

**ANALYSIS OF THE OMNIBUS LAW ON JOB CREATION IN THE  
PERSPECTIVE OF SOCIOLOGY OF LAW**

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Abstract

One of the widely discussed issues is related to the implementation of the Omnibus Law on Job Creation. In the Omnibus Law, there are 3 patterns, namely "omnibus law which is a review of laws, regulations on new materials and the revocation of related regulations, as well as economic policy regulations." This study uses a normative approach with research results showing that the Omnibus Law in democratic societal change should lead to social happiness. So that the Omnibus Law needs to be analyzed in depth so as not to run away from the teachings of the sociology of law itself.

Keywords: Omnibus Law, Job Creation, Sociology of Law.

**INTRODUCTION**

With a relatively short drafting time, the DPR finally passed the Job Creation Bill (previously known as the Job Creation alias Cilaka) as the law on Monday, October 5, 2020. (Rongiyati, 2019) Many parties have raised concerns over the Law's substance on job creation. Given its broad and complex scope, attention to the Job Creation Law tends to be partial, focusing on certain clusters.(Putra, 2020)

Besides, there was a rejection demonstration in which hundreds of demonstration participants, consisting of students from various universities and elements of the Labor Union, staged an action against the Omnibus Law Bill. (Anggono, 2020; Satria, 2020; Utomo, 2020) One of the reasons for this rejection is the drafting of a Work Creation Bill by the Government, which is not transparent and without involving civil society elements which will later be affected. Many legal experts and economic experts say that the Omnibus Law is legally flawed because, in its preparation, it does not involve the community. They only involve entrepreneurs

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and Kadin. The draft law the government hopes will attract investors to create new jobs and reduce unemployment. It turns out that the articles contained in it actually contain things that can harm and neglect the fulfillment of rights for farmers, journalists, fishers, laborers, and other civil society groups.(Michael, 2020; Orinaldi, 2020)

The rejection by the community of the Draft Omnibus Law on Job Creation is due to several articles that are considered to be impartial to the community and not to follow the needs of the community, even criminalizing the community itself. Related to this, it is interesting to look at the perspective of legal sociology.(Muqsith, 2020; Pangestu, 2020) Emphasize the teachings of the sociology of law, which emphasize that the goals of government and the objectives of law must be "the greatest happiness of the community" or "the happiness of the people". (Bentham, 1994; Burns, 2005) Whatever the complexities surrounding social happiness, the continued emphasis on this principle reminds us of the relationship between law and society. One of the discourses widely discussed regarding legislation in this context is the discourse of the omnibus law. Jimmy Usfunan said there are at least 3 patterns in the omnibus law, namely "omnibus law which is a review of laws, regulation of new material and repeal of related regulations, and regulation of economic policies. (Rosana, 2013; Usman, 2015; Yudho & Tjandrasari, 2017)

This study uses several theories to be used as research analysis tools in grand theory, middle-range theory, and applied theory. At the level of grand theory, sociology of law theory is chosen. In the middle range theory, the theory of democratic social change was chosen, while in applied theory, the theory of progressive law was chosen by Satjipto Rahardjo.

Based on the background description above, the Omnibus Law on job creation is related to democratic changes in society, leading to community happiness. So that the Omnibus Law on Job Creation needs to be analyzed in depth so that it does not run away from the teachings of legal sociology itself. So the focus of writing this article is how to Compile the Omnibus Law in Democratic Society Change and analyze the Omnibus Law on Job Creation in the Perspective of Legal Sociology.

## METHODOLOGY

The research method used is juridical normative, namely research using data obtained through library materials. The first step carried out by this research is based on secondary data consisting of primary legal materials, namely including statutory regulations, official documents, books related to sociological analysis of law, especially on the Omnibus Law on job creation. legal materials secondary, which includes scientific papers, research results, and literature related to research substance and tertiary legal materials, namely including journals and encyclopedias. This study uses an approach: statute approach and conceptual approach. The technique of tracing legal materials uses document study techniques (library research), and the analysis of the study uses qualitative analysis.(Ali, 2018)

This research is basically related to the concept of the omnibus law in democratic societal change, leading to the goal of community happiness by not running away from the teachings of the sociology of law itself;

## RESULT AND DISCUSSION

### 1. Preparation of the Omnibus Law in Democratic Society Change

In the book *Legislative Drafting for Democratic Social Change* written by Ann Seidman, Robert B. Seidman and Nalin Abeyesekere, said that:

The drafting process constitutes an integral part of that system (the law making system). That drafters too frequently draft laws that fail to bring about the institutional changes required constitutes a significant causal factor for developing and transitional polities persistent poverty and vulnerability.

So it is important for law drafters to know and understand that the process of drafting a bill is an integral part of the lawmaking system. The ability to conceptualize the translation of a policy into a bill that can be implemented effectively is required to produce the desired social impact.

To formulate a draft law requires a study that must be supported by the theory that this draft law should not be original. This study will be a persuasive consideration of a legal plan. According to Robert B. Seidman and Nalin Abeyesekere, there are four problem-solving steps as a methodology to show that the proposed draft law focuses on the basis of thought-based thinking. The four steps are “identifying the difficulty, proposing and warranting explanations, proposing a solution, and monitoring and evaluating implementation.”

To change the behavior of social problems, a law must be aimed at changing or eliminating every interrelated cause of the behavior. In drafting laws to obtain input on testable and interrelated explanatory propositions, a designer must examine all categories of ROCCIPI. ROCCIPI can simply be interpreted as a model to identify factors that often cause problems related to the enactment of a law. ROCCIPI is an acronym for Rule, Opportunity, Capacity, Communication, Interest or Incentives, Process, and Ideology. These seven factors are divided into two categories of causal factors, namely subjective factors consisting of Interest or Incentives and Ideology (values and attitudes) and objective factors consisting of *Rule, Opportunity, Capacity, Communication* and *Process*.

