

LEGAL NORMS CONTRACT WITH THE CONSTITUTIONAL RIGHTS OF CITIZENS AS GUARANTEED IN THE 1945 CONSTITUTION IN THE ESTABLISHMENT OF THE WORK COPYRIGHT LAW

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Abstract

From the outset, the Job Creation Bill was aimed at strengthening large-scale companies and investors. It is unfortunate because the formulation process was closed, rushed, including ignoring the principle of prudence in formulating changes to hundreds of articles of various laws without taking into account the social, economic, political and cultural impacts that will inevitably arise. Its formulation which involves business elites and pro-capital academics is also truly unfortunate. One of the legal issues highlighted is Law No. 32 of 2009 concerning Environmental Protection and Management (PPLH), especially related to Amdal (Analysis of Environmental Impacts). Where there is a legal issue that states this AMDAL is deleted. The purpose of this study is to examine the legal norms that contradict the constitutional rights of citizens as guaranteed in the 1945 Constitution in the formation of the Job Creation Law. The method used in this research is a qualitative method. The author uses a qualitative descriptive method in this research, as well as a literature study. The research in this paper is in the field of juridical-normative law. The results of the study Based on the various difficulties in the formation of the law, it seems that the Indonesian people have long felt as a developing country. The difficulties in the formation of this law are now more felt by the Indonesian people, who are currently facing various social problems based on multi-dimensional structural and cultural problems. In fact, the formation of this law now and in the future will continue to increase in response to the demands of the community along with the increasing complexity of the development and conditions of society. This can be seen from the demonstration against the Ratification of the Omnibus Law on Job Creation.

Keywords: legal, norms, constitutional, citizens, law

Introduction

With a relatively short preparation time, the DPR finally passed the Job Creation Bill (formerly known as Job Creation aka Cilaka) as law on Monday (5/10/2020). Many parties have expressed concern over the substance of this law. Given its broad and complex scope, attention to the Job Creation Law tends to be partial: it focuses on certain clusters. In addition, there was a protest demonstration where hundreds of demonstration participants consisting of elements of the Labor Union and Students from various universities held an action against the

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Omnibus Law Bill. One of the reasons for this refusal was the preparation of the Draft Job Creation Bill which was carried out by the Government in a non-transparent manner and without involving elements of civil society which would later be affected. Representatives from the Jepara Regency FSPMI during the speech said that the birth of this omnibus law was a legal defect because it did not involve the community in its preparation. According to him, when he saw and witnessed the omnibus law, he was born with a disability. Many legal experts, economists say, that this omnibus law is legally flawed because in its preparation it does not involve the community, they only involve Kadin and businessmen. According to the participants of the action, the draft law that the Government predicts will attract investors to create new jobs and absorb unemployment, as well as reduce poverty. It turns out that the articles contained in it actually contain things that are potentially harmful and ignore the fulfillment of the rights of workers, farmers, fishermen, journalists and other civil society groups.

The public's rejection of the ratification of the Job Creation Omnibus Law was caused by several articles that were considered not in favor of the community and not in accordance with the needs of the community, even criminalizing the community itself. Related to this, it is interesting to see from the perspective of the sociology of law. One of the most widely discussed discourses related to legislation in this context is the omnibus law discourse. Jimmy Usfunan said that there are at least 3 patterns in the omnibus law, namely "omnibus law which is a review of the law, setting new materials and revoking related regulations, and setting economic policies.

Based on the description of the background above, the Omnibus Law on Job Creation is related to changes in a democratic society, leading to the goal of people's 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 the sociology of law itself. So the focus of writing this article is how to compose the Omnibus Law in Democratic Society Changes and how to analyze the Omnibus Law on Job Creation in the Sociology of Law Perspective. So it is important for lawmakers to know and understand that the process of drafting a draft law is an integral part of the law-making system. The ability to conceptualize the translation of a policy into a draft law that can be implemented effectively is required to produce the desired social impact. To draw up a draft law, a study is needed that is supported by the theory that this draft law was not made carelessly. This study will be a persuasive consideration of a draft law. There are four problem-solving steps as a methodology to show that the proposed bill is based on an experiential premise. The four steps are "identifying the difficulty, proposing and warranting explanations, proposing a solution, and monitoring and evaluating implementation."

