

INDONESIA'S OMNIBUS JOB CREATION LAW NO. 11 YEAR 2020 TO WHOM IT'S BENEFIT

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ABSTRACT

Developed countries are countries that have good quality in infrastructure and human resources. President Joko Widodo is fully aware to focus on it to realize the Golden Indonesia Vision 2045. The vision and mission of the President is to continue infrastructure development, human resource development, open employment opportunities, reform the bureaucracy and the State Revenue and Expenditure Budget that is focused and right on target. In order to create a country that is productive, competitive, adaptive, and innovative, an omnibus law has been raised regarding the Job Creation law and the Law on the empowerment of Micro, Small and Medium Enterprises (MSMEs). The Job Creation Law is believed to be able to save Indonesia from the middle-income trap. Regulations are considered to open jobs and help small business actors, but on the other hand, labor rights are trimmed, the Job Creation Law is considered by many to be detrimental to workers such as laborers. The Job Creation law is considered to only benefit the owners of capital. Is it true? Thousands of people consisting of groups of students and workers held rallies and parades in various provinces and districts and cities to reject the Job Creation Law. This action has even been around since August 2019. Criticism was not only delivered by workers and civil society organizations, but also by state institutions. One of them is the National Human Rights Commission, has officially recommended that the discussion of the Job Creation draft should be discontinued for various reasons. The question that needs to be addressed is "INDONESIA'S OMNIBUS JOB CREATION LAW NO. 11 YEAR 2020 TO WHOM IT'S BENEFIT", because it is clearly titled for the benefit of workers and to create jobs, if so, why is there resistance and demonstrations from stakeholders.

Keywords: Government, Employers, Workers, People, Four Pillars.

INTRODUCTION

President Joko Widodo said that "It is time for us to plow the momentum of the crisis to take a big leap. This is the time for us to improve fundamentally, carry out major transformations, carry out big strategies, starting from the economy, law, government, social, culture, including health and education.

Data support statements from the world bank in June 2020, that the Omnibus Job Creation Law, will be able to increase trade by making import-export easier: (1) removing import / export licenses (permits) for import / export and import / export registration, will reduce costs and trade uncertainty; (2) For example, to obtain a Letter of Recommendation only for each import license, it costs about 6 cents for every import dollar; and another data from the world bank at October 2020, that the world bank appreciates the Omnibus Job creation law as a major reform effort to make Indonesia more competitive by removing large restrictions on investment and giving signals that Indonesia is open to investment so that it can create job opportunities and fight poverty.

Implementing Regulations for the Job Creation Law supported by 40 (forty) Government Regulation Plans & 4 (four) Presidential Regulation Plans aimed at: supporting Ease of Doing Business; Strengthen Alignment of Tax Policies between Central and Regional Government; Supporting the Implementation of National Strategic Projects; Increase Regional Competitiveness; Encouraging Local Government Compliance in Preparing Local Taxes and Retributions.

Muhammadiyah Central Leadership, submitting letters and academic studies related to the Work Creation Omnibus Law's draft to the leadership of the People's Representative Council, the Head of Law and Human Rights. Muhammadiyah Central Leadership, *Busyro Muqoddas* said, this study was a form of Muhammadiyah's responsibility regarding religious and nationality commitments. To conclude, the fundamental substance is that the philosophy of the Draft Law is very fragile. Contrary to the morality of the 1945 constitution, Muhammadiyah believes that the law draft, contrary with the Pancasila ideology, and contains thoughts, or concepts, which reflect constitutional defiance, and this view is the result of three meetings of the Muhammadiyah Central Executive, with experts, and also, has submitted a letter and academic study to President Joko Widodo (Jokowi), and hopes that the Government and the House of Representatives withdraw and stop the discussion of the Omnibus Job Creation law's draft. The reason is that the Draft of the law cannot escape from the Preamble of the 1945 Constitution, Pancasila, and the realities of society and in Muhammadiyah research it finds that society is increasingly marginalized.

Talking about Pancasila, let us recall that Pancasila as the basis of the state implies that the values contained in Pancasila become the basis or guideline for state administration. Pancasila as the basis of the state underlies the articles in the 1945 Constitution and becomes the ideals of law as outlined in statutory regulations. Pancasila is the foundation of the Republic of Indonesia, in which there are five precepts as a view of life for the Indonesian people. This statement is contained in the Preamble to the 1945 Constitution, fourth paragraph. In the Preamble to the 1945 Constitution of the Republic of Indonesia, there is a manifestation of the ideals of the proclamation. Pancasila is the ideological pillar of the Indonesian state. This name consists of two words from Sanskrit: pañca means five and śīla means principle. Pancasila is the formulation and guidelines for the life of the nation and state for all Indonesian people.

