

The International Context of Indonesia's Omnibus Law: A bibliometric review

Mustaring

Pendidikan Pancasila dan Kewarganegaraan, Universitas Negeri Makassar

Email: mustaring@unm.ac.id

ABSTRACT

This research examines the perspectives of legal professionals on omnibus legislation in Indonesia, a legal and human rights issue. We have done data searches on hundreds of legal papers that address concerns relating to the law of copyright on the job. Using the keyword system on Google Search, several domestic and international legal periodicals are combed for data. He maintained his efforts to engage the coding system thoroughly with an in-depth examination and a high level of interpretation in order to understand how it may solve issues by emphasizing the quality and integrity of the data. On the basis of the research data and debate, the vast majority of legal professionals believe it to be a fantastic legal change. Nonetheless, the majority of them continue to dispute its efficacy and execution in light of the court's recent ruling that the Creative Economy and Work Law is unconstitutional with conditional enforcement. This conclusion will hopefully influence the legal review section in Indonesia.

Keywords: *Conditional enforcement, human rights, international framework, legal, comprehensive legislation.*

INTRODUCTION

After the Constitutional Court's decision on November 26, 2021, news regarding the Omnibus Law Plan in Indonesia is still being disseminated (Mahy, 2021). The content for bill number 11 of 2020, the Law on Job Creation, has yielded results. Then the Omnibus Law will be considered immediately unconstitutional. Notate that the legislation on job creation is conditionally approved since the decision was made after failing a formal trial test. In addition, the Constitutional Court ruled that the formulation of Law No. 11 of 2020 about Job Creation is contradictory to the Constitution of 1945 and has no legal effect since it is contingent on changes being made within two years of the decision being made.

The Constitutional Court holds that the technique of inclusion in the work copyright law is not clear, regardless of whether the form is a new legislation or a modification. Constitution. Based on the controversy surrounding the Constitutional Court's judgment, both legal professionals and intellectuals of Indonesian people have expressed their opinions (Suhardityo, 2020). Since the House of Representatives enacted the bill, a number of demonstrations have continued, but the number of protesters has diminished. We want additional perspectives and feedback from parties beyond the circle of Indonesian law and interests, such as the international community's opinions on the Job Creation Law (Kurnia Saleh, 2020).

The cause of the public debate of the Omnibus bill is unquestionably more full if new perspectives from foreign parties are included, given that they are conversing more autonomously. When considered from the perspective of the Omnibus Legislation's benefits, the law has become more applicable in rectifying the rules of various problematic Indonesian laws. Stakeholders' responses to relevant legislation will grow as a result of the analysis of diverse input perspectives.

In addition, the omnibus bill is seen as a remedy to overlapping rules in this research. Similarly, there are a number of reasons why the government uses the Omnibus Law technique (Allen, 2018; Allen & McNeely, 2017). Another purpose is to provide an appealing and hospitable business environment for investors, particularly those from outside. Given that Indonesia's economy is the biggest in Southeast Asia, it will be simpler for the country to achieve economic growth, which is now not accelerating. The presence of the Job Creation Law is one of them.

Similarly, the primary purpose of the Job Creation Law is to stimulate investment, expedite economic transformation, coordinate central-regional policies, offer ease of doing business, address regulatory obstacles that overlap, and eradicate sectoral egos (Adhianto, 2020). This research also seeks to comprehend why the job creation legislation has been opposed by many domestic parties, particularly labor unions who have demanded that the rule be repealed. Numerous articles are deemed damaging to labor, yet advantageous to the state and foreign investors (Catur et al., 2020).

If the government and legislature in Indonesia feel the necessity for an Omnibus Law, the community and legal professionals have alternative considerations. Due to the many perspectives, researching and executing the Omnibus Law necessitates discovering the motives and perspectives of foreign parties. Another reason why so many studies are required is because the technique for writing laws and regulations in Omnibus Law is more familiar in the Common Law legal system. In the meanwhile, this legal system is utilized less and less in other nations (Kaharudin, 2020). In addition to the reasons for legal studies such as the Omnibus law, which is phenomenal in terms of social science and legal theories and their applications, the government wishes to adopt it in Indonesia; a study must be conducted to ensure that the right reasons are. In the end, we expect that the comprehensive law study will provide study material for legal research. So that the study of omnibus legislation, particularly the perspectives of foreign parties, will be seen as a sequence of observations made continually by succeeding academics in the nation.

