



## LEGAL RECONSTRUCTION OF THE OMNIBUS LAW ON JOB CREATION FOR JUSTICE IN ENHANCING INVESTMENT AND INDONESIA'S COMPETITIVENESS

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### ABSTRACT

The Omnibus Law on Job Creation (Law No. 11 of 2020 as amended by Law Number 6 of 2023) is a key Indonesian government policy designed to boost investment and national competitiveness by simplifying the investment ecosystem and enhancing the ease of doing business. This study examines the need for legal reconstruction of the law to create a more equitable regulatory framework that promotes investment, competitiveness, legal certainty, and labor protection. Despite Indonesia's strong appeal to foreign investors, challenges such as bureaucratic inefficiencies, corruption, and legal uncertainty persist. While the Omnibus Law aims to improve regulatory efficiency, its implementation has been criticized, particularly by labor groups who argue that it prioritizes capital over worker welfare. Furthermore, inefficiencies in investment management are highlighted by the high Incremental Capital Output Ratio (ICOR), indicating that large investments are not yielding expected economic returns. This study proposes strategies for legal reform to address labor concerns, improve legal transparency, and enhance infrastructure, with the goal of optimizing the policy's impact on sustainable economic growth. The research aims to contribute to the development of a more balanced legal framework that supports both economic progress and social welfare.

## 1. Introduction

In today's increasingly globalized economy, countries are locked in intense competition to attract investment, recognizing it as a critical driver of economic growth. Amid this race, Indonesia—a nation rich in natural resources and endowed with a large productive population—strives to improve its investment climate to remain competitive on the international stage.<sup>1</sup> Yet, despite its vast potential,

<sup>1</sup> Marulak Pardede., Investment Regulatory Reform in Indonesia, *Jurnal Penelitian Hukum De Jure*, Vol.23, no.2, 2023, page.31. See too, Ega Prabandari Kusuma and Siti Anisah., The Urgency of

Indonesia continues to face formidable challenges, including complex bureaucracy, legal uncertainty, rigid labor regulations, and high investment costs, which hinder both foreign and domestic investment.<sup>2</sup>

Indonesia's appeal to global investors is undeniable. Its geographical location, demographic strength, and natural wealth position it as a strategic economic partner, particularly in light of geopolitical tensions such as the ongoing U.S.-China rivalry in the Asia-Pacific region. These dynamics present Indonesia with both opportunities and pressure to strengthen its role in global supply chains and investment networks.<sup>3</sup> However, Indonesia is not alone in seizing these opportunities. Other Southeast Asian nations are actively enhancing their investment climates, streamlining regulations, and improving competitiveness to attract global capital.

Evidence of Indonesia's struggle is seen in its performance in the World Bank's Ease of Doing Business (EoDB) rankings. In 2020, Indonesia ranked 73rd globally and 6th in ASEAN, lagging significantly behind regional leaders such as Singapore (2<sup>nd</sup>) and Malaysia (12<sup>th</sup>). Notably, the country ranked 140th in the "Starting a Business" indicator, reflecting burdensome procedures, long processing times, and high entry costs.<sup>4</sup>

To address these barriers, the Indonesian government introduced Presidential Instruction No. 79/2019 and later enacted the Omnibus Law on Job Creation (Law Number 11 of 2020), aimed at overhauling regulations and streamlining business processes. This law covers ten key sectors, from employment reform to support for innovation and strategic projects. While intended to enhance the investment ecosystem, the law has sparked significant controversy, particularly concerning labor rights and regulatory transparency.<sup>5</sup>

The legal dynamics surrounding the Omnibus Law on Job Creation have grown increasingly complex following the Constitutional Court's Decision Number 91/PUU-VIII/2020, which declared the law conditionally unconstitutional. The Court mandated that the government revise the law within two years to align with

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RCEP in the Development of Indonesia Investment Law, *Journal of Law and Legal Reform*, Vol.3, no.2, 2022, page.180.

<sup>2</sup> Kusumo Wahyu Bintoro, Budi Santoso, and Joko Setiyono., Juridic Review Consumer Protection Perspective of Copyright Law (Omnibus Law) and Consumer Protection Law, *International Journal of Law and Politics Studies*, Vol.4, no.2, 2022, page.80. See too, Jaenudin Umar, Endang Sutrisno, and Abdullah Abdullah., The Dispute Settlement for Consumer Protection by The Consumer Dispute Settlement Agency in Legal Assurance Perspective, *JPH*, Vol.10, no.1, 2023, page.121.

<sup>3</sup> Rendy Adiwilaga, Prasta Kusumah, and Mustabsyrotul Ummah Mustofa., Implikasi Rivalitas Amerika Serikat-Republik Rakyat China Terhadap Posisi Kedaulatan Indonesia (Studi Kasus pada Dinamika Konflik Klaim Wilayah Laut Cina Selatan), *Aliansi: Jurnal Politik, Keamanan Dan Hubungan Internasional*, Vol.2, no.1, 2023, page.31.

<sup>4</sup> Tomi Setianto and S. J. Raharja., Ease of Doing Business in Indonesia: a Long Road, *Optimum: Jurnal Ekonomi Dan Pembangunan*, Vol.10, no.2, 2020, page.87. See too, Fachriza Cakrafaksi Limuris., Hak Rakyat Atas Air Bersih Sebagai Derivasi Hak Asasi Manusia Dalam Deklarasi Universal Hak Asasi Manusia, *Jentera: Jurnal Hukum*, Vol.4, no.2, 2021, page.519.

<sup>5</sup> Acep Rohendi., Dampak Uu Cipta Kerja Terhadap Kaidah Hukum Bisnis, *Jurnal Hukum Dan Bisnis (Selisik)*, Vol.9, no.2, 2023, page.21. See too, Mudemar A. Rasyidi., Fungsi Hukum di Dalam Masyarakat dan Peranan Hukum Bisnis di Indonesia, *Jurnal Ilmiah Hukum Dirgantara*, Vol.9, no.1, 2018, page.32.

the principles of proper legal drafting.<sup>6</sup> In response, the government issued Government Regulation in Lieu of Law (Perppu) Number 2 of 2022, later ratified as Law Number 6 of 2023 by the House of Representatives in March 2023.<sup>7</sup> Although Law Number 6 of 2023 retains key provisions from the 2020 law—including those related to employment contracts (*Perjanjian Kerja Waktu Tertentu*/PKWT), severance pay, minimum wages, termination, and outsourcing—its enactment has continued to spark debate. Labor unions argue the law still lacks legal certainty and prioritizes business interests over worker protection.<sup>8</sup> Most recently, the Constitutional Court reaffirmed these concerns in Decision Number 168/PUU-XXI/2023, declaring 21 articles conditionally unconstitutional.

