

## CHAPTER ONE

### INTRODUCTION

#### A. Background

Indonesia is currently at a point where the law as an instrument of national development plays an important role in all aspects in determining the direction of development in Indonesia.<sup>1</sup> In the current administration, The President Joko Widodo in his remarks said that Indonesia is currently experiencing a demographic bonus, meaning the number of productive age population aged 15-64 years is more than the unproductive population aged under 15 years and over 64 years. From this period, it can be concluded that of the 270,20 million population (70,72 %) are in the productive age.

The President also said that the government together with the People's Representative Council would issue the Job Creation Law and the Law to Empower Macro, Micro and Medium Enterprises (MSMEs) which would be summarized as Omnibus Law. By definition, the word omnibus comes from the Latin “omnis” which means "all". In Bryan's Black Law Dictionary, Omnibus is defined as many objects or goods at once, many things or have various purposes.<sup>2</sup>

A constitutional law expert, Fachri Bachmid argues that Omnibus

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<sup>1</sup> Badan Pusat Statistik, 2020, “Hasil Sensus Penduduk 2020”, [https://www.bps.go.id/pressrelease/2021/01/21/1854/hasil-sensus-penduduk-2020.html#:~:text=Hasil%20Sensus%20Penduduk%20\(SP2020\)%20pada,sebanyak%20141%20jiwa%20per%20km2.](https://www.bps.go.id/pressrelease/2021/01/21/1854/hasil-sensus-penduduk-2020.html#:~:text=Hasil%20Sensus%20Penduduk%20(SP2020)%20pada,sebanyak%20141%20jiwa%20per%20km2.), accessed on November 7<sup>th</sup> 2020, 11 am.

<sup>2</sup> Satjipto Rahardjo, 1981, *Hukum, Masyarakat & Pembangunan*, Bandung: Alumni, p. 29.

Law is a legal product concept that serves to consolidate various themes, materials, subjects, and laws and regulations in each different sector to become a large and holistic legal product.<sup>3</sup> In addition, Jimmy Z Usufufan, an expert on State Administration, argues that the Omnibus Law Concept can be applied in Indonesia because it adheres to the Civil Law System. He also mentions that the conflict among government administrators appears when they want to make innovations or policies, then collide with laws and regulations. So that the concept of Omnibus Law can be a solution that might be taken by the government. The Omnibus law, however, must be carried out at the level of a Law.<sup>4</sup>

In this case the government made the Law using the Omnibus Law concept which aims to attract foreign investors to come and invest in Indonesia so that it can increase equitable and sustainable economic growth, create optimal and productive workforce and create decent work for all.<sup>5</sup> The Indonesian government considers the need for this bill because of the high unemployment rate and due to the COVID-19 virus so that there are opportunities to create new jobs. It was recorded that in the last year, unemployment in February 2020 had increased by 60.000 people.<sup>6</sup> This increased based on data from the Ministry of Manpower, the

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<sup>3</sup> Teras Maluku, 2020, "Pakar HTN Fahri Bachmid: Konsekwensi Deregulasi Melalui Omnibus Law", <https://terasmaluku.com/pakar-htn-fahri-bachmid-konsekwensi-deregulasi-melalui-omnibus-law/>, accessed on November 7<sup>th</sup> 2020, at 11 am.

<sup>4</sup> Suriadinata, 2019, "Penyusunan Undang-Undang di Bidang Investasi: Kajian Pembentukan Omnibus Law di Indonesia", *Refleksi Hukum: Jurnal Ilmu Hukum*, Vol.4 No.1, p115-132.

<sup>5</sup> Indra Rahmatullah, 2020, "Urgensi Assesment Report dalam Omnibus Law RUU Cipta Kerja", *Adalah: Buletin Hukum dan Keadilan*, Vol. 4 No. 3, p 85.

