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THE 1ST PROCEEDING INTERNATIONAL CONFERENCE AND CALL PAPER

Omnibus Law Opportunities And Challenges Towards
Entrepreneurs And Labor : Comparative Review

June 27 2020

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*" Omnibus Law Opportunities And Challenges Towards
Entrepreneurs And Labor : Comparative Review law"*

IMAM AS' SYAFEI BUILDING

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*" Omnibus Law Opportunities And Challenges Towards Entrepreneurs And Labor
: Comparative Review"*

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Bismillahirrohmanirrohim

Assalamu'alaikum Wr. Wb.

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LAW OF OMNIBUS LAW BUSINESS AGENCY FOR INDONESIAN COMMUNITY WELFARE

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ABSTRACT

President Joko Widodo complained about the many regulations that Indonesia has. Legislation both from the level of the law to the regional regulations of the Mayor and Regent are approximately 42 thousand. And overall has conflicting potential. The large number of laws and regulations can hamper the bureaucracy and investment. The President's concern is reasonable, because given the production of legislation too partially regulating. On the inauguration of the President and vice president on October 20, 2019, the president said that the government would invite the Parliament to issue two Laws namely the Employment Act and the Law on Macro Business Empowerment Small and Medium Enterprises (MSMEs). Each of these laws will become an omnibus law, one law that revises several laws. The problem in this research is how is the Business Entity Omnibus Law Bill for the welfare of the Indonesian people? Basically statutory regulations or norms must have benefits for the community. This is the goal of the State of Indonesia, including in the Draft Omnibus Law that is being formed. According to the Secretary of the Coordinating Ministry for Economic Affairs Susiwijono stated there are 3 (three) benefits from the application of the Omnibus Law, namely: 1. Eliminating Overlaps between legislation; 2. The efficiency of the process of amending / revoking legislation; 3. Eliminating sectional egos by making arrangements all forms of business entities mentioned above into each separate regulation. Obviously there will be more regulations that will potentially create overlap. In addition, the calculation of the cost of forming each regulation will also multiply, which will make a waste of state money.

Keywords : *omnibus law, business entity, welfare*

INTRODUCTION

President Joko Widodo complained about the many regulations that Indonesia has. Legislation both from the level of the law to the regional regulations of the Mayor and Regent are approximately 42 thousand. And overall has conflicting potential. The large number of laws and regulations can hamper the bureaucracy

and investment. The President's concern is reasonable, because given the production of legislation too partially regulating⁹⁸. On the inauguration of the President and vice president on October 20, 2019, the president said that the government would invite the Parliament to issue two Laws namely the Employment Act and the Law on Macro Business Empowerment Small and Medium Enterprises (MSMEs). Each of these laws will become an omnibus law, one law that revises several laws. Legislation is one of the main elements in a national legal system. As a system, the rules of the rules contained in all forms of legislation arranged hierarchically, culminating in the constitution as the highest law. Lower laws and regulations must not conflict with higher regulations. Only with rules arranged hierarchically, the law as a system can be built.

Often the formation of regulations in each ministry / institution in the central and regional government is driven more by sectional ego without regard to the interests of other sectors and the legal needs of the community. The formation of such regulations occurred during the New Order government until the reformation. As a result, many regulations that overlap, contradict each other, are not harmonious with each other. The regulation does not create order but instead creates disorder which makes it difficult for one. As a result, the government moves slowly, unable to act quickly in making important decisions for economic progress. This overlapping regulation is suspected to be one of the factors inhibiting the entry of foreign investment into Indonesia. Another impact arising from the many regulations is the waste of state finance to finance the formation of regulations.

The Omnibus Law is also feared that it will cut and change the concept of administrative requirements, this is related to business practices that will cause damage / change the function of space or the environment, among others: the centralization of policies, eliminating community involvement, flexibility and spatial adjustment, removal of permits constructing buildings, reducing the AMDAL substance, and eliminating environmental criminal sanctions. Omnibus Law on the one hand will also have implications for the perpetuation of market-oriented educational practices, such as: commercialization, links and matches in the industrial world, and the formation of work-oriented education curricula. The focus in writing this article is how the Omnibus Law politic law in the context of economic development in the concept of the welfare state and how the Omnibus Law legal framework is ideal for driving the economy and investment to realize the welfare of all the people of Indonesia.