The Constitutional Court of the Republic of Indonesia ordered lawmakers to immediately separate employment provisions from the Job Creation Law and draft a new Employment Law.<sup>9</sup> This ruling confirms that the employment regulations in the Omnibus Law on Job Creation fail to fully embody justice for both businesses and workers. The government has yet to formulate amendments to the Employment Law, and negotiations continue among the government, employers, and labor unions to create fairer, balanced regulations with clearer legal certainty. The ongoing discussions aim to produce policies acceptable to all parties. The new regulations are expected to provide legal certainty for investors while ensuring workers' welfare, fostering social stability, and enhancing national economic competitiveness. Reconstructing the Omnibus Law on Job Creation is urgent to establish just, inclusive regulations that promote investment and competitiveness without compromising workers' rights.

Although numerous studies have explored the implications of Indonesia's Omnibus Law on Job Creation (Law Number 11 of 2020 and its successor Law Number 6 of 2023), existing literature predominantly focuses on sectoral impacts—such as

<sup>6</sup> Mahkamah Konstitusi Republik Indonesia, *Putusan Nomor 91/PUU-XVIII/2020*.

<sup>7</sup> Hirma Hirma, and Syamsir Syamsir., *Kajian Yuridis Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020 Tentang Undang-Undang Cipta Kerja: Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020*, *Limbago: Journal of Constitutional Law*, Vol.3, no.1, 2023, page.32. See too, Sulistyowati Sulistyowati, Agus Salim, Puspa Eriyani, and Siti Mastoah., *Government Regulation Substituting the Law on Job Creation in the Perspective of Constitutional Law*, *Jurnal Hukum*, Vol.39, no.2, 2023, page.245.

<sup>8</sup> Artha Yudilla., *Kerjasama Indonesia Cina dalam Belt and Road Initiative analisa peluang dan ancaman untuk Indonesia*, *Journal of Diplomacy and International Studies*, Vol.2, no.01, 2019, page.64. See too, Hermaputi Roosmayri Lovina, Gong Jiajia, and Hua Chen., *Review of "the chinese belt and road initiative": Indonesia-china cooperation and future opportunities for indonesia's port cities development*, *Journal of Regional and City Planning*, Vol.28, no.3, 2017, page.173.

<sup>9</sup> Utami Argawati Argawati., *Kabulkan Sebagian, MK Minta UU Ketenagakerjaan Dipisahkan dari UU Cipta Kerja*, *Mahkamah Konstitusi Republik Indonesia*, 31 Oktober 2024. See too, Irfan Kamil dan Dani Prabowo., *MK Perintahkan DPR-Pemerintah Bentuk UU Ketenagakerjaan Baru, Pisahkan dari UU Cipta Kerja*, *Kompas.com*, 31 Oktober 2024.

institutional quality Jazuli et al.<sup>10</sup> environmental sustainability Hadi et al.<sup>11</sup> youth in agriculture Sanders et al.<sup>12</sup> and investment facilitation.<sup>13</sup> Gupta et al.<sup>14</sup> examine the long-term economic projections, while Rumawi et al.<sup>15</sup> delve into the legal reasoning behind the Constitutional Court's decision. Moreover, existing literature on the Omnibus Law highlights diverse and often contradictory perspectives. Scholars such as Purwanto and Lubis<sup>16</sup> emphasize the law's potential to boost investment and legal certainty in line with Indonesia's welfare state vision, while others, like Sarjana et al.<sup>17</sup> and Sisinaru & Harijanti,<sup>18</sup> critically examine its labor cluster, noting potential exploitation, weakened worker protection, and lack of constitutional alignment. Meanwhile, Nurhayati et al.<sup>19</sup> and Mujib et al.<sup>20</sup> highlight the legal uncertainty following the Constitutional Court's conditional unconstitutionality decision, questioning the law's legitimacy and long-term effect on investment, especially from foreign actors like China. From a broader policy and institutional perspective, Siagian<sup>21</sup> argues that the Omnibus Law, in its application, does not disturb the hierarchy of legal regulations, offering legal certainty and

<sup>10</sup> Muhamad Rosyid Jazuli, Maimanah Mohammed Idris, and Penlope Yaguma., The importance of institutional quality: Reviewing the relevance of Indonesia's Omnibus Law on national competitiveness, *Humanities and Social Sciences Communications*, Vol.9, no.1, 2022, page.11. See too, Muhadam Labolo and Etin Indrayani., Bureaucratic reform and the challenge of good governance implementation in Indonesia, *Journal of Asian Review of Public Affair and Policy*, Vol.2, no.4, 2017, page.42.

<sup>11</sup> Sudharto P. Hadi, Rizkiana S. Hamdani, and Ali Roziqin., A sustainability review on the Indonesian job creation law, *Heliyon*, Vol.9, no. 2, 2023, page.52. See too, Rahmat Saputra and Rama Dhianty., Investment Licensing and Environmental Sustainability in the Perspective of Law Number 11 The Year 2020 Concerning Job Creation, *Administrative and Environmental Law Review*, Vol.3, no.1, 2022, page.36.

<sup>12</sup> Anna Sanders, Josi Khatarina, Rifqi Assegaf, Tessa Toumbourou, Heni Kurniasih, and Reni Suwarso., The Omnibus Law on Job Creation and its potential implications for rural youth and future farming in Indonesia, *Asia Pacific Viewpoint*, Vol.65, no.2, 2024, page.254.

<sup>13</sup> Anak Agung Sagung Laksmi Dewi, Mella Ismelina Farma Rahayu, Ni Made Puspasutari Ujianti, Hartini Saripan, and Anak Agung Ngurah Adhi Wibisana., The Urgency of Indonesian Omnibus Law Implementation Related to Foreign Investment, *Substantive Justice International Journal of Law*, Vol.6, no.2, 2023, page.91.

<sup>14</sup> Krisna Gupta, Arianto A. Patunru, and Paul Gretton., Projecting the long-run impact of an economic reform: The case of the Indonesian Omnibus Law, *Asian-Pacific Economic Literature*, Vol.12, no.2, 2024, page.234.

<sup>15</sup> Mohammad Ali, and Abdul Syakur., The ratio decidendi of the decision of the Constitutional Court of the Republic of Indonesia from the perspective of legal positivism, *Вестник Санкт-Петербургского университета. Право*, Vol.15, no.2, 2024, page.488.

<sup>16</sup> Muhammad Eko Purwanto, and Efridani Lubis., Yudicial Review Omnibus Law Dalam Melindungi Pekerja dan Mengembangkan Investasi di Indonesia, *Veritas*, Vol.8, no.1, 2022, page.56.

<sup>17</sup> I. Sarjana Made, Kadek Agus Sudiarawan, Laura Antoinette Medd, I. Putu Bimbisara Wimuna Raksita, and Bagus Hermanto., Omnibuslaw Employment Cluster: Is Ita Form of Labor Exploitation in the Indonesian Context?, *UUM Journal of Legal Studies*, Vol.14, no.1, 2023, page.83.

<sup>18</sup> Sostones Y. Sisinaru and Susi Dwi Harijanti., The constitutionality of outsourcing job regulation in the law on job creation, *Law Reform*, Vol.18, no.1, 2022, page.84.