The legal basis for the Drafting of Legislations in Indonesia today is Law Number 12 of 2011 concerning the Establishment of Legislations, as amended through Law Number 15 of 2019. Ademik Manuscripts as the basis for drafting laws and regulations Manuscripts Academic is a conception of the regulation of a problem (type of legislation) which is studied theoretically and sociologically. Theoretically, it examines the philosophical basis, juridical basis and political basis of a problem that will be regulated so that it has a strong regulatory foundation. The philosophical basis is the philosophical basis or view that forms the basis of ideals when pouring a problem into legislation. The juridical basis is a legal provision that becomes the legal basis (*rechtsgrond*) for the making of laws and regulations so that there is

no legal conflict or legal conflict with the legislation above. The political basis is a political policy that becomes the next basis for policies and directions for government administration. Sociologically, Academic Manuscripts are prepared by examining the reality of society which includes the legal needs of the community, socio-economic aspects and values that live and develop in society. According to Maria Farida, the existence of various types of laws and regulations in the Republic of Indonesia which are arranged in a hierarchical arrangement also results in differences in the function, as well as the content of the various types of laws and regulations. Thinking about the importance of this Academic Manuscript is motivated by at least two reasons, namely substantive reasons and technical reasons. The substantive reason is intended to obtain a good, applicable and futuristic draft law. In addition, when a draft law has been supported by an adequate academic document, the debate in the discussion of the draft law in the legislature can be more efficient.

So it is important for lawmakers to know and understand that the process of drafting a draft law is an integral part of the law-making system. The ability to conceptualize the translation of a policy into a draft law that can be implemented effectively is required to produce the desired social impact. To draw up a draft law, a study is needed that is supported by the theory that this draft law was not made carelessly. This study will be a persuasive consideration of a draft law. According to Ann Seidman and colleagues, there are four problem-solving steps as a methodology to show that the proposed draft law is based on a premise based on experience. The four steps are “identifying the difficulty, proposing and warranting explanations, proposing a solution, and monitoring and evaluating implementation.”

Regarding the ratification of the omnibus law, according to the government, the spread of various labor arrangements makes it difficult and there is no legal unity. In addition, it is possible that there will be legal disharmony, both vertically and horizontally. This needs to be an awareness of the government and legislators in order to create a complete, simple, efficient and effective investment law in creating a good investment climate in Indonesia through the omnibus law. According to Black's Law Dictionary, omnibus law is A single bill containing various distinct matters, usu. drafted in this way to force the executive either to accept all the unrelated minor provisions or to veto the major provisions. Or simply it can be interpreted as a single law that can change several laws at once. Omnibus law is a law made to target major issues in a country. This law is intended to streamline regulations in terms of numbers, and simplify regulations to make them more targeted.

Research Method

The author uses a qualitative descriptive method in this research, as well as a literature study. The research in this paper is in the field of juridical-normative law. Juridical-normative writing, also known as normative legal research, is a type of library research that focuses on secondary data. This study uses a literature review of phenomena that can be studied and observed. The author will define in advance what will be studied in this study. Then, based on the predetermined goals, perform all actions. The unit of analysis in this study is a reference, which is a series of words or sentences that indicate something meaningful in accordance with the category of Government Regulations related to the Copyright Act. The difficulties encountered in the ratification of the Copyright Act. Researchers collected information related

to copyright law from various media, both electronic, print, and online media, as well as analyzed articles in national and international journals.

Results And Discussion

Here it is necessary to highlight the procedural flaws in the formation of the Act or the Job Creation Act. This Omnibus Law is proof that the Government and DPR are not serious in making legal products. This is due to many procedural defects since the initial working meeting to discuss the bill. In addition, several articles were added and revised again after obtaining approval from the legislative body. In fact, after the approval can not be revised again. Typo though, it's not allowed. That means, the DPR is not serious about making laws. In theory there are 5 stages in the formation of laws. Stages 1 to 3 are procedural technocracy. That is, it is at this stage that a critical assessment is carried out involving many experts and related stakeholders. However, the council did not receive a physical copy of the draft job creation law when the plenary session was held. Usually, a copy of the bill that will be passed is distributed by the officer on duty at the attendance desk of the members of the Council. This provision has been regulated in the MD3 Law and the DPR's Rules of Procedure.

