of which is that there are many articles that are felt to be burdensome and detrimental to workers and many articles that are felt to also benefit the owners of capital. One of the causes of capital owners being reluctant to invest in Indonesia, one of which is the difficulty of opening a business in Indonesia, this of course affects the low competitiveness of the Indonesian state compared to other countries.³

The issuance of the Job Creation Law or known as the Omnibus Law is felt by the government as one of the efforts to reorganize regulations and structuring regulations in Indonesia. Before 2020 the Omnibus Law system already existed in Indonesia but at that time not much was known about the concept of Continental European Law. After being unknown in Indonesia for a long time, it reappeared and was used as a reference for the preparation of Law No. 11 of 2020 concerning Job Creation, which was previously the Priority National Legislation Program for 2020.

Policy regulatory reform through the implementation of the Omnibus Law in Indonesia. Law Number 11 of 2020 concerning Job Creation is expected to be able to create laws that are adaptive, straightforward, competitive and responsive to realize social justice for all Indonesian citizens as mandated by the Constitution. This law is used as a scheme to develop the economy to attract investors to invest in Indonesia.. The method used in the Omnibus Law is capable of repealing, changing, or enforcing several topics within the statutory regulations within their scope. The government is currently carrying out activities to determine patterns or ways of forming laws and updating laws through the legislative process.⁴

In Law No. 11 of 2020, of course, several labor rights are included, one of which is contained in Article 81 Paragraph 24 of the Job Creation Law, Article 88 which was changed to "Every worker/laborer has the right to a decent living for humanity", in this case of course the right to receive wages, the right to get social security for work safety or the right to get leave. In this case the fulfillment of labor rights is the responsibility or obligation of the company. So that in making contracts or work agreements the company must always remember its obligation to fulfill the rights of its workers. This is done so that both workers and employers both benefit and can establish healthy cooperation. In Law no. 11 of 2020 or the Omnibus Law also regulates how the remuneration provided by companies cannot be lower than the wage provisions regulated in the law. As stated in the article stated in the Omnibus Law, it is of course expected to be able to become a reference for companies in fulfilling all the rights of their workers, bearing in mind that with the existence of the Job Creation Law it is felt that there are many advantages for capital owners and also investors who want to invest in Indonesia. especially for foreign investors. The research problem of this research is how is the Implementation of the Omnibus Law in Fulfilling Labor Rights?

² Riska Purbasari, Mohammad Jamin. 2021. The Job Creation Act: Implication of National Strategic Project on Regional Spatial Planning (Study in Madiun City, East Java Province). *Jurnal Jurisprudence UMS*. Vol 11. No 2

³ Asshiddiqie, J, & Marwan, A. 2020. "Proklamasi Menurut Mohammad Yamin Berdaulat dan Berkonstitusi". *Jurnal Hukum Sasana*. Vol 5. No 1. Pp 81

⁴ Rahmat Saputra. 2020. "Kedaruratan Dalam Prespektif Hukum Responsif : Studi Kasus Pembatasan Sosial Berskala Besar di Indonesia". *Krtha Bhayangkara*. Vol. 14. No. 2. Pp 147

Method

Writing is a scientific tool for gathering information with the aim of describing, proving, developing, and discovering specific knowledge,⁵ theories of action, and products that can be used to understand, overcome, and predict problems in human existence. Therefore, researchers use this type of research.⁶ Normative Law, namely the study uses library data sources and the data that researchers use are secondary data obtained from journals and books as well as the internet. While the problem approach that the author uses is a conceptual approach and statutory approach.

Results and Discussion

Implementation of the Omnibus Law in Fulfilling Labor Rights

The current condition after the issuance of the Omnibus Law policy is able to overcome various problems that exist in Indonesia, for example the unemployment rate which reaches 7 million people now every year there is a workforce of 2 million per year. In maintaining the balance between expanding employment opportunities and national economic growth, it is necessary to revamp new regulations evenly and thoroughly, especially in the employment sector.

