

Problematic of The Draft of Omnibus Law On Job Creation in Indonesian

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Abstract

Slowing Indonesia's economic growth which only reaches 5% per year requires a strategy of accelerating economic development that can accommodate 7 million unemployment figures. The government major step to increase investment, could be taken by through legal reform. Omnibus law on Job Creation is a form of legal reform by uniting 79 laws relating to taxation, investment, labor, Cooperatives, Micro, Small and Medium Enterprises. Initially the Draft of Omnibus Law was submitted to the Indonesian Parliament under the name of the Employment Job Creation Bill and later it was changed to the Job Creation Bill. The Draft of Omnibus Law on Job Creation was officially submitted to the Parliament on Wednesday, February 13, 2020. The rejection of the existence of the Draft of Omnibus Law on Job Creation came mainly from Indonesian labour unions who considered it to only prioritize the interests of employers. A different view was also given by several state administrative law experts who stated that the existence of the draft of Omnibus Law on Job Creation expanded executive power. All The problems were analysis in this article which attempted to describe the advantages and controversies of the Omnibus Law on Job Creation using the normative legal method. Qualitative analysis was carried out to find the best solution so that the bill could be accepted by all parties. The main thing to do is to balance investment interests with the interests of protecting labor rights, the environment, and the benefit of the community at large.

Index Terms: Omnibus Law, Job Creation Bill, Indonesia

1. Introduction

The growth of Indonesia's national economy over the past 5 years has slowed and only reached around 5%. This condition has an impact on employment issues where the unemployment rate reaches 7.05 million people, whereas each year the new workforce adds 2 million people.^[1] This issue has become the government's priority in efforts to increase the growth of the nation's economy. Based on the National Medium-Term Development Plan (NMTDP) National Development Planning Agency of Indonesia (Badan Perencanaan Pembangunan Nasional/Bappenas) for 2020-2040, the government has targeted an average economic growth of 6%. It is estimated that every 1% of economic growth will absorb 400 thousand workers.^[2] The government must spur economic growth of 6% or more per year to open new jobs in order to accommodate 2 million new workers and 7 million existing unemployed.

Economic growth requires the new investment of Rp.4,800 Trillion, it is estimated that every 1% of economic growth requires an investment of Rp.800 Trillion. Achieving this target requires extra effort to attract investment to drive Indonesia's

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economic growth. Overseas Investment in Indonesia is still considered low, reaching only 1.97% from the 2012-2016 average of USD 1,417.8 billion and achieving an investment ratio target of 32.7%, which is below the national medium-term development plan target of 38, 9% in 2019.^[3] Government identification of investment realization issues that have not yet reached the target, one of which is due to the regulatory conditions in Indonesia that are not integrated. Efforts to increase investment, create new jobs and increase protection for workers require comprehensive regulatory reform. The strategy taken by the government is to create an omnibus law on job creation.

Grammatically, Omnibus comes from the Latin word meaning "for all or all to be one." If referring to the Black Law Dictionary, the omnibus is defined as relating to or dealing with numerous objects or items at once; including many things or having various purposes. While the meaning of the law is stated as the aggregate of legislation, judicial precedents, and accepted legal principles; the body of authoritative grounds of judicial and administrative action; the body of rules, standards, and principles that the courts of a particular jurisdiction apply in deciding controversies brought before them. Omnibus is a format for forming laws that are comprehensive by participating in regulating other laws which are related to the substance of the laws that are amended or formed. The formation of the omnibus law is done by considering all the material provisions that are directly or indirectly interrelated that are regulated in various other laws at once. The material of law need not only be fixed and limited to only matters directly related to the title of the relevant law but can also reach material contained in various other laws whose implementation in the field of social life is interrelated directly or not directly with each other.

