

The Role of the Job Creation Law (Omnibus Law) on the Welfare of Female Workers in the Industries Organization

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Abstract : The purpose of writing this article is to find out what are the impacts of the omnibuslaw on women workers. The method of writing this journal is to use a descriptive method with literature study techniques. Following the passing of the Job Creation Law, there are a number of things that are of course detrimental to various parties, for example workers and workers who are female. In the process of its implementation, the Job Creation Law makes women workers uneasy. Therefore, the government should review this law which is considered imperfect. So that no party will be harmed later. The conclusion drawn from the discussion above is that the recently passed Job Creation Law can bring advantages and disadvantages to workers and laborers, especially women workers. It can be seen, in the implementation process, women workers are always neglected, they are vulnerable to violence, sexual harassment, bullying, humiliation and belittlement. Not to mention, they are the back of their family. In terms of female reproduction such as during menstruation. The Job Creation Law does not strengthen the reproductive health rights of women workers which were not previously fulfilled in the old law. Even though it should be, in terms of law reform, the Job Creation Law should have strengthened small rights like this. However, in reality, there is also no law that can be a solution to this problem. For this reason, many trade union alliances and women's unions oppose the passing of the Job Creation Law.

Keywords : Omnibus Law, Job Creation Law, Women Workers, Labour, industry, organizations

I. INTRODUCTION

The number of informal workers in Indonesia reaches 70.49 million out of a workforce of 126 million. As many as 5 million of them are domestic workers, the majority of whom are women. Which means that 5 million women have the potential to be oppressed by this work copyright law. Regulatory reform through the omnibus law is only one strategy to be investment-friendly and reduce the unemployment rate in Indonesia. The state is obliged to create and provide facilities and provide opportunities for people to obtain decent work. Thus it is necessary to have rules governing legal protection for workers. Basically the constitution has an important role in protecting the basic rights of workers. According to [Saptono et al. \(2021\)](#); [Suprapti et al. \(2020\)](#) Legal protection for workers/laborers includes the freedom to improve their standard of living, preventing a reduction in purchasing power by workers/laborers, protecting the right to work and also income as a result of an accident at work, whether due to illness or death. The Job Creation Law is a product of legal regulations at the initiative of the government and the DPR to deregulate and de-bureaucratize regulations using the Omnibus Law method to attract investors to invest their capital in the country. According to [Widjaja et al. \(2022\)](#)The narrative that has been circulating is that investors are reluctant to invest in Indonesia because the rules are unclear and often change, overlap, convoluted bureaucracy to rigid labor regulations. Furthermore, the Omnibus law has the characteristic of removing and changing several regulations into one regulation that can cover the entire scope.

According to [Anggono et al. \(2021\)](#); [Mahy et al. \(2022\)](#); [Muhammad \(2021\)](#) The employment cluster in the Job Creation Omnibus Law received the most criticism because it was considered detrimental to workers or laborers. After its ratification, the Job Creation Omnibus Law invited so much polemic in society that resulted in demonstrations in various regions in Indonesia which took place from October 6 2020 to On October 8, 2020, this demonstration took place because there were several points in the work copyright law that were considered detrimental to the workers. The workers are of the opinion that their rights under the labor law will diminish if the Omnibus Law on Job Creation is passed. Omnibus Law is a legal concept whose purpose is to eliminate overlapping between laws and regulations both in similar or conflicting sectors and then to be rearranged. UU no. 12 of 2011 concerning the Formation of Legislation (UU 12/2011) is the basis for the government to review the position of the Omnibus Law. Furthermore, According to [Sihombing et al. \(2020\)](#) the Job Creation Law still harbors a number of normative problems, namely that it has not provided guarantees of legal certainty for guaranteeing workers' rights, such as determining proper wages and eligibility for severance pay. Likewise the provisions regarding layoffs, the law only accommodates the interests of employers so that it can have implications for layoffs for workers/workers unilaterally.