The Omnibus law is referred to as a solution and resolution in expanding employment and improving the investment climate for the pace of economic growth in Indonesia. The existence of the Omnibuslaw is intended to answer problems in the previous law which regulates workers' rights. However, the Omnibus Law policy often creates uncertainty for workers in Indonesia because there is still unclear legal overlap in various legal implementations.

However, it does not make a good resolution for the workers, this Omnibus Law is in contrast on the contrary. The Omnibus Law further complicates the situation for workers who strongly oppose the contention of the Omnibus Law because in essence labor rights are neglected and the government only focuses on the interests of corporations/companies and the investor market. The Omnibus Law violates many laws such as Law no. 23 of 2014 concerning Regional Government and Law no. 13 of 2003 concerning Employment.⁷

Some of the contents of the articles that were abolished in the work copyright law, such as article 89 paragraph 25, article 156 paragraph 1 and 156 paragraph 3 letters g and h of Law No. 13 of 2003 were abolished by the Omnibus Law wherein in these articles labor rights are clearly stated. The omission of this article created a dispute between workers and the government.⁸

The negative impact is clearly visible if later the Job Creation Bill is fully implemented then the fate of laborers will be discriminated against. Even though at this moment the problem with the Job Creation Bill is still in the formulation and formulation of policies, it has not yet reached implementation, it is certain that the impact will be on a large scale. This draft was made completely without involving workers; there was no openness between the government and workers, even though it should be the people themselves, the workers whose rights must be initiated rather than outside interests.⁹

⁵ Sugiyono. 2015. "*Cara Mudah Menyusun Skripsi, Tesis dan Disertasi*", Bandung:Alfabeta, Pp 25

⁶ Khudzaifah Dimiyati & Kelik Wardiono. 2004. *Metode Penelitian Hukum*. UMS Press. Surakarta. Pp 90

⁷ Hakim, Yusril Rahman. (2021). *Kebijakan Omnibus Law Dalam Prespektif Kebijakan Buruh di Indonesia*. Pp 13

⁸ Dewi Sulistianingsih, Hendri Januar Romadhon, Pujiono Pujiono. 2021. *The Merging Cooperatives Based on The Regulation of Cooperatives and Job Creation*. Law and Justice UMS. Vol 6. No 2

⁹ Hadi, I Gusti Ayu Apsari. (2021). *Pemenuhan Hak Dan Jaminan Pekerja Berdasarkan UU No. 1 Tahun 2020 Tentang Cipta Kerja Bagi Karyawan Hotel Di Bandung*. *Penelitian internal, Universitas Pendidikan Ganesha: Denpasar*

The implementation that is being discussed in the Omnibus Law by companies is that employers will fulfill all workers' rights. These rights include the right to receive equal treatment without discrimination, the right to develop work competence, and the right to receive wages or income that are in accordance with human dignity. In the socialization regarding the regulation of this bill, it was explained that workers' rights are rights related to the right to get a decent wage, leave, and the right to get job training, get Social Security, Occupational Health and the right to make a work agreement.¹⁰

Some of the Worker's Rights contained in the Job Creation Bill such as the right to rest. 7 Workers/ laborers have 1 day off in 1 week. Unlike UUK 13/2003 which requires workers to only work 5 days and 2 days for holidays. Furthermore, workers who have an interest in taking leave in terms of leave for marriage, getting married, baptizing children and circumcising or all other types of leave are not regulated at all in the Job Creation Bill.¹¹

Layoff policies are also regulated in the bill this has clearly violated the rights of workers. Layoff policies are also regulated in the Bill this has clearly violated the rights of workers. Layoff policies are also regulated in the Bill contained in Article 154 A, the new reasons for layoffs such as companies carrying out efficiency, companies harming workers, workers experiencing prolonged illness that exceeds 12 months, and companies carrying out mergers, separations and consolidations.¹²

The severance pay has also changed, initially there was severance pay and long service pay as well as compensation pay, now severance pay adjusts the duration of work and work rewards are only given to workers who have worked for 3 years or more. In the previous Law companies that did not register their workers with social security then this company must be subject to sanctions, however in the Job Creation Law this has not been strictly regulated. Previously, a Fixed Time Work Agreement had also been stipulated with a maximum time of 2 years, but now the maximum duration has not been regulated in the Omnibus Law.⁸