Meanwhile, at the approval stage, the regulation should no longer be disturbed or revised to be later ratified into law by the president. There is no need to comb through the articles because they have been discussed at the working committee and level one meetings. From the start, the drafting of the Job Creation Bill was problematic because it did not involve public participation in its formulation process. Since the preparation of the Academic Paper until it becomes a Bill which is then submitted to the DPR, the process of formulating the Job Creation Bill is entirely left exclusively to the Government Task Force and KADIN based on the Decree of the Coordinating Minister for Economic Affairs of the Republic of Indonesia Number 378 of 2019 concerning the Joint Task Force of the Government and the Chamber of Commerce and Industry for Omnibus Public Consultation. Law. Although Article 4 of the Coordinating Minister for the Economy states that the Task Force in carrying out its duties may involve ministries/non-ministerial government agencies, local governments, stakeholders, academics and other parties as deemed necessary, in reality many stakeholders are not involved in the process of formulating the Job Creation Bill. .

Legal Norms Contrary to the Constitutional Rights of Citizens as Guaranteed in the 1945 Constitution in the Establishment of the Job Creation Law

The government formulated the Vision for Indonesia Forward 2045 as a strategic step to make Indonesia one of the top 5 (five) world economic powers by 2045. To make it happen, the government expects an "investment wave" to accelerate the development process. However, overlapping and disharmony of sectoral laws are the main obstacles to creating a friendly investment climate for investors. It is on this basis that deregulation and debureaucratization need to be carried out. Many laws and regulations (Laws) want to be trimmed, amended, even need to create new norms (which did not exist before) through one law at once which was popularized as the Omnibus Law. This Omni Bus is considered to create a friendly investment climate through simplification of licensing, ease of requirements, and accelerated processes for business players (domestic and foreign) in Indonesia. The idea of the Omnibus Law is not new. It is noted that the government once breathed this idea into the public

in 2017. Then, it is still strong in our memories in September 2019 the Government and the Indonesian House of Representatives failed to ratify various bills and revisions to laws, including the Land Bill after reaping a wave of protests from the wider community. A month later, the government began to voice the Omnibus Law intensively. In his official speech (20/10/2019), the President of the Republic of Indonesia at the inauguration of the elected president at the Indonesian Parliament Building reconfirmed the government's plans and needs to make the Omnibus Law, as well as asked for political support from the Indonesian Parliament. The excerpt of his speech is as follows: "We must simplify all forms of regulatory obstacles, we must cut them, we must trim them. The government will invite the DPR to issue two major laws. The first is the Employment Creation Act. The second is the MSME Empowerment Law. Each of these laws will become an omnibus law, namely one law that simultaneously revises several laws, even dozens of laws..."

AMDAL was originally named Environmental Impact Analysis (ADL) which was derived from the 1969 National Environmental Protection Act (NEPA) in the United States. In the National Environmental Protection Act (NEPA) 1969, Environmental Impact Analysis (ADL) is intended as a tool to plan preventive actions against environmental damage that may be caused by a planned development activity. In essence, the AMDAL document can provide a scientifically clear portrait of the analysis of activities and the possible impacts of an activity. In this regard, the position of the AMDAL is very strategic in terms of preventive protection in licensing an environmentally sound activity. The juridical definition of AMDAL can be found in Article 1 number 11 of Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH), which is as follows: An analysis of environmental impacts, hereinafter referred to as AMDAL, is a study of the significant impacts of a business and/or activities planned in the environment that are needed for the decision-making process regarding the implementation of businesses and/or activities.

Then in Article 1 point 2 of Government Regulation Number 27 of 2012 concerning Environmental Permits also explained the definition of AMDAL, which is as follows: Environmental Impact Analysis or Amdal is: A study of the significant impact of a planned Business and/or Activity on the environment required for decision-making process regarding the implementation of Business and/or Activities. The AMDAL document is a benchmark that is made based on the mandatory provisions of the legislation as mandated by the UUPPLH, in which every activity and/or business that has a large and significant impact on the environment must have an AMDAL. Article 36 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH) states that "Every business and/or activity that is required to have an Amdal or UKL-UPL must have an environmental permit".