According to [Wahyuni et al. \(2021\)](#); [Widjaja et al. \(2022\)](#) Everyone in Indonesia, even in the world, needs to fulfill their daily needs in order to survive. To meet their daily needs, each of these people definitely needs a job or do something that will help them earn money. If they don't have a job, most of these people will not get income or money to meet their daily needs. Nowadays, there are not a few women workers who work to help support their families. According to [According to Nurkuntari et al. \(2021\)](#); [Prakasa et al. \(2021\)](#) These women also work to reduce the burden on their families, helping their husbands or parents to meet their needs such as providing food, drink, clothing, housing, children's needs, their children's school fees, and many other unexpected needs. As is well known and can be seen with our own eyes, currently there are very many women workers. For example, the original nature of women is that they are more diligent, conscientious, able to multitask, discipline and have good negotiation skills than male workers. However, this does not mean that male workers are considered lazy and not diligent at work, it's just that, in this case, female workers are considered superior. Therefore, it is not surprising that companies tend to prefer hiring women. For this reason, apart from all these advantages, and the equal rights to work that [Priambudi et al. \(2021\)](#); [Ramadhan et al. \(2021\)](#) has pioneered, women still have several privileges that workers of the male sex will not have. This cannot be separated because women's health and body conditions are indeed different from men's. It turns out that this has also been regulated in Indonesian legislation, so that it is binding for every company that employs women in its organization. The rights of women workers that have been regulated are recorded in the Manpower Act, which of course must be fulfilled by every company that has workers or employees of the female sex. However, as is known to have happened recently, workers and the people of Indonesia were shocked by the passage of the Job Creation Law.

II. METHOD

This journal uses a descriptive research method by collecting as much data as possible regarding matters related to and/or supporting the writing of this journal. Furthermore, this journal research technique is to use literature study techniques. This literature study is carried out by finding and collecting and understanding sources or documents that are relevant and support the discussion sourced from research reports, scientific magazines, newspapers, relevant books, seminar results, unpublished scientific articles, sources, letters of decision and so on. The research method used is normative legal research, research methods or doctrinal legal research or library research, with a statutory approach that is carried out by examining all statutory regulations related to the legal issues being discussed, namely legal regulations relating to Omnibus Law Number 11 of 2020 Concerning Job Creation Against the Protection of Workers' Rights in Indonesia

III. RESULT AND DISCUSSION

Expansion of employment opportunities outside of work relations is carried out through the creation of productive and sustainable activities by utilizing the potential of natural resources, humans and appropriate technology. appropriate use, and efficient use of manpower. Job opportunities can be classified as follows: First, permanent job opportunities, namely job opportunities using people to work continuously until they retire or are no longer able to work. For example, permanent employees and civil servants, both temporary job opportunities, namely job opportunities that only allow people to work in a relatively short time. The concept of the Omnibus Law is to combine several laws into one law, namely Law Number 11 of 2020 concerning Copyright Employment, in Indonesia alone there are 73 amended laws including Law No. 13 of 2003 concerning Manpower. With enactment. Law Number 11 of 2020 concerning Employment Creation, the impact on labor rights in Indonesia is increased working time and extended overtime, reduced holiday time, changed wage calculations, lost menstrual and maternity leave wages and lost long leave, even unilateral layoffs made easier , in this case it will be very detrimental to labor. The government will immediately issue a Perpu (Government Regulation in Lieu of Law) to repeal the Job Creation Law and amend several articles that are considered problematic. The government must continue to disseminate information to the general public or workers in particular so that there will be no suspicion between the community and the government. Steps that can be taken by the community or workers and students is to submit a judicial review to the Constitutional Court, so that constitutional judges can make decisions that can change several articles in the Job Creation Law in accordance with the people's sense of justice.