Based on the decision of the People's Representative Council Conference no. I/MPR/ 2003; *First precept (Star)*: The Indonesian nation expresses its belief in and devotion to God Almighty; Indonesian people believe and believe in God Almighty, in accordance with their respective religions and beliefs according to the basis of a just and civilized humanity; Developing a respectful attitude of respect and cooperation between followers of religions and adherents of different beliefs towards God Almighty; Fostering harmony in life among fellow religious communities and belief in God Almighty; Religion and belief in God Almighty are the problems that concern the relationship of the human person with God Almighty; Developing an attitude of mutual respect for freedom of worship in accordance with their respective religions and beliefs; Do not impose a religion and belief in God Almighty on others.

Second precept (Chain): Recognizing and treating humans according to their dignity and status as creatures of God Almighty; Recognizing equality, the equality of rights and human rights, without discriminating against ethnicity, descent, religion, belief, gender, social position, 'skin color' and so on; Develop mutual love, consideration and tolerance; Developing fairness attitude towards others; Upholding human values; Likes to do humanitarian activities; Dare to defend truth and justice; The Indonesian nation feels itself as part of all humanity; Developing a respectful attitude and cooperation with other nations.

Third precept (Banyan Tree): Able to place unity, integrity, and interests and safety of the nation and state, as common interests above personal and group interests; Able and willing to sacrifice for the interests of the state and nation, if necessary; Develop a sense of love, for the homeland and nation; Developing a sense of Indonesian national pride, and homeland; Maintain world order based on freedom, eternal peace and social justice; Developing Indonesian unity on the basis of Unity In Diversity (*Bhinneka Tunggal Ika*); Promote association for the sake of national unity and integrity.

Fourth precept (Bull's Head): As citizens of the society, every Indonesian human being has the same position, in the rights and obligations; Do not impose your will on others; Prioritizing deliberation in making decisions for the common interest; Deliberations to reach consensus, filled with a kinship spirit; Respect and uphold every decision reached as a result of deliberation; In good faith, and senses of responsibility to accept and implement the results of deliberation decisions; In deliberation, mutual interests are prioritized, over personal and group interests; Deliberations, are conducted in a common senses and in accordance with a noble consciences; Decisions taken must be morally, accountable to God Almighty, uphold human dignity, values of truth and justice, prioritizing unity and integrity for the common interests; Giving trust to representatives who are trusted to carry out the deliberations.

Fifth precept (Rice and Cotton): Developing noble deeds, which reflect the attitude and atmosphere of kinship and mutual cooperation; Develop a fair attitude towards each other; Maintain a balance between rights and obligations; Respect the rights of others; Likes to help others to stand on their own; Do not use property rights for businesses that are extortion of others; Not using property rights for things that are extravagant and a luxurious lifestyle; Not using property rights to conflict with or harm the public interest; Likes to work hard; Like to appreciate the work of others, which is beneficial for the progress and prosperity of all; Likes to carry out activities in order to realize equitable progress and social justice.

Furthermore, at Article 33 of the 1945, Constitution, paragraph 1 to 3, states that:

1. The economy is structured as a joint effort based on the principle of kinship;
2. Production branches which are important to the State and which affect the livelihood of the public shall be controlled by the State;
3. The land, water and natural resources contained, therein shall be controlled by the State, and used for the greatest prosperity of the people.

Based on this article, the Pancasila value contained at the fifth principle, namely, social justice for all Indonesian people, because the Indonesian people have the right to justice, both food and clothing and shelter. In this article, it is clear that the role of the state in regulating the economy is enormous.

And, Article 33 of the 1945 Constitution, and its explanations explicitly prohibits the control of, natural resources in the hands of individuals. In other words, monopoly, oligopoly, or cartel practices in the field of natural resource management, are contrary to the principles of Article 33. The spirit of Article 33-year 1945 Constitution of the Republic of Indonesia, is based on the social spirit, which places control over goods, for the public interest, such as natural resources in the state.

This arrangement is, based on the assumption that the government holds the mandate, to carry out state life in Indonesia. For this reason, the holder of this mandate, should have legitimate legitimacy, and someone who controls the policies, he makes and implements, so that laws and regulations, that elaborate Article 33-year 1945 Constitution, are in accordance with the spirit of economic democracy. even though it has been written, it still carries various interpretations.

