

BUILDING SOCIAL CAPITAL AFTER THE RATIFICATION OF THE JOB CREATION LAW IN THE ECONOMIC FRAMEWORK OF MUTUAL COOPERATION

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Abstract

The pros and cons of passing the work copyright law concern all elements of society. Not because it is unreasonable but because the momentum, process and conditions are not right. Even so, there is not any reason why the government immediately passed the work copyright law. So, there must be attitudes and solutions when facing the times and dynamics of the state and nation. Capital "capital" has always been an obstacle in an initial step towards independence. However, as a country that is accustomed to cooperation, there will always be a solution to all of these problems. All this cannot be separated from the synergy between the people, the government and all stakeholders.

Keywords: *Social capital; cooperation economy; work copyright law.*

Introduction

In the midst of concerns in dealing with the Corona Virus Disease 2019 (COVID-19) pandemic, the House of Representatives (DPR) RI passed the Omnibus Law on the Job Creation Bill at the plenary meeting of the closing session of the first session of the 2020-2021 Session Year on October 5, 2020. Two of the nine Party factions rejected the endorsement, namely the Social Justice Party (PKS) faction, the Democratic Party (PD) faction. Since the passage of the House, at this time, the hot ball is in the President. The President has 30 days to suppress or not press in

accordance with Article 73 of Law No. 12 of 2011 concerning the Establishment of Legislation. Of course, the public is anxiously awaiting the President's choice.¹

The Prologue of Reaction to the Job Creation Bill (RUU CK) initiated by the Government as a legacy of the Omnibus Law concept seems to never stop, even inviting debate due to controversy as an implication. The Omnibus Law on Job Creation is believed by the Government to be a panacea that can cure the nation's chronic diseases to open the widest possible investment faucet, so that it will create many jobs. The philosophy of the CK Bill is to create jobs by simplifying bureaucratic barriers that hinder the world of investment.²

The noble intentions of the Government are experiencing significant friction at the grassroots, namely the working and working communities. Moreover, with the Covid-19 pandemic, many reductions in the workforce until the end of December 2020 reached 3.5 million people. This is why many workers and the public reject the existence of this Job Creation Bill. The core of the problem lies in article 89 paragraph 45 of the Job Creation Bill which replaces the provisions of article 156 of Law Number 13 of 2003 concerning Manpower which mentions several provisions for calculating severance pay that have been amended in paragraph 1 of article 156 of Law Number 13 of 2003 which was replaced by the redaction "In the event of termination of employment, The employer is obliged to pay severance pay and/or service period award money", then in paragraph 3 of Article 156 the changes made to the letters g and h are replaced with the provisions of the letter g which reads "service period of 21 (twenty-one) years or more, 8 (eight) months of wages". The change is an attempt to abolish the calculation of the award money for the period of service as it has been stipulated that a period of service of 24 years or more will get 10 months of wages received.³

¹ Munadhil Abdul Muqsith, "The controversial Omnibus Law passed the Omnibus Law of the Job Creation Bill (Ciptaker) at the meeting," *Is* 4, no. 12 (2020): 109–15, <http://103.229.202.71/index.php/adalah/article/view/17926>.

² Gamal Abdul Nasir, Faculty of Law, and Muhammadiyah University, "Journal of Replica Law" 5, no. 2 (2017): 172–83.

³ F Kurniawan, "Journal of Legal Panorama," *Journal of Legal Panoramas* 5, no. 1 (2020): 64.

This is one of the problems that is being faced by the Government, members of the House of Representatives, and the public so that the ratification of the Job Creation Bill takes a long time. This problem is still being voiced by the workers and the public to reject the existence of the bill when the DPR is discussing the Job Creation Bill in its meeting. The government and the House of Representatives should already know that the existence of a law that applies should provide a sense of fairness to the community and be able to provide happiness to the community. However, on the other hand, the Government must also strive and be consistent to grow the people's economy as a way to achieve social welfare.⁴

Based on the description above, this article aims to provide a solution in the problems of employment, business opportunities and economic independence from the perspective of the mutual aid economy or people's economy that hatta once pioneered.