The results of the study state that the Omnibus Law is considered to worsen the protection rights of women workers. Such as the elimination of menstruation and maternity leave wages. The Job Creation Law does not

eliminate the article in Law Number 13 of 2003 concerning menstruation and maternity leave. So the Job Creation Law is still the same as the old law. However, the substance regarding hourly wages eliminates the essence of menstruation leave and maternity leave because if a female worker takes the leave, the worker will automatically be counted as not working, so she does not receive leave pay. The Omnibus Law is considered to worsen the protection rights of women workers. Such as the elimination of menstruation and maternity leave wages. According to [Hamid et al. \(2020\)](#); [Haryanto et al. \(2021\)](#); [Khozen et al. \(2021\)](#) The Job Creation Law does not eliminate the article in Law Number 13 of 2003 concerning menstruation and maternity leave. So the Job Creation Law is still the same as the old law. However, the substance regarding hourly wages eliminates the essence of menstruation leave and maternity leave because if a female worker takes the leave, the worker will automatically be counted as not working, so she does not receive leave pay. Dian Septi, a representative from the Confederation of Indonesian Labor Unions or KPBI, said that in the Manpower Law Number 13 of 2003, there were many regulatory loopholes that were exploited by employers regarding women's reproductive rights. He said, women who menstruate on the first and second day can get sick leave to rest from the company. The word sick is interpreted by the company having to provide a sick certificate, while menstruation is not considered sick. Menstruation is a female reproductive phase that must be respected by companies. Representatives from the Confederation of National Trade Unions or KSPN also stated that examples of cases related to the process of pregnancy and childbirth. He mentioned that if the worker is going to take maternity leave, the company will automatically take the worker off first. He considered that if he was turned off it would be the same as the worker being laid off for at least three months. After the leave period is over, the worker can return to work again. However, no one can say for sure whether the position of the worker is still there or not, it depends on each company and its leadership. On the fifth point, Ms. Arieska said that the massive land grabbing, the difficulty of employment, the rights of workers were being cut, which was driving labor migration. In addition, According to [Khozen et al. \(2021\)](#); [Mahy et al. \(2022\)](#); [Muhammad \(2021\)](#) noted that the Job Creation Law does not protect female workers who experience domestic violence. Several alliances also agreed on this matter. Sexual harassment, gender-based discrimination, and domestic violence or domestic violence are crucial problems experienced by women workers. However, the Job Creation Law seems to be gender blind or does not accommodate women's interests. Like for example, if a female worker experiences an act of violence and they have to go to the police station to report the case, the company will only see that the worker is absent from work. Therefore, in its implementation the Job Creation Law has the potential to impoverish and marginalize women in access to work. Not only that, in the process of establishing the Job Creation Law.

According to [Haryanto et al. \(2021\)](#); [Khozen et al. \(2021\)](#) The Omnibus Law has an even greater impact on female workers/workers. The first is related to menstruation leave. In the Job Creation Bill, it is stated that (1) Female workers/laborers who feel sick during their menstruation period and inform the employer are not obliged to work on the first and second day of menstruation. (2) The implementation of the provisions referred to in paragraph (1) is regulated in work agreements, company regulations or collective work agreements. In this case, there is no mention of the right to menstruation leave for female workers, moreover the implementation and provisions depend on company regulations, so that female workers have a weak position regarding menstrual leave regulations. As for other articles related to the mechanism for maternity leave and childbirth for female workers as well as giving women workers the opportunity to breastfeed their children if this has to be done during working hours. the two articles do not include discussion, amendment, and also the status of deletion. Thus, quoting from the Syndicate, the substance regarding hourly wages eliminates the essence of menstrual leave and maternity leave because if women workers take the leave they are automatically not counted as working, so they do not get leave pay. According to [Anggono et al. \(2021\)](#); [Anggraeni et al. \(2020\)](#) Linking the impact of the omnibus law on women with feminist theory of the goal of feminism as a political movement is to make women and men more equal. Therefore, the importance of gender equality is because gender equality is equal opportunity for men and women in terms of economic participation, equal access to education, health and political empowerment. In the work copyright law, there is a clear gap in gender equality and it is almost said that the work copyright omnibus law is not friendly to women. If the work copyright law imposes wages per unit of time. Then, what if a woman who is on the sidelines of her work has to breastfeed her child? If wages per unit of time are enforced, women who work while taking care of children have the potential to not get paid. We cannot deny that nowadays Indonesian women have a dual role, on the one hand as housewives and on the other as career women. However, if this requires women to earn a living while taking care of their children, wouldn't the enactment of the copyright law work be cruel? The implementation of the job creation law seems to describe Indonesia during the New Order era, which we know during the New Order era of exploitation of labor in general, especially female workers. Entrepreneurs and owners of capital are in full control of every policy implemented in Indonesia. Workers are paid a salary that is not proportional to the energy expended to work.