Every statutory regulation is abstract and passive. Abstract because it is general in nature, and passive because it does not cause legal consequences if there are no concrete events. Abstract regulations require stimulation in order to be active. Therefore, every statutory provision needs to be explained, it needs to be interpreted first so that it can be applied to the event. Even the text of the law, is never clear and always needs interpretation. This has been mentioned by Achmad Ali:

"Whoever says that the text of the law is very clear, so that it does not need any more interpretation, actually, those who say that have made their own interpretation. His statement about the clarity of the text is the result of his interpretation of the text."

What Achmad Ali said is in line with what, A. Pitlo said, that "any words are never clear. He always needs interpretation." This contradicts the old view, that says, in claris non-interpretation (rules that clearly do not require interpretation). The existence of an in claris rules that clearly do not require interpretation was born from the European continental legal system (*civil law*) which prioritizes the existence of laws as the main foundation of law. In the Trias Politica Montesquieu doctrine, the state power is divided into 3 main parts, namely the legislature as legislators who derive from the people's sovereignty; executives who administer the law; and the judiciary as an institution that resolves disputes arising in the state by concretizing written law. The judge only acts as a mouth piece for the law. Is that what happen?

In every statutory regulation in Indonesia related to the economy, it must be guided by Article 33 of the 1945 Constitution. The application of Article 33 of the 1945 Constitution into a law must be in accordance with what is aspired or in accordance with the intention of the legislator, so that the law can be implemented.

Furthermore, it reminds us that there are three stages in developing a country towards a developed country, namely: *First*, the stage of unification; *Second*, the industrialization stage; and *the third* stage, the welfare state, where the state's duty is mainly to protect the people from the negative side when carrying out the industrialization stage. Moreover, Indonesia is an archipelago and a pluralistic nation.

The meaning of the motto '*Bhinneka Tunggal Ika*' (Unity In Diversity) is so important to be socialized. *Bhinneka Tunggal Ika*, comes from the *Kawi* language, which means, different but still one. Although Indonesia consists of various ethnic groups, languages, customs, and religions, it is one unit. Unity does not mean eliminating differences. This is very impossible because it is against nature. Let the differences exist and remain. What we are trying to do is how the differences can still unite us in a beautiful unity, such as the beauty of the harmonious unity of the rainbow colors. The Indonesian nation is known for its cultural diversity. Apart from native Indonesians (indigenous), there are also many Chinese, Arabic, Indian, Japanese, European and other foreign descent. Their rights and obligations as citizens are equally guaranteed by the 1945 Constitution.

With global changes that are increasingly globalized, the Indonesian government considers the need for a quick and precise response. And if done, without any policy reforms that are considered to slow economic growth down. The Omnibus Law for Job Creation was initiated from President Jokowi's vision to open even wider employment opportunities. With the Omnibus Law for Job Creation, it is hoped that it can change the economic structure which in turn is able to make changes to all sectors to encourage higher economic growth. This is done through the following: 1. Job Creation; 2. Increasing investment; and 3. Increased Productivity.

Omnibus Law itself is defined as a method used to replace and/or revoke provisions in a law or to rearrange several provisions in a law into one law (thematic). According to the Draft of the Omnibus Job Creation Law, Job Creation is an effort to create work through efforts to facilitate, protect and empower micro, small, and medium enterprises (MSMEs), increase the investment ecosystem and ease of doing business, and Central Government investment and acceleration of strategic national projects.

The Law Number 11-year 2020 concerning Job Creation, by the President and promulgated on November 2, 2020 pushing that all draft, Implementing Regulations, must have been completed within 3 months, of the promulgation of the Omnibus Job Creation Law, it means on February 2, 2021. In fact, the government has done its best to get the Indonesian state to catch up with its downturn. Omnibus law does not appear immediately, but has been through the '*correct*' process by the experts. The discussion of the Omnibus Job Creation Law in the House of Representatives was conducted 64 times (2 Work Meetings, 56 standing committee (*Panja*) Meetings, 6 Meetings of Formulating Team, and Synchronization Team)."

