

Omnibus Law in Indonesia: Is That the Right Strategy?

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ABSTRACT--*The plan to form a law with the concept of the Omnibus Law continues to roll and color the public policy that will be taken by the Government of Indonesia. The Draft Law with the concept of the Omnibus Law continues to be finalized with the pros and cons in the process of its formation. Whatever it is, the concept of Omnibus Law is offered as a solution to the regulatory problems in Indonesia which are already too hyper and disharmony. As a solution, Omnibus Law in the level of public policy is a strategy. Strategy launched by the Government to deal with obstacles and challenges. The question is why the concept of the Omnibus Law was chosen as a strategy by the Government to deal with regulatory obstacles? Is Omnibus Law can be the right strategy to overcome regulatory problems in Indonesia. This problem is solved by using a type of qualitative research using a socio-legal approach based on secondary data and supplemented with primary data obtained through interviews.*

Keyword: *Omnibus Law, laws, regulation*

I. INTRODUCTION

The term Omnibus law has resounded in Indonesia since the President of the Republic of Indonesia, Joko Widodo delivered his first speech in his inauguration on October 20, 201. [1] The idea of the omnibus law became a discussion among the law-forming institutions other than the Government, namely the People's Representative Council of the Republic of Indonesia and the Regional Representative Council of the Republic of Indonesia. In the National Legislation Program 2020-2024, the proposed draft bill with the concept of omnibus law is 3 (three) out of 248 draft laws, namely the Draft Bill on Employment Creation; Draft Bill on Development and Strengthening of the Financial Sector; and the Draft Bill on Tax Provisions and Facilities for Economic Engagement.

Omnibus comes from the Latin word *omnis* which means "all". if related to the concept of law in the Black Law Dictionary, the omnibus means numerous objects or items at once; many things or having various purposes. Likewise in Gluck and Connel, the omnibus law: packages together several measures into one or combines diverse subjects into a single law. The various meanings of the omnibus can be understood as a statutory regulation that is made to target a major issue that can revoke or change several laws at once to be simple. As what has been released, and is known through research and websites, the number of laws and regulations in

Indonesia have reached the stage of hyper regulation or obesity. For example, on the website peraturan.go.id, for example, it is known that there are already 1687 laws, 180 Government Regulations in lieu of laws, 4558 Government Regulations, 2008 Presidential Regulations, Ministerial Regulations 14722, Regulations of Non-Ministerial Government Institutions 3758, Regional Regulations 15965. [2]

In the condition of Indonesian regulation, the concept of omnibus law is a concern and offers a strategy to simplify regulation in Indonesia. However, the question that raises is why the concept of the Omnibus Law was chosen as a strategy by the Government to deal with regulatory obstacles? and Whether the Omnibus Law can be the right strategy to overcome regulatory problems in Indonesia.

II. RESEARCH METHOD

The method used in this research is qualitative. The approach used is normative to question the omnibus law strategy as a problem solver for overlapping regulations in Indonesia. [3] This study relies heavily on secondary data. The data obtained is then collected to be validated and described in the research report.

III. FINDING & DISCUSSION

A. Omnibus As A Strategy to Simplify The Regulation

The problem of hyper regulation in Indonesia has been raised by various studies including its impact on regulatory overlaps. The Center for Law and Policy Studies, for example notes that from October 2014 to 2018, there were around 7,621 ministerial regulations. While the number of presidential regulations produced during the last four years is only 765 and government regulations amounting to 452. [4]. From this amount it can be stated that indeed the number of laws and regulations in Indonesia is too much. With this amount, according to the Regulatory Quality Index issued by the World Bank, Indonesia's position during 1966-2017 has always been ranked 92 out of 193 countries. [5]

Hyper and obese regulatory conditions cause Indonesia to deal with overlapping legal issues. Inconsistency and disharmony caused by hyper regulation become one of the main factors inhibiting Indonesia's competitiveness. Whereas the competitiveness of a nation determines the ability of a country to attract investors to their country. [6] The condition of Indonesia's

competitiveness is affected by indications of the lack of ease of doing business in Indonesia, so that investors are less interested in investing in Indonesia. This is because, according to the World Bank, Indonesia has multi-layered procedures, at least 10 stages with an estimated 19.6 days. This ranks Indonesia 73rd out of 190 countries with ease of business and ranks 50th as a competitive country, or dropped to fifth in 2018. [7]

