



Legal Analysis of the Job Creation Act in Supporting Economic Recovery in the Employment Sector Post-Covid-19 Pandemic

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Abstract. The Covid-19 pandemic that occurred 3 years ago had a bad impact on the world economy, including Indonesia. Indonesia is one of the countries that is able to survive the difficult situation due to the Covid-19 pandemic. At the same time as the Covid-19 pandemic, the Government together with the House of Representatives passed the Job Creation Law. Then the problem that arises is whether the Employment Copyright Act in the field of manpower can support economic recovery in Indonesia in relation to its regulatory policies. This research method uses a normative research method using a legal approach and a historical approach. By examining the norms related to this field, this research is able to determine the rules that support economic recovery. The conclusion of this study is that the existing regulations in the Employment Creation Act related to employment generally support economic recovery by making it easier for employers and workers to enter into mutually beneficial work agreements and easier regulations. However, there are several regulations that still do not meet the welfare of workers, so that they are currently still under judicial review by the Constitutional Court.

Keywords: Job Creation · Economic Recovery · Employment

1 Introduction

Indonesia is a developing country with the 6th largest population in the world. In 2019 economic growth in Indonesia was quite good with economic growth above more than 5 percent which was supported by progress from various industrial sectors [1]. Then there was a global health crisis in 2020 caused by the Covid-19 virus which turned into a pandemic. The Covid-19 pandemic has suppressed the world economy, forcing various countries to reduce economic mobility (lockdown) to prevent the spread of the COVID-19 virus. As a result, world economic growth has slowed, including economic growth in Indonesia. Indonesia's economic growth grew 2.97 percent in which almost all sectors slowed down. The decline in global and domestic demand as well as weakening international commodity prices are the causes. To deal with these problems, the Government seeks to maintain and restore the economy in various ways, one of which is to ratify regulations to control and provide legal certainty in this global crisis situation.

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On October 5, 2020, the House of Representatives (DPR) ratified Law Number 11 of 2020 concerning Job Creation (Omnibus Law/Law on Job Creation) which began its discussion on December 15, 2019. The ratification of this Law has caused various reactions in the community. Then, on November 2, 2020, the President of the Republic of Indonesia, Joko Widodo, signed this Law. With the existence of the Job Creation Law, it is hoped that the government and the DPR can accelerate the transformation of the Indonesian economy by accommodating various regulations in various sectors so as to reduce unemployment, increase economic growth and increase worker productivity. In addition, along with the ratification and promulgation of the Job Creation Act, the global economy was hit by the Covid-19 pandemic in which the economic situation and conditions changed towards a new normal.

The job creation law is a new concept in Indonesian law, which compiles 80 laws and more than 1200 articles were revised with the job creation law regulating multi-sectoral. But this breakthrough caused some controversy in several articles. Although the purpose of this law is to trim ineffective articles and improve horizontal and vertical policies, the public's reaction is different. The public or parties who are disadvantaged by these articles have submitted a judicial review to the Constitutional Court, one of which is in the field of manpower. The employment field is one of the most controversial areas in the Job Creation Act. The law is considered to be detrimental to workers and more profitable to employers. Judging from Law Number 13 of 2003 concerning Manpower, previously he had the enthusiasm to provide legal protection and legal certainty for entrepreneurs and workers in the industrial world as the foundation of the economy in Indonesia. In addition, the Job Creation Law is required to become a regulation as the basis for government policies to support economic recovery in Indonesia. Based on the explanation above, there are issues that need to be considered whether the Job Creation Law is able to support economic recovery in the employment sector.

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2 Research Method

The research method is a tool used to examine or explore research so that it can solve the solution to the problem or legal issue of this research. In the opinion of HJ van Eikema Hommes as quoted by Peter Mahmud Marzuki stated that every science has its own method [3].

This study uses a normative juridical research method, namely legal research that uses literature review materials to examine legal theories and principles related to the Employment Creation Law in the field of employment. The approaches used in legal research are the statute approach, the case approach, the historical approach, and the

conceptual approach [4]. The approach used in this study uses a statute approach by examining the laws and regulations related to the legal issues being discussed, namely the Job Creation Law and the Manpower Act. Case approach (case approach) by examining cases related to this research.

3 Findings and Discussion

The Covid-19 pandemic has put pressure on the Indonesian economy in multi-sectoral areas, including investment, the economic industry and the business climate, etc. The government is trying to survive during the pandemic and for economic recovery, which is slowly turning into an endemic (new normal) pandemic. These efforts are carried out by adjusting from the economic, legal, social and health fields to be careful in limiting the mobility of their activities. For example, the government has implemented PSBB (Large-Scale Social Restrictions) in several areas to prevent the spread of COVID-19. This policy has had a significant impact on economic stability and economic growth. To restore economic stability, a legal breakthrough is needed that can support economic recovery. The legal breakthrough is the omnibus law.