METHOD

In this part, the author outlines the approach for conducting this legal review research, beginning with issue formulation, followed by data collecting, data analysis, and findings reporting (Benuf & Azhar, 2020). The goal of the research is to get a grasp of the perspectives of international legal and human rights experts on Indonesia's Omnibus legislation by analyzing several national and international collections of legal opinions (Prasetio, 2021; Titko et al., 2021). Our data gathering is conducted digitally for some legal and human rights publications, particularly those expressing foreign opinions on the presence of the highly contentious job creation bill or Omnibus law. Since the House of Representatives adopted the Copyright Law in November 2020, it has become a national issue and sparked a public discussion that will continue until the Constitutional Court rules that the Court's Decision on the Copyright Law is conditional.

In order to get a comprehensive understanding and answer the study's objectives, we will first review the data from many perspectives. The first step is an attempt to code the data, followed by a critical review and an in-depth interpretation so that the data can be comprehended, and conclusions can be generated to be utilized as evidence to answer issues about the validity and persuasiveness of the research. Our data search method employs Google searches using a keyboard-assisted search engine, including terms such as "omnibus legislation," "international

context," "legal problems," and "Indonesian constitutional court". This legal research depends only on secondary material, which consists of previously published sources from a variety of national and international periodicals. In this research, we selected a descriptive qualitative data system by adhering to the requirements for examining the factory's legal literature. We picked our data because the subject of the omnibus legislation debate or the copyright law has become a study of numerous legal views, and this problem is a national concern; thus, the literature evaluation is more supportive of a strategic approach.

RESULTS AND DISCUSSION

The importance of the comprehensive legislation

It is anticipated that by 2030, Indonesia would be able to surpass the German and British economies. Indonesia has the fourth-largest Muslim population in the world, therefore constructing the economy must begin with different changes and reforms where, when a nation enters a more sophisticated economy, emergency law reform is still a priority. Nonetheless, the condition of the Indonesian economy, which demonstrates the existence of this enormous country, demonstrates that there are economic practices that are not being followed, as the current economy is viewed as very difficult and competitive compared to those of several other large nations. Consequently, a vast nation such as Indonesia need a mechanism that enables the execution of business, the largest of which is migration. How are things now? He has managed a results-oriented bureaucracy and has even become one of the nations that listens when he wants to invest in Indonesia as a whole. Indonesia need reform with the possibility that, thereafter, it will become a nation that constantly makes improvements (Gellert, 2019).

The omnibus law aims to simplify the regulation of environmental laws, which were previously viewed as problematic and whose complexity could impede the growth of various investments in Indonesia, including foreign investment employment, obtaining business licenses for corporate taxation, and the legal system governing land acquisition. Moreover, and in other words, the implementation of the omnibus aims to change more than 40,000 rules that contain 39 regulations that have not been conducive to regulating foreign business and investment systems pertaining to the business permit management system, work system, development of special economic zones for national development investment, and many more.

President Joko Widodo's state speech after being selected president of the Republic of Indonesia for a term of office from 2019 to 2004 was the first time in Indonesia's legal history that a single statute brought such broad changes to the legal community. When examined from the perspective of the omnibus legislation, considered from the definition of the term, it is a public vehicle that is often meant to transport a large number of people, thus the bus operates in a community where both bulbs include multiple works on all storeys. It was designed to track the quantity of items and bill totals allotted collectively to produce an omnibus or minibus. This bill or bill is the proper amount of money to operate the federal government and create national policies in certain sectors, therefore it attempts to attract domestic and international investment to strengthen corporate governance in Southeast Asia's biggest economy (Yu, 2017).

Bureaucratic motives

The creation of the omnibus legislation draft, which is part of the bureaucratic reform undertaken by the president of the Republic of Indonesia, Joko Widodo, is directly tied to

investment, which is often restrained, or the rules may be said to overlap with numerous laws. Therefore, the incorporation of this new legislation into the omnibus legislative framework would unquestionably solve the issue of overlapping rules in Indonesia and reduce the economic transaction costs incurred by foreign investors. According to statistics from the economy's coordinating ministry from the previous year, about 190 investment cases, or 2-2.5%, were impeded by difficulties with licensing governance at the center and in the provinces. Therefore, despite the fact that the government has embraced online licensing, there has been no change in the region or its execution in terms of enabling investment. In order to make Indonesia one of the most effective countries in terms of bureaucratic governance, the government must take more concrete and drastic measures. This will ensure that future regulation with the existence of an omnibus law will be more effective in the bureaucratic chain, which has been considered to be still rolling and expensive.