The concept of the Omnibus Law is expected to be able to answer the problem of overlapping laws and regulations in Indonesia. However, the concept of the Omnibus Law which is usually applied in countries that adopt a common law system is rather difficult to determine in Indonesia that adopts a civil law system. Basically there is a problem of conflict between government administrators, when they want to make innovations or policies which then clash with the laws and regulations. The Omnibus Law, which is carried out at the level of the Law, is one way out that the government can take to resolve the conflict.

The concept of the Omnibus Law can be used in Indonesia to harmonize central and regional policies in supporting the investment climate, where this concept becomes a concise way as a solution to conflicting laws and regulations, both vertically and horizontally. Problems arising from the Omnibus Law are related to the position of the Law resulting from the Omnibus Law. In theory legislation in Indonesia, the position of the Law from the concept of the Omnibus Law has not been regulated. If you look at the legal system in Indonesia, the Law resulting from the Omnibus Law concept can lead to an "Umbrella Law" because it regulates thoroughly and then has power over other rules. However, Indonesia does not adhere to the Umbrella Law because the position of all the Laws is the same.

98. Agnes Fitryantica, 2019, Harmonisasi Peraturan Perundang-undangan Indonesia melalui Konsep Omnibus Law, Jurnal Gema Keadilan: Vol 6, No.3, Jakarta, p.301

In theory, the laws and regulations, problems will arise related to their position and this must be given legitimacy by revising Law No. 12 of 2011 concerning the Formation of Legislation. If Law No. 12 of 2011 is not revised, it must be seen how the contents of the provisions in the Umbrella Law, whether general or complete as usual. If it is general in nature, not all provisions will be revoked, but only those that are revoked are contradictory. General provisions will cause problems if they are clashed with the principle of *lax specialis derogat legi generalis* (special rules that override general rules), therefore they need to be regulated in the hierarchy of laws regarding their position.

According to Maria Farida Indrati, an amendment to a statutory regulation is made, if there are provisions in the legislation that are no longer in accordance with the situation or conditions prevailing in the community. Amendments to a law or regulation may include the following: 1. Add or insert new provisions, improve or delete existing provisions, whether in the form of chapters, sections, paragraphs, articles, paragraphs, or words, numbers, letters, punctuation marks and others. 2. Replacing a provision with other provisions, both in the form of chapters, sections, paragraphs, articles, paragraphs, as well as words, numbers, letters, punctuation marks and others⁹⁹.

The statement made by President Jokowi above, is a warning for stakeholders to immediately fix regulations in each sector in order to accelerate economic growth and be relevant to the World Bank's report on the rating of ease of doing business (EoDB) in all countries where Indonesia is currently ranked 91 out of 106 countries. It was reported that President Jokowi targeted Indonesia to be ranked 40th. According to Jokowi's direction, the government would make improvements on each indicator that was a priority. Therefore, every ministry / institution must immediately solve problems and obstructing regulations. The World Bank measures the ease of doing business based on 10 indicators with the same weight, which are related to the ease of starting a business, dealing with construction permits, registering property, paying taxes, credit management (getting credit), compliance with contracts (enforcing contracts), access to electricity (getting electricity), cross-border trading (trading across borders), settlement of bankruptcy and security of minority investors (resolving insolvency and protecting minority investors). Among the 10 indicators, which received poor ratings were indicators of ease of starting a business, construction permits, building registration, tax payments, observance of contracts, and cross-border trade. The World Bank report indicated various regulatory issues in each sector, which become an obstacle to economic progress in Indonesia.

THE PROBLEM

What is the Business Entity Omnibus Law Bill for the welfare of the Indonesian people?

Methods of Research

The approach used in writing this article is a normative research method. What is meant by normative research methods is library research¹⁰⁰. Legal research is conducted to find solutions to legal issues that arise. Therefore, legal research is a study within the framework of know-how in law. The results achieved are to provide a prescription of what should be the issue rose¹⁰¹. To solve legal issues, research sources are needed. Sources of legal research can be divided into research sources in the form of primary legal materials and secondary legal materials. Primary legal materials consist of legislation, official records or minutes in the making of legislation and judges' decisions, whereas secondary materials in the form of all

99. Maria Farida Indrati, S, 2007, Ilmu Perundang-undangan (jenis, fungsi, dan materi muatan) jilid 1, Kanisius, Jakarta.

100. Soekanto dan Sri Mamuji, Penelitian Hukum Normatif: Suatu Tinjauan Singkat, (Jakarta: Raja Grafindo Persada, 2001), p. 23.