Etymologically, strategy is a step to overcome obstacles, accept challenges. [8] One obstacle experienced by Indonesia is that the bureaucratic process of so many regulations hinders investment and competitiveness. The challenge, development in the era of digital society and the era of distrust requires the country to be prepared to face the quality of human resources, productivity, innovation and competitiveness readiness. In addition, challenges that Indonesia will face in demographic bonus in 2045. Other challenges faced include infrastructure development accompanied by structural reforms and strengthening human resource competencies. If described, the challenges that will be faced by Indonesia, namely the development of the internet and the use of digital technology in Indonesia, the number of productive age population reaches up to 68% or equivalent to 200 million people in 2030, and economic inequality which is reflected by poverty in eastern Indonesia 18.01 percent, 10.3 percent in the west, and urban 7.02 percent. Meanwhile, income inequality in rural areas is 0.324 and urban areas are 0.4. [9]

The omnibus was chosen as a strategy to overcome the challenges and obstacles of regulation in Indonesia, because it is believed to have several advantages over the application of the omnibus law concept used by several countries, among others: [10]

1. Addressing both vertical and horizontal public policy conflicts effectively and efficiently;
2. Harmonizing government policies, both at the central and regional levels;
3. Simplifying the licensing process more integrated and effective;
4. Breaking the convoluted bureaucratic chains;
5. Improving the coordination between related agencies because it is regulated in an integrated policy;
6. Providing guarantees of legal certainty and legal protection for policy makers

B. Omnibus In Indonesia's Regulation Systems

With all the advantages carried by the omnibus law to overcome obstacles and face challenges by Indonesia in terms of regulation, what is often debated by academics is the matter of the suitability of the statutory system of legislation in Indonesia.

Omnibus law is believed to be something that can solve regulatory problems, namely hyper and overlapping. Harmonization is no longer considered a capable strategy to solve the problem. Omnibus law breakthrough.

Omnibus is indeed counted as a strategy carried out by several countries, such as the United States, Belgium and the United Kingdom, although to implement it, the costs required are not small and the time required is not short. However, the Omnibus is considered capable, because it is related to or dealing with various objects at once, including many things or having various goals. [11]

The Omnibus Law practice that is often referred to is the system used by the Serbian state. Adopting Omnibus Law is Serbia. Serbia adopted the Omnibus Law in 2002 which regulates the autonomous status of the Vojvodina Province which is included in Serbia. The law covers the jurisdiction of the Vojvodina provincial government regarding culture, education, language, media, health, sanitation, health insurance, pensions, social protection, tourism, mining, agriculture, and sports. [12]

Indonesia in the National Legislation Program this year, and in the long term 2020-2024 plans to form an Omnibus Law Bill, but various discussions show that omnibus law is not suitable to be applied in Indonesia because it is considered undemocratic. Meanwhile, according to Maria Farida Indrati, omnibus law is commonly used in countries that adopt a common law system. "[13] In addition to the common law, the omnibus law is also a law produced by the parliamentary system, so that the one who has the power to form a law is parliament, the President only vetoes a law that he does not approve. With a parliamentary system, laws are only made by Parliament without involving the public, so the omnibus law is called anti-democracy.

In addition, the omnibus law bill planned for this year's National Legislation Program has absolutely no effect on the number of bills proposed by the House of Representatives, the Government and the Regional Representative Council. Moreover, the Regional Representative Council, the Government and the Regional Representative Council do not have the same concept of the omnibus law, so the Government has its own omnibus law bill, the House of Representatives and the Regional Representative Council also seek their own concept of the omnibus law. Coupled with normative conditions based on Article 20 of the 1945 Constitution of the Republic of Indonesia which stipulates that the formation of Laws in Indonesia is under the authority of the House of Representatives, with the joint agreement of the President. There is an executive role in the formation of laws in Indonesia, so it is rather difficult if the concept of the omnibus law bill only comes from one party forming the law.