The structure of the Omnibus Job Creation Law consists of:

15 Chapters and 186 Articles;

- Chapter I General Provisions (Article 1);
- Chapter II Principles, Objectives and Scope (Article 2 - Article 5);
- Chapter III Increasing the Ecosystem of Investments and Business Activities (Article 6 - Article 79);
- Chapter IV Manpower (Article 80 - Article 84);
- Chapter V Convenience, Protection, Empowerment of Cooperatives and SMEs (Article 85 - Article 104);
- Chapter VI Ease of Doing Business (Article 105 - Article 118);
- Chapter VII Support for Research and Innovation (Article 119 - Article 121);
- Chapter VIII Land Acquisition (Article 122 - Article 147);
- Chapter IX Economic Zones (Article 148 - Article 153);
- Chapter X Central Government Investment and National Strategic Project Ease (Article 154 - Article 173);
- Chapter XI Implementation of Government Administration to Support Job Creation (Article 174 - Article 176);
- Chapter XII Supervision and Development (Article 177 - Article 179);
- Chapter XIII Other Provisions (Article 180 - Article 183);
- Chapter XIV Transitional Provisions (Article 184);
- Chapter XV Closing Provisions (Article 185 - Article 186).

11 (eleven) Clusters of problems and the main substance of the Omnibus Job creation law:

1. Improvement of the investment ecosystem and business activities.

Concentrate in:

- *Risk Based Business Licensing;*
 - *Changing the licensing approach, from license based, to risk based, where, for high risk → Permit; Medium risk → Standard Certificate; Low risk → registration / NIB (Business Identification Number).*
- *Forest Area;*
 - *The Land Bank provides the Land Object for Agrarian Reform (TORA) of at least 30%*
- *Simplification of Business Licensing by Sector and Investment Requirements;*
 - *Regulated sectors: Maritime Affairs and Fisheries, Agriculture; Forestry; Energy and Mineral Resources; Nuclear power; Industry; Trade, Guarantee of Halal Products, Public Works and Public Housing; Transportation; Health; Medicine and Food; Education and culture; Tourism; Religious; Telecommunication and Broadcasting Post; Defense and security.*
 - *Business Licensing in the Education sector only applies to Formal Education Institutions in Special Economic Zones.*
- *Halal Product Guarantee.*
 - *Expanding the Halal Inspection Agency (can be carried out by Islamic organizations and state universities)*
 - *Halal fatwa is still issued by MUI*
 - *The cost of halal certification for MSEs is borne by the Government.*

2. Business Licensing;

Concentrate in:

- *Basic Licensing (Layout, Environment, Building);*
 - *Suitability of space utilization activities → Basic licensing for Layout Planning is carried out through Suitability of Layout Planning to Detailed Layout Planning / Regional Layout Planning*
 - *Environmental Approval → Environmental Impact Assessment (AMDAL) remains in place and is integrated into business licensing.*
 - *Building Approval and Certificate of Acceptability → using building technical standards (building structures simple following the prototype)*
- *Simplification of Business Licensing in 18 Sectors.*
 - *Simplification of licensing in 18 sectors through the application of a Risk Based Approach (RBA).*
 - *Integration of environmental agreements into business licensing. Environmental Impact Analysis, still exists for business activities that have an important (high risk) impact on health, safety and the environment as well as natural resource management activities.*

3. Employment;

Concentrate in:

- *Fixed Term Work Agreement (PKWT);*
 - *Fixed Term Work Agreement (PKWT) compensation in accordance with the work period of the worker / laborer.*
 - *PKWT can only be made for certain jobs and cannot be held for permanent jobs.*
- *Outsourcing;*
 - *Workers / laborers, at outsourcing companies, still receive protection for their rights.*
 - *In the event of a change in outsourcing company, workers / laborers are guaranteed their work continuity and rights.*
- *Minimum wage;*
 - *Minimum Wage, which must be set at the Provincial level (UMP), while the Regency / City Minimum Wage still exists.*
 - *The formula for calculating the Minimum Wage contains a variable of economic growth or inflation.*
 - *Wages above the Minimum Wage are determined based on an agreement.*
 - *The Minimum Wage that was set before the Omnibus job creation law cannot be lowered.*
- *Foreign workers;*
 - *Foreign Workers are only for a certain position, for a certain time and must have certain competencies, it is mandatory to use a Foreign Worker Plan (RPTKA).*
- *Severance pay;*
 - *Workers / laborers who experience Termination of Employment (PHK), still receive severance pay, period of service pay and compensation for rights, in accordance with statutory regulations.*
 - *Workers / laborers who experience layoffs will receive compensation for layoffs of 25 times their wages, consisting of 19 times borne by the employer and 6 times borne by the government through the Job Loss Guarantee Program (JKP).*
- *Job Loss Guarantee;*
 - *Organized by, the Employment Social Security Administration, and the Government, and does not reduce the benefits of Work Accident Security (JKK), Death Security (JKm), Old Age Security (JHT), and Pension Security (JP).*
- *Working time.*
 - *The provisions for fixed working hours are in accordance with Law no. 13/2003 on Manpower, and there are additional working time arrangements, which are more flexible for certain jobs.*