Omnibus Law is widely applied in countries with the Anglo Saxon system, where the system applies the legal principle of judge made law, which means that law is born from judge decisions or norms built through court decisions [5]. Meanwhile, Indonesia is a country that implements a civil law system which applies the principle of the rule of law and the principle of codification, which means that the law becomes the highest position in a country with a codification system. A breakthrough in Indonesian law is trying to implement the omnibus law which is considered capable of resolving the conflict of norms that have been found in many laws and regulations. The reason is to resolve the conflict of norms is not easy and takes a long time. With the omnibus law, it is hoped that it will be able to be a solution to the many existing legal conflicts with legal content and to revise from several areas of internal law. The Omnibus law in question is also called the Job Creation Act, which aims to create jobs and increase investment.

Ratio legis of the creation of the Job Creation Law is to increase or facilitate investment, create employment opportunities and be able to facilitate a good business climate so that there is an acceleration of economic growth in Indonesia. To compile various rules consisting of 80 laws and 1200 articles in a span of one year, it becomes a lack of applying the precautionary principle in the process of making laws. In addition, judging by the timing of the discussion process from the beginning of the discussion process on the Job Creation Law, starting on December 15, 2019 until the ratification on October 17, 2020 where the first case of the COVID-19 virus in Indonesia was discovered on March 2, 2020. This means that first, the process of making the Job Creation Act was made in a less conducive situation but is still being implemented, the two substances contained in the Job Creation Law after being reviewed, there are several articles that are not in accordance with legal principles and are controversial. Whereas the Job Creation Law should be expected to support the recovery of the Indonesian economy without ignoring the legal principles in their respective fields. Legal principles must take precedence.

Employment is part of the industry that plays an important role in the economy in Indonesia. The quality and quantity of workers are fundamental to be fulfilled, in this

case the rights and obligations of workers must be protected by the state as regulated in the 1945 Constitution of the Republic of Indonesia. Workers play a role as the foundation of many industrial sectors in economic growth. Therefore, it is specifically regulated in Law Number 13 of 2003 concerning Manpower (Labor Law). The law provides legal certainty between employers and workers by involving the government in certain matters. The Manpower Law is already 17 years old, it does not mean it is perfect, there are still some shortcomings that need to be corrected.

The presence of the Employment Creation Law indirectly has an impact on changes to the Manpower Act. This is motivated by the Government's belief that the rules of labor law are too rigid so that it hampers the investment climate, so there is a need for an easing of the rules of constitutional law. On the one hand, the relaxation of these regulations has a good intention to improve the incoming investment climate, but on the other hand, many articles have been drafted without careful consideration, so that they do not pay attention to the sociological and empirical conditions of the working relationship, namely the imbalance in the position of workers and employers.

4 Conclusion

Based on the results of this study, it can be concluded that the time for the ratification of the Job Creation Act was short so that it still has several shortcomings that need to be improved. One of these shortcomings is in the field of employment which is controversial. The Job Creation Law can be a regulation supporting economic recovery, but it still doesn't pay attention to legal principles and prudential principles, so there are several articles that need to be judicially reviewed. The Job Creation Law prioritizes facilitating the rights and obligations of employers rather than protecting the rights and obligations of workers.

References

1. Fadiyah Khairina, dkk, *OUTLOOK PEREKONOMIAN INDONESIA 2019*, "Meningkatkan Daya Saing untuk Mendorong Ekspor", (Jakarta: Kementerian Koordinator Bidang Perekonomian Republik Indonesia:2019), Hlm. 36
2. Deputi Bidang Ekonomi BAPPENAS, *PERKEMBANGAN EKONOMI INDONESIA DAN DUNIA (Ancaman Resesi Dunia Akibat Pandemi)*, Triwulan I Tahun 2020, Edisi Vol.4, No.1 Mei 2020, Jakarta, Hlm. 14
3. Peter Mahmud Marzuki, *Legal Research (Revised Edition)*, Kencana, Jakarta, 2017, p. 19
4. Peter Mahmud Marzuki, *Legal Research (9th Edition)*, Jakarta, KENCANA, 2014, Pg. 41
5. Rio Christiawan, *Omnibus Law Teori Dan Penerapannya*. Jakarta: Sinar Grafika, 2021, Hlm.

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