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Fundamentals of Omnibus Law in Legal Studies

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ABSTRACT

The Omnibus Law, being an intricate policy, necessitates a comprehensive examination of its multifaceted consequences from diverse legal perspectives. This comprehensive research uncovers both the positive and negative aspects of this law, exposing the potential benefits and dangers associated with it. The expedited and exclusive formation method has faced criticism about its lack of transparency and regulatory standards. Further examination of the legal foundation and conformity with the constitution is necessary to guarantee adherence and prevent infringements on human rights. To ensure the creation of a high-quality omnibus bill that adheres to legal principles, it is imperative to enhance openness, encourage public engagement, and engage experts. Sociologically, the effects on workers and entrepreneurs are diverse, encompassing the possibility of heightened investment and employment, as well as the possible drawbacks of reduced wages, the elimination of severance compensation, and more outsourcing. There is concern that social inequality may escalate as businesses might receive more advantages in comparison to workers. The omnibus law holds the capacity to allure investments, foster economic expansion, and enhance Indonesia's competitiveness by means of deregulation and improved business facilitation. Striking a balance between economic growth, worker protection, and environmental sustainability is crucial. Thorough examination and rigorous oversight of the enforcement of environmental legislation are important to maintain a harmonious equilibrium between economic progress and environmental conservation.

1. Introduction

The Omnibus Law, closely linked to bureaucratic reform and facilitating economic activities, has attracted significant attention and sparked discussions in Indonesia. In addition to its capacity to stimulate economic growth, the Omnibus Law has faced scrutiny for its effects on jobs, the environment, and social inequity. Hence, conducting a legal evaluation of the omnibus statute is essential in order to assess the effectiveness and scope for enhancement of this policy.

Comprehending omnibus law studies is not straightforward. A comprehensive approach is required, taking into account multiple facets. Analyzing the protocols for implementing comprehensive legislation, its legal foundation, and its conformity with the constitution and other legal statutes. Examining the societal ramifications of the

omnibus law, with a particular focus on its effects on laborers and business owners. Assessing the potential of the omnibus law to attract investment, stimulate economic growth, and enhance Indonesia's competitiveness. Analyzing the prospective influence of the comprehensive legislation on environmental sustainability. This comprehensive study aims to thoroughly analyze the Omnibus law, taking into account not only its legal-formalistic aspects but also its impact on social, economic, and environmental elements. This study can offer an impartial and thorough evaluation while also aiding in the enhancement and fine-tuning of policies to align with the values of fairness, prosperity, and sustainability.¹⁻

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The Omnibus Law

An omnibus law is a comprehensive piece of legislation that encompasses a wide range of subjects or topics. The term "omnibus law" refers to a comprehensive statute that encompasses various aspects or addresses multiple issues. The origin of this term is Latin, specifically from the word "omnis," which translates to "for all" or "many." President Joko Widodo initially proposed the omnibus law in his October 2019 speech. President Joko Widodo introduced the Omnibus Law with the aim of streamlining rules and fostering investment in Indonesia. The House of Representatives (DPR) approved Law Number 11 of 2020 concerning job creation on October 5, 2020. The Job Creation Law represents the first comprehensive legislation enforced in Indonesia. The Job Creation Law encompasses 1,197 articles that govern a range of industries, including employment, investment, licensing, and business facilitation. The government amended the statute on December 30, 2022, and March 21, 2023.⁶⁻⁹

The Job Creation Law (UU Cipta Kerja) governs a range of issues, encompassing: The Job Creation Law modifies certain elements in Law Number 13 of 2003 regarding employment. These reforms pertain to several matters, including minimum salaries, severance pay, and outsourcing. The Job Creation Law streamlines the licensing process and facilitates business operations, hence promoting investment. These measures are expected to attract capital investment and create employment opportunities. The Job Creation Law implements an electronically integrated licensing system known as online single submission (OSS). This method enables entrepreneurs to electronically process business permits through a single interface.^{10,11}

Jurisdictional aspect

The jurisdictional element of an omnibus law pertains to its creation methods, legal foundation, and conformity with the constitution and other statutory laws. Law Number 12 of 2011 governs the process of creating a comprehensive law, focusing on the establishment of legislative regulations. The implementation of comprehensive legislation in Indonesia has faced criticism from multiple factions.