Referring to the regulatory system in Indonesia, the Omnibus law will have its own challenges. For example, about the type and hierarchy of laws and regulations in Indonesia, which are familiar with implementing regulations and implementing technical regulations. The omnibus law will have implementing regulations and technical regulations, which means that it will not significantly reduce the number of laws and regulations in Indonesia. Not to mention, this omnibus law bill will also be implemented in the regions. This condition shows that

omnibus law as a strategy must be re-strategized in the statutory system in Indonesia.

IV. CONCLUSION

The omnibus was chosen as a strategy to overcome the challenges and obstacles of regulation in Indonesia, because it is believed to have several advantages in applying the concept of the omnibus law used by several countries, while addressing both vertical and horizontal public policy conflicts effectively and efficiently, harmonizing government policies, both at the central level and in the regions, and guarantee legal certainty and legal protection for policy makers. The Omnibus law has not been able to become a strategy to parse regulatory problems in Indonesia, because the statutory regulatory system in Indonesia requires implementing regulations and implementing technical regulations of a law. not to mention the system of law formation in Indonesia which is not in parliamentary, but on legislative powers that require joint approval from the executive.

REFERENCES

- [1] Luthfia Ayu Azanella, "Apa Itu Omnibus Law, yang Disinggung Jokowi dalam Pidatonya?", online, <https://www.kompas.com/tren/read/2019/10/22/070600665/apa-itu-omnibus-law-yang-disinggung-jokowi-dalam-pidatonya-?page=all>.
- [2] www.peraturan.go.id, 3 Januari 2019.
- [3] Reza Banakar and Max Travers, 2005, "Theory and Method in Socio-Legal Research, Hart Publishing Oxford and Portland Oregon, p. xi.
- [4] Aida Mardhatillah, 2019, "Alasan PSHK UU Pembentukan Peraturan Perlu Dirombak Total, <https://pshk.or.id/rr/alasan-pshk-uu-pembentukan-peraturan-perlu-direvisi-total/>.
- [5] World Wide Governance Indicators, https://govdata360.worldbank.org/indicators/hf8a87aec?country=IDN&indicator=394&viz=line_chart&years=1996,2018.
- [6] Riswandha Imawan, "Peningkatan Daya Saing: Pendekatan Paradigmatik: Politik, Jurnal Ilmu Sosial dan Politik, Vol.6, No. 1, 2002, hal. 84.
- [7] NN., Omnibus Law: Solusi dan Terobosan Hukum, 2019, <https://www.indonesia.go.id/narasi/indonesia-dalam-angka/ekonomi/omnibus-law-solusi-dan-terobosan-hukum>
- [8] SW Arti, "Pengertian Strategi", <http://eprints.walisongo.ac.id/7292/3/BAB%20II.pdf>, diakses pada tanggal 5 January 2020.
- [9] Wantimpres, "Warta", http://wantimpres.go.id/wp-content/uploads/2018/04/WARTA-WANTIMPRES_FA_EDISI-1_FINAL_CETAK_090418-.pdf.
- [10] Nn, "RUU Omnibus Law: Omnibus Law: Solusi dan Terobosan Hukum, diakses melalui <https://indonesia.go.id/narasi/indonesia-dalam-angka/ekonomi/omnibus-law-solusi-dan-terobosan-hukum>.
- [11] Firman Freddy Busroh, "Konseptualisasi Omnibus Law Dalam Menyelesaikan Permasalahan Regulasi Pertanahan," *Jurnal Arena Hukum*, Vol 10, Nomor 2, Agustus 2017, hal. 242.
- [12] *Ibid.*, hal. 241.
- [13] Rofiq Hidayat, "Kekhawatiran Maria Farida Terkait Omnibus Law", <https://www.hukumonline.com/berita/baca/lt5de4f9c9216d0/kekhawatiran-maria-farida-terkait-omnibus-law/>.