Every business and/or activity that is required to have an Amdal or UKL-UPL is required to have an Environmental Permit (Article 36 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management). paragraph (1) of Law Number 32 of 2009 that: "Everyone who carries out a business and/or activity without having an environmental permit as referred to in Article 36 paragraph (1), shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years. (three) years and a minimum fine of IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 3,000,000,000.00 (three billion rupiah)". (Article 109 paragraph (1) UUPPLH). "The official granting a business and/or activity permit issuing a business and/or activity permit without

being equipped with an environmental permit as referred to in Article 40 paragraph (1) shall be sentenced to a maximum imprisonment of 3 (three) years.) years and a maximum fine of Rp. 3,000,000,000.00 (three billion rupiah)”. (Article 111 paragraph (2) UUPPLH).

Those who support the omnibus law regulation related to Amdal, state that there is no abolition of the environmental impact analysis (AMDAL) permit in the Job Creation Act (UU Cipta Kerja) or the Omnibus Law in the environmental sector. Environmental approval is a basic requirement for Business Licensing. The AMDAL is only made simple so that the rules are not complicated. The Job Creation Law stipulates that the basic principles and concepts of AMDAL do not change, they remain in accordance with the previous provisions. Changes are only related to providing convenience in obtaining environmental approval. Environmental permits are integrated into Business Licensing to streamline the licensing system and strengthen law enforcement.

AMDAL is returned to the actual functions and processes, namely technical and scientific documents of environmental feasibility studies which are then used as requirements for business permits containing provisions or obligations from environmental aspects. Environmental permit stages are summarized into 3 stages, namely the environmental document process, environmental approval and Business Licensing. The above is reinforced by Article 1 Point 11 which states that AMDAL is a study of the significant impacts on the environment from a planned business and/or activity, to be used as a prerequisite for making decisions regarding the implementation of a business and/or activity as well as contained in a Business Licensing, or approval of the Central Government or Regional Government.

Based on the old provisions, the environmental permit was separated from the Business Licensing, so if there is a violation and sanctions are imposed on the revocation of the permit, only the environmental permit is revoked, the business permit will continue to run. However, according to Susi, in the Job Creation Law, environmental permits are integrated with business permits, if there is a violation and sanctions are subject to revocation of permits, which are revoked as well as Business Permits. Environmental approval is the basis for issuing Business Licensing as a State Administrative Decree. Article 24 (paragraphs 1-6) also states that the AMDAL document is the basis for an environmental feasibility test. The Central Government or the Regional Government shall stipulate an Environmental Feasibility Decision based on the results of the environmental feasibility test.

Environmental Eligibility Decision as a requirement for the issuance of Business Licensing, or approval from the Central Government or Regional Government. Meanwhile Article 37 explains, Business Licensing can be canceled if the issuance does not meet the requirements as stated in the Environmental Eligibility Decree or Environmental Management Ability Statement; or the obligations stipulated in the AMDAL or UKL-UPL document are not carried out by the person in charge of the business and/or activity. The rejection of the omnibus law on the job creation law continues. Several parties criticized the AMDAL regulation in the Omnibus Law. A number of changes that occurred in the Amdal provisions in the Job Creation Law, as summarized by Tempo, include the following:

a. Feasibility Test Team

In Article 24 of the PPLH Law, the Amdal document is the basis for determining environmental feasibility decisions. In the Omnibus Law, amdal remains the basis for environmental due diligence. But a number of new provisions were added. First, the

feasibility test was carried out by a team formed by the Central Government Service Testing Institute. This team consists of central, local government, and certified experts. The center and the regions then make a decision on environmental feasibility based on the test results. This joint decision is a condition for a business to get a permit.

b. Affected Communities

The government made the provisions in the amdal document more stringent. In Article 25 letter c of the PPLH Law, the Amdal document contains suggestions for input and community responses to the business plan. In the PPLH Law, there are three community criteria. Two of them are those who are affected and those who are affected by all forms of decisions in the amdal process. But in the Omnibus Law, the criteria are further clarified to "relevant directly affected communities"

c. The role of environmentalists is crossed out

In Article 26 paragraph 3 of the PPLH Law, environmentalists are included in one of the three criteria for the community to be involved in the preparation of the Amdal document. But in the Omnibus Law, there is no longer a place for environmental observers in the preparation of the Amdal. However, the government has added a new paragraph in Article 26 of this. It reads, "Further provisions regarding the process of community involvement are regulated by a Government Regulation (PP)."

d. Transparent Information

In Article 26 paragraph 2 of the PPLH Law, community involvement in the preparation of the Amdal document must be carried out based on the principle of providing transparent and complete information, and being notified before the activity is carried out. In the Omnibus Law, this provision is crossed out.