The objections encompass the following: The formation process occurred at an accelerated rate. The government deliberated and implemented the Omnibus Law within a remarkably brief timeframe, specifically less than one year. Formation procedure that is not open or accessible to the public. The formulation of the Omnibus Law lacked transparency and failed to incorporate extensive public engagement. The process of crafting the omnibus law lacks the involvement of legal experts, economic experts, and other competent professionals in their respective disciplines. The process of crafting the omnibus law lacks the involvement of legal experts, economic experts, and other competent professionals in their respective disciplines.^{12,13}

Law Number 12 of 2011, which pertains to the establishment of legislative regulations, provides the legal foundation for the Omnibus Law. This legislation governs the protocols for establishing statutory rules, encompassing a comprehensive law. In addition, the omnibus law can also derive its foundation from the constitution, namely the 1945 Constitution of the Republic of Indonesia. Article 23D, paragraph (1) of the 1945 Constitution empowers the DPR to enact legislation, including the Omnibus Law. The omnibus law must align with the constitution, namely the 1945 Constitution of the Republic of Indonesia. The Omnibus Law is a legally enforceable policy that applies to all citizens of Indonesia. The enactment of comprehensive legislation that deviates from the constitution might result in legal ambiguity and infringements of human rights. Hence, conducting a comprehensive analysis is important to ensure the conformity of the Omnibus Law with the Constitution.¹¹⁻¹³

Deviation from legal procedures in the formation of an omnibus law might potentially result in adverse consequences, such as: Formulating substandard regulations: An excessively rapid and insular formulation procedure might result in the creation of regulations that lack quality and fail to adhere to the principles of statutory regulations. Instances of human rights abuses: Deviation from constitutional principles in the formulation of rules might result in the infringement of human rights. Ambiguity in the realm of law: Regulations lacking transparency and extensive public input might lead to

legal ambiguity. In order to mitigate these potential adverse effects, it is imperative to enhance the protocols for enacting the Omnibus Law, encompassing the following aspects: Prolonging the duration of the discussion: Prolonging the duration of the omnibus law deliberation will ensure enhanced quality and a broader engagement of the general public. Enhancing transparency: The procedure for creating a comprehensive law should be more transparent and encompass extensive public involvement. To enhance expert participation, the process of crafting a comprehensive law should incorporate the involvement of proficient legal, economic, and other domain-specific experts. These enhancements aim to enable the creation of comprehensive legislation that is of superior quality, compliant with the constitution, and devoid of adverse consequences.¹⁴

Rapid formulation processes can lead to the production of substandard regulations that fail to adhere to the principles of statutory regulations. This occurrence can arise due to the limited nature of the brief discussion process, which prevents a comprehensive examination of the content within the omnibus statute. Consequently, the omnibus law may include elements that are ambiguous, not accurately focused, or contradict other statutory requirements. The implementation of a closed formation process can result in the infringement of human rights. The limited involvement of the general public is a consequence of the confined nature of the discussion process. Consequently, omnibus laws may include clauses that undermine individuals' rights, such as labor rights, environmental rights, or economic rights. Conducting a formation process without the involvement of specialists can lead to legal uncertainty. The absence of experts in the debate process hinders the possibility of receiving input.¹²⁻¹⁴

Sociological dimensions

The omnibus law holds the capacity to generate employment opportunities and enhance the well-being of people, while it also carries the potential to adversely affect workers. The Omnibus Law is expected to stimulate investment, foster economic growth, and positively impact society, particularly workers and entrepreneurs. This has the potential to

create additional employment opportunities and enhance the well-being of workers. Streamlining rules and enhancing business facilitation: The Omnibus Law streamlines rules and enhances business facilitation. This has the potential to enhance Indonesia's competitiveness and attract investment. Enhancing legal predictability: The Omnibus bill enhances legal predictability for both companies and labor. Such a measure can incentivize investment and enhance productivity.¹⁵