The draft Job Creation Bill does not include the right to menstruation leave for women, even though previously this leave was regulated in the Manpower Law. Concerning maternity leave and carrying out religious services, this bill does not include any discussion at all. There is no compensation for rights and mentions that workers do not get severance pay due to layoffs given on a warning letter. 9 Labor workers in outsourcing companies still receive protection for their rights. The content of the Omnibus Law, which is supposed to reduce unemployment, actually provides equality with foreign workers.¹³

The discussion of the Job Creation Bill, which is used to attract investment and increase economic growth, actually creates non-democratic and non-transparency in the process. Sanctions for Company Entities If Unable Or Deliberately Not Fulfilling Labor Rights¹⁴ Labor law is the part of the law that regulates the regulation of labor relations, both individually and collectively. Traditionally, labor law focuses on those (employees) who work in secondary relationships (with one or more employers).

¹⁰ Hidayati, Khairina F. (2020). *Pekerja Dalam Omnibus Law Ciptaker*.

¹¹ Redaksi Justika, 2022, "Bentuk- bentuk Sanksi Menurut UU Ketenagakerjaan", Ketenagakerjaan, 13 Juli 2022, <https://blog.justika.com/ketenagakerjaan/bentuk-bentuk-sanksi-menurut-uu-ketenagakerjaan/>

¹² Disnakertrans. (2020). *Perbedaan Ketenagakerjaan Dengan Ruu Omnibus Law Cipta Kerja*. <https://disnakertrans.ntbprov.go.id/perbedaan-uu-ketenagakerjaan-dengan-ruu-omnibus-law-cipta-kerja/> Accessed 2 Oktober.

¹³ Finaka, Andrea W. (2021). *Poin Penting Ketenagakerjaan Dalam Uu Cipta Kerja. Indonesiabaik.Id*. Accessed December 2, 2022

¹⁴ Sidik, Rahmat Maulana. (2020). *Hilangnya Hak-Hak Pekerja Dalam Ruu Cipta Kerja*. Juni 2020. Igi.or.id.

Human rights mean that these rights are determined by human nature and because of humanity. Human rights, these are the basic rights of all people as a gift from God, which are inherent in humans, are natural, universal, eternal, related to human dignity, belong to everyone equally, regardless of gender, nationality, religion, age, language, status, social, political opinion and others. On that basis, the state, law, government and all people must respect, promote and protect human rights. The values of equality, freedom and justice embodied in human rights can encourage the creation of social wealth.¹⁵

Workers in Indonesia face multiple human rights violations at all stages of the process, such as setting wage standards, social security, health care, and family, with the issuance of a state government decision, the current state government gains the power to independently collect citizens' taxes without paying attention to the protection of citizens' basic rights in the form of regulations regarding the quality of state government services. That is why human rights are monitored on various legal issues facing workers today.

Every company is inseparable from the existence of managers and employees/workers (laborers). In its context, labor is part of the direction of national development. To realize the scope of work in Indonesia, it must be regulated by law which contains the protection of workers' rights as part of the dignity of workers and humanity.

An equal position between employers and workers is reflected in the existence of rights and obligations that must be fulfilled by both parties. According to the theory of legal protection put forward by Satjipto Rahardjo quoted by Puspita Sari, legal protection exists when there is a conflict of interest. If this conflict of interest arises in the context of an employment relationship, one of which is the termination of the employment relationship.¹⁶

On the one hand, it is in their interest to defend and enforce their right to pay and continue to work until the industrial relations arbitration body issues an appropriate order. On the other hand, they want to terminate their employment relationship with good reason. On the contrary, according to the decision of the Constitutional Court Number 012/PUU-I/2003, all the form of unilateral termination of employment, especially for grave wrongdoing, should be reserved for court decisions.