<sup>19</sup> Yati Nurhayati and Mohd Zamre Mohd Zahir., Investment in Indonesia after Constitutional Court's Decision in the Review of Job Creation Law, *Lentera Hukum*, Vol.9, no.2, 2022, page.435.

<sup>20</sup> M. Iqbal, M. Misbahul Mujib, and Yuliannova Lestari., Does Omnibus Law Affect the Indonesian Investment Regulations towards Chinese Investors?, *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, Vol.12, no.4, 2022, page.191.

<sup>21</sup> Abdul Hakim Siagian., Omnibus law in the perspective of constitutionality and legal politics, *Jambura Law Review*, Vol.3, no.1, 2021, page.99.

usefulness compared to conventional one-by-one law revisions, but the broader impacts remain uncertain. Moreover, Ikhsan,<sup>22</sup> identifies overlooked environmental and indigenous land rights issues, further complicating the law's socio-legal implications.

However, a significant research gap remains in evaluating the interplay between legal legitimacy, stakeholder trust, and policy sustainability in light of repeated constitutional challenges. No study has comprehensively analyzed how the evolving legal status (i.e., from Law No. 11/2020 to Perppu No. 2/2022 to Law Number 6/2023) affects the credibility of legal reform in the eyes of affected communities, especially labor groups and environmental advocates. Furthermore, there is limited empirical research on how fragmented institutional reform and legal uncertainty influence investor perceptions and socio-political stability. This gap highlights the need for interdisciplinary research that bridges legal analysis, policy implementation, and stakeholder responses to assess the true viability and legitimacy of omnibus-style reforms in Indonesia.<sup>23</sup>

The aim of this study is to analyze the legal reconstruction of the Omnibus Law on Job Creation to ensure fairness, enhance investment, and strengthen national competitiveness in Indonesia. It will explore how proportional and adaptive regulations can attract investment while safeguarding social stability and workers' welfare. The study seeks to provide insights into formulating a legal strategy that balances business facilitation with sustainable economic resilience, addressing the evolving challenges and legal uncertainties surrounding the law's implementation.

## 2. Research Methods

This study adopts a qualitative approach with a descriptive analysis method to assess the effectiveness of the Omnibus Law on Job Creation in enhancing investment and national competitiveness within the broader context of national resilience. The qualitative approach is chosen to provide a detailed understanding of the regulation's impact on various economic, social, and political dimensions in Indonesia. As a case study, this research focuses on the implementation of Law Number 11 of 2020 concerning Job Creation, examining responses from key stakeholders, including the government, investors, businesses, and labor unions. The study evaluates how the policy influences the investment climate, ease of doing business, industrial relations, and national resilience.

Data for this study are gathered from secondary sources, such as policy and regulatory documents, official reports, and constitutional court decisions. These include Law Number 11 of 2020 on Job Creation, Presidential Instruction Number 79 of 2019 on easing business procedures, and various reports on Indonesia's Ease of Doing Business (EoDB) rankings, including those from the World Bank and The Economist. Additionally, the Constitutional Court Decision Number 91/PUU-VIII/2020, which declared the Job Creation Law conditionally unconstitutional, will be reviewed. Academic literature related to investment, competitiveness, industrial

<sup>22</sup> Edy Ikhsan., The Omnibus Law in Indonesia: Assessing Its Consequences on Environmental Sustainability and Land Rights, *Journal of Human Security* 18, no.2, 2022, page.354.

<sup>23</sup> Armelia Putri, Khy'sh Nusri Leapatra Chamalinda, and Imam Agus Faisol., Mengungkap Implementasi Super Tax Deduction, *Neo-Bis*, Vol.13, no.2, 2024, page.200. See too, Erik Dwi Putra and Ning Rahayu., Praktik-praktik tax avoidance serta penerapan kebijakan anti-tax avoidance di Indonesia, *Jurnal Darma Agung*, Vol.31, no.3, 2023, page.530.

relations, and public policy will also be considered.<sup>24</sup>

The data collection process involves literature studies, drawing from official sources, policy reports, and academic articles. This method helps identify trends, patterns, and comparisons between pre- and post-enactment policies. Data are analyzed using content analysis, with steps that include categorizing information based on themes such as ease of investment, regulatory reform, employment impact, and socio-political stability. A comparative analysis of historical data will identify significant changes in investment climate and competitiveness. Finally, the study evaluates the policy's effectiveness by considering stakeholder reactions and challenges in implementation. This approach will offer a comprehensive understanding of the Omnibus Law's impact on Indonesia's economic growth and national resilience.

### **3. Results and Discussion**

#### **3.1. Omnibus Law on Job Creation: Objectives and Impacts**

Public policy is a decision made by the state, particularly the government, as a strategy to achieve the country's goals.<sup>25</sup> It has been previously stated that the Omnibus Law on Job Creation is a public policy issued by the Indonesian government as an effort to improve the economy through investment.<sup>26</sup> The main objective of the Omnibus Law on Job Creation is to strengthen the national economy by enhancing the investment ecosystem and boosting Indonesia's competitiveness. Other objectives include improving a conducive and attractive business climate for investors, increasing Indonesia's economic growth, and enhancing legal certainty while encouraging the interest of foreign citizens to work in Indonesia, which fosters the transfer of skills and knowledge to improve the quality of Indonesian human resources. Along the way, the Omnibus Law on Job Creation has faced rejection, particularly from workers, starting from the formulation of the Bill to the decision of the Constitutional Court (MK) Number 168/PUU-XXI/2023 on October 31, 2024. The ruling stated that 21 articles in Law Number 6 of 2023 (which stipulates Perppu Number 2 of 2022 as a law) are conditionally unconstitutional and ordered lawmakers to immediately separate employment provisions from the Job Creation Law and create a new Employment Law.<sup>27</sup>

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<sup>24</sup> Benny Riyanto., National Law Development in New Normal Era, *Indonesian Law Journal*, Vol.13, no.2, 2020, page.105. See too, Wadhah Ghassan Abdulqader and MNB Asyhar Assalmani., Constitutional law during the Covid-19 pandemic in a juridical perspective: Challenges and strategies, *Lex Publica*, Vol.8, no.1, 2021, page.56.

<sup>25</sup> Clarisa Sasti Bintoro., Analisis Faktor-Faktor Yang Mempengaruhi Investasi Asing Langsung di Indonesia, *Jurnal Economina*, Vol.1, no.3, 2022, page.555.

<sup>26</sup> Petra Mahy., Indonesia's Omnibus Law on job creation: legal hierarchy and responses to judicial review in the labour cluster of amendments, *Asian Journal of Comparative Law*1, Vol.7, no.1, 2022, page.71. See too, Nyoman Mas Aryani, Ayu Putu Laksmi Danyathi, and Bagus Hermanto., Quo Vadis Protection of The Basic Rights of Indonesian Workers: Highlighting the Omnibus Legislation and Job Creation Law, *Pandecta Research Law Journal*, Vol.17, no.1, 2022, page.113. See too,

Zainal Arifin Mochtar, and Idul Rishan., Autocratic legalism: the making of Indonesian omnibus law, *Yustisia*, Vol.11, no.1, 2022, page.34.