The omnibus law has detrimental effects on society, specifically on the labor force and business owners. These effects include: Detrimental to employees: The omnibus measure has the potential to be harmful to workers, particularly in terms of minimum salaries, severance pay, and outsourcing. Omnibus laws have the potential to exacerbate social inequality. The reason for this is that the omnibus law offers more advantageous provisions for entrepreneurs compared to labor. Exacerbating environmental conditions: The Omnibus Law has the potential to exacerbate the state of the environment. This is due to the fact that the Omnibus Law has the ability to alleviate environmental requirements. Overall, experts predict that the comprehensive legislation will have adverse effects on employees. There is concern that the modifications implemented in the comprehensive legislation, particularly those pertaining to minimum salaries, severance compensation, and outsourcing, may have detrimental effects on workers. The Omnibus Law modifies the stipulations pertaining to minimum wages. In the past, local governments used to establish the minimum wage by considering the requirements for a fair standard of living and the purchasing power of individuals. However, the Wages Council, comprising representatives from companies, labor, and the government, establishes the minimum wage as stipulated by the omnibus law. There is concern that this shift may result in a decrease in the minimum wage, particularly in regions with limited purchasing power. This can potentially diminish worker well-being and exacerbate poverty.^{14,15}

The Omnibus Law also modifies the provisions pertaining to severance pay. Previously, terminated employees were eligible to receive severance compensation equal to twice their monthly salary for the initial year of employment and one month's salary

for each subsequent year of service. The omnibus law entitles an employee to receive a sum equivalent to one month's salary for each year of service. There is also concern that this alteration will adversely affect employees, particularly those with extensive tenures. This can potentially diminish the purchasing power of workers and exacerbate economic hardships. The Omnibus Law also modifies the provisions pertaining to outsourcing. The previous limitation on outsourcing was to non-essential tasks within the core operations. Nevertheless, the Omnibus Law permits the practice of outsourcing for essential positions, encompassing roles that are directly associated with production or sales. There is concern that this alteration will adversely affect workers, particularly those employed by outsourcing firms. This can potentially lead to a decrease in workers' salaries and diminish their social security benefits.

Enterprises are expected to benefit from the comprehensive legislation. Enterprise competitiveness and investor attraction are expected to be boosted by the modifications in the Omnibus Law, particularly those related to investment, licensing, and outsourcing. The Omnibus Law streamlines rules and enhances the ease of conducting business. This has the potential to enhance Indonesia's competitiveness and entice investment. The Omnibus Law implements an electronically integrated licensing system known as online single submission (OSS). This technology enables entrepreneurs to digitally process company permits using a single online platform. This modification has the potential to streamline the process of obtaining business permits for entrepreneurs, resulting in time and cost savings. The Omnibus Law facilitates the utilization of outsourced labor for entrepreneurs. This can lead to a decrease in production costs and an increase in earnings for entrepreneurs.^{15,16}

Economic dimension

The omnibus law holds the potential to attract investment, foster economic growth, and enhance Indonesia's competitiveness. The reason for this is that the Omnibus Law streamlines rules and facilitates company operations. The Omnibus Law is expected to bolster investment in Indonesia. The reason for this is that the omnibus law streamlines the licensing

procedure and enhances legal assurance. The Omnibus Law is expected to stimulate economic growth in Indonesia. The Omnibus Law has the potential to stimulate investment and enhance productivity. The Omnibus Law has the potential to enhance Indonesia's competitiveness. The Omnibus Law has the potential to streamline rules and enhance business facilitation. The Omnibus Law implements an electronically integrated licensing system known as online single submission (OSS). This technology enables entrepreneurs to digitally process company permits using a single online platform. This technology facilitates the processing of business permits for entrepreneurs, resulting in time and cost savings. This has the potential to enhance the competitiveness of Indonesian entrepreneurs. The Omnibus Law streamlines bureaucracy by eliminating superfluous and ineffective rules. This has the potential to enhance efficiency and production.^{15,16}