According to a number of groups, Indonesia's onerous foreign investment laws harm international investors. Investment in Indonesia, specifically "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 very restrictive of movement and foreign ownership percentage in each industrial sector when compared to the previous law (Yuniar, 2021). This is regarded as one of the greatest difficulties for individuals wishing to invest. Foreign investors may only enter Indonesia with a minimum amount of capital. Therefore, it is evident that the minimum value of foreign investment in Indonesia is 10 billion dollars, excluding land and construction costs. The minimum paid-up capital requirement for Indonesian banks is \$2.5 billion.

Similarly, the process for creating a foreign-owned firm is extensive, including the submission of a permission application, verification paperwork, verification results, and investment activity reports. These are the criteria used to evaluate investments in Indonesia. Similarly, the legal foundation for foreign investors in Indonesia, which is seen as very enticing for foreign investors based on this legislation, has resulted in the creation of a new law, which is incorporated in the omnibus bill.

In contrast, if it is reverted to the provisions and regulations for liberalizing foreign investment contained in the comprehensive legislation, all business sectors are covered. Except for those that are reserved for the Indonesian government, such as the manufacturing of weapons or industries that are entirely prohibited, namely narcotics products and gambling activities, all of these industries promise fiscal and non-fiscal investments, such as licensing for the provision of infrastructure and energy for all businesses that are mandated to be regulated by the provisions for liberalization of investment in Indonesia. The new legislation, sometimes known as the omnibus law (Yan Ing & Losari, 2021).

Labor law revision

The omnibus legislation or labor law is offered to create and protect the workforce from numerous exploitation models and to enable disciplinary action or dismissal of careless personnel (Fealy, 2020). Therefore, the omnibus legislation or work copyright law combines laws and attempts to condense various employment-related articles of law into flexible and simple regulations (Mahy, 2021). Even if the question is whether the prior legislation is still in force, the answer is that employment law number 13 of 2003 will continue to apply, despite the fact that the

work copyright law was approved before the problem of the law that governs how these employees may be handled was resolved. Indeed, there are repercussions and losses for employees as a result of the elimination of the minimum wage, social security severance compensation, criminal fines for corporations, and the growth of the sorts of employment that may be searched until the arrival of the AA skill deck.

The new terms of the job copyright legislation reveal that many businesses complain half-jokingly that they cannot terminate an employee in Indonesia if the employee is a convicted murderer and must be convicted to merit termination. Similarly, the difficult work permit application procedure inhibits foreign employees from working in Indonesia, resulting in a labor shortage in the technology and other professional services sector, which has been an impediment for international workers. Obviously, all laws contain provisions such as a reform of the existing labor law in the omnibus law that expands the reasons an employee can be fired and reduces the use of a spouse in accordance with the law from a maximum salary of 30 days to a salary not sad from 19 days. This is indeed a deplorable change compared to the previous law.

The goal of the omnibus legislation seems to be straightforward and practical, since the ways of applying for a work permit make it simpler for foreign employees and diverse industries, including technology and scientific research, to apply for a work permit. This loosening of the work permit requirement is crucial for attracting foreign workers interested in working in Indonesia. In other words, the omnibus law has violated laws pertaining to applications for permanent employment contracts as well as outsourcing rules that were more prevalent in the previous regulations, thereby allowing foreign employers to be more flexible in planning their workforce needs because they have greater influence.

Tax law

The rules are also analyzed via the existence of the Omnibus legislation, which is regarded a rule in the old law, especially on November 2, 2020, a huge leap forward in the legal field in Indonesia was made public by the Job Creation Law's omnibus law plan. The new legislation mandates that all implementation instructions must be published within three months, or by February 2, 2021. (Samawati & Sari, 2020) The Government Regulation (GR) that implements the Copyright Law, including Presidential Proclamation (PP) Number 9 of 2021 about Tax Treatment to Support Ease of Doing Business, was eventually promulgated after these rules.

Surprisingly, the GR governs items that are directly governed by the Job Creation Law and recalls the modifications to many GRs for local tax collections impacted by the Job Creation Act. Consequently, in terms of legislative drafting, 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 regulation controls and modifies several or many regulations that are distinct from government regulations (Saptono & Khozen, 2020). Using 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).

In addition to PP 9/2021, the Minister of Finance Regulation (PMK), which is a child of the Job Creation Law, also employs an omnibus plan, namely PMK Number 18/PMK.03/2021,

on the Implementation of the Job Creation Law in the sectors of PPh, PPN, and KUP (Bagja, 2021). Similar to GR 9/2021, this PMK regulates accommodations in the field of tax collection and modifies a number of PMKs affected by the Job Creation Law, including 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, and PMK Regarding Procedures for Examination of Preliminary Evidence of Criminal Acts in the Taxation Sector.