e. Amdal Compilation Criteria

In Article 28 of the PPLH Law, the Amdal document must be prepared by a person who has a certificate of competence in making amdal. The criteria and competency certificates have also been regulated in the PPLH Law. For example, Amdal drafters are required to have the ability to prepare environmental management and monitoring plans to obtain a competency certificate. However, this rule was removed and further regulated through a Government Regulation (PP).

f. EIA Assessment Commission Removed

One of the drastic changes is the abolition of the Amdal assessment commission in the Omnibus Law. Articles 29, 30, and 31 in the PPLH Law that regulate this commission are crossed out. So far, this commission consists of a combination of government, academia, and the community. In Article 30 of the PPLH Law, there are six elements that are members of the commission. From the government side, it is represented by environmental agencies and related technicians. From academics, experts are represented in the field of the type of business carried out and experts in the field of impact caused by the business. From the community, namely those who are potentially affected, as well as environmental organizations.

Enforcement of environmental law (environmental enforcement) must be seen as a tool (an end). The purpose of environmental law enforcement is compliance with the values of protecting ecosystem carrying capacity and environmental functions which are generally formalized into laws and regulations, including provisions governing waste or emission

quality standards. Preventive efforts in the context of controlling environmental impacts need to be carried out by making maximum use of monitoring instruments by taking into account the conditions stated in the permit. In the event that environmental pollution and damage have occurred, it is necessary to take repressive efforts in the form of effective, consistent, and consistent law enforcement against environmental pollution and damage that has occurred. Therefore, it is necessary to develop a legal system for environmental protection and management that is clear, firm, and comprehensive in order to ensure legal certainty as the basis for the protection and management of natural resources and other development activities.

Community participation in compiling the AMDAL document can use the theory of deliberative democracy. The word "deliberation" comes from the Latin word *deliberatio* which means consultation, considering, or deliberation. Democracy is deliberative, if the process of giving reasons for a public policy candidate is tested first through public consultation or "public discourse". Deliberative democracy prioritizes the use of decision-making procedures that emphasize deliberation and problem-solving through dialogue and exchange of experiences between the parties and citizens.⁸ The goal is to reach consensus through deliberation based on the results of discussions taking into account various criteria. So that the theory of deliberative democracy is to prioritize between ideas and between parties.

In this regard, it turns out that a legal issue arose in the Omnibus Law on Job Creation which was ratified, Monday 5 October 2020, at Senayan, Jakarta. After the enactment of the Job Creation Law, a number of rejections from the public continued to occur in several regions in Indonesia. One of them is related to the form of community involvement in the Amdal permit in the Ciptaker Law. AMDAL was originally named Environmental Impact Analysis (ADL) which was derived from the 1969 National Environmental Protection Act (NEPA) in the United States. In the National Environmental Protection Act (NEPA) 1969, Environmental Impact Analysis (ADL) is intended as a tool to plan preventive actions against environmental damage that may be caused by a planned development activity.

In essence, the AMDAL document can provide a scientifically clear portrait of the analysis of activities and the possible impacts of an activity. In this regard, the position of the AMDAL is very strategic in terms of preventive protection in licensing an environmentally sound activity. The juridical definition of AMDAL can be found in Article 1 number 11 of Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH), which is as follows: An analysis of environmental impacts, hereinafter referred to as AMDAL, is a study of the significant impacts of a business and/or activities planned in the environment that are needed for the decision-making process regarding the implementation of businesses and/or activities.

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approval. Environmental permits are integrated into Business Licensing to streamline the licensing system and strengthen law enforcement.

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Based on the old provisions, the environmental permit was separated from the Business Licensing, so if there is a violation and sanctions are imposed on the revocation of the permit, only the environmental permit is revoked, the business permit will continue to run. However, according to Susi, in the Job Creation Law, environmental permits are integrated with business permits, if there is a violation and sanctions are subject to revocation of permits, which are revoked as well as Business Permits. Environmental approval is the basis for issuing Business Licensing as a State Administrative Decree. Article 24 (paragraphs 1-6) also states that the AMDAL document is the basis for an environmental feasibility test. The Central Government or the Regional Government shall stipulate an Environmental Feasibility Decision based on the results of the environmental feasibility test.