4. Convenience, protection, and empowerment of cooperatives and Micro, Small and Medium Enterprises (*UMKM*);
Concentrate in:
 - Micro, Small and Medium Enterprises (*UMKM*);
 - Single Licensing for Macro, Small Business (*UMK*), simply through registration.
 - Providing incentives and facilities, for Medium and Large Enterprises, in partnership with *UMK*.
 - Integrated management of *UMK*, through synergy with stakeholders.
 - Fiscal Incentives and Financing for the development and empowerment of *UMKM*.
 - The government has prioritized the use of the Special Allocation Fund (DAK) to fund development and empowerment activities for *UMKM*.
 - Providing facilitation of legal assistance and protection services for *UMK*.
 - Priority for products / services of *UMK* in the procurement of government goods and services.
 - *UMK* partnerships through the provision of promotion venues, business premises or *UMK* development in public infrastructure.
 - Cooperative.
 - Primary Cooperatives formed at least 9 members;
 - Annual Member Meeting (*RAT*) can be conducted virtually;
 - Register of members in written or electronic form;
 - Can conduct business based on Syahria principles.
5. Ease of Doing Business;
Concentrate in:
 - Immigration;
 - Pre-investment visits can use a Visit Visa, and visa guarantees can be a deposit.
 - Expansion of coverage for permanent residence permits, which can also be granted for second homes.
 - Patent;
 - Acceleration of the patent process.
 - Mandatory patent application can be done through imports.
 - Brand:
 - Simplification and acceleration of branding processes.
 - Limited Liability Company (*PT*);
 - The establishment of an Individual Limited Liability Company (*PT*) for *UMK* can be done by one person.
 - Simplified the process and reduced the cost of establishing *PT*.
 - Nuisance permission removal;
 - Distraction permit (*HO*) is abolished.
 - Village Owned Enterprises (*BUMDesa*).
 - *BUMDesa* is in the form of a legal entity.
6. Research and Innovation Support;
Concentrate in:
 - Assignment of State-Owned Enterprises (*BUMN*);
 - The Central Government, can give special assignments to *BUMN*, to carry out public benefit functions, as well as national research and innovation.
 - Establishment of Regional Research and Innovation Agencies.
 - To carry out Research, Development, Assessment and Application, as well as Invention and Innovation, which are integrated in the regions, the Regional Government forms a body.
7. Land Acquisition;
Concentrate in:
 - Acceleration of National Strategic Projects;
 - Acceleration of the land acquisition process, for development, for the public interest.
 - Land Management Rights (*HPL*) and Building Use Rights (*HGB*);
 - Strengthening the implementation of Land Management Rights (*HPL*), and granting Building Use Rights (*HGB*), above *HPL*, can be extended and renewed, after operation / operation worthy.
 - Establishment of a Land Bank.
 - Establishment of a Land Bank, in the context of efficient land management. One of the tasks is to carry out agrarian reform (land distribution), at least 30% of the managed land.
8. Economic Zone;
Concentrate in:
 - Special Economic Zones;
 - Expansion of activities in Special Economic Zones (*KEK*) to include education and health services.
 - Proposing *KEK* by a private business entity must have owned the land min. 50%.
 - *KEK* administrators are authorized as licensing authorities in *KEK* based on Norms, Standards, Procedures, Criteria (*NSPK*).
 - Local government obligations to support *KEK*.
 - There are additional facilities for imports of consumer goods in non-industrial *KEK*.
 - Employment incentives regulated in Government Regulation (*PP*) apply.
 - Free Trade and Free Port Zone (*KPBPB*).
 - Institutional *KPBPB*.
 - The Concession Agency has the authority as the licensing authority in *KPBPB* based on the *NSPK*.