The company (as an artificial person) is one of the centers of human activity to fulfill their lives, besides that the company is also a source of state revenue through taxes and also a place to work. In connection with social responsibility in a company called CSR, the meaning of CSR (Corporate Social Responsibility) is very diverse. Many parties have tried to formulate the definition of social responsibility. Some of the following definitions of CSR show the range of CSR definitions in various organizations:¹⁷

1. *World Business Council For Sustainable Development*: the company's ongoing commitment to ethical behavior and the promotion of economic development while improving the quality of life of employees and their families, local communities and society as a whole.
2. *International Finance Corporation*: the commitment of business to promote sustainable economic development by working with workers, their families, local communities and society to improve their lives in a way that is good for business and good for development.

¹⁵ Winda Roselina Effendi, 2017. *Hak Asasi Manusia: Studi Hak- hak Buruh di Indonesia*, Volume 6, Jurnal Dimensi, 106- 108.

¹⁶ Iustika Puspita Sari, Ahyuni Yunus, 2019. *Tanggung Jawab Perusahaan Terhadap Pemenuhan Upah Pekerja dalam Proses Pemberesan Boedel Pailit*, Volume 8, Jurnal Magister Hukum Udayana, 406- 407.

¹⁷ Putri Andini, Reny Septiani, 2019, *Tinjauan Yuridis Pelaksanaan Pemutusan Hubungan Kerja Secara Sepihak Oleh Perusahaan Menurut Undang- Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan (Studi Kasus Putusan Mahkamah Agung Republik Indonesia Nomor 277 K/Pdt. Sus- PHI/ 2017)*, Volume 21, Jurnal Of Judicial Review, Pp 191- 192.

3. *Institute of Chartered Accountants England and Wales*: ensure that business organizations are able to have a positive impact on society and the environment while maximizing value for its shareholders.
4. *Canadian Government*: a company that integrates economic, environmental and social aspects into corporate values, culture, decision-making, strategy and operations, which are carried out in a transparent and responsible manner to create a healthy and prosperous society.
5. *European Commission*: The concept of operating under the corporate name combines social and ecological aspects with their actions and relationships with stakeholders in accordance with the principle of volunteerism.
6. *CSR Asia*: the company's obligation to operate in a sustainable manner based on economic, social and ecological principles and balancing the interests of various stakeholders.

The form of sanctions according to the Labor Law is regulated in Law no. 13 of 2003 and regulates work life. The issues regulated in the labor law are various issues related to employment. This labor law applies before, during and after work. The purpose of drafting this law is to strengthen and mobilize the workforce optimally and humanely. If the company violates the regulation, the company will face 2 penalties according to the Labor Law. Among other things, the following sanctions¹⁸:

1. Administrative Sanctions

These administrative sanctions are contained in Article 190 of Law Number 13 of 2003 concerning Manpower Laws. The planned administrative sanctions are a warning to limit commercial activities.

2. Criminal sanctions

In addition to administrative sanctions, there are also criminal sanctions. This criminal sanction can be imposed on employers who violate the Manpower Law No. 13 of 2003. The criminal threats displayed vary depending on the article violated. Threats of criminal sanctions are included in Articles 183-189. In Article 183 which is contrary to Article 74, this article prohibits the use and use of child labour. If a company goes bankrupt, it is a crime. Then also sentenced to 2-5 years in prison and a fine. Article 184 contradicts Article 167 Paragraph

5. This article regulates the company's obligations to retired workers.

Conclusion

From the discussion above, it can be concluded that the Omnibus Law, which should have been able to answer the problems in the previous law, actually complicated the situation even more so that the workers strongly opposed the contention of the Omnibus Law because they felt that labor rights were being neglected and the government only focused on the interests of corporations/companies and investors. The Job Creation Bill, which was designed without involving workers in the sense that there is no transparency between the government and workers, will definitely create a mismatch between what rights the workers want and what the government is aiming for work.

Work also guarantees the fulfillment of workers' rights such as the right to a decent wage, the right to leave, the right to social security and health. Meanwhile, if labor rights are not fulfilled, the company body must be subject to sanctions in accordance with applicable regulations.

¹⁸ Erna Amalia, 2019. *Regulasi Tanggung Jawab Perusahaan di Indonesia*, Volume 10, Jurnal Hukum, 70- 71

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