Environmental Eligibility Decision as a requirement for the issuance of Business Licensing, or approval from the Central Government or Regional Government. Meanwhile Article 37 explains, Business Licensing can be canceled if the issuance does not meet the requirements as stated in the Environmental Eligibility Decree or Environmental Management Ability Statement; or the obligations stipulated in the AMDAL or UKL-UPL document are not carried out by the person in charge of the business and/or activity. Amdal, in the PPLH Law, is classified as a prior approval instrument. That is, everyone is prohibited from doing something unless it has been approved. Through the regulations above, it is clear that the government is shifting the position of EIA which is already ideal in the law. The prior approval instrument consists of several categories, while the Amdal itself is included in the listing category, which is an activity that must be limited and required to follow a certain process, in this case an assessment to ensure security and a process of public involvement. Of course this is reasonable considering that the Amdal regulates activities that have the potential to have an impact on environmental sustainability. It is not surprising that legal experts consider the prior approval regulation to be the most intensive government intervention. The trend of shifting in the position of EIA in the latest various regulations shows the wrong paradigm of the government in assessing prior approval instruments. And that is continued in the Omnibus Law.

In addition, in the Job Creation Law, the authority for spatial planning is in the hands of the central government. In Article 9 paragraph 1 states "The implementation of spatial planning is carried out by the central government," In Article 9 paragraph 2, it is written that

further provisions regarding the duties and responsibilities of implementing spatial planning are regulated by government regulations. In addition, what is also interesting to discuss is that the Job Creation Law discusses the spatial component which is a reaffirmation of the provisions of the OSS (Online Single Submission) or digital integrated licensing system. This system allows the Regional Government (Pemda) to digitally prepare a Detailed Spatial Plan (RDTR). With RDTR, entrepreneurs' investment plans are easier to see by using RDTR online.

This arrangement can also raise new problems, including non-transparent data issues, land maladministration, to the neglect of the land mafia and agrarian corruption, which must be eradicated first to eliminate conflicts. Therefore, in conflict resolution, genuine agrarian reform must be carried out, which can resolve agrarian conflicts experienced by farmers, indigenous peoples, poor people and solutions to rural areas that still overlap with claims by companies and the state. . One of the reasons for this is the misuse of land due to the absence of RDTR. In addition, the spatial planning policy in the Job Creation Law requires the role of the Regional Government in compiling and providing RDTR in digital form that is in accordance with standards and can be easily accessed by the public to obtain information regarding the suitability of the planned location of activities and/or businesses with the RDTR. Then, the Government integrates the digital form in the Electronic Business Licensing system in accordance with the provisions of the legislation.

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The Job Creation Law also requires that national spatial planning, provincial spatial planning, and district/city spatial planning be carried out in stages and in a complementary manner. That is, they are arranged to complement each other and synergize so that there is no overlapping of spatial planning arrangements. Elimination of strategic areas in regional governments, integration and digitization of RDTR, and tiered and complementary spatial planning, show the pattern of the central role of the central government in managing governance. space, from which previously there was a distribution of authority to local governments, through the Omnibus law on job creation, to be returned, to become centralized government authority.

Settlement of Legal Norms Contrary to the Constitutional Rights of Indonesian Citizens as Guaranteed in the 1945 Constitution in the Establishment of the Job Creation Law

As previously mentioned, the community's rejection of the Omnibus Law on Job Creation was caused by several articles that were considered not in favor of the community

and not in accordance with the needs of the community, even criminalizing the community itself. In the sociology of law. This shows that the law that is to be created through the establishment of the Omnibus Law on Job Creation is not sensitive to community developments and cannot adapt to changing conditions, so this invites rejection from the community. Law is a rule to regulate society, therefore the law must be able to follow the rhythm of community development, even the law must be able to direct and encourage the development of society in a more precise and controlled manner. Because of the existence of order as one of the objectives of law, thus there is interclassification and interaction between law and the development of society. Law which is seen as one of the important aspects in society that aims to realize the formation of a comfortable and just society, is sometimes ignored by a few people. So that people think that the law has been injured, even its functions have been manipulated by those who do have an interest.

In addition, in the sociology of law, this is also due to the level of trust of the Indonesian people towards legal institutions already at the level of "bad trust society" (bad trust from the community). This is caused by the government's lack of seriousness in law enforcement. Bentham emphasized the teachings of the sociology of law by asserting that the aim of government and the purpose of law should be "the greatest happiness of the community" or "the happiness of society". Whatever the complexities surrounding the term social happiness, Bentham's continued emphasis on this principle reminds us of the relationship between law and society.