Omnibus law is not a new one in efforts to accelerate development. Some countries have used this strategy beforehand, such as America, Canada, Ireland, New Zealand, Australia, the Philippines, and Vietnam. Omnibus law in America is better known as an omnibus bill. At least America has recorded already had 3 omnibus bills. The Compromise of 1850 is an omnibus bill that was put in place to unify the differences between states that were pro-abolitionists and states that maintained slavery. Furthermore, the omnibus bill is routinely implemented by the American Congress to unite the budgets of several ministries in a package called the omnibus spending bill. Omnibus Law of 1889 which regulates the acceptance of four states to America, namely North Dakota, South Dakota, Montana, and Washington. In 1968 the Omnibus Crime Control Act was enacted in the United States.[4]

The shipping law in Canada adheres to the common law tradition of British influence and at the same time the civil law tradition of French influence, in 1937 revised by participating in changing the provisions of the law that are not related to shipping legal material but also the practice is indirectly related to the shipping law. For example marriages and divorce issues of seafarers which cause many problems, so that it becomes a serious concern of the government. The marriage law, divorce law, and other laws relating to family matters are amended to be integrated with the revised shipping law. While the Irish state also downsized around 3,255 laws into one omnibus law. Australia uses an omnibus law called Act on Implementation of US FTA which is used to implement a free trade agreement between the United States and

Australia. New Zealand is a country that uses the omnibus law in the tax sector under the name Taxation Act 2019. This law was drafted with the aim of increasing applicable tax arrangements in a broad-base and low-rate framework to encourage compliance with obligations tax. The Philippines also adopted the omnibus investment code as an investment law reform by revising a series of regulations that provide comprehensive fiscal and non-fiscal incentives as national development priorities. Whereas Vietnam established the Amending and Supplementing a Number of Articles of the Law on Value-Added Tax, Law on Exercise Tax and the Law on Tax Administration. This law amended, added, and revoked several articles contained in the Value Added Tax Act, the Excise Tax Act, and the Tax Administration Act.^[5]

The Omnibus law method used by the Indonesian government also imitates what is applied in these countries. There are 97 laws that are incorporated into the omnibus law. This omnibus law aims to overcome the existence of conflicting or overlapping laws. The Omnibus Law on Job Creation is implemented with the hope that it can create the widest possible employment opportunities evenly for the people of Indonesia in order to fulfill the right to a decent living through the ease and protection of Micro, Small and Medium Enterprises (MSMEs) and cooperatives, investment ecosystem enhancement, facilities endeavor to improve worker protection and welfare, Central Government investment, and accelerate national strategic projects. At the time the draft Omnibus Law was submitted by the government to the People's Representative Council (Legislative), there were many objections to the substance of the Draft Law. The biggest rejection was conveyed by Indonesian labour unions who considered the Omnibus Law on Job Creation only to accommodate the interests of employers and to exclude labor rights. This issue is important to be discussed, especially in an effort to provide a view on the improvement of the substance of the Omnibus Law on Job Creation that can provide a balance between the needs of expanding employment that requires investment and efforts to protect workers.

2. Research Problem and Question

The substance of the Draft Omnibus Law on Job Creation proposed by the government to the People's Representative Council of the Indonesian Republic has a lot of criticism and rejection, especially from the Indonesian Labour union. This bill is considered more dominant to benefit investors compared to protecting labor rights and environmental preservation. Base on these backgrounds, it is necessary to do an analysis based on the following problems: a). Are there legal controversies in the substance of the Omnibus Law on Job Creation? b). What is the improvement strategy for the existence of the Omnibus Law on Job Creation for the Acceleration of Indonesian Development?

3. Methodology

This research uses normative legal research (documentary research),^[6] which emphasizes more on the aspects of legal principles and norms, which characterize the rationalization of the problematic of the Omnibus Law on Job Creation by presenting

controversial rules and the importance of the existence of the Bill.^[7] The statute approach is the key to the analysis besides the legal historical approach and the philosophical approach. The data used are secondary data, obtained through the search of primary, secondary and tertiary legal materials.^[8] After the research data has been collected, the next step is to conduct data processing, which begins by classifying the facts, classifying the legal issues under investigation until finally conducting a legal analysis.^[9] In general, the analysis was carried out using the doctrinal method through prescriptive optics.^[10] The results of the analysis would appear a conclusion that provides a legal view of the improvement strategy in the substance of the Omnibus Law on Job Creation, bearing in mind the need for legal reform to accelerate development.^[11]

4. Omnibus Law Scheme of Harmonization of Laws

Omnibus law is a method used to replace and/or revoke some legal material in various laws. The existence of existing laws still applies, except for some articles that have been replaced or declared invalid. The existing law is no longer valid if the article replaced or declared invalid is the core/spirit of the law. The Omnibus Law on Job Creation is a package of job creation reforms that includes two main policies, namely:^[12]

- 1) encourage increased investment in Indonesia through the ease of doing business that is more investment-friendly, increases competitiveness and creates jobs, and
- 2) develop the Micro Small Business Sector (MSBS) through research and innovation support so that MSBS can develop and be able to compete in the business world. The main policy above in addition to increasing the amount of Indonesian investment also increases the number of MSE, in the end, it will have implications for job creation as wide as possible.