9. Central Government Investment and National Strategic Project Acceleration;
Concentrate in:
 - Central Government Investment;
 - Forming a Central Government investment management institution (Sovereign Wealth Fund/SWF), to manage and place a number of funds and / or state assets. SWF institutions are in the form of Indonesian legal entities, which are fully owned by the Government. SWF institutions can invest directly, or indirectly, cooperate with third parties, or through the formation of special entities.
 - Note: The SWF Institution's Initial Capital is set at least Rp. 15 trillion in cash, and according to the results of a limited meeting of Government Investments, it was decided that the initial capital of this Institute was USD 5 billion.
 - Central Government Investment for the Acceleration of National Strategic Projects.
 - The government provides land (land or forest areas), and all necessary permits, in the implementation of National Strategic Projects from the Central Government, Regional Governments, State-Owned Enterprises (*BUMN*), Regional-Owned Enterprises (*BUMD*). Land acquisition can be carried out by the private sector (executing activities if no government budget is available).
10. Government Administration;
Concentrate in:
 - Authority of Ministries/Institutions (*K/L*) and Local Government;
 - The authority of the Minister, Head of Institution, or Regional Government that has been stipulated in the Law to implement or form laws and regulations must be interpreted as the exercise of the President's authority.
 - Presidential Discretion;
 - Discretion can be carried out by the President, in the national interest, provided that: according to the objectives, in accordance with the General Principles of Good Governance (*AUPB*), based on, objective reasons, does not create a conflict of interest, and, is carried out in good faith.
 - Service Level Agreement (SLA) and Establishment of Standards, Procedures and Criteria (*NSPK*);
 - An application for a license is deemed approved when the time limit in the Service Level Agreement (SLA) has passed.
 - The implementation of licensing authority is still carried out by the Regional Government with the same Norms, Standards, Procedures and Criteria (*NSPK*) determined by the central government.
 - Determination of the *NSPK* in the framework of implementing Business Licensing (Central Government and Regional Government) in the form of Government Regulation (*PP*).
 - Simplification of licensing services and conducted electronically in accordance with the *NSPK*.
11. Guidance and Supervision (Imposition of Sanctions).
Concentrate in:
 - Restructuring Sanctions by Implementing *Ultimum Remedium*;
 - Violation of administrative provisions will be subject to administrative sanctions.
 - Violations that result in *K3L* (Health, Safety, Security and Environment) are subject to criminal sanctions.
 - Civil Servant Investigating Officer (*PPNS*).
 - The *PPNS* arrangement is returned to the existing law, with a consideration, to avoid duplication of authority with the Police.

FINDING

The substance of the Omnibus Job Creation law's draft, for investment and ease of doing business as well as job creation, related to the 11 clusters above, can be explained in more detail, as follows:

- Support for Small and Medium Enterprises, Simplification, and acceleration of the licensing process; certification for small and medium enterprises is free of charge; *Halal* certification is based on statements from Micro, Small and Medium Enterprises (*UMKM*) actors according to the *halal* standards of the *Halal* Product Guarantee Organizing Body. Determination of product *halalness*, by the Indonesian Ulama Council (*MUI*); conducted in the *Halal* Fatwa Session; Decision on product *halalness*, no later than 3 (three) working days (since *MUI* received the results of the inspection from, the *Halal* Inspection Agency); *MUI* conveyed to the *Halal* Product Guarantee Agency, as the basis for issuing *Halal* Certificates; *Halal* Certificate is issued by the *Halal* Product Guarantee Agency, no later than 1 (one) working day (since the fatwa of the Product's *halalness*); Expanding *Halal* Inspection Agencies (can be carried out by Islamic community organizations, State Universities, and Private Universities, under religious institutions or Islamic foundations); *Halal* certification costs for Micro, Small and Medium Enterprises are borne by the Government.
- In protecting and guaranteeing workers, pay attention to the Fixed Time Work Agreement/*Perjanjian Kerja Waktu Tertentu (PKWT)* - *PKWT* compensation according to the work period of the worker / laborer; *PKWT* can only be made for certain jobs and cannot be held for permanent jobs; Outsourcing - Workers continue to receive protection for their rights; If there is a change of company, workers are still guaranteed their work continuity and rights; Working Hours - Fixed according to Indonesian Labour Law Act 13 of 2003, with the addition of more flexible work arrangements for certain jobs (e.g. digital economy, mining, etc.); Planned Employment of Foreign Workers - Foreign Workers are only for a certain position, for a certain time and must have certain competencies (skilled foreign workers); obliged to prepare a plan for the use of foreign workers; Job Loss Security Program - Implementation of the program through the Manpower Social Security Administering Body; Does not reduce the benefits of Work Accident Benefits, Death Benefits, Old Age Benefits, Pension Benefits; Do not increase the burden of worker or employer contributions; Minimum Wage - The minimum wage must be set at the Provincial

level (Provincial Minimum Wage), while, the Regency / City Minimum Wage remains; The formula for calculating the minimum wage contains a variable of economic growth or inflation; Wages above the minimum wage are determined by agreement; the minimum wage that was set before the omnibus job creation law cannot be lowered; *Severance pay* - 25 times, of which 19 are covered by the employer and 6 times covered by the job loss guarantee program.