Viewed from the perspective of the sociology of law, the inconsistent and non-transparent law enforcement process ultimately affects the level of public trust in the law and its apparatus. This then triggers the public assumption that the law can no longer be trusted as a means of conflict resolution, furthermore, it is not impossible that there are other parties who take advantage of the inconsistency of law enforcement for their own interests and those of their group. If you then compare the current events with past events, it seems contradictory as it is known that one of the important and urgent (crucial) legal reform agendas to be implemented is reform in law enforcement.

If the decline in public trust continues, it will have the potential to lead to vigilante action (eigenrichting), as for example occurred in the demonstration against the Ratification of the Omnibus Law on Job Creation. In the perspective of social psychology, such behavior is a form of the hostile outburst that manifests itself in social unrest. The formation of laws is part of the activity in regulating society which consists of a combination of human individuals with all their dimensions, so that designing and forming laws that can be accepted by the wider community is a difficult task.

Based on the opinion of Satjipto Rahardjo, law is for humans, while in practical human law science is more for law and legal logic. this is one of the principles of progressive law. Because progressive jurisprudence prioritizes humans, progressive jurisprudence does not act submissively or simply submit to existing laws but is critical. In the concept of progressive law, legal reform in Indonesia aims to establish a national law, not merely intending to reform (ansich), but also towards legal reforms with a progressive character, in which the policy of legal reform is the concretization of a system of values. values prevailing in society. An aspired state is the compatibility between the law and these value systems. The consequence is that changes to the value system must be followed by legal reform, or vice versa.

The Indonesian state also upholds a sense of justice with the aim of protecting all its people as stated in the Preamble to the 1945 Constitution, namely "Then from that to form an Indonesian state government that protects the entire nation and all of Indonesia's bloodshed, and to promote general welfare, educate the nation's life and participate in carrying out world order based on independence, eternal peace and social justice, the independence of the Indonesian nation is formulated in a Constitution of the State of Indonesia".

Justice needs to be prioritized over other things such as legal certainty and usefulness. In the realm of law, we recognize three purposes of law, namely justice, benefit and certainty. Why is justice placed at the top of the other two goals? This indicates that justice is a major element to achieve human happiness. Without justice, true happiness will never be achieved. What if a law or regulation only prioritizes certainty without any justice? It is certain that these laws/regulations will not be able to give happiness to mankind and even tend to become weapons of destruction, so it can be said that "laws made only based on legal certainty without justice in them are tantamount to legalized crimes."

Observing the Omnibus Law on Job Creation, has it fulfilled the element of justice which also protects the entire Indonesian nation, especially the weak (labor)? Workers are socio-economically have a weaker position than employers, sometimes even in a work agreement workers do not have bargaining power (bargaining ability). This is because the number of workers is not commensurate with the available jobs, so they inevitably take the opportunity to work rather than not being able to do it at all, which in the end is not a little arbitrarily in the making of the agreement. So there needs to be government intervention in protecting workers through the Manpower Law instrument which has the main element, namely justice.

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It is evident that the meaning of PKWT does not provide justice in terms of working certainty, while termination of employment only makes it difficult for workers if there is no agreement, because in the end it is the workers who have to file a lawsuit to the court because the workers feel aggrieved. It has become a general norm that those who feel aggrieved are the ones who file a lawsuit. This means that if you look at the article, only workers are interested in going to court, while employers/employers are not burdened with it. If you take a closer look at the contents of the above provisions, it is like going back to the colonial era where the employment relationship/employment agreement was only due to the worker binding himself to the employer as stated in the Civil Code Article 1601a, "A work agreement is an agreement that the first party, namely workers, bind themselves to surrender their labor to another party, namely the employer, with wages for a certain time" not a relationship/agreement that has a reciprocal element as regulated in Article 1 of Law No. 13 of 2003 concerning Manpower, namely "Employment relations are the relationship between the entrepreneur and the worker/labourer based on a work agreement, which has elements of work, wages, and orders",

and "A work agreement is an agreement between the worker/laborer and the entrepreneur or employer that contains the working conditions, rights and obligations of the parties. "

