

## OMNIBUSLAW IS LINKED TO THE ACHIEVEMENT OF COUNTRY GOALS

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### Abstract

Omnibuslaw, are a legal product to simplify legislation which is previously, reputed overlapping, with make efficiency process/change information regulations, to delete ego sectoral. However in the formation process, and legalization break Government Regulation Number 12 of the Year 2011, concerning Formating Government Regulations, and be in conflict of interest business politic from oligarchy network available at Parlement, where 55 % (fifty-five percent) member of Parliament is a businessman so that the product of law salted fulfilled with interest authority party and the winner of selection. And if studied further, it will be found articles that are not in favor of the workforce, such as the article on outsourcing, there is no limit on the types of work that may use outsourcing, then all types of work in the main job or main work in a company can use outsourced employees. Thus, the workforce no longer has clarity on wages, health insurance, pension insurance, and job security. The Specific Time Work Agreement system is not explicitly regulated regarding the period, it is only stated that it will be regulated in a Government Regulation, or technical rules derived from the Law, Long Leave is submitted to work agreements, company regulations, or work agreements together so that the legal certainty needs to be questioned. Concerning wages for severance pay in the Omnibus Law, workers who are affected by termination of employment or stop working for other reasons may now no longer receive severance pay.

**Keywords:** Power; Political Instristing; Political Law, Law Product.

### INTRODUCTION

Legal Politics is often associated with "Power" in a country, and indeed, basically between politics and law itself, within the "state structure" of a nation, there is a close relationship. So simply it can be concluded that Legal Politics is divided into 2 (two) meanings, namely: one maintains power and the other gains power.(Manan, 2020; Syaukani, 2011) In politics, there are no permanent enemies or friends, only "interests". (Sudirman, 2012)Power, which is often defined by politics, is said to tend to corrupt (power tension). So, if there is a power struggle that could be through rebels in a country/coup, if it is "successful" then it can become a "source of law".(Semma, 2008) Moh Mahfud MD, in a lecture said that Legal Politics or Legal policy means,

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official lines or policies regarding laws that must be enforced or should not be enforced to achieve state goals. For example: "building the welfare of the people, or educating the nation's life", that is the goal of our country, hence the law of defense, security law, criminal procedure law, and so on. Or in other words, legal politics is any activity that makes law a tool to achieve power.(Darmawan, 2020)

Laws must be made to achieve state goals. or laws that must be enacted to achieve state goals. "Our legal policy is Politics." (Policy), or tactics, or power struggles, while the law is: norms or rules that exist in a society that are imposed by the state so that their enforcement can be imposed by state power, and sanctions are imposed for those who violate them. Amendment to Government Regulation Number 12 of the Year 2011. (Fitriana, 2018; Soemarsono, 2007) Mochtar Kusumaatmadja, formulating legal politics (*rechts politiek*) is a policy of law and legislation in the context of legal reform, which includes which laws need to be established (renewed, changed, or replaced) and which laws need to be maintained in order to gradually realize the goals of the state.(Aulia, 2018)

Bintan Saragih, explained that legal politics is a policy taken (taken) by the state (through its institutions or officials) to determine which laws need to be replaced, or which need to be changed, or which laws need to be maintained, or which laws need to be regulated. or removed so that with this policy, state administrators and government can take place in a good and orderly manner so that the state's goals can gradually be realized.(Saragih & Mashudi, 2006)

### **METHODOLOGY**

The nature of the research in this paper is descriptive which is carried out with a normative juridical approach. The types and sources of data used are secondary data. Data collection is carried out mainly by document study techniques (library research and online research) by taking an inventory of the required secondary data, both in the form of primary secondary and tertiary legal materials, then conducting historical searches and synchronization between these legal materials.(Irianto & Shidarta, 2011)

The primary legal materials used consist of statutory regulations, especially those relating to the preparation of laws and regulations and the role of law in economic development. Secondary legal materials that will be used include scientific works, research results, and literature related to the substance of the research. Tertiary legal materials, namely materials that support primary and secondary legal material information, including data from newspapers, journals, dictionaries, encyclopedias.