The Omnibus Law on Job Creation consists of 15 Chapters and 174 Articles by integrating 79 Laws. The contents in the Omnibus Law on Job Creation are divided into 11 clusters, namely:

1. Simplification of business licensing

The main problem faced by business actors in starting a business in Indonesia is about the difficulty of taking care of licensing to do business. Business actors are faced with convoluted business licensing procedures, the many types and number of licenses that must be owned requires a long time to process licenses, as well as high costs for starting and running a business in Indonesia. This condition is exacerbated by the low quality and inconsistency of regulations and a high number of corruption which is an effect in high costs for obtaining business licenses. Because of that, the Omnibus Law on Job Creation simplifies business licensing by only dividing into 4 types of licenses, namely; location license, environmental license, building license, and sector license. In detail, the four simplifications for licensing are in Table 1 below.

Table 1

Simplification of Business Licensing Based on the Draft of Omnibus Law on Job Creation

Location License	Environmental License	Building License	Sector License
<p>a. Location license is used with the use of the Spatial Detail Plan digital map.</p> <p>b. Integration of the Spatial Plan (land dimension) and the Zoning Plan (sea dimension).</p> <p>c. One Map Policy and the overlapping of Thematic Geospatial Information overlapping.</p> <p>d. Review of Spatial Planning to answer the dynamics of development.</p> <p>e. Forest area integrated into the Regional Spatial Plan.</p> <p>f. Establishing a detailed spatial plan with Regional Head Regulations (Regents / Mayors).</p> <p>g. Minister of Spatial Administration of the National Land Agency can stipulate a detailed spatial plan if it is not determined by the Regent / Mayor.</p>	<p>a. Environmental licensing is maintained.</p> <p>b. Application of environmental management standards for medium risk activities</p> <p>c. Environment Impact Analysis for high-risk activities.</p> <p>d. Environment Impact Analysis is prepared by a certified professional.</p> <p>e. Eligibility for Environment Impact Analysis is evaluated by the government or a certified profession.</p> <p>f. Integrating traffic impact analysis into Environment Impact Analysis.</p>	<p>a. The building license is still maintained.</p> <p>b. Application of Building Technical Standards.</p> <p>c. Building construction that is not at high risk can use prototypes.</p> <p>d. Building complex and high risk must get government approval.</p> <p>e. The monitoring of building construction is carried out at every stage of the construction process.</p> <p>f. Technical building standards governed by Government Regulation.</p> <p>g. Issuance of Building Worthy Certificate of buildings automatically by Construction Management or Supervisor.</p>	<p>a. Changing the conception of business activities from a license-based approach to a standard and risk-based approach.</p> <p>b. High-risk business activities must have a permit.</p> <p>c. High-risk business activities are those that have an impact on health, safety, and the environment as well as natural resource management activities.</p> <p>d. Medium risk business activities using standards.</p> <p>e. Low-risk business activities are sufficient through registration.</p> <p>f. Standard assessment (compliance) is carried out by a certified professional.</p> <p>g. Structuring licensing authority regulated in Norms of Criteria Procedure Standards.</p> <p>h. The government carries out strict supervision and inspection of high-risk business activities.</p>

Source: analyzed from the Draft Omnibus Law on Job Creation, March 2020.

2. Investment requirements

It is necessary for the development of the investment ecosystem which is more attractive and competitive, by regulatory reform through the Omnibus Law. The draft of Omnibus Law on Job Creation contains provisions regarding:

- 1) Determination of priority list for business fields that are encouraged for investment.
- 2) Priority list criteria, namely: high-tech / high technology, large investment, digital-based, and labor-intensive
- 3) Business fields closed to investment activities are based on national interests, propriety principles and international conventions.
- 4) Coverage of closed business fields, namely:
 - a) Gambling and Casinos;
 - b) Cultivation and Production of Narcotics Group I;
 - c) Chemical Weapon Manufacturing Industry;
 - d) Manufacture of ozone-depleting substances;
 - e) Catching Fish Species Listed in Appendix I;
 - f) Utilization (taking) Coral / Coral from Nature.
- 5) Remove the investment requirement provisions in the sector Act.
- 6) Foreign investment status is only associated with foreign share ownership restrictions.
- 7) For start-up businesses, no capital restrictions of Rp 10 billion are applied.
- 8) For business activities, which are categorized in Micro, Small, and Medium Enterprises (MSMEs) can partner with foreign capital.