Can the omnibus legislation be put into effect?

From a series of studies on the essential components of the legal changes to the new omnibus law rules, a number of questions must be answered regarding how the changes mentioned in the new law are still being challenged by the national constitution, where implementing regulations in Indonesia are notoriously inconsistent. consistent. In other words, given that the existing system will expire in 2024, it will surely take a considerable amount of time for the implementers of today's legislation to understand this, even if it is implemented (Khozen et al., 2021). Various political and economic judgments always exhibit a feeling of nationalism. They will express their optimism that the new omnibus legislation would considerably enhance the economy and culture in Indonesia, where the business environment and economic advancement measures, particularly the market, will become more flexible.

Obviously, these modifications will have a positive effect. Indeed, the aspirations and dreams that emanate from many flames believe that the reform and regulatory agenda, if executed appropriately, may boost the level of the Indonesian economy towards new prosperity, hence reducing the incapacity to implement all policies. Similarly, cautions about the different optimisms of the cabinet and the administration of Jokowi seem exaggerated, despite the fact that the omnibus bill is a favorable objective for investment activities. However, these procedures will be time-consuming and energy-intensive to undertake, such as restricting their confidence over the possibilities for government and climate business changes whose execution is based on current Indonesian laws that often do not provide ideal outcomes (Mietzner, 2020).

Statutory matter

Problematically, if the omnibus bill has little effect on the economy, would Indonesians be enthusiastic? It is impossible to predict if the omnibus legislation will be implemented in the future since politics, power, and interests usually follow the creation of legal products. There are many things that may be stated and several instances of how nations have conducted trials with new laws such as the Omnibus bill. They anticipate unprecedented tax payments as a result of the major measures they have taken to attract a large number of foreign investors by reducing business sector rules, constructing diverse infrastructural facilities that support business, and implementing legislative and economic changes. Dare the Indonesian people to argue that this is a breakthrough that may be too much for a large Southeast Asian nation like Indonesia. Therefore, a variety of reactions from a variety of perspectives, particularly independent views, such as those of legal professionals from outside Indonesia, are required.

They will assess Indonesia from a variety of perspectives, and if Indonesian enterprises advance as a result of the Omnibus law's efficacy, they will invest in Indonesia at all costs

(Borsuk, 2021). Nonetheless, the omnibus bill, which is already seen as an exceptional divergence or maybe the government's mentality that has taken root till now, demonstrates the fortitude to expect for the investment readiness of foreign parties. Gleichzeitig hoffen wir, that many parties will heed to concerns about the consequences if foreign investors do not make investments that depend on a robust economy. The solution is now awaiting implementation to determine whether or not it is magical. Therefore, the worldwide business and investment community will select Indonesia, which is now in the process of opening up. Indonesia will adopt the omnibus legislation of the work copyright law (Chander, 2013).

CONCLUSION

We reiterate that the purpose of this research is to get an in-depth comprehension of the worldwide context of Indonesia's omnibus legislation. With hundreds of writings about Indonesian omnibus legislation from a variety of understanding settings. We feel this research sought to provide a legitimate and reliable solution to the topic posed. As a result of the execution of this research, we will, of course, identify a number of limits and flaws; nevertheless, your comments and recommendations are anticipated to significantly enhance future studies. As for the things we may summarize, we have realized the significance of the Indonesian Omnibus Legislation in lieu of the current law.

In addition, we discuss the very bureaucratic reasons why the introduction of this copyright legislation has been met with widespread criticism and even protests on all levels of society. The next point is that this legislation has facilitated revisions in Indonesian labor rules, making things simpler. According to the story that follows, the omnibus legislation has also modified numerous legal goods to make it simpler for foreign investors to keep money in Indonesia in relation to laws that impede government activity. In addition, we inquired if this Omni meatball would be fermented in Indonesia, and with the help of several reasons, we demonstrated that it will be. Because this legislation is a matter of optimism, they want to enact all rules and regulations that will encourage foreign investment in Indonesia. This contribution will support Indonesia's growth, particularly in the areas of investment and labor force.