101. Peter Mahmud Marzuki, Penelitian Hukum, (Jakarta: Kencana, 2011), p. 41

legal publications are not official documents¹⁰². In conducting legal research, steps are taken (1) identifying legal facts and eliminating irrelevant matters to determine the legal issues to be resolved; (2) the collection of legal materials and if it is in the same place as having non-legal material relevance; (3) examines the legal issues submitted based on the materials that have been collected; (4) draw conclusions and forms of argument that address legal issues; and (5) prescribe based on the argumentation that has been built in the conclusion¹⁰³.

Research Result and Discussion

Settlement of overlapping and disharmonious regulatory problems in Indonesia cannot be solved by harmonization. But a legal breakthrough must be done to resolve overlapping problems through a concept known as Omnibus Law. Some time ago, the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Sofyan Djalil once raised the concept of the omnibus law. This concept is also known as the omnibus bill which is often used in countries whose regulations in this concept are to make a new law to amend several laws at once. The statement arises because of overlapping regulations, especially regarding investment¹⁰⁴. This omnibus law model is actually only known in the Anglo-Saxon legal system and is not known in the flow of continental law (civil law).

The definition of Omnibus Law starts from the word Omnibus. The word Omnibus comes from the Latin language and means for everything. In the Black Law Dictionary Ninth Edition Bryan A. Garner mentioned the omnibus: relating to or dealing with numerous objects or items at once; including many things or having various purposes, where the meaning is related to or dealing with various objects or items at once; including many things or having various goals. When coupled with the word Law, it can be defined as law for all. So, the concept of the omnibus law is a comprehensive and comprehensive rule, not bound by one regulatory regime. Looking at the definition of the omnibus law, actually it can be applied in the preparation of business entity regulations in Indonesia. The problem may be our legal concept in the sequence of legislation as regulated in Law No. 11 of 2012 concerning the Formation of Regulations and Regulations only set the law as the highest, not familiar with the rules above the law. But if you set the same object as a business entity, it might not matter because it does not touch other legal objects outside the business entity.

The establishment of a business entity regulation with the omnibus law model is expected to be a solution in overcoming overlapping regulations, as well as ease of business that can boost Indonesia's ranking. Thus, investment inflows for development, employment creation and economic growth can increase. In addition, the establishment of comprehensive business entity regulations will save time and costs compared to having to partially regulate regulations such as Firms, CVs and Civil Partnerships. Partial discussion will certainly take a lot of time and money. When it is done comprehensively, the time and cost are not much different, so there is no waste of state money.

One indicator of the ease of doing business that gets a bad rating from the World Bank is the ease of starting a business. Laws governing the establishment of companies in Indonesia are scattered in various laws and regulations in various forms. Some are already regulated in the law, such as PT, Cooperatives, and BUMN. But there are also still regulated in the colonial legislation, namely the Civil Code and the Commercial Code, especially regarding the Civil Alliance / PP (Maatschap), Vennootschap onder Firma (Firma), and Commanditaire Vennoot-Schap (CV).

102. Ibid, p. 141

103. Ibid, p. 171

104. <http://www.hukumonline.com/berita/baca/lt58a6fc84b8ec3/menimbang-konsep-omnibus-law-bila-diterapkan-di-indonesia> accessed on June 20, 2020

Other than those mentioned above, there are still business entities that do not yet have a legal basis at all but have existed in the midst of the community, namely individual businesses or trading businesses (UD). These business activities are generally engaged in the grocery business (shops), restaurants and street vendors. In the development of information technology today, various types of new businesses have emerged in cyberspace, such as virtual offices, lazada, Tokopedia, Blibli, Bukalapak and so on. The presence of this online trading business, apparently received an extraordinary reception from the public. Shipping service businesses such as JNE also feel the sweetness of the online business. Because of the large number of shipping orders until midnight even the courier officers still are passing the delivery of ordered goods. The presence of such online business entities has not yet had a legal basis and is not registered as a business entity. Thus it will be difficult for the Director General of Taxes in capturing the tax of the business entity.