3. Employment

In the labor sector, it is regulated regarding the revision of Law No.13 of 2003 concerning Employment. The articles that have changed are articles relating to the issue of labor wages, the issue of termination of employment, and the problem of worker protection and expansion of employment.

4. The ease, empowerment, and protection of MSMEs in the draft of Omnibus Law on Job Creation contains the following matters:

- 1) MSMEs Criteria
 - Criteria for MSMEs are adjusted to the line of business.
 - Nominal values for each MSMEs line of business are stipulated in a Government Regulation.
- 2) Single Database:
 - A single database of Micro and Small Enterprises (MSEs) as a basis for policymaking.

- A single database is coordinated by the Ministry of Cooperatives, Micro, Small and Medium Enterprises that can use basic data from Ministries/Institution (including Population Identification Number, Taxpayer Identification Number, Small and Medium Industry).
- 3) Integrated Management of MSEs in the Arrangement of Management of MSEs Integrated management is carried out through synergy with stakeholders (Ministries/Institution, Local Government, State-Owned Enterprises, Region Owned Enterprises, Private, Universities, Associations, and others).
- 4) Partnership, implemented by encouraging Medium and Large Enterprises involving MSEs in partnership through the provision of incentives and facilities.
- 5) Single and Easy Licensing:
 - Registration of MSEs as a single licensing facility.
 - A single license as well as fulfillment: distribution permit, halal product guarantee, and food certificate, and Intellectual Property Rights.
 - Government and Local Government who actively register the MSEs.
- 6) Financing Incentives
- 7) Special Allocation Fund to fund MSMEs development and empowerment activities.

5. Ease of Business

Some provisions that need to be changed in ease of doing business, including:

- a. The investment that can be used as a guarantee for Temporary Stay Permit/Permanent Stay Permit and the ease of obtaining visas for maintenance, vocational, start-up, business visit or business meetings;
- b. flexibility in the obligation to make products or use the patent process in Indonesia;
- c. Import guarantee of raw materials & industrial auxiliary materials;
- d. Regulation and stipulation only by the industrial sector;
- e. Elimination of fees for Micro, Small Enterprises (Producers);
- f. Elimination of capital requirements of Rp 50 million for the establishment of Limited Enterprises;
- g. Simplifying the form of business entities: removing limited partnership & trading business and changing firms in the form of limited liability partnership;
- h. The establishment of a business entity by one party (personal business) authorized by the Government: Specifically for MSEs;
- i. Amendment to Law Number 6 of 2002 concerning Company Obligatory Registration;

- j. Changes to the obligation to register through Online Single Submission; and
- k. Revoke Hinder Ordonantie Stb. 1926 No. 226 juncto Stb. 1940 No.450.

6. Support Research and Innovation

Analysis and evaluation are carried out related to research and innovation. In this context, it is necessary to protect national innovation products in controlling foreign trade policy. Furthermore, special assignments can be made to State-Owned Enterprises (SOEs) for research, development, and innovation. Finally, the provision of a special budget for financing strategic innovation products.

7. Government Administration

The charge for improving government administration is carried out in several ways, namely:

- 1) The President as Head of Government implements all governmental authority.
- 2) The President establishes Norms of Procedure and Criteria Standards (NPCS) implemented by the Minister / Head and/or Regional Government.
- 3) NPCS is standard and refers to best practices.
- 4) The President has the authority to cancel the Regional Regulation through a Presidential Regulation.
- 5) Licensing services are carried out electronically according to NPCS.
- 6) Permission application is considered legally granted if the time limit according to the Service Level Agreement (SLA) has been passed (no need to be determined by the court).
- 7) Supervision of the implementation of licensing can be done by an expert profession (certified).