<sup>27</sup> Utami Argawati Argawati., Kabulkan Sebagian, MK Minta UU Ketenagakerjaan Dipisahkan dari UU Cipta Kerja, *Mahkamah Konstitusi Republik Indonesia*, 31 Oktober 2024. See too, Irfan Kamil

In Decision Number 168/PUU-XXI/2023, the Constitutional Court stated that 21 (twenty-one) provisions in Law Number 6 of 2023 are conditionally unconstitutional or unconstitutional. These provisions relate to seven main issues, namely: First, the removal of the maximum time limit for workers in the Fixed-Term Employment Agreement, which could be used as a reference for employers to employ workers indefinitely. Second, the removal of the phrase “decent living needs,” which is replaced with inflation and local economic growth as considerations for minimum wages, in a manner that contradicts Article 27, paragraph (2) of the 1945 Constitution. Third, the removal of restrictions on outsourcing workers, which impedes or eliminates career advancement opportunities for workers and gives employers the chance to hire outsourced workers indefinitely. Fourth, the reduction in rest and leave times and the increase in working hours, indicating an attempt by employers to exploit workers. Fifth, the ease with which employers can carry out layoffs, as layoffs are no longer required to go through the Industrial Relations Court, but can instead be done by simply notifying workers within 14 working days or 7 working days for PKWTs. Sixth, the removal of several mechanisms for protecting workers in industrial relations disputes, reducing workers’ rights to obtain justice in labor conflicts. Seventh, the elimination of written permission for employers who wish to employ foreign workers, with employers only required to have a plan for utilizing foreign workers.

These main issues will continue to be raised and echoed by labor groups as long as government regulations only accommodate the interests of employers under the pretext of increasing competitiveness and investment, without considering worker welfare. Labor unions argue that the omnibus law does not provide sufficient protection, exploits workers to the maximum, and fails to offer adequate welfare. This controversy will widen the gap in relations between workers and employers, creating disharmony that will undoubtedly impact company productivity. The Indonesian government recognizes that the Omnibus Law policy is not populist and may even be seen as antagonistic or contrary to the interests of the people, which has the potential to provoke significant resistance. Not only workers, but also students, religious mass organizations, and economic practitioners have voiced their opposition to the omnibus law.<sup>28</sup> However, this policy is still being implemented and has even received majority support from the legislative assembly. The government must be able to create a win-win solution in formulating these employment regulations. Satjipto Rahardjo developed a progressive legal theory, which emphasizes that the law should not only be oriented toward legal certainty but must also be flexible and aligned with the interests of the wider community.<sup>29</sup> Satjipto Rahardjo’s progressive legal theory,

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dan Dani Prabowo., MK Perintahkan DPR-Pemerintah Bentuk UU Ketenagakerjaan Baru, Pisahkan dari UU Cipta Kerja, *Kompas.com*, 31 Oktober 2024.

<sup>28</sup> Astri Astari., Politik Hukum Pelarangan Demonstrasi Mahasiswa Melalui Surat Edaran Kemendikbud No. 1035/E/Km/2020 Di Masa Pandemi, *Jurnal Hukum*, Vol.37, no.1, 2021, page.63.

<sup>29</sup> Priskila Fransiska and Elisabeth Yulia., Pandangan Hukum Progresif Terhadap Penerapan Metode Omnibus Law Di Indonesia, *Sapientia et Virtus*, Vol.6, no.1, 2021, page.13. See too, I. Putu Eka Cakra and Aditya Yuli Sulistyawan., Kompabilitas Penerapan Konsep Omnibus Law Dalam Sistem Hukum Indonesia, *Crepido*, Vol.2, no.2, 2020, page.66. See too, Muhammad Fakhruddin Zuhri., Omnibus Law: Inovasi Dalam Bertradisi Hukum (Sisi Lain Undang-Undang Cipta Kerja), *Magistra Law Review*, Vol.2, no.01, 2021, page.9.

in the reconstruction of the Omnibus Law, can have implications for several aspects, including 1) employment regulations must prioritize a balance between economic and humanitarian aspects; 2) the government must be the main facilitator in maintaining justice for both employers and workers, not merely a regulator that sides with capital interests; and, 3) The law must have a protective character, not only facilitating investment but also safeguarding workers' rights fairly and justly.

The decision regarding work that is declared unconstitutional is conditional. A key issue arises from the removal of the maximum time limit for workers under the Fixed Term Employment Agreement (*Perjanjian Kerja Waktu Tertentu*/PKWT), which could allow employers to indefinitely extend contracts, potentially leading to lifelong employment under unfavorable conditions for workers. This practice contradicts the principle of decent work as defined by the International Labour Organization (ILO) in 1999, wherein workers may lose essential rights such as permanent employee status, access to social protection, career development opportunities, and economic stability. To ensure fairness, several adjustments to the legal framework are necessary, such as re-establishing a maximum limit for PKWT, potentially five years, with limited options for extension. Additionally, there should be regulations that trigger automatic conversion from contract to permanent status once the contract surpasses a certain period, coupled with improved oversight from the government and trade unions to prevent the misuse of this system.

Another concern arises from the removal of the term "decent living needs" in minimum wage determinations, which was replaced by inflation and local economic growth considerations. This shift negatively affects workers by contributing to declining welfare, wage inequality between regions, and rising living costs. To align wage policies with Article 27 paragraph (2) of the 1945 Constitution, a balanced approach is required. Legal reconstruction should continue to base the minimum wage on the Decent Living Needs (*Kebutuhan Hidup Layak*/KHL), while incorporating inflation and regional economic growth as supplementary factors. A hybrid system could be adopted, where 70% of the minimum wage is determined by KHL to ensure a living wage, and 30% is based on inflation and economic growth to maintain industrial competitiveness. The government should empower the Wage Council to develop the minimum wage formula in a balanced manner, involving representatives from workers, employers, and the government. Further, a fair mechanism for wage increases based on KHL and inflation should be established, alongside improved supervision of minimum wage enforcement.