Concerns exist that the omnibus law may create loopholes that could harm resources and labor. The Omnibus Law modifies provisions pertaining to minimum wages, severance pay, and outsourcing, causing this effect. The Omnibus Law modifies the provisions pertaining to minimum wages. In the past, local governments used to establish the minimum wage by considering the requirements for a fair standard of living and the purchasing power of individuals. However, the Wages Council, comprising representatives from companies, labor, and the government, establishes the minimum wage as stipulated by the omnibus law. There is concern that this alteration may result in a decrease in the minimum wage, particularly in regions with limited consumer buying power. This can potentially diminish worker well-being and exacerbate poverty. The Omnibus Law also modifies the provisions pertaining to severance pay. Previously, terminated employees were eligible to receive severance compensation equal to twice their monthly salary for the initial year of employment and one month's salary for each subsequent year. However, the omnibus law exclusively grants severance pay at a rate of one monthly wage for every year of employment. There is also concern that this alteration will adversely affect employees, particularly those with extensive tenures. This can potentially diminish the purchasing power of

workers and exacerbate economic hardships. The Omnibus Law facilitates the utilization of outsourced labor for entrepreneurs. This can lead to a decrease in production costs and an increase in earnings for entrepreneurs. Nevertheless, there is concern that this may adversely affect employees working for outsourcing firms. Outsourced workers typically receive less remuneration and have reduced access to social security benefits.¹³⁻¹⁵

Ecological Factors

The Omnibus Law has the capacity to yield both favorable and unfavorable effects on environmental sustainability. Environmental sustainability benefits from the Omnibus Law, as evidenced by the following factors: The Omnibus law is expected to stimulate green investment, specifically targeting investments that prioritize environmental conservation initiatives. The Omnibus Law is anticipated to enhance energy efficiency, resulting in a decrease in greenhouse gas emissions. The Omnibus law is expected to improve garbage management, thereby mitigating environmental contamination.¹⁴

The detrimental effects of the Omnibus Law on environmental sustainability encompass: Easing environmental regulations: There is concern that the omnibus law may relax environmental rules, perhaps heightening the likelihood of environmental harm. Simplifying business licensing: The Omnibus Law streamlines the process of obtaining business licenses, including for enterprises with the capacity to do environmental harm. The omnibus law is expected to worsen the strain on natural resources, potentially accelerating environmental degradation.¹⁵

Greenpeace Indonesia asserts that the omnibus law possesses the capacity to harm the environment. Greenpeace Indonesia emphasized modifications to regulations concerning environmental permits, expressing concern that these changes may facilitate the licensing of firms with the capacity to harm the environment. According to the Institute for Essential Services Reform (IESR), the Omnibus Law has the capacity to enhance green investment. IESR emphasizes modifications to provisions concerning investment that it deems capable of promoting green investment. The Ministry of Environment and Forestry (KLHK) has affirmed that the Omnibus Law will not

adversely affect environmental sustainability. The Ministry of Environment and Forestry affirmed that the Omnibus Law continues to incorporate elements of environmental sustainability.^{16,17}

2. Conclusion

The omnibus law, being an intricate policy, necessitates a comprehensive examination of its multifaceted effects from diverse legal perspectives. This comprehensive research uncovers both the positive and negative aspects of this law, exposing the potential benefits and dangers associated with it. The Omnibus Law has the capacity to stimulate green investment and enhance energy efficiency. However, there are apprehensions over the relaxation of rules and the facilitation of licensing for environmentally polluting firms. The escalating strain on natural resources and the potential for ecological harm are significant considerations. Thorough examination and rigorous oversight of the enforcement of environmental legislation are essential to maintaining a harmonious equilibrium between economic progress and the protection of the environment.

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