Then, the Income Tax Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax (the Income Tax Law) governs a permanent establishment. Article 2 Paragraph (5) of the Income Tax Law states that “permanent establishment is a form of business that is used by individuals who do not reside in Indonesia, individuals who are in Indonesia no more than 183 (one hundred eighty three) days within a period of 12 (twelve) months, and a body that is not established and is not domiciled in Indonesia to run a business or conduct activities in Indonesia, which may be in the form of:

- a. place of management;
- b. branch company;
- c. representative office;
- d. office building;
- e. factory;
- f. workshop;
- g. warehouse;
- h. space for promotion and sales;
- i. mining and extracting natural resources;
- j. oil and gas mining working area;
- k. fisheries, animal husbandry, agriculture, plantation or forestry;
- l. construction, installation, or assembly project;
- m. providing services in any form by employees or other people, as long as they are conducted for more than 60 (sixty) days in a period of 12 (twelve) months;
- n. a person or body acting as an agent whose position is not free;
- o. agents or employees of insurance companies that are not established and are not domiciled in Indonesia who receive insurance premiums or assume risks in Indonesia; and
- p. Computers, electronic agents, or automated equipment that are owned, rented or used by electronic transaction operators to carry out business activities via the internet. “

Other forms of business entity in the framework of foreign investment are Cooperation between Public Companies and Private Companies. This form of contract is commonly used by multinational companies in construction contracts carried out with state or private companies in the country where the capital of the multinational company is invested (Public Private Partnerships / PPP). A distinctive feature of these contracts is that they are made in BOO (Build Own Operate), BOT (Build Own Transfer), or BOOT (Build Own Operate and Transfer). This contract gives concessions to foreign private companies

as contractors for a certain period of time and after that ownership will be transferred to state or private companies in the recipient capital.¹⁰ Forms of PPP partnership business usually take place according to the agreement of both parties. The greater the value of the project being funded, the foreign partner has the right to operate the project until the agreed time limit. The form of the PPP partnership business to date there is no regulation that regulates the legal entity for PPP business and registration.

Thus we can see a variety of forms of business beyond those specified in the PT Law, the Cooperative Law and the KUHD. Besides that in Law No. 3 of 1982 concerning Mandatory Company Registration (WDP Law) Article 8 also regulates the form of companies, namely:

- a. Legal Entity, including Cooperatives;
- b. Partnership;
- c. Individual;
- d. Other companies other than those mentioned in letters a, b, and c of this article.

In comparison to common law countries, there are three forms of business entity, namely:

1. Sole Proprietorship or Sole Trader (equivalent to an individual business entity)
2. Partnership
 - a. General Partnership
 - b. Limited Partnership
3. Limited Liability Company¹¹

So, the forms of business entities can be grouped into two categories, namely business entities with legal entities such as PTs and cooperatives and not legal entities such as partnerships and individuals. But the WDP Law allows for the emergence of new forms of enterprise outside the business entities mentioned above. While in common law countries only recognize three types of companies, there are fewer forms of companies compared to Indonesia. The question is whether in the upcoming business entity regulation plan it remains with the existing forms of legal entity or accommodating the BUT forms of business entities regulated in the Income Tax Law, online business ventures and PPP partnerships. But the problem may be that setting a deadline in BUT, which is only 183 days in a year, is too short for a business entity.

According to Rudhi Prasetya that in the literature, these three forms of business entity, namely *naamloze vennootschap*, *vennootschap onder firm*, and *vitaootschap commanditaire* are considered one family together with *maatschap*. This last form in our country is regulated in Title VIII Book III of the Civil Code with the title *van maatschap*, which Subekti translates as “Fellowship”. Title VIII Book III of our Civil Code before it was changed with *Staatsblad No. 276-38* with the title of *vennootschap, maatschap, or of vennootschap*. In the system, this form of *maatschap* is considered to be a genus of *vennootschap naamloze, vennootschap onder firma, and vennootschap commanditaire*, all three of which become one regulated in the KUHD. In this connection, the provisions of Article 15 of the Criminal Procedure Code which states that the alliances contained in the Criminal Code, in addition to the provisions in the Criminal Code, also apply the provisions in the Civil Code. PT, PP, Firma and CV are not a problem, because the four business entities are still classified as allied once regulated in the Civil Code and the Commercial Code.