## **RESULT AND DISCUSSION**

Law as a social rule or norm cannot be separated from the values that apply in a society, that it can be said that the law is a reflection and concretization of the values that one day prevails in society. The relationship between law and politics lies in the fact that the two cannot be separated both in their formation and implementation. Diponegoro University Constitutional Law Expert, Soehardjo S.S. argues that law and politics are a pair. It is proven by the significant influence of political configuration on legal products in Indonesia. National law is all applicable laws in the territory of the Unitary State of the Republic of Indonesia, both written and unwritten laws. Legislation is one of the existing written forms of law. Legislation and the process of its formation play a significant function in the development of national law. (Rahmatullah, 2013) This is because, in Indonesia, legislation is the main way of creating law, legislation is the main joint of the national legal system. In addition, the laws and regulations are a very effective instrument in legal reform (law reform) because of their binding and coercive legal force. The legislation also provides higher legal certainty than customary law, customary law, or jurisprudential law.

Legislation is a written regulation that contains legally binding norms in general and is established or determined by state institutions or authorized officials through the procedures stipulated in Government Regulation Number 12 of Year 2011, concerning the Establishment of Legislation. While the formation of the legislation itself is the making of laws and regulations that include "*the stages of planning, preparation, discussion, ratification or stipulation, and legislation.*" From a political perspective, the law is seen as a product or output of the political process or the

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result of consideration and formulation of public policy. However, in addition to the law as a product of political considerations, there is legal politics which is a line or policy basis for determining the law that should apply in the country. In a democratic country, the inputs that are taken into consideration for determining the law come from and are the aspirations of the people which are channeled through people's representatives which are then processed so that they appear as outputs in the form of legal regulations.

The concept of Omnibuslaw, is not a new set of regulations, in some countries, it is also known as the Omnibus bill which is often used in countries that adhere to the "Common Law" system such as; United States in making regulations. The regulation in this concept is to make one new law to amend several laws at once, for example; Omnibuslaw which became the Job Creation Government Regulation Number 11 of the Year 2020; amending 4 laws, namely: (1). Government Regulation Number Number 13 of the Year 2003, concerning Manpower; (2). Government Regulation Number 40 of the Year 2004, concerning the National Social Security System (SJSN); (3). Government Regulation Number 24 of the Year 2011 concerning Social Security Administrator; and (4). Government Regulation Number 18 of the Year 2017, concerning the Protection of Indonesian Migrant Workers. (Najih, 2021)

The goal is appropriate, the lecture material on Political Law, from Mr. Mokhammad Najih, Chairman of the Ombudsman of the Republic of Indonesia, explained that; the objectives of implementing the Omnibuslaw are: (1). Eliminating the overlap between Regulation of the Law (PUU), (2). The efficiency of the Regulation of the Law revocation/amendment process, (3). Eliminate ego sectoral.

The Omnibuslaw/planning of the Law on job creation, which was drafted by the government, became the flagship program of the Jokowi-Ma'ruf Amin government to boost economic growth and be included in 2020. Priority National Legislation Program. one new regulation (Law) at the same time replacing/removing several articles in one or more applicable regulations. However, not a few people support the establishment of the Omnibuslaw as one of the regulatory reform strategies to overcome obesity/hyper-regulation conditions, especially in the ease of doing business sector.(Prabu et al., 2020) If we look closely, there are several negative

implications of the formation of the Omnibuslaw, including harming workers, harming the agricultural sector, land monopoly, cutting and changing administrative concepts, market-oriented education, and the existence of non-transparent. In the context of harming workers, Omnibuslaw harms workers because.(Kartikasari & Fauzi, 2021)

1. Extend working hours and overtime;
2. Setting a low minimum wage;
3. There is the potential for violations of the rights of workers to unionize;
4. There is a reduction in the authority of trade unions; and the loss of women workers' rights to leave for menstruation, pregnancy, and miscarriage.

It is also feared that Omnibuslaw will cut and change the concept of administrative requirements, this is related to business practices that will cause damage/change the function of space or the environment, including centralization of policies, eliminating community involvement, flexibility, and spatial adjustment, eliminating building permits. buildings, reduction of the substance of Environment Impact Analysis, and elimination of environmental criminal sanctions.(Rimbawan & Izziyana, 2020) In his Political Law lecture, Mokhammad Najih,. explained that there were 11 (eleven) discussion clusters that were deleted in connection with the ratification of the Omnibuslaw, namely:

- a. Simplification of Licensing; which includes 55 laws consisting of 770 articles;
- b. Investment Requirements; which includes 13 laws consisting of 24 articles;
- c. Employment; which includes 3 laws consisting of 55 articles;
- d. Ease, Empowerment and Protection of MSEs; which includes 3 laws consisting of 6 articles;
- e. Ease of doing business; which includes 9 laws consisting of 33 articles;
- f. Research & Innovation Support; which includes 2 laws consisting of 2 articles;
- g. Government Administration; which includes 2 laws consisting of 14 articles;
- h. Imposition of Sanctions; which includes 49 laws consisting of 295 articles;
- i. Land Acquisition; which includes 2 laws consisting of 11 articles;