- 9 (nine) Convenience, for Micro, Small and Medium Enterprises, the Government provides ease of doing business, empowerment and protection for Micro and Small Enterprises / *Usaha Mikro Kecil (UMK)*, as follows: (1) Single License for Micro and Small Businesses (*UMK*) - Providing Identification Number / *Nomor Induk Berusaha (NIB)* through Electronic Business Licensing; *NIB* applies to all business activities: business license, distribution permit, Indonesian national standard (*SNI*) & *halal* product certification; (2) The government allocates a Special Allocation Fund (*DAK*) for empowerment and development of *UMKM/Usaha Mikro Kecil Menengah*; (3) Integrated Management of *UMK* - The synergy of central, regional & stakeholder governments; Assistance in the form of management support, Human Resources, Budget & Infrastructure; Provision of facilities: location, certification, promotion, marketing; (4) Micro and Small Business Products - prioritized in the procurement of government services; (5) Micro and Small Business Partnerships - Rest Areas, stations & terminals (transportation, ports, and airports) for promotion & sales of MSE products with a partnership pattern; (6) Legal Assistance and Protection; (7) Convenience for Cooperatives - The formation of primary cooperatives of at least 9 people; Annual Member Meeting / *Rapat Anggota Tahunan (RAT)* can be online, online or offline; Cooperatives can be syariah businesses; (8) Ease of Financing & Fiscal Incentives - Simplification of tax administration; Business licensing without fees or waivers; Income tax incentives; Customs incentives for export *UMK*; (9) Central & local governments can provide incentives and facilities for doing business like medium & large businesses that partner with *UMK*.

CONCEPTION FOR PREPARATION OF REGULATION IMPLEMENTATION.

- For the implementation of the Job Creation Law, it is necessary to stipulate:
 - New Government Regulations (*PP*) and Presidential Regulations (*Perpres*)
 - Adjust (revised) existing Government Regulations/*Peraturan Pemerintah (PP)* and *Perpres*.
- The conception of drafting must follow the conception of the Omnibus Job Creation Law, namely integrating regulations and simplifying the number and form → really simple and does not cause bureaucracy and new administrative burdens and fees.
- Example: *PP NSPK Perizinan Berusaha* which includes 18 *K/L* → only made 1 *PP* (previously *K/L* compiled or determined each, partial and not integrated).
- Minimizing the delegation of regulations to the Minister / Head or Regional Government, to maintain standardization of regulations (Efforts are made to strive for Ministerial / Head Regulations to only regulate Technical Guidelines in the internal *K/L*).

Regarding the working age population, according to the datas (2019), Central Bureau of Statistics, the number is:

- 197.91 million (consisting of 133.56 million people in the labor force and 64.35 million people who are not in the labor force);
- 133.56 million people in the labor force, (consisting of 126.51 million people working and 7.05 million unemployed); and
- The 126.51 million working people (consisting 89.96 million full-time workers, 28.41 million part-time workers and 8.14 million under-employed people); and
- every year 2.24 million people appear in the new workforce.
- The total workforce who are working partially/not working is $7.05 + 28.41 + 8.14 + 2.24 = 45.84$ million people.
- 56.5% of unemployed are open aged 15-24 years;
- meanwhile for non-full time workers, the age group 25-34 years 26.3%; and
- the 55+ age group, 28.9% are part-time workers.
- from the education data, 28.2% open unemployment is SMA, 24.5% SMK, 17.6% SD / not yet school, 16% SMP, 10.5% University and 3.1% D1,2,3 ;
- Underemployment 44.5% SD / not yet attending school, 19.5% SMP, 18.2% SMA, 9.8% SMK, 6.4% University and 1.6% D1,2,3;
- Part Time 53.1% SD / not yet attending school, 18.0% Junior High School, 13.8% Senior High School, 7.3% University, 6.2% Vocational School and 1.7% D1,2,3.

Strategic steps in creating employment, seen from the current conditions, are considered on:

- a. Global conditions, global economic uncertainty and slowdown, and geopolitical dynamics in various parts of the world, as well as changes in technology, industry 4.0, the digital economy;
- b. Internal conditions, average economic growth in the range of 5.7% in the last 5 years with investment realization of approximately IDR 721.3 trillion in 2018 and IDR 792 trillion in 2019;
- c. Economic & Business Problems, The existence of overlapping regulations, low investment effectiveness, unemployment rate, new labor force, and the number of informal workers, the large number of *UMKM* but with low productivity;

To Know more about the reasons, why is the Omnibus Job Creation Law needed.