Meanwhile, a Trading Company (PD) or a Trading Business (UD) is an individual company that is usually run by one entrepreneur. The business capital of this individual company is usually owned by one person, the founder. The entrepreneur immediately acts as a manager, which is sometimes assisted by several workers. The worker is not included as the owner, but is an entrepreneur’s assistant in managing the company based on an employment agreement or authorization. Basically, the legal act of establishing a commercial business is not regulated in the Commercial Law or special laws but only grows based on

customary law and jurisprudence. The practice of establishing legal business in general is carried out with a notary's deed, but this is not a necessity. What is needed in relation to the legal act of establishing a Trading Business company is that it is related to the business permit from the Department or ministry concerned, in addition to the local government specifically in the field of administrative preventive supervision based on the Disturbance Law (Hinder Ordonnantie) and Law No. 4 of 1982 concerning Basic Environmental Provisions, by each Department concerned with the field of business activities of the company.

So, regulating business entities in a comprehensive and comprehensive regulation is not too difficult. Considering that most of the aforementioned forms of business originated from the same set of arrangements, before the limited company was revoked it became a separate law. In addition, these business forms also have the same company criteria, namely running a business continuously, domiciled in Indonesia and aiming to make a profit. Therefore, in the future it is necessary to consider giving legal status to all forms of business entity because it does have the characteristics of a legal entity except legalization that has not yet been obtained from the government whereas the UKMK Law and the Oil and Gas Law and other regulations expressly regulate the group company. These three regulations do not seem harmonious in regulating group companies. For this reason, in the planning for the establishment of business entities in the future, it is necessary to consider the arrangement of the responsibilities of the parent company for subsidiaries, because, it is not impossible that the subsidiary is deliberately sacrificed to pursue profit through unnatural methods. Then, the parent company takes cover behind limited liability and the separation of the company's assets from the founder's property. In the case of subsidiary business operations are controlled by the parent company, both national and multinational companies, which control the subsidiary from the country of origin of investment.

Conclusion

Basically, laws and norms must have benefits for the community. This is the goal of the State of Indonesia, including in the Draft Omnibus Law that is being formed. According to the Secretary of the Coordinating Ministry for Economic Affairs Susiwijono stated there are 3 (three) benefits from the application of the Omnibus Law, namely: 1. Eliminating Overlaps between legislation; 2. The efficiency of the process of amending / revoking legislation; 3. Eliminating sectional egos by making arrangements all forms of business entities mentioned above into each separate regulation. Obviously there will be more regulations that will potentially create overlap. In addition, the calculation of the cost of forming each regulation will also multiply, which will make a waste of state money.

References

1. Chandrawulan, An An, *Hukum Perusahaan Multinational*, Bandung: Keni Media, 2014.
2. Khairandy, Ridwan, *Pokok-Pokok Hukum Dagang Indonesia*, Cet. 1, Yogyakarta: FH UII Press, 2013.
3. Komalasari, Yetti, *Pemikiran Baru tentang Comanditaire Vennootschap (CV): Studi Perbandingan KUHD dan WvK serta Putusan Pengadilan Indonesia dan Belanda*, Jakarta: Badan Penerbit FHUI, 2011
4. Marzuki, Peter Mahmud, *Penelitian Hukum*, Jakarta: Kencana, 2011
5. Mulhadi, *Hukum Perusahaan, Bentuk-Bentuk Badan Usaha di Indonesia*, Cet. 1, Bogor: Penerbit Ghalia Indonesia, 2010
6. Prasetya, Rudhi, *Perseroan Terbatas Teori dan Praktik*, cet. 3, Jakarta: Sinar Grafika, 2014
7. Said, M. Natzir, *Hukum Perusahaan di Indonesia*, Bandung: Alumni, 1987

8. Sulistiowati, *Aspek Hukum dan Realitas Perusahaan Grup di Indonesia*, Jakarta: Erlangga, 2010
9. Soekanto dan Sri Mamuji, *Penelitian Hukum Norma- tif: Suatu Tinjauan Singkat*, Jakarta: Raja Grafindo Persada, 2001
10. <http://www.hukumonline.com/berita/baca/lt58a6fc84b8ec3/menimbang-konsep-omnibus-law-bila-diterapkan-di-indonesia> accessed on June 20, 2020
11. <file:///C:/Users/User44/Documents/Omnibus%20law/KONSEPTUALISASI%20OMNIBUS%20LAW.pdf> accessed on June 20, 2020
12. <https://news.okezone.com/read/2017/10/23/337/1800985/presiden-jokowi-negara-ini-kebanyakan-regulasi-ada-42-ribu-aturan> accessed on June 20, 2020
13. <http://katadata.co.id/berita/2017/05/09/jelang-lawatan-tim-survei-bank-dunia-kemudahan-ber-bisnis-digenjot> accessed on June 20, 2020