8. Imposition of Sanctions

The regulation regarding sanctions in the draft of Omnibus Law on Job Creation contains the following changes:

- Separation of the application of administrative sanctions (administrative law) with the application of criminal sanctions (criminal law).
- The imposition of criminal sanctions under the provisions of the Criminal Code and/or the Corruption Act.
- Administrative sanctions in the form of warnings, license suspension, permit revocation, and fines.
- Criminal sanctions can be applied to the imposition of administrative sanctions that are not followed up in the context of certainty of law enforcement (*ultimum remedium*).

9. Land acquisition

Land is one of the main issues in business activities. Ease of land management needs to be created to improve the investment climate and job creation. One of

them is by changing the provisions of the Spatial Planning Law regarding Regional Spatial Planning before the 5 years for investment activities with strict criteria and requirements for the preparation and stipulation of a digital Detail Spatial Planning within a maximum period of 1 (one) year. Then it is necessary to change the provisions of the Spatial Planning Law and the Forestry Law concerning the maximum limit of 30% of the forest area that must be maintained from the watershed or island area. Regulations in the Basic Agrarian Law or the Draft Bill on Land regarding the ease and acceleration of the process of land acquisition and the process of extension and renewal of Land Rights can be done in the future after business activities start operating.

10. Government investment and projects

Investment Clusters and Government Projects include government investment and ease of government projects. Government investment is carried out to increase investment and strengthen the economy to support strategic employment creation policies. Specifically for managing investment, the government can form an Investment Management Agency. The Central Government is responsible for providing land for Government priority projects. If the government cannot provide the land, the land acquisition can be carried out by the Business Entity whose funding comes from the Business Entity as a bailout fund.

11. Economic territory

The Economic Zone Cluster is divided into three sub-clusters namely Special Economic Zones, Industrial Zones, and Free Trade Zones and Free Ports. The direction of change is focused on removing obstacles encountered and increasing investment attractiveness through:

- the omission of multiple interpretations of provisions;
- adding sectors that can obtain the status of Special Economic Zones, Industrial Zones, and Free Trade Zones and Free Ports under the development of the business world;
- institutional improvement in investment services, including improving the quality of its human resources; and
- increased coordination capacity of the National Council.

5. Rules of Controversy in the Omnibus Law on Job Creation

The existence of the omnibus law still raises doubts about whether it is effective in solving various problems. These concerns are based on the premise that:

- a. The Omnibus law changes and changes the norms of several laws that have different political initiatives and become one law with the same concept so that this practice is considered undemocratic. This undemocratic assumption is seen in the Omnibus Law on Job Creation which consists of 174 main articles with nearly 500 norms which provide delegation of regulations in the form of Government Regulations. This condition certainly expands executive power because

Government Regulations are sufficiently made by the president without having to go through discussions in the People's Representative Council.^[13]

- b. Omnibus law is considered to violate the principle of openness.

The government submitted a draft of the Omnibus Law on Job Creation since February 13, 2020, but there is no official website of the government or People's Representative Council that disseminates the draft or academic draft of the Job Creation Bill. This condition certainly violates the provisions of the principle of openness based on Article 5 letter g and public participation Article 96 paragraph (1) of Law No.12 of 2011 concerning the Formation of Legislation. Besides, the drafting of the Job Creation Bill only involves academics, business associations, and many experts. The community groups that will be affected by the implementation of the bill should also be involved by the government to provide input.^[14]

- c. Omnibus law is considered not to be arranged systematically because in one omnibus law there are many regulated subjects. In the Copyright Bill, there are 97 laws and 1,244 simplified Articles. Discussions in the People's Representative Council should take a long time the president wants this bill to be passed immediately by targeting the discussion in the People's Representative Council to be completed within 3 months.^[15]

Concern over the existence of the Omnibus Law on Job Creation is evidenced by a large number of parties who filed objections to the presence of the Job Creation Bill. As for some rules that are controversial and are still being debated, including:

- a. The Government Eliminates Rules relating to Workers' Rights.

- Regarding working hours

Article 89 of the draft of Omnibus Law on Job Creation regulates the amendment of Law No. 13 of 2003 concerning Employment, which adds to the provisions of Article 77A by giving employers the authority to impose working hours over the provisions of 8 hours a day or 40 hours a week, which are for the type of work or a particular sector.