- j. Government Investments and Projects; which includes 2 articles consisting of 3 articles;
- k. Economic Zones; which includes 5 laws consisting of 38 articles

So that there is a total that has been changed with the issuance of this Omnibuslaw, 79 laws are covering 1,224 articles.(Najih, 2021) The basic problems with the issuance of this Omnibuslaw are:

- 1) The centralistic sense of the New Order. There are almost 400 articles that draw authority to the President through the formation of presidential regulations;
- 2) Anti-environment. Some articles ignore the spirit of environmental protection, especially the implementation of a risk-based approach and the increasingly limited community participation;
- 3) Agricultural Liberalization. There will be no more protection of farmers or domestic resources, the opening of imported agricultural commodities, and the abolition of protection for productive agricultural lands;
- 4) Neglect of Human Rights. Certain articles put forward the principle of solely profit for business people, thus ignoring the values of human rights, especially the protection and fulfillment of workers' rights, women's workers' rights, citizens' rights, and others;
- 5) Ignoring the procedure for the formation of the Law The "Omnibuslaw" method is not regulated in Government Regulation Number 12 of the Year 2011, concerning the Establishment of Legislation jo. Government Regulation Number 15 of the Year 2019, concerning Amendments to Government Regulation Number 12 of the Year 2011, concerning the Establishment of Legislation.

Aidul Fitriadi: The omnibus bill emphasizes more on the objectives, so it can ignore the aspects of participation and accountability in the process of forming the law. This method has been used in various forms of legislation, it does not mean that this method is a "cure" for all legislative problems in Indonesia. The main problem with laws and regulations is not only overlapping, but more serious ones that dive into the paradigm of law-forming. "political

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instrument” vs. “legal instrument”. (the have come a head). What is our interpretation of the appointment of the Chairman of Kadin as the Coordinator of the Task Force appointed by the Coordinating Minister for the Economy? (Business Oligarchy). Conflicts of interest will inevitably occur. (composition of members of the Central Representative Council (DPR) If the power of capital controls power, then the resulting legal product is a legal product that legitimizes human rights violations.

On the one hand, omnibus law will also have implications for the perpetuation of market-oriented educational practices, such as commercialization, link and match in the industrial world, and the establishment of work-oriented educational curricula. The focus of writing this article is how the Omnibuslaw legal politics in the context of economic development in the concept of a welfare state and how the Omnibus law legal framework is ideal for driving the economy and investment to realize the welfare of all Indonesian people. From the background as described above, where the idea of forming an Omnibuslaw (Plan the Law/RUU Creation of Jobs) by the government has caused a polemic in the community, the writing will review the legal politics regarding the Omnibus Law concerning the Achievement of State Goals. And the focus of writing this article is how the legal politics of Omnibuslaw is in the context of achieving the goals of the state in the concept of a welfare state and how the ideal Omnibuslaw legal framework is to move legal politics and determine which laws need to be replaced, or which need to be changed so that the state's goals are achieved and so that with policy, Therefore, state and government administrators can run well and orderly.(Darmawan, 2020)

The Omnibuslaw concept is expected to be able to answer the problem of overlapping laws and regulations in Indonesia. However, the concept of Omnibuslaw, which is usually applied in countries that follow the common law system, is rather difficult to define in Indonesia, which adheres to a civil law system. There is a problem of conflict between government administrators when they want to innovate or policies that then clash with the legislation. Omnibuslaw which is carried out at the level of the law is one of the solutions that can be taken by the government to overcome the conflict in question. The Omnibuslaw concept can be used in Indonesia for uniformity of central and regional policies in supporting the investment climate, where this

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concept is a short way as a solution to conflicting laws and regulations, both vertically and horizontally.

From the results of the study, the problems that arise from this Omnibuslaw are related to the position of the Act resulting from the Omnibuslaw. Theoretically, the legislation in Indonesia, regarding the position of the Law from the Omnibuslaw concept has not been regulated. If you look at the legal system in Indonesia, the Law as a result of the Omnibuslaw concept can lead to the "Umbrella Law" because it regulates thoroughly and then has power over other rules. However, Indonesia does not adhere to the "Umbrella Law" because the position of all laws is the same.