Methods

This study uses normative legal research methods. Normative legal research is a method of legal research carried out by examining existing library materials.⁵ One approach in normative research is the statutory approach because the focus and central theme of the research are various legal rules.⁶

Discussion

Social Polemics and Overlapping Rules

Omnibus law and Investment On the other hand, the government claims that the policy design of the Job Creation Law, which has simplified overlapping regulations in the economic and investment sectors, was created solely to produce convenience in the community because it would attract many investors and be in line with the creation of jobs.

⁴ F Kurniawan.

⁵ Pradeep M.D., "Legal Research- Descriptive Analysis on Doctrinal Methodology," *International Journal of Management, Technology, and Social Sciences* 4, no. 2 (2019): 95–103, <https://doi.org/10.47992/ijmts.2581.6012.0075>.

⁶ Johny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, Malang: Bayu Media, 2006 hal 302.

In fact, based on data from the World Economic Forum (WEF) survey in 2017, the main inhibiting factors for investment in Indonesia are corruption (13.8), bureaucratic inefficiency (11.1), access to financing (9.2), inadequate infrastructure (8.8), and unstable policies (8.6).⁷

This survey shows that Indonesia must first resolve these main factors compared to labor issues. In this survey, employment problems still occupy the 11th position. The data shows that the main problems of investment in Indonesia include corruption and inefficient bureaucracy. Instead, strengthening the institution of eradicating corruption is a focus on attracting foreign investment.

In line with this, Faisal Basri as an Indonesian economist has explained that Indonesia has had a fairly good investment performance and tends to increase every year, but it is not comparable to the absorption of labor that continues to decline. Therefore, the thing that is questionable is not how to make a law that makes it easier for investment to open up many jobs, but rather whether the capital of employment has flowed so far.⁸

For the public to provide input on the Job Creation Bill. The legal politics of the Job Creation Bill is related to the content of policies as a basis for justification for the government's actions in determining the *ius constitutum in the* form of the Job Creation Bill. Based on the considerations, the basis for the justification of the Job Creation Bill, namely: the state needs to make various efforts to fulfill citizens' rights to decent work and livelihood through job creation to create a prosperous, just, and prosperous society; absorption of Indonesian labor through job creation in the midst of increasingly competitive competition and the demands of economic globalization. Adjustment of various aspects of settings to support job creation; and regulations related to the ease and protection of MSMEs, improving the investment ecosystem, accelerating national strategic projects, and protecting workers spread across various sectoral laws that currently do not meet the legal needs for the acceleration of job creation so that changes need to be made through the formation of laws using the omnibus law method. This shows that the Job Creation Bill philosophically wants to advance the general welfare and realize social justice for all Indonesians. National economic conditions influenced by economic globalization, as well as

⁷ Muqsith, "The controversial Omnibus Law passed the Omnibus Law of the Job Creation Bill (Ciptaker) at a meeting."

⁸ Muqsith.

employment are the sociological background, while the juridical aspects in the form of regulations that are still spread across several sectoral laws and the application of *omnibus law* are the juridical foundations of the Job Creation Bill.⁹

The Omnibus Law on Job Creation is insensitive to the development of society and cannot adapt to changing circumstances, so this invites resistance from the community. Law is a rule / rule to regulate society, therefore the law must be able to follow the development of society, even the law must be able to direct and encourage the development of society more quickly, precisely and under control. Because of the existence of order as one of the goals of law, so that there is an interpretation and interaction between law and the development of society. Law is one of the important aspects of society that aims to create a comfortable and just society, sometimes ignored by some people. So that people believe that the law is broken, even its function has been manipulated by those who are indeed interested.¹⁰

Then in the case of labor rights, there are also companies that lay off their employees, but do not provide severance pay as regulated by Law 13 of 2003 concerning manpower. This case occurred in employees of PT. Bumi Waras Tulang Bawang Barat who was laid off but was not given severance pay in accordance with the provisions of the applicable Law. The company also made a unilateral policy for employees who do not want to be transferred to be laid off immediately and severance pay will be cut by 5% from the provision that should be. This kind of case makes the provisions stipulated in Law 13 of 2003 regarding severance pay seem to have no good impact on the welfare of workers.¹¹

Then in paragraph 3 of article 89 of the Job Creation Bill, it also changes the provisions in article 156 of Law Number 13 of 2003 concerning manpower, more specifically the changes are in the letter g and those in the Manpower Law are abolished in the Job Creation Bill. This change in terms of the purpose of the existence of the law does not provide a benefit or happiness for the workers. But on the other hand, the existence of this bill provides a justice between workers and business actors. This is due to the abolition of the letters g and h paragraph 3 of article 156 of Law Number 13 of 2003 and the removal of the provision of reimbursement money that should have been received does not

⁹ Resolution New, "ISSN 2541 2175 Rechstaat New" 2020 (2020): 22-29.