In addition to the field of employment, it can also be discussed in the field of the environment. Where in the Omnibus Law on Job Creation where the right of community involvement in the AMDAL process and Environmental Permits is removed. Where the provisions in Article 26 paragraph 4 of the PPLH Law which regulates "The public can file an objection to the Amdal document," are deleted in the omnibus work copyright law. Whereas what should be done is not eliminating Article 26 paragraph 4 of the PPLH Law, but the Government should have the Regulation of the State Minister of the Environment of the Republic of Indonesia Number 17 of 2012 concerning Guidelines for Community Involvement in the AMDAL Process and Environmental Permits carried out consistently covering all things that are mandatory and things that are not mandatory by the government. all parties involved in the process of preparing the AMDAL document.

Justice that must be prioritized is justice based on Pancasila, namely justice that is divine, humane justice, justice oriented to national unity, justice that sided with the people, and social justice that can be felt by all people. especially when viewed from a legal point of view, the basis of a state that uses Pancasila like that gives birth to a system that is unique as the Indonesian legal system which is generally referred to as the Pancasila legal system. The legal system or legal order itself can be interpreted as a state of legal norms in a society that are not isolated from each other. The norms are side by side with each other, and together form a unity. So the legal system based on Pancasila should give birth to guiding principles in national legal politics. The most common sign is a prohibition on the emergence of laws that are contrary to the values of Pancasila. There must be no law that is contrary to the values of divinity and civility, there must be no law that is contrary to human values, there may not be a law that has the potential to damage the ideological and territorial integrity of the Indonesian nation and state, there must be no law that violates the law. the principle of popular sovereignty and most importantly the law that violates the values of social justice. This shows that the law that is intended to be created through the establishment of the Omnibus Law on Job Creation only pursues legal certainty in the investment sector itself and forgets the principle of justice. Where the current government's goal is to continue to encourage the entry of foreign investors into the country, this can be seen from the incessant government actions, including the regulations and policies of the Omnibus Law. Omnibus Law is known in Indonesia after the President of the Republic of Indonesia delivered it in his state speech at his inauguration as President before the MPR session on October 20, 2019. Omnibus law became the focus of the president with the aim of solving the problem of overlapping regulations and bureaucracy. It is hoped that with the omnibus law, it can provide good services for the community and attract foreign investors to invest in Indonesia.

Associated with legal certainty in foreign investment activities, in this case the principle of legal certainty in question is the principle of a rule of law that puts the law and provisions of basic laws and regulations in every policy and action in the investment sector. Thus, Legal Certainty is laying down laws and statutory provisions as the basis for every policy and action in the investment sector. The formation of laws is part of the activity in regulating society which consists of a combination of human individuals with all their dimensions, so that designing and forming laws that can be accepted by the wider community is a difficult task.

This difficulty lies in the fact that the activity of forming laws is a form of communication between the institutions that determine the legislative power holder and the people in a country.

The various difficulties in the formation of the law seem to have long been felt by the Indonesian people as a developing country. The difficulties in the formation of this law are now more felt by the Indonesian people, who are currently facing various social problems based on multi-dimensional structural and cultural problems. In fact, the formation of this law now and in the future will continue to increase in response to the demands of the community along with the increasing complexity of the development and conditions of society.

Conclusion

The ratification of the omnibus law of the Job Creation Law in Indonesia should require a study that is supported by the theory that this draft law was not made carelessly. However, in practice in the field until now there has been no official academic text that can be accessed by the public. In fact, according to Ann Seidman and colleagues, there are four problem-solving steps as a methodology to show that the proposed bill is based on a premise based on experience. The four steps are “identifying the difficulty, proposing and warranting explanations, proposing a solution, and monitoring and evaluating implementation.”

The community's rejection of the ratification of the Job Creation Omnibus Law shows that the law that is to be created through the establishment of the Job Creation Omnibus Law is not sensitive to community developments and cannot adapt to changing conditions, so this invites rejection from the community. Law is a rule to regulate society, therefore the law must be able to follow the rhythm of community development, even the law must be able to direct and encourage the development of society in a more precise and controlled manner. Because of the existence of order as one of the objectives of law, thus there is interclassification and interaction between law and the development of society. Law as one of the important aspects in society which aims to realize the formation of a comfortable and just society, is sometimes ignored by a few people. So that people think that the law has been injured, even its functions have been manipulated by those who do have an interest.

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