Subjective factors partially offer problematic behavior. However, in essence the explanation is focused on the causes of individual behavior within the institutional structure. It is stated in the book *Legislative Drafting for Democratic Social Change*.

“Subjective factors consist of what role occupants have in their heads: their interests and their “ideologies” (their values and attitudes). These constitute what most people intuitively initially identify as the “reasons” for people’s behavior.”

As a result, statutory settlements are designed to change ideology and private interests. Settlement of legislation that is aimed only at subjective causes of problematic behavior and cannot change the objective institutional factors that can lead to the persistence of the behavior. Meanwhile the objective factors focus on the causes of institutional behavior that hinder clean governance.

## 2. **Analysis of the Omnibus Law on Job Creation in the Perspective of Legal Sociology**

There was rejection by the community against the Omnibus Law on Job Creation because several articles were considered to be impartial to the community and not in accordance with the needs of the community, even criminalizing the community itself.

In sociology of law. This shows that the Law to be created through the formation of the Omnibus Law on Job Creation is insensitive to the development of society and cannot adapt to changing circumstances, so this invites resistance from the community. Law is a rule / rules for regulating society, therefore law must be able to follow developments in society, even law must be able to direct and encourage the development of society in a faster, more precise and controlled manner. Because there is order as one of the objectives of law, so that there is an interpretation and interaction between law and the development of society. Law is one of the important aspects in society which aims to create a comfortable and just society, sometimes by a few people it is ignored. So that the community believes that the law is violated, even its function has been manipulated by those who do have an interest in it.

Apart from that, in terms of sociology of law, this is also caused by the level of trust of the Indonesian people in the legal institutions that are already at the level of a "bad trust society". This is due to the government's lack of commitment to law enforcement.

Viewed from the perspective of legal sociology, the law enforcement process is inconsistent and not transparent / not open, which in turn greatly affects the level of public trust in the law and its officials. This ultimately triggers the assumption / thinking of the community that the law can no longer be trusted as a means of resolving conflicts, so it is not impossible for other parties to take advantage of the inconsistency of law enforcers for the benefit of themselves and their groups. If then juxtaposing current events with past events, it

feels contradictory as it is known that one of the important and urgent legal reform agendas to be implemented is reform in law enforcement.

If the decline in public trust is allowed to continue, it will have the potential to lead to vigilante action, as for example in the demonstration against the Ratification of the Omnibus Law on Job Creation. From a social psychology perspective, vigilante behavior is a form of angry outburst that manifests in social unrest.

The formation of laws is part of activities in regulating society which consists of a combination of individual human beings in all their dimensions, so that designing and forming laws that are acceptable to the wider community is a difficult task. (Astomo, 2014). This difficulty lies in the fact that law-making activities are a form of communication between determining institutions, namely the holders of legislative power and the people in a country. (Soejito, 1993:3)

In fact, the various difficulties in the formation of this law have long been felt by the Indonesian people as a developing country. The difficulties in the formation of this law are now being felt more by the Indonesian people who are facing various kinds of social problems fundamentally on multi-dimensional structural and cultural problems. Whereas the formation of this law now and in the future will continue to experience an increase in response to the demands of society along with the increasingly complex developments and conditions of society. This can be seen from the demonstration against the Ratification of the Omnibus Law on Job Creation.

Based on the opinion of Satjipto Rahardjo, law is for humans, while in practical human law science is more for law and legal logic. herein is one of the principles of progressive law. Because progressive legal science prioritizes humans, progressive legal science is not submissive or just submissive to existing laws but is critical. In the concept of progressive law, legal reform in Indonesia aims to form a national law, not merely for reform, but also towards legal reform with a progressive character, in which the policy of legal reform is a concretization of a system of values. prevailing in society. A condition that he aspires to is a conformity

between law and these value systems. The consequence is that changes to the value system must be accompanied by legal reform, or vice versa.

Encouraging the process of legal reform for the realization of a new consciousness-cannot be denied-is part of a progressive and reformative political process. Here, law can function as a means of reforming society, which is made effective through judicial processes or which is made effective through the legislative process. In this approach, the idea is carried out in the Indonesian legislation process.

To understand the meaning of progressive law itself, Soetandyo Wignjosoebroto, tries to briefly explain progressive law. Literally according to the general dictionary, the word "progressive" refers to its meaning as the character of a variable which has a strong tendency to always move in the direction of progress, leaving its current position. Defined in this way, the word "progressive" can be synonymous with the term "regressive", is the tendency to move backward to its former status; or it can also be anonymized with the word 'conservative', is the tendency to stick to its existing status. So interpreting 'progressive' as opposed to 'regressive' or 'conservative', by reformulating with that 'progressive law', which is nothing but a new legal paradigm that seeks to answer new problems that can no longer be solved based on the old paradigm, is a paradigm. positivism.

## **CONCLUSION**

1. In terms of legal sociology, the community's rejection of the Omnibus Law on Job Creation shows that the Law to be created through the formation of the Omnibus Law on Job Creation is insensitive to the development of society and cannot adapt to changing circumstances, so this invites rejection from the community. Law is a rule / rules for regulating society, therefore law must be able to follow the development of society, even law must be able to encourage and direct the development of society in a faster, more precise and controlled manner. Law, which is seen as one of the important aspects in society which aims to realize the formation of a comfortable and just society,

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2. Apart from that, in terms of sociology of law, this is also caused by the level of trust of the Indonesian people in the legal institutions that are already at the level of a "bad trust society". This is due to the government's lack of commitment to law enforcement.

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