¹⁰ Nasir, Law, and Muhammadiyah, "Journal of Replica Law."

¹¹ F Kurniawan, "J. Panor. Huk."

necessarily harm the workers significantly but the government tries to provide a stimulus so that investors want to invest their capital by giving a little leeway to companies to eliminate some of the obligations that have been written in article 89 of the Job Creation Bill. Actually, this step is a form of the government's efforts to build the economy in Indonesia so as to realize social welfare. However, what is a barrier is that often workers always demand their rights excessively so that sometimes it makes some investors or business actors reluctant to open business opportunities in Indonesia.¹²

In the CK Bill, the philosophy is to open and facilitate investment while Law Number 13 of 2003 concerning Manpower has a philosophy of labor protection. If the revised Articles of the Manpower Law are then included in the CK Bill, there will be a philosophical conflict, namely between the philosophy of ease of investment vis a vis and the philosophy of worker protection, causing legal uncertainty. To avoid legal uncertainty, the Job Creation Bill must contain 3 forms of legal protection for workers, namely: Economic Protection, Technical Protection and Social Protection.¹³

Second, the readiness of the Indonesian people to apply the concept of Omnibus Law. This Omnibus Law concept is not new. Long before the United States, Canada, Australia, and even Vietnam had already done it before. The application of the *Omnibus Law* or *Omnibus Bill* requires large, numerous and professional HR personnel, coordination between state institutions must be well established, the involvement of experts from various disciplines and the involvement of stakeholders is *conditio sine qua non*.¹⁴

The establishment of an Omnibus Law with the reference of a responsive legal model requires several prerequisites, including by reviewing regulations that are considered problematic. In the investment framework, investment licensing is a sub-system of investment law, there is a sub-sub-system of licensing, which includes the functions, authority of the licensee, the scope of permits, procedures, and sanctions. The function of investment licensing should not be used as a means of income, but as a controller, director,

¹² F Kurniawan.

¹³ Memed Hermanto and Sri Budi Purwaningsih, "Critical Review on New Indonesia Law on Labour Rights," *Indonesian Journal of Law and Economics Review* 13, no. 1 (November 2, 2021): 76–90, <https://doi.org/10.21070/ijler.v13i0.740>.

¹⁴ Indra Rahmatullah, "The Urgency of Assessment Report in the Omnibus Law of the Job Creation Bill," *'Is 4*, no. 3 (2020): 84–89, <https://doi.org/10.15408/adalah.v4i3.16419>.

engineer of society, towards a process of harmonizing written law that refers both to philosophical, sociological, economic and juridical values.¹⁵

Promoting Social Capital in the Economic Frame of Mutual Cooperation

The economic learning materials taught are more dominated by knowledge which is the principles of capitalist economics, which is based on the belief that human beings as homo economicus, who always pursue self-interest efficiently. Economic efficiency is considered to be realized only through profit oriented, and cost minimization. Efficiency is believed to be achieved only through market competition, so the understanding highlighted in the economy is competition, not cooperation. The implication of this understanding is that human resources will be born that tend to be exploitative in economic behavior, especially related to the management of natural resources as a means to meet the needs of human life.

In addition, the widely available economic learning literature is dominated by capitalist thought which includes examples of classical and neoclassical economic life that are better suited to countries that adhere to capitalist ideas. If this is continuously taught in formal educational institutions in Indonesia, it is the same if we produce a generation that is an extension of the capitalists. Therefore, it is necessary to identify the value of economic values with the nation's identity to be then realized in the form of formulating learning materials in the introductory course in economics, so that a generation can be realized that has character, mindset, attitude patterns, and action patterns that are in accordance with norms and values that reflect the characteristics of Indonesia.¹⁶

Placing Pancasila economics as a source of values, morals and ethics in economic activities, means restoring economics as a social science that is godly, ethical and moral and has the characteristics of locality. This is as stated by

¹⁵ Pudjo Utomo, "Omnibus Law : In a Responsive Legal Perspective," *Conscience Law 2*, no. 1 (2020): 33, <https://doi.org/10.51825/nhk.v2i1.8168>.