The Job Creation Law also eliminates restrictions on outsourcing, which previously hindered career advancement for workers and allowed employers to employ outsourced workers for extended periods. The law also removed restrictions on the types of work that can be outsourced, enabling companies to outsource labor in all sectors. A fair legal solution would involve reorganizing outsourcing systems to provide sufficient worker protection. This includes limiting outsourcing to non-core work or tasks requiring specialized skills, ensuring equal rights for outsourced workers and permanent employees, and obligating outsourcing service providers to offer social security for their workers. Additionally, outsourcing contracts should be more transparent, outlining worker rights, contract duration, and



compensation, while a more efficient monitoring mechanism should be established using technology to reduce bureaucracy.<sup>30</sup>

Reduced rest and leave times, along with increased working hours, suggest an effort by employers to exploit workers. A study by the OECD<sup>31</sup> underscores the relationship between working hours, work-life balance, and productivity. To ensure a balance between productivity and worker welfare, the government is encouraged to implement a legal reconstruction that is fair to workers yet flexible for employers. Key components include establishing a flexible working hours system, allowing workers to choose their working hours while maintaining total weekly hours within legal limits. The Netherlands' Flexible Work Act is a potential model, allowing workers to adjust working hours according to personal and company needs.<sup>32</sup> Workers should also retain their right to paid annual and sick leave. For certain sectors, a hybrid work policy or work-from-home options should be introduced to allow flexibility in working hours. Finally, clear regulations on maximum working hours, overtime pay, and sanctions for violations of workers' rights must be enforced to prevent exploitation.

The recent changes in labor regulations, particularly those related to layoffs, industrial relations disputes, and foreign workers, have raised significant concerns regarding workers' rights and welfare. These changes, while offering efficiency for employers, have the potential to undermine worker protections and labor market stability. To address these issues, legal reconstruction is necessary to create a fair balance between employer needs and worker rights.

One major issue is the ease with which employers can lay off workers. Under the new regulations, layoffs no longer require judicial intervention through the Industrial Relations Court. Employers can simply notify workers within 14 working days, or 7 working days for PKWT. While this process increases efficiency for employers, it is detrimental to workers, as it allows layoffs without transparency or fair mechanisms. To restore balance, legal reconstruction should include the restoration of bipartite negotiations before layoffs, ensuring that employers and workers engage in discussions before any decision is made. If negotiations fail, the layoff process should go through tripartite mediation involving the government, employers, and workers. Additionally, a more reasonable notification period should be implemented to give workers enough time to seek new employment, and severance pay should be increased for workers laid off without legitimate economic reasons, similar to practices in countries like France.

Another problematic area is the simplification of the industrial relations dispute mechanism, which has reduced workers' access to justice in labor conflicts. By eliminating certain protections, workers are more vulnerable to unilateral layoffs, violations of rights, and wage disputes. This regulation undermines legal certainty

<sup>30</sup> Sela Nopela Milinum., Problematika Fleksibilitas Outsourcing (Alih Daya) Pasca-Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja Klaster Ketenagakerjaan, *Jurnal Hukum Lex Generalis*, Vol.3, no.5, 2022, page.423. See too, Wiwin Budi Pratiwi, and Devi Andani., Perlindungan Hukum Tenaga Kerja Dengan Sistem Outsourcing di Indonesia, *Jurnal Hukum Ius Quia Iustum*, Vol.29, no.3, 2022, page.670.

<sup>31</sup> OECD Better Life Index., Work-Life Balance, 2021.

<sup>32</sup> Riphagen, Esther., Flexible Working Act in Practice, *KVK (Netherlands Chamber of Commerce)*, 4 Maret 2024.

for workers and increases the potential for instability in industrial relations. To address this, legal reforms must ensure that government mediation is mandatory before any labor disputes are brought to court. Additionally, workers should have access to affordable legal services, either through trade unions or legal aid institutions, to support them in resolving disputes. A labor arbitration system should also be developed as an alternative to the Industrial Relations Court, offering a faster and more efficient resolution process for labor-related issues.

The last issue involves the elimination of written permission for employers who wish to employ foreign workers, which only requires employers to submit a plan for foreign worker usage. While this provision may encourage investment, it risks reducing job opportunities for local workers, particularly in sectors that still require domestic labor protections. This change could also weaken the transfer of technology and expertise from foreign workers to local workers. A fair legal solution would limit the use of foreign workers to sectors that require specialized skills not available locally. Furthermore, each foreign worker should be paired with a local labor partner as part of a technology and expertise transfer program. The government must ensure that companies employing foreign workers implement training programs for local workers. To prevent abuses, regular audits and supervision of foreign worker recruitment should be conducted, and sanctions should be applied to companies that violate these regulations, such as progressive fines for non-compliance or failure to implement skills transfer programs.

### **3.2. Omnibus Law on Indonesia's Investment and Competitiveness**

To assess the effectiveness of the Omnibus Law on investment in Indonesia, it is essential to review Indonesia's investment climate before and after the implementation of the Omnibus Law. Based on Gross Fixed Capital Formation (GFCF) data from 2017 to 2022, in the form of Gross Domestic Product (GDP)—excluding financial investments such as stocks or bonds—Indonesia ranks at the top among other ASEAN countries.<sup>33</sup> Indonesia even surpasses India and is not far below China. This indicates that Indonesia has a significant investment attraction compared to other ASEAN countries and even larger economies. However, upon further examination, the government's policy of issuing the Omnibus Law on Job Creation has not led to an increase in investment and, in fact, has tended to decrease it, though not significantly. Several factors contribute to the limited effectiveness of the Omnibus Law on investment in Indonesia, including:

#### **3.2.1. Inconsistent regulations and high frequency of policy changes.**

The frequent changes in policies, especially those related to the Job Creation Law, cause investors to delay their investment decisions, particularly long-term investors. Investors tend to favor countries with stable regulations and high predictability, such as Singapore and Vietnam.

#### **3.2.2. Inconsistent policy implementation.**

There has been a lack of synchronization between the central and regional governments, and weak coordination between ministries. This has led to several major issues, such as complex bureaucracy

<sup>33</sup> World Bank, *Gross Fixed Capital Formation (% of GDP)*, 2024.

and licensing challenges, which continue to hinder investment and are still widely felt by investors.

### 3.2.3. Social impact and labor union opposition.

The rejection of the Job Creation Law by labor unions and civil society, who feel the law primarily benefits entrepreneurs and investors while offering insufficient protection for workers, has contributed to the law's negative social impact. Furthermore, political instability ahead of the 2024 election has also hindered investment during this period. Investors are generally reluctant to invest in countries experiencing high labor conflicts and political instability, as these factors can increase operational costs and legal risks.

### 3.2.4. Weak competitiveness and competition.

Vietnam has successfully attracted more foreign direct investment (FDI) than Indonesia, particularly in the manufacturing and electronics sectors. This is attributed to factors such as more flexible employment regulations that still offer protection for workers, more attractive tax incentives for foreign investors, and greater efficiency in business licensing and better industrial infrastructure.