<sup>6</sup> Badan pusat statistik, 2020 "Keadaan Ketenagakerjaan Indonesia Februari 2020" , <https://www.bps.go.id/publication/2020/06/19/43f6d15bcc31f4170a89e571/keadaan-pekerja-di->

number of workers affected by the Covid-19 pandemic situation reached 1.7 million people in September, both formal and informal workers.<sup>7</sup>

The concept of the Omnibus Law is the new concept used in the statutory system in Indonesia because it is considered capable of replacing norms deemed incompatible with the times and detrimental to the state. The Job Creation Law consists of 11 clusters, namely: (1) Simplification of Land Licensing; (2) Investment Requirements; (3) Employment; (4) Convenience and Protection of MSMEs; (5) Ease of Doing Business; (6) Research and Innovation Support; (7) Government Administration; (8) Imposition of Sanctions; (9) Control of Land; (10) Ease of Government Projects, and (11) Special Economic Zones. The eleven clusters include 74 laws that will be identified as hampering economic growth, MSMEs, and the entry of investment.<sup>8</sup>

In the process of drafting until the ratification of the Law Number 11 of 2020 of Job Creation, there were many opinions of the public who disagreed with or opposed the passing of the Job Creation Law. In addition, the problem that arises is the existence of a philosophy that is deemed to violate the rights of workers / laborers, more than that the government prioritizes the interests of foreign and domestic investors without paying attention to the interests of the people and workers in the

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[indonesia-februari-2020.html](#) , accessed on November 8<sup>th</sup> 2020, at 10 am.

<sup>7</sup> Kementerian Ketenagakerjaan Republik Indonesia, 2020, “Pemerintah Antisipasi Penambahan Pengangguran di Masa pandemi Covid-19”, <https://kemnaker.go.id/news/detail/pemerintah-antisipasi-penambahan-pengangguran-di-masa-pandemi-covid-19> , accessed on November 8<sup>th</sup>, at 10 am.

<sup>8</sup> Adhi Setyo, et.al, 2020, “Politik Hukum Omnibus Law di Indonesia”, *Jurnal Pamator*, Vol.13, No.1, p 5.

labor cluster in the Job Creation Law. Meanwhile Pancasila and the preamble of the 1945 Constitution and article 27 paragraph 2 and article 28 d paragraph 2 of the 1945 constitution have mandated the state to provide protection to workers in order to realize the right to work and a decent life for workers and not to promote their interests. investors for the sake of getting investment.<sup>9</sup>

This does not deal with the goals of sustainable development goals, where the concept of SDGs is a new development agenda that accommodates all changes that have occurred after 2015, especially with regard to changes in the world situation since 2000 regarding the issue of depletion of natural resources, environmental damage, climate change, social protection, food and energy security, and pro-poor development.<sup>10</sup> Instead of strengthening labor inspection and enforcement of labor laws which have not been maximally implemented, the new articles in the draft Job Creation Law actually create regulations that are increasingly detrimental to workers / laborers.

So far, there have been several studies that had examined the application of the Job Creation Law in Indonesia, but there is no research that has examined some of the changes in the labor law and the impact that can become the amendment of the Job Creation Law. Therefore, the author intends to analyze whether the Job Creation Law changes the rights of workers in the previous Law and the impact of the changes in the Job

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<sup>9</sup> 1945 Constitution of the Republic of Indonesia

<sup>10</sup> Badan Pusat Statistik, 2014, *Kajian Indikator Sustainable Development Goals*, Jakarta: Badan Pusat Statistik, p. 80.

Creation Law on workers in Indonesia.

## **B. Statements of Problem**

1. What are the legal politics behind some changes of provisions regarding worker of the Law Number 13 of 2003 concerning Labor with the Law Number 11 of 2020 concerning Job Creation?
2. What will be the impact of those changes toward realization of SDGs target in protecting workers' rights in Indonesia?

## **C. Objective of Research**

1. To identify the legal politics behind the changes of provisions regarding workers in the law Number 13 of 2003 concerning Manpower with the Law Number 11 of 2020 concerning Job Creation.
2. To analyze and predict the impact of changes of provisions regarding workers toward realization of SDGs target in protecting workers' rights in Indonesia.

## **D. Benefits of Research**

### **1. Theoretical Asspect**

This study provides benefits to determine the contribution to the development of legal science, especially labor law in Indonesia.

### **2. Particial Asspect**

This research provides advice to the government, especially the DPR and the President, on better labor law policies in the

future.