1. Creating and expanding employment opportunities to accommodate new workers and encouraging the development of Cooperatives and Micro, Small and Medium Enterprises;
2. Quality investment;
3. Simplification & Harmonization of regulations and permits;
4. Quality work creation;

5. Indonesia 2045, sovereign, advanced, just, and prosperous. The potential for the economy and human resources in the future, Indonesia will be able to enter the top 5 world economies by 2045 with a gross domestic product of \$ 7 trillion United States dollars and with a per capita income of Rp. 27 million per month.
6. The dynamics of global economic change require a quick and precise response.
7. Without structural reforms, economic growth will slow down.
8. Take advantage of the current Demographic Bonus to get out of the middle-income trap.
9. With a target of increasing investment of 6.6% -7.0%, it is expected to boost economic growth to reach 5.7% -6.0%.
10. Responding to the biggest challenges to maintaining and providing jobs.
11. 2.7 million to 3 million job creation per year.
12. Simplifying, synchronizing, and trimming regulations that hinder job creation.
13. As well as an instrument for simplifying and increasing the effectiveness of the bureaucracy.
14. Increasing the competence, productivity, and welfare of workers.
15. Indonesia's productivity (74.4%) is still below the ASEAN average (78.2%).
16. Providing protection and convenience for *UMKM* and cooperatives to enter the formal sector through ease of establishment, licensing, and guidance.
17. Supporting an increase in the contribution of *UMKM* to GDP to 65% and an increase in cooperatives to GDP to 5.5%.
18. Creating new jobs through increased investment, while increasing protection for workers / laborers.
19. New Social Security Initiatives for workers / laborers, namely Job Loss Security, such as the Unemployment Benefit program that has been implemented in many other countries.

Then, other questions coming, how if the Omnibus Job Creation Law is not running.

1. Employment will move to other more competitive countries.
2. The competitiveness of job seekers is relatively low compared to other countries.
3. The number of people who do not or have not worked will be higher.
4. Indonesia is trapped in the middle-income trap SCOPE (GENERAL)
5. Improvement of the investment ecosystem and business activities;
6. Increasing the protection and welfare of workers;
7. Ease, empowerment, and protection of Cooperatives and *UMKM*; and
8. Increasing government investment and accelerating national strategic projects.
9. Material for Improving Worker Protection and Welfare
10. Worker protection for workers with a certain working time agreement
11. Protection of employment relations for work based on outsourcing
12. Wage protection, among others through minimum wages
13. Protection of workers who have experienced termination of employment; and
14. Ease of licensing for foreign workers who have certain skills that are still required for the production process of goods or services.

CONCLUSION

Finally, after examining the datas collected and analyzing it by the author with the current condition of policy actors in the Indonesian state is more prominent than the resolution of people's problems. So, no matter how good the policy is made, it all depends on the behavior of official officials or unscrupulous elements, entrepreneurs, people who are smart, aware, and of one mind in supporting the implementation of the Omnibus Job Creation Law that has been born to solve the problem of unemployment, investment, invite more investors to develop Indonesia due to the contents of the fourth paragraph of the opening of the 1945 Constitution, that the Omnibus Job Creation law no. 11 of 2020 provides benefits to all parties, especially to Indonesian nation, if it is carried out with the principles of togetherness, kinship and mutual cooperation and adhering to the principles of the four pillars of the state.

Omnibus Job Creation Law plan for worker protection goals:

1. workers who have not worked;
2. Workers / laborers who work (existing);
3. Workers / laborers who have had their employment terminated / *Pemutusan Hubungan Kerja*(PHK).

It is contained in Chapter IV of the Omnibus Job Creation Law. Compiled in the framework of strengthening the protection of workers and increasing the role and welfare of workers / laborers in supporting the investment ecosystem. Amending, Deleting, and Enacting New Regulations on Several Provisions previously regulated in 4 Laws, namely: (1). Law 13/2003 on Manpower; (2). Law 40/2004 on the National Social Security System; (3). Law 24/2011 on Social Security Administering Bodies; and (4). Law 18/2017 on the Protection of Indonesian Migrant Workers. The articles that exist in the existing law as long as they are not amended and deleted by the Ominibus Job Creation Law, then these articles are still valid. Omnibus Job Creation Law Employment Cluster Sassing labor Specific time employment agreement Outsourcing Work time and rest time Minimum wage Layoffs, severance pay and *JKP* Imposition of sanctions Licensing in the field of employment.

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