- Regarding Break Time

The draft of Omnibus Law on Job Creation regulates rest periods of working hours of at least 30 minutes with the provisions that after working for 4 hours continuously and resting days for six working days a week.

- Regarding Minimum Wages

Regulations regarding the provision that workers with minimum working hours of 40 hours a week will get wages as usual, but for workers with working hours less than 40 hours a week will get wages below the minimum. This condition can be exploited by employers in reducing work hours so that they do not have to fulfill the obligation to pay wages above the Regional Minimum Wage (RMW). Another thing that must be considered is the problem if the worker is sick, performs worship according to his religious obligations, maternity leave, etc. has an impact on unpaid wages because at

that time he is considered not working.^[16] Provisions another in the draft of Omnibus Law on Job Creation states that RMW is not applied to small industries and labor-intensive industries.

– Regarding the Determination of Severance pay

Law No. 13 of 2003 concerning employment, regulates severance pay received by workers with a maximum calculation of 9 months and can be multiplied by 2 for termination of certain types of employment. Initially, workers could get severance pay up to 18 months, wages would be reduced to a maximum of 6 months according to the draft of Omnibus Law on Job Creation. Besides, the maximum tenure of 10 months of work wages and compensation of at least 15 percent of the total severance pay and/or work tenure awards are abolished according to the draft of Omnibus Law on Job Creation.

– Regarding Social Security

Social security in the form of old-age savings and pension insurance has the potential to be eliminated. This happens because there is no certainty of remuneration related to working hours requirements that can be paid according to the minimum wage.

b. The Government Eliminates Criminal Sanctions Regulations Against Entrepreneurs Who Commit Abuses. Employers are only subject to administrative sanctions if they violate labor rights.

c. The Government Opens Opportunities for Employment Flexibility and Expansion of Outsourcing.

In the draft of the Omnibus Law on Job Creation, the concept of labor market flexibility is introduced. The flexibility of the job market allows no more job certainty and the appointment of permanent status or indefinite employment agreements. This condition has an impact on expanding the type of work that can be outsourced. At present, there are only 5 types of jobs that can be outsourced, namely cleaning service, security, transportation, catering, mining.

d. The Government Opens Opportunities for the Entry of Foreign Workers Without Skills.

Law No. 13 of 2003 concerning Employment does provide opportunities for the entry of foreign workers, but foreign workers who may enter are foreign workers who have certain qualifications and skills that are not yet possessed by local workers with certain positions and maximum time limits 5 years accompanied by local workers to transfer knowledge. In the draft of Omnibus Law on Job Creation for free-market reasons and attracting investors, the provisions on the requirements for foreign workers are removed, meaning that foreign workers without skills can be employed in the industrial sectors in Indonesia except for positions that deal with personnel.

e. The substance of the regulation violates the provisions of Law No.12 of 2011 concerning Formation of Legislation, in Article 7 paragraph (1) and (2) it is stated that the Government Regulation has a lower position than the Law so that it

cannot cancel or amend the Law -invite. Article 170 of the Job Creation Bill states that in the context of accelerating the implementation of a job creation policy, the central government may amend the Law with Government Regulation.

f. Government Limits the Authority of Regional Governments.

The draft of Omnibus Law on Job Creation reinforces the centralization of power. Some concurrent authority that has been in the hands of the regional government has been withdrawn by the central government. Even Article 166 of the Draft Job Creation bill states that the Regional Regulation which is the autonomy of the regional government based on Article 18 paragraph (6) of the 1945 Constitution can be canceled by the central Government through a Presidential Regulation. This certainly contradicts the Decision of the Constitutional Court No.56/PUU/-XIV which states that the authority is contrary to the constitution because the Constitutional Court stressed that cancellation can only be done through a judicial review process. ^[17]

6. Strategies for Improving the Draft of Omnibus Law on Job Creation for the Acceleration of Indonesia's Development.

Omnibus Law is a strategy of regulatory reform so that the arrangement is carried out simultaneously for many Laws and Regulations. The Omnibus Law on Job Creation is a strategy of the government to catch up with development, by opening investment opportunities from abroad through simplification, alignment, and trimming of regulations deemed to be able to hamper investment in Indonesia. Efforts to create jobs through increased investment and the ease and protection of MSEs must be followed by policies to improve the quality of human resources so that workers can compete in the formations needed by the world of work or companies. Targets to be realized in the Establishment of the Job Creation Bill, namely: ^[18]

- 1) Implement regulatory reforms in the context of creating jobs that can absorb Indonesia's high population growth by:
 - a) encourage increased investment in Indonesia;
 - b) develop the MSMEs sector through research and innovation support so that the MSMEs can develop and be able to compete in the business world;
 - c) encourage the acceleration and smoothness of Government Investment and Government Projects which are the source of job creation.
- 2) Increase the rate of growth of national production so that it has significant implications for economic growth.