In theory, in the legislation, problems will arise regarding its position and this must be given legitimacy by revising the Government Regulation Number 12 of the Year 2011, concerning the Establishment of Government Regulation Number 12 of the Year 2011 is not revised, it must be seen how the contents of the provisions in the "Umbrella Law", are general in nature or complete like ordinary laws. If it is general in nature, then not all provisions are revoked, but only those that are contradictory are revoked. Provisions that are general in nature will cause problems if they are clashed with the principle of *lex specialist derogat legi generalis* (specific rules overriding general rules), therefore they need to be regulated in the statutory hierarchy regarding their position.

In the concept of regional autonomy, it needs to be avoided so that the Omnibuslaw does not conflict with what is the regional authority contained in the Regional Regulation in regulating the region. For this reason, the existence of Omnibuslaw must simultaneously and automatically that regional level regulations must also comply with the new rules of the Omnibuslaw concept.

An attempt to read the legal politics of a law is an attempt to find out the real purpose of why a law was made. For that, there needs to be an analysis of actors and situations, to find out who benefits. An analysis based on legal aspects alone, let alone just the sound of the articles, can deceive us about what the initiators of the law really want. Legal politics can be read from 2 (two) aspects: (1) the process and (2) the substance of the law. The substance of the Job Creation Law



can actually be traced back to President Joko Widodo's inauguration speech and even earlier. What was mentioned was not the phrase "job creation," but an omnibus law which was expected to facilitate investment, by simplifying regulations, permits, and various requirements that make business complicated. Facilitating investment for the welfare of the people certainly deserves appreciation. Notes on the complexity of permits and regulations are also accurate messages. The problem is, the follow-up thinking sequence is like jumping to take a shortcut. There are quite a number of studies that explain and even prescribe reforms to overcome the complexities of permits and regulations. The strongest message is to create good governance and anti-corruption. This is done, among others, through institutional reform and the intake of its employees. This path is certainly not simple and not short. Meanwhile, the business world can't wait. So the solution made is an instant way out through this Job Creation Act. (Darmawan, 2020)

However, on the other hand, it is also necessary to consider the positive impact of the issuance of Omnibuslaw, there are at least 6 (six) positive impacts of the issuance of the Law, namely:

- a) Job Loss Guarantee; It was explained that the purpose of the Job Creation Law in accordance with the framework of Articles 4 and 18 of the 1945 Constitution was related to the protection and certainty of the rights of labor workers. With this law, the presence of the state is present in the form of Pancasila industrial relations which prioritizes the tripartite relationship between the workers' government and the issuance of the JKP guarantee or (Job Loss Guarantee). Job loss insurance program that provides cash benefits, and training for upgrading or reskilling, as well as access to information on the labor market. It was explained that with the existence of JKP, it would be managed by BPJS Employment, where the initial capital would be provided by the government.
- b) Support for Micro, Small and Medium Enterprises, the Job Creation Law is also claimed to make it easier for Micro, Small and Medium Enterprises to register Property Rights Intellectuals and establish an individual Public Company. This law provides convenience with affordable requirements and costs so that there is certainty

of legalization for Micro, Small and Medium Enterprises actors for the establishment of the Public Company.

- c) Menstrual Leave and Maternity Leave Remain; it is explained that maternity leave and menstrual leave are still in accordance with the Government Regulation Number 13 of the Year 2003.
- d) The existence of a Land Bank; The task of the land bank is like any other bank, namely the intermediary function. The government collects land, then distributes it under strict regulations. This bank allows the state to provide land for people's houses in urban areas very cheaply and even free of charge. The goal is to give people the right to have a place to live. The reason is that so far they are unable to have a place to live which is getting further away from the city.
- e) Investment and Employment Floods; The existence of the Job Creation Law will encourage the entry of investment plans which is good news because it will open a new job market for millions of people who need work. And the government reaffirmed that the government's priority is local labor. Foreign workers are only needed for jobs at certain levels or positions that require special skills.
- f) Construction of MBR Houses (Low-Income Communities); The Employment Creation Law will also encourage the establishment of the Housing Implementation Acceleration Agency to speed up the provision of housing for the community, particularly low-income housing. The provisions regarding the MBR are contained in Chapter IX A which is inserted between Chapter IX and Chapter X, while the formation of the special agency is regulated in Article 117A and Article 117 B. Article 117 A paragraph 1 states that the Central Government establishes BP3 (Administration Agency for Organizing and Development) to realize the provision of decent and affordable public housing for MBR. Next, Article 117 A paragraph 2 explains, the establishment of a housing BP3 as mentioned in paragraph 1 aims to accelerate the provision of public houses and ensure that public houses are only owned and occupied by MBR. On the other hand, it is explained that the acceleration