**Table 1. Investment Trends (Gross Fixed Capital Formation/GFCF) by Country (2017-2022)**

Country	2017	2018	2019	2020	2021	2022
China	44.3	44.0	43.3	42.1	41.8	41.6
Indonesia	34.0	33.5	32.8	31.0	31.5	31.8
India	31.3	30.2	28.9	27.3	28.8	29.3
Vietnam	26.0	26.3	26.7	27.2	28.0	28.5
Philippines	28.0	27.8	27.5	24.0	25.5	26.0
Thailand	26.5	26.0	25.0	23.5	24.0	24.5
Japan	23.5	23.7	24.0	23.2	23.5	23.7

Source: *World Bank*<sup>34</sup>

Table 1, which presents investment trends measured by Gross Fixed Capital Formation (GFCF) across several countries from 2017 to 2022, highlights Indonesia's strong investment position. The data shows that Indonesia consistently ranks high among ASEAN countries and even surpasses India in terms of investment share relative to GDP. From 2017 to 2022, Indonesia's GFCF remains steady, peaking at 34.0 in 2017 and stabilizing at 31.8 in 2022. This indicates a relatively stable investment climate, though there is a slight decline in recent years. According to a 2019 survey by The Economist, Indonesia ranked third in Asia,

<sup>34</sup> World Bank, *World Development Indicators*, 2023.

behind China and India, as the most desirable country for investment.<sup>35</sup> This demonstrates Indonesia's significant investment attraction, particularly in the context of the strategic competition between major economic powers like China and the United States. Both China's Belt and Road Initiative (BRI) and the U.S.-backed Build Back Better World (B3W) programs, designed to offer infrastructure investment and loans to developing countries, present key opportunities for Indonesia. With support from such international initiatives, Indonesia is well-positioned to leverage these opportunities for sustainable economic development and enhanced regional influence.

The table below summarizes the percentage of firms expecting changes in their investment levels across several Asian economies in 2019. It categorizes responses into four groups: those intending to increase investment, maintain current levels, reduce investment, or avoid investing altogether.

**Table 2. Investment Expectations in Selected Asian Economies (2019)**

Country	We will increase our level of investment (%)	We are in the market, but will not invest more (%)	We will reduce our level of investment in this market (%)	We have no plans to invest (%)
China	58.3	22.2	6.1	11.4
India	48.7	24.2	2.6	20.5
Indonesia	48.1	31.0	3.9	17.1
Vietnam	39.8	31.9	2.7	25.7
Singapore	39.2	38.5	3.8	17.7
Thailand	38.5	40.2	3.3	19.7
Japan	36.4	36.4	9.1	18.2
Australia	36.4	41.3	5.0	17.4
Malaysia	34.2	41.7	3.3	20.8
Hong Kong	32.1	50.4	4.6	13.0
Philippines	31.9	37.1	2.6	28.4
South Korea	26.3	51.1	5.1	26.3
Taiwan	25.2	23.5	4.2	23.5
Myanmar	22.5	20.8	5.0	51.0

Source: The Economist<sup>36</sup>

<sup>35</sup> The Economist Corporate Network., *Asia Business Outlook Survey 2019*, Hong Kong, The Economist Group, 2019, page.5.

<sup>36</sup> The Economist Corporate Network., *Asia Business Outlook Survey 2019*, Hong Kong, The Economist Group, 2019, page.6.

Table 2 illustrates that Indonesia's investment outlook is promising—positioning it just behind China and India in terms of investor confidence. Nearly half of the surveyed firms indicated plans to increase their investments in Indonesia, and only a small proportion intended to reduce or withdraw investment. However, while these figures reflect Indonesia's attractiveness, the country still faces structural and regulatory challenges. According to the World Bank's 2019 Ease of Doing Business (EoDB) report, several critical barriers—such as bureaucracy, legal uncertainty, and infrastructure inefficiencies—continue to hinder Indonesia from fully capitalizing on its investment potential (Table 3).

**Table 3. Main Problem Factors in Doing Business in Indonesia**

<b>Trend</b>	<b>Estimated Value</b>
Government Corruption	12
Inadequate Access to Infrastructure	10
Poor Government Financing Ability	8
Policy Instability	7
Work Ethics in National Workforce	6
Tax Rates	5
Inadequate Education	4
Inflation	4
Restrictive Labour Regulations	3
Crime & Theft	3
Foreign Currency Regulations	2
Capacity to Innovate	2
Poor Public Health	1

Source: Executive Opinion Survey by the World Economic Forum<sup>37</sup>

Indonesia's investment outlook in 2019 was strong, ranking just behind China and India based on The Economist's survey, with 48.1% of firms planning to increase investments and only 3.9% intending to reduce them. This indicates that Indonesia remains an attractive investment destination. However, the World Bank's 2019 Ease of Doing Business (EoDB) report highlights unresolved structural challenges that hinder optimal investment potential. Key areas needing improvement include: (1) Starting a Business – involving procedures, time, costs, and capital requirements; (2) Enforcing Contracts – focusing on the efficiency of legal dispute resolution and quality of the judiciary; (3) Trading Across Borders – assessing time and costs to export products; (4) Dealing with Construction Permits – measuring formalities, time, and safety systems; and (5) Registering Property – related to the

<sup>37</sup> World Economic Forum., *The Global Competitiveness Report 2017–2018*, page.174

land administration system's effectiveness. Addressing these areas is essential for enhancing Indonesia's competitiveness and maximizing investment opportunities. In contrast to Indonesia's moderate performance, Singapore stands out as a regional benchmark, ranking second globally in the Ease of Doing Business and first in Foreign Direct Investment (FDI) within ASEAN. According to Lifepal Technologies Indonesia (2020), Singapore's success is driven by low political risk, high labor productivity, strong infrastructure, efficient bureaucracy, attractive tax policies, and quality of life.<sup>38</sup> These factors collectively enhance investor confidence and streamline business operations. Meanwhile, a 2017 World Economic Forum survey highlights persistent barriers in Indonesia, particularly corruption and complex labor regulations, which remain critical issues among 16 identified investment obstacles. This comparison underscores the urgent need for Indonesia to implement institutional reforms and improve governance if it aims to rival top investment destinations like Singapore.

Indonesia's economy has made significant progress over the past decade. By the end of President Joko Widodo's term, the poverty rate had been successfully reduced to 9.36% in 2023. The Gini ratio, which measures economic inequality, remained at around 0.38, indicating a relatively controlled level of disparity. Additionally, foreign direct investment (FDI) has continued to grow, particularly in the manufacturing, green energy, and digital infrastructure sectors. However, compared to other ASEAN countries, Indonesia still lags behind Malaysia (Table 4). In 2024, Malaysia experienced a sharp increase in FDI, reaching 85.8 billion dollars, up from just 20 billion dollars the previous year. Several factors contribute to Malaysia's higher FDI compared to Indonesia: 1) Political stability and pro-economic policies; 2) The "friendshoring" strategy, with Malaysia being a favorable destination under this approach; 3) Strengthened currency and stock market performance; 4) Superior infrastructure and human resource quality.

**Table 4. Foreign Direct Investment (FDI) ASEAN and Developed Countries**

Country	2020	2021	2022	2023	2024
United States	211.0	323.0	318.0	350.0	400.0
China	149.3	181.0	189.1	200.0	220.0
Singapore	91.0	99.0	141.21	150.0	160.0
Malaysia	3.5	11.6	16.93	20.0	85.8
Germany	36.1	53.4	57.0	60.0	65.0
Indonesia	28.0	31.0	21.96	45.6	55.33
Japan	10.0	24.8	29.3	35.0	40.0
Thailand	10.8	11.4	10.03	12.0	32.8
Vietnam	20.0	19.7	17.9	20.0	22.0

<sup>38</sup> Lifepal Technologies Indonesia. *Why Singapore Has Become the Most Favored Investment Destination in ASEAN*. 2020.