The existence of the draft of Omnibus Law on Job Creation contains hopes to increase investment to be able to accommodate workers who will indirectly increase incomes that will guarantee the stability of the nation's economy. The controversy over some of the rules and the draft of Omnibus Law on Job Creation must be fixed with the target of the existence of this Bill to balance the interests of investment and protection of labor, the environment, and bring benefits to the community at large.

Various improvements that can be made in order to improve the existence of the draft of Omnibus Law on Job Creation include:

- 1) Reorientation of the concept of economic democracy based on the 1945 Constitution of Indonesian which requires an economic system arranged based on the principle of kinship that protects the assets of natural resources and human resources.^[19] Economic Democracy is an economic concept based on the philosophy of the Indonesian people with human development index indicators. Philosophical economic democracy is based on partnerships involving all economic actors from upstream to downstream.^[20] The concept of a liberal capitalist economy that requires market freedom can trap Indonesia in terms of fidelity by prioritizing the interests of investors rather than protecting the nation's assets.^[21]
- 2) The making of the articles of Law must follow the provisions of the hierarchy of the legislative order as stipulated in the 1945 Constitution of Indonesian and Law No.12 of 2011 concerning the Formation of Legislation. Another thing that is no less important must also consider the validity of legal principles.
- 3) The basic aim of the omnibus law is to adjust Indonesian legal rules so that they can be accepted internationally especially in terms of attracting investment. Based on this, the substance of the draft of Omnibus Law on Job Creation must adjust to the international agreement published by the United Nations in the Sustainable Development Goals scheme (SDG's) Agenda 2030. SDG's contains human goals in a world without poverty, without hunger, healthy and prosperous life, education quality, gender equality, availability of clean water and proper sanitation, availability of clean and affordable energy, decent work and sustainable economic growth, improvement of industry innovation and infrastructure, reduced inequality, sustainable cities and communities, responsible consumption and production, handling change climate, marine ecosystems, terrestrial ecosystems, creating peace, justice, and resilient institutions, and partnerships to achieve goals.
- 4) Arranging the substance of the Omnibus Law on Job Creation that aims to race to the top not a race to the bottom. Take the example of developed countries like America and Europe which are trying to protect their domestic markets against the invasion of products originating from rival countries. Tariff and non-tariff barriers are packaged in various forms of regulations which include food safety, social, environmental standards and high social standards for their workers. The substance of the Job Creation Bill should not contain provisions that harm workers' rights, harm consumers' rights, damage the environment, marginalize indigenous peoples, increase rent economic growth which will ultimately trap Indonesia as a country that will never be able to compete globally because always has a budget deficit.

The existence of the draft of Omnibus Law on Job Creation is much needed if it can be carried out consistently by seeking a balance between the interests of investors with guaranteed protection of workers, consumers, the environment, and benefit of the community at large. The substance of the draft of Omnibus Law on Job Creation

that can accommodate the rights and obligations of economic actors will be able to create a friendly investment ecosystem and support adequate job creation.

7. Conclusion and Recommendation

There are at least four things that are considered by the government in designing the Omnibus Law on Job Creation, namely the problem of improving the investment ecosystem and business activities; increased protection and welfare of workers; facilities, empowerment, and protection of MSMEs and cooperatives; and increasing government investment and accelerating national strategic projects. Since the submission of the draft of Omnibus Law on Job Creation to the People's Representative Council there have been many objections, the Job Creation bill is considered to contain a lot of controversies. The rules of this controversy occur because the government only drafted the bill in a hurry and only involved practitioners and academics, without involving parties who would be in direct contact with the bill. The improvement of the substance of the Job Creation Bill which is oriented to the economic democratic system following the 1945 Constitution of Indonesian and leads to a race to the top that protects the nation's assets both natural resources and Indonesian human resources.

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