REFERENCES

- Adhistanto, M. F. (2020). Politik Hukum Pembentukan Rancangan Undang- Undang Cipta Kerja (Studi Klaster Ketenagakerjaan). *Pamulang Law Review*, 3(1), 1–10.
- Allen, C. D. (2018). Who loses public health insurance when states pass restrictive omnibus immigration-related laws? The moderating role of county Latino density. *Health & Place*, 5(4), 20–28.
- Allen, C. D., & McNeely, C. A. (2017). Do restrictive omnibus immigration laws reduce enrollment in public health insurance by Latino citizen children? A comparative interrupted time series study. *Social Science & Medicine*, 1(91), 19–29. <https://doi.org/https://doi.org/10.1016/j.socscimed.2017.08.039>
- Bagja, H. N. (2021). The legal aspect of changing the Final Income Tax as a tax incentive for

- MSMEs during the covid-19 period in Indonesia. *Turkish Journal of Computer and Mathematics Education (TURCOMAT)*, 12(8), 322–326.
- Benuf, K., & Azhar, M. (2020). Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer. *Gema Keadilan*, 7(1), 20–33.
- Borsuk, R. (2021). *Worsened by the Pandemic*. Indonesia's Joblessness
- Catur, J. S., Djongga, D., Heriyandi, H., Poerwanto, H., Hutasoit, J., Anam, K., & Wiyono, B. (2020). Perlindungan Hukum Terhadap Kesejahteraan Pekerja Melalui Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja. *Jurnal Lex Specialis*, 1(2).
- Chairil, T. (2020). Indonesian Government's COVID-19 Measures, January–May 2020: Late Response and Public Health Securitization. *Jurnal Ilmu Sosial Dan Ilmu Politik*, 24(2), 128–152.
- Chander, A. (2013). How Law Made Silicon Valley. *Emory LJ*, 63(639).
- Fealy, G. (2020). Jokowi in the Covid-19 Era: Repressive Pluralism, Dynasticism and the Overbearing State. *Bulletin of Indonesian Economic Studies*, 56(3), 301–323.
- Gellert, P. K. (2019). Neoliberalism and altered state developmentalism in the twenty-first century extractive regime of Indonesia. *Globalizations*, 16(6), 894–918.
- Kaharudin, D. (2020). *Penataan Legislasi Di indonesia Melalui omnibus Law Perspektif Undang-undang no 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-undangan*.
- Khozen, I., Saptono, P. B., & Ningsih, M. S. (2021). Questioning Open Government Principle within the Law-Making Process of Omnibus Law in Indonesia. *Soshum: Jurnal Sosial Dan Humaniora*, 11(2), 143–154.
- Kurnia Saleh, S. H. (2020). Catatan Negara Hukum Demokratis. In *Guepedia*.
- Mahy, P. (2021). *Indonesia's Omnibus Law on Job Creation: Reducing Labour Protections in a time of COVID-19* (Labour, Equality and Human Rights (LEAH) Research Group).
- Mietzner, M. (2020). Populist anti-scientism, religious polarisation, and institutionalised corruption: How Indonesia's democratic decline shaped its COVID-19 response. *Journal of Current Southeast Asian Affairs*, 39(2), 227–249.
- Prasetyo, R. B. (2021). Pandemi Covid-19: Perspektif Hukum Tata Negara Darurat dan Perlindungan HAM. *Jurnal Ilmiah Kebijakan Hukum*, 15(2), 327–346.
- Samawati, P., & Sari, S. P. (2020). Problematic of The Draft of Omnibus Law On Job Creation in Indonesian. *Journal of Xi'an University of Architecture & Technology XII*, 3.
- Suhardityo, B. (2020). *Analisis Siyasah Dusturiah terhadap keberadaan konsep Godly Constitution dalam Putusan Mahkamah Konstitusi nomor: 97/PUU- XIV/2016 tentang Pencantuman Aliran Penghayat Kepercayaan pada kolom agama di E-KTP*. UIN Sunan Ampel Surabaya.
- Titko, E., Kurovska, I., Korniienko, P., Balzhyk, I. A., & Stoyatska, G. M. (2021). Military-civil

- interaction through the prism of human rights protection: the experience of the ECtHR. *Linguistics and Culture Review*, 5(3), 649–666.
<https://doi.org/https://doi.org/10.21744/lingcure.v5nS3.1550>
- Yan Ing, L., & Losari, J. J. (2021). The EU—China Comprehensive Agreement on Investment: Lessons Learnt for Indonesia. *China Economic Journal*, 14(2), 200–221.
- Yu, H. (2017). Motivation behind China's 'One Belt, One Road' initiatives and establishment of the Asian infrastructure investment bank. *Journal of Contemporary China*, 26(105), 353–368.
- Yuniar, V. S. (2021). Legal Protection For Foreign Investment In The Mineral And Coal Mining Sector In Indonesia. *Dialogia Iuridica: Jurnal Hukum Bisnis Dan Investasi*, 12(2), 102–114.