Source: UNCTAD Report<sup>39</sup>

Although Indonesia has strong potential in terms of investment attractiveness, the economic growth target set at the beginning of President Joko Widodo's administration—7%—has yet to be achieved. In 2023, Indonesia's economic growth stood at 5.05%, a relatively stable figure but still below the desired threshold. One of the main reasons for this suboptimal growth is low investment efficiency. Despite substantial investment inflows, the outcomes are not proportional to the capital spent. The Incremental Capital Output Ratio (ICOR), which measures investment efficiency, indicates that Indonesia's ICOR remains relatively high compared to other ASEAN countries. As shown in Table 5, Indonesia's ICOR reached 6.5 in 2024 and peaked at 8.6 in 2021. This means that to generate one unit of output, the required investment was 8.6 times the output value. In contrast, countries such as Vietnam and Malaysia have lower ICORs, reflecting better investment efficiency. The issue, therefore, lies not in the volume of investment but in its inefficiency—caused by rampant corruption, lack of pro-investment policies, low human resource productivity, bureaucratic delays, and high logistics costs due to weak infrastructure.

**Table 5. Incremental Capital Output Ratio (ICOR), 2020 – 2024**

Country	2020	2021	2022	2023	2024
United States	3.2	3.1	3.3	3.4	3.5
Germany	3.7	3.6	3.8	3.9	4.0
Thailand	4.5	4.4	4.3	4.4	4.5
Malaysia	4.6	4.5	4.4	4.5	4.6
Japan	4.4	4.5	4.7	4.8	5.0
Vietnam	5.2	5.1	5.0	5.1	5.2
China	4.8	5.0	5.3	5.4	5.5
Indonesia	6.4	8.6	6.0	6.3	6.5

Source: Processed from various sources: Indonesian Ministry of Finance, World Bank, and IMF (2020-2024).<sup>40</sup>

### **3.3. Reconstructing Investment Climate in Indonesia: Legal Reforms, and Strategic Recommendations**

Indonesia is considered a promising investment destination by major global economies such as China, the United States, Japan, India, Singapore, and several European countries. The country's rich natural resources, strategic geographic location, and large demographic potential are key attractions for foreign investment. Despite these advantages, investment performance in Indonesia remains suboptimal, both in terms of quantity and quality. Two primary issues

<sup>39</sup> United Nations Conference on Trade and Development (UNCTAD)., *Rethinking Development in the Age of Discontent*, 2024.

<sup>40</sup> Compiled by the author from various sources: Ministry of Finance (Indonesia), World Bank, and IMF data, 2020–2024.

hinder its potential: the lack of ease in doing business and a high Incremental Capital Output Ratio (ICOR), which reflects poor investment efficiency. According to the World Bank's Ease of Doing Business ranking, Indonesia sits at 73rd out of 190 countries, signaling challenges in starting and operating a business. Moreover, Indonesia's high ICOR indicates that substantial investment yields relatively low economic output.

Several structural and institutional barriers contribute to this situation. These include widespread corruption, inefficient and costly bureaucracy, weak legal certainty and dispute resolution, low labor productivity and quality of life, high political risk, and underdeveloped infrastructure. These factors deter investors and reduce the overall effectiveness of investment in stimulating sustainable economic growth. Addressing these issues through targeted reforms is crucial to unlocking Indonesia's full investment potential and transforming it into a high-performing economic environment.

There are contradictions in several clauses of the Omnibus Law, which the Government introduced to increase investment capacity. Workers and laborers believe that the Omnibus Law fails to provide sufficient protection, exploits workers to the maximum, and does not ensure adequate welfare. This perception has led to protests and demonstrations that continue to this day. Furthermore, the strained relationship between workers and employers impacts productivity and the overall work environment, ultimately hindering investment and economic growth. This discord will persist unless the controversial clauses and issues between workers and employers are addressed or at least modified to better suit current conditions. It is essential to allow representatives of trade unions, laborers, and other relevant communities to contribute their ideas regarding the right formulation of these contentious clauses. The government must re-assess the key factors that can drive investment growth, both in quantity and quality. Indonesia holds a strong bargaining position to ensure that existing investments are effective and efficient for the country's economic development—rather than prioritizing investors' interests at the expense of the Indonesian people. Unlike China, which no longer exploits its workers to boost productivity with low wages and long working hours, Indonesia should adopt a more balanced approach to attract and sustain investment.<sup>41</sup>

The Indonesian government must implement firm and decisive policies to maximize investment by eliminating or at least reducing the factors that hinder investment, through the following efforts:

### 3.3.1 Eradicating Rampant Corruption.

A special ad hoc team or task force should be established to tackle corruption in investment activities, consisting of the Police, Attorney General's Office, Supreme Court, and the Corruption Eradication Commission (KPK). This team would be responsible for monitoring and supervising investment activities that have the potential for corruption, such as licensing, taxation, public services, and more.

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<sup>41</sup> Muhammad Faizal Alfian., Transisi China terhadap Ekonomi Global: Internasionalisasi dalam Perspektif Pembangunan Model China dan Dinamika Regional, *Review of International Relations*, Vol.2, no.2, 2020, page.111.



### 3.3.2 Simplifying Bureaucracy

The government should reduce complex, lengthy, and expensive bureaucracy by leveraging digital transformation in every public service activity—both administrative and operational. Empowering the Online Single Submission (OSS) system in an integrated manner between ministries and local governments is crucial.

### 3.3.3 Increasing Legal Certainty and Justice

The government must prioritize resolving issues related to investment, ensuring that legal certainty and the quality of justice improve, while addressing social disputes promptly.

### 3.3.4 Boosting Company Productivity

By enhancing the competence of the workforce in terms of knowledge, skills, and work ethic, productivity can be improved. The government, in partnership with entrepreneurs, should establish Job Training Centers (BLK) or Job Training Institutes to meet specific needs. Stimulus programs, such as the Super Tax Deduction (a 200% tax cut), should continue to incentivize companies to invest in human resource development. Despite progress, there is still room for improvement, particularly in education.

### 3.3.5 Ensuring Investment Security

Investment security should be guaranteed by preventing disturbances, whether from public order issues or political instability.

### 3.3.6 Building Infrastructure

Infrastructure should be developed to facilitate the efficient distribution of logistics to and from investment locations.

### 3.3.7 Promoting Harmonious Industrial Relations

By prioritizing the values of Pancasila, the government can foster harmonious industrial relations that will enhance company productivity.

Efforts to reduce factors inhibiting investment and economic growth should serve as a reference for the government in revising the Job Creation Law. This should include revisiting both the labor cluster, which has been returned to the Manpower Law, and other clusters within the Job Creation Law. This approach will help dispel the perception that the government is favoring entrepreneurs or investors at the expense of the workforce, thereby improving industrial relations and, ultimately, productivity—both in quantity and quality. Table 6 below illustrates potential legal revisions in several clusters beyond the labor sector.