¹⁶ Setiono, "Perlindungan Hukum Bagi Buruh Migran; Implementasi Undang-Undang No. 18 Tahun 2018," *Istinbath Journal of Law 2*, no. 16 (2019): 224, <https://e-journal.metrouniv.ac.id/index.php/istinbath/article/view/1708/1392>.

Mubyarto (2003) that the Pancasila economic system includes the "rules of the game" of economic life or economic relations between economic actors based on the ethics or morals of Pancasila with the ultimate goal of realizing social justice for all Indonesians.

Thus, quality human resources will be born from human beings who have a religious character, are confident, and have a high work ethic. These human resources will run the state administration and as development actors, which are more oriented towards welfare in order to increase the dignity and dignity of the nation. Thus, education that is organized, especially economic education, must be able to internalize value values in accordance with the nation's economic identity, namely Pancasila and the 1945 Constitution article 33. The values include religion, justice, kinship, togetherness, responsibility, mutual aid, independence, social care, and love of land.¹⁷

According to Sunoto, the principle of mutual cooperation proposed by Soekarno was a mere proposal. Sunoto argues that gotong royong is a principle that originated from the Indonesian earth and is very noble in meaning, but it is very illogical to squeeze Pancasila into mutual cooperation. Why? Because if Pancasila is squeezed into mutual aid, then one by one the precepts must also be squeezed into mutual aid. In fact, not all precepts can be squeezed into mutual aid, for example how to squeeze the divine precepts into mutual aid, therefore Sunoto argues that Pancasila cannot be squeezed into Ekasila.¹⁸

In the 19th century when money became an important element in the economic life of the Javanese people, mutual cooperation in farming village farming communities in Java began to be abandoned. Society considers this system to be considered less practical. Of course, such conditions create a sense of community to

¹⁷ Rahmatullah Rahmatullah, "Learning the Economy of the Nation," *JEKPEND: Journal of Economics and Education* 1, no. 1 (2018): 10, <https://doi.org/10.26858/jekpend.v1i1.5055>.

¹⁸ Agustinus Dewantara, "How Great is the Country of Mutual Cooperation (Indonesia in Soekarno's Glasses)," 2018, <https://doi.org/10.31227/osf.io/e7cqk>.

fade, and the interests of each individual in society also begin to differ and give rise to the seeds of capitalism in the opinion of Karl Marx.¹⁹

In the past, when "Gotong Royong" was used as a force, people's lives were generally harmonious because capitalism had not yet developed so that unknowingly the actions taken by individuals in community groups were influenced by social facts contained in their social environment. Village communities live and meet needs oriented on the basis of "togetherness". This condition corresponds to Durkheim's analysis of the different types in solidarity and the source of its social structure.²⁰

Conclusion

From various social polemics and regulations, waiting is not a solution for workers and heads of households. Awakening the spirit of independence is necessary in crisis conditions like this, including entrepreneurship and awakening the nature of mutual cooperation. From the beginning of the pandemic until now, the Indonesian people can still survive because they have social capital, namely the nature of mutual cooperation. This social capital will be able to stimulate the Indonesian economy. There have been many examples that have succeeded in making this breakthrough, such as etawa kaligesing goat farmers who established etawa goat cooperatives, made etawa milk products mutually, processed goat manure into organic fertilizer, and made their own animal feed from leaves, coffee skins, bean shells and so on. In these conditions, it requires us to be skilled, productive, and always mutual.

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¹⁹ Keebet von Benda-Beckmann and Bertram Turner, "Legal Pluralism, Social Theory, and The State," *The Journal of Legal Pluralism and Unofficial Law* 50, no. 3 (September 2, 2018): 255-74, <https://doi.org/10.1080/07329113.2018.1532674>.

²⁰ Teresia Noiman Derung et al., "Gotong Royong Dan Indonesia," *Sapa* 4 No.1 (2019): 5-13.

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