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of housing for MBR can reduce the housing backlog. The community housing backlog in the Job Creation Act will be accelerated. There will be more housing construction for low-income people.(Prabowo et al., 2020)

As we know that legal products in Indonesia are political products. The House of Representatives holds the power to make laws and each draft law is debated by the House of Representatives and the President for mutual consent. Similarly, the President has the right to submit a bill to the House of Representatives. Until the ratification of a Legislative Regulation into Law is a form of mutual agreement between the President (Executive) and the House of Representatives (Legislative). This is the politics of law that is going on today as mandated by the Constitution.

The executive or government agency, in making the bill is the Parliament or what is often called the Legislative institution. Legislative members are elected by the people through an election mechanism called the General Election which includes the Central Representative Council level I, Regional Representative Council and Regional Representative Council at the provincial level and district/city level, they are elected in accordance with, Government Regulation Number 7 of the Year 2017, this is the legal basis for holding the elections for the Central Representative Council, Regional Representative Council, Regional Representative Council City/Regency and the 2019 presidential elections which are held simultaneously. Elections are held based on the principles of direct, general, free, confidential, honest and fair. The results of the 2019 election allocated: in the Central Representative Council 575 seats, the Regional Representative Council 136 seats, the Regional Representative Council Provincial (DPRD) 2,207 seats and the Regional Representatative Council City/Regency 17,610 seats. Based on the 2019 election results, the PDIP Party won 128 seats, the Golkar Party 85 seats, the Gerindra Party 78 seats, the PKB Party 58 seats, the Nasdem Party 59 seats, the PKS Party 50 seats, the Democratic Party 54 seats, the PAN Party 44 seats and the PPP Party. 19 seats.

Of the 575 seats in the Central Representative Council (DPR), 55% (fifty five percent) are business people and 45% (forty five percent) are non-business people, therefore we can see from

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the composition above, the policies that are always passed by the government and parliament strongly influenced by interests.(Farida, 2019)

Where it is common knowledge that the election process for candidates for parliamentarians is quite strongly influenced by the party that carries it and the interests of the party itself. Promises during the campaign are rhetoric to gain sympathy from the people who support them. In fact, after they are inaugurated and sit as "people's representatives" in parliament, they will carry the party's voices and the interests of party administrators who promote or support them, in addition to their personal interests or interests. his own group. So it can be concluded that the results of a bill are currently loaded with the interests of the party and the individual members of the parliament where "this power" has not yet been able to be changed by party officials, both within the circle of power and outside the circle of power. The government and its staff are nothing more than representatives of the winning party, whose direction, the purpose of each bill is influenced by the supporting party.

### **CONCLUSION**

Omnibus manufacturing and validation mechanism, Government Regulation Number 12 of the Year 2011, on the Establishment of Legislative Regulations jo. Government Regulation Number 15 of the Year 2019, on Amendments to Government Regulation Number 12 of the Year 2011, on the Establishment of Legislative Regulations. This law states that the Establishment of Legislation is the making of legislation that includes; stages of planning, compiling, discussion, ratification or stipulation, and invitation. The notion of legislation is a written regulation that contains legal norms that are generally binding and established or established by state institutions or authorized officials through procedures set out in the Legislation, this is violated at the time of formation and enactment of the Omnibuslaw Law.

With a composition of about 55 % (fifty-five percent) of businessmen sitting in the House of Representatives, the potential for conflict of interest in legislation will be higher. The existence of a connection between the field of business owned and the placement of business commissions in the House

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of Representatives indicates the vulnerability of the work agenda of the commissions to the interests of certain businesses, especially the absence of rules governing the placement of members on the commission.

The concentration of power indicates that the value-based democratic political agenda in Parliament will be increasingly difficult to fight for. When dealing with the political business interests of the oligarchic network. The obstacle faced in the formation of the Omnibuslaw Law is that the Central Representative Council (DPR) members still do not understand in drafting the Omnibuslaw Law so that special attention is needed and the dense agenda of the Central Representative Council members can be a factor inhibiting the slow formation of the Omnibus Law Law.

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