**Table 6. Legal Reconstruction Proposals for Key Clusters in the Job Creation Law**

<b>Cluster Law</b>	<b>Major Issues</b>	<b>Revised Article</b>	<b>Legal Reconstruction</b>
Business Licensing and Ease of Doing Business Cluster.	<ul style="list-style-type: none"> <li>The business licensing process is still complex even though the Online Single Submission system is used.</li> <li>Many sectors still require permits based on government approval.</li> <li>Legal uncertainty in environmental licensing procedures and environmental impact analysis</li> </ul>	<ul style="list-style-type: none"> <li>Article 6 – Article 10 regarding the simplification of business licensing, needs to be clarified regarding the harmonization of central-regional licensing.</li> <li>Article 11 – Article 15 regarding the simplification of environmental permits, it is necessary to ensure a balance between accelerating permits and environmental protection.</li> <li>Article 30 – Article 34 regarding the implementation of OSS, supervision needs to be strengthened so that the digital licensing system is not misused by bureaucratic elements.</li> </ul>	<ul style="list-style-type: none"> <li>Increase automation and synchronization of the OSS system with regional licensing, including the elimination of layered business permits.</li> <li>Simplification of environmental regulations with technology-based self-assessment mechanisms for low-risk businesses.</li> <li>Clearer administrative sanctions for business actors and local governments that hinder licensing procedures.</li> </ul>
Investment Clusters and National Strategic Projects	<ul style="list-style-type: none"> <li>Investors still face regulatory uncertainty regarding foreign direct investment (FDI).</li> <li>Imbalance between investment facilities for large investors compared to MSMEs.</li> <li>Weak tax and fiscal incentives for national strategic projects.</li> </ul>	<ul style="list-style-type: none"> <li>Article 76 – Article 81 concerning investment facilities and tax incentives, need to be improved so that tax incentives not only benefit large investors but also support MSMEs.</li> <li>Article 83 – Article 90 concerning foreign investment procedures and investment protection, requires stronger legal certainty for investors.</li> </ul>	<ul style="list-style-type: none"> <li>Provision of more progressive tax facilities based on economic impact, not just investment scale.</li> <li>Clearer legal protection for investors, especially regarding investment security from bureaucratic disruptions and sudden policy changes.</li> <li>Increasing technology and human resource-based investment incentives to attract high-quality FDI</li> </ul>
Regional Government	<ul style="list-style-type: none"> <li>The many regulatory disharmonies between the</li> </ul>	<ul style="list-style-type: none"> <li>Article 180 – Article 190 concerning the adjustment of regional regulations to the Job</li> </ul>	<ul style="list-style-type: none"> <li>Require local governments to align regulations with the Job</li> </ul>

Administration and Regulation Cluster	<p>central and regional governments have caused legal uncertainty for investors.</p> <ul style="list-style-type: none"> <li>• Slow synchronization of regional regulations with the Job Creation Law, resulting in uneven implementation</li> </ul>	<p>Creation Law, requires certainty regarding the limits of regional government authority in determining investment policies.</p> <ul style="list-style-type: none"> <li>• Article 200 – Article 210 on administrative reform government, there needs to be certainty in the implementation of bureaucratic efficiency and digitalization of public services.</li> </ul>	<p>Creation Law within a tight time limit.</p> <ul style="list-style-type: none"> <li>• Increase the role of the central government in supervising regional policies that have the potential to hinder investment.</li> <li>• Establish a rapid resolution mechanism for regional regulations that conflict with national investment policies.</li> </ul>
Financial and Taxation Sector Cluster	<ul style="list-style-type: none"> <li>• Tax regulations for investors are still considered less competitive compared to other ASEAN countries.</li> <li>• Many fiscal policies are not aligned between the central and regional governments.</li> </ul>	<ul style="list-style-type: none"> <li>• Article 250 – Article 265 on tax reductions for investment, it is necessary to ensure that tax regulations do not burden new investors too much.</li> <li>• Article 270 – Article 280 concerning tax incentives for MSMEs and strategic sectors, there is a need to increase support for MSMEs in the form of more significant tax reductions.</li> </ul>	<ul style="list-style-type: none"> <li>• Adjust tax policies to be more competitive with other ASEAN countries such as Vietnam and Thailand.</li> <li>• Create a progressive tax incentive policy, where companies that contribute to human resource and technology development receive greater incentives.</li> <li>• Aligning central and regional fiscal regulations, to avoid differences in tax policies that hinder investment.</li> </ul>



#### 4. Conclusion

The Omnibus Law on Job Creation (Law No. 11 of 2020, amended by Law No. 6 of 2023) seeks to enhance Indonesia's investment climate and competitiveness by simplifying business regulations. Indonesia's rich natural resources, strategic location, and large population make it a top investment destination, ranking third in Asia per economic surveys. However, the law's implementation has faced significant challenges. The Constitutional Court's Decision No. 168/PUU-XXI/2023 declared 21 provisions, particularly in the employment cluster, conditionally unconstitutional due to inadequate labor protections, relaxed outsourcing rules, and simplified layoffs. These issues have sparked protests from labor unions, who argue the law prioritizes businesses over workers' welfare, straining industrial relations and reducing productivity. Key findings reveal that despite Indonesia's high Gross Fixed Capital Formation compared to ASEAN peers, investment efficiency remains low, with an Incremental Capital Output Ratio (ICOR) of 6.4–8.6 from 2020 to 2024, the highest in ASEAN. This inefficiency has limited economic growth to 5.05% in 2023, below the 7% target set by President Joko Widodo. Major barriers include rampant corruption, bureaucratic inefficiencies, legal uncertainties, poor infrastructure, low workforce skills, and inconsistent policies between central and local governments. These factors deter investors, who prioritize stability and predictability, as seen in competitors like Singapore and Vietnam. Indonesia's Ease of Doing Business ranking (73rd out of 190 countries) further highlights structural challenges in business licensing, contract enforcement, and infrastructure. The implications are clear: without reform, the Omnibus Law risks failing to deliver sustainable economic growth while exacerbating social tensions. Poor industrial relations due to perceived exploitation undermine worker productivity and investor confidence. To address these, legal reconstruction is essential. Practical recommendations include reinstating limits on temporary contracts, tying minimum wages to living costs, and ensuring equal rights for outsourced workers. Beyond labor, simplifying bureaucracy through enhanced digital systems like the Online Single Submission, strengthening legal certainty, and offering competitive tax incentives for MSMEs and strategic sectors are critical. Anti-corruption task forces, infrastructure development, and workforce training programs can boost investment efficiency. Engaging labor unions in policy-making, as inspired by progressive legal theory, will foster balanced regulations that support both economic growth and worker welfare, positioning Indonesia as a competitive and equitable investment hub.

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