According to [Khozen et al. \(2021\)](#); [Mahy et al. \(2022\)](#); [Muhammad \(2021\)](#) Not only that, during the New Order era, the government was described as controlling almost all issues related to women's organizations. The orientations of these women's organizations include (a) all of them being politicized for the victory of Golkar and as a tool to ensure that no person or group of people opposes the ruling regime, (b) opposes the tendency of men to harass women, (c) activities are more related to with the interests of the husband, (d) support the military bureaucracy. So that women are less active in the bureaucracy and development. This is exactly the case today where in the passage of the Omnibus Law, the aspirations of the people seem to be silenced so that no person or group can oppose the Omnibus Law, even though the impact of the Work Copyright Omnibus Law has had a detrimental impact on workers, especially women workers. proves that in reality discrimination based on gender still occurs, even many female workers still feel gender discrimination, all over the world. In fact, many women in Indonesia today have multiple roles which are not easy. According to [Khozen et al. \(2021\)](#); [Mahy et al. \(2022\)](#) gender inequality still occurs in opportunity and control over resources, economy, power, and political participation in Indonesia. As a result, women and girls bear the brunt of the resulting inequalities, but in essence these inequalities hurt everyone. Therefore, gender equality is a key issue for a country's development goals. Today's Indonesian women must be able to carefully determine their position and role, so that in carrying out their activities they do not become victims of various individual and group interests, private or bureaucratic.

The right to leave for female workers during menstruation, pregnancy, giving birth, and breastfeeding which were previously regulated in the Act It turns out that employment is not included in the law Job Creation Omnibus Law. According to [Anggono et al. \(2021\)](#); [Anggraeni et al. \(2020\)](#); [Aswindo et al. \(2021\)](#) Some argue that on In essence, leave rights for women workers still remain in the Labor Law. But according to the opinion of the author based on the principle of *lex posterior derogate legi priori*, substance law of the Omnibus Law which will be prioritized if compared to the Labor Law. The absence of leave rights for women workers in certain circumstances creates loopholes and the potential for violations of leave rights for women workers in certain circumstances. This is because the facts on the ground so far show that even though the Labor Law has regulated the right to leave for women workers, there are still violations of the right to leave for women workers. In addition, the Omnibus Law on Job Creation regulates the payment of hourly workers. Legislators should review again to include the articles regarding the right to leave for menstruation, pregnancy, childbirth and miscarriage for women workers in the Omnibus Law on Job Creation and continue to pay wages to women in certain circumstances. And give strict sanctions to entrepreneurs or companies that ignoring the rights of women workers. Besides that, the wage policy with the no works no pay system is being reviewed again specifically for the situation of female workers who are on leave menstruation, pregnancy, childbirth and breastfeeding

IV. CONCLUSION

The conclusion drawn from the discussion above is that the recently passed Job Creation Law can bring advantages and disadvantages to workers and laborers, especially women workers. It can be seen, in the implementation process, women workers always come second, wherever and whenever they work. They are vulnerable to violence, sexual harassment, bullying, humiliation and belittlement. Not to mention, they are the backbone of the family. In terms of female reproduction such as during menstruation. The Job Creation Law does not strengthen the reproductive health rights of women workers which were not previously fulfilled in the old law. Even though it should be, in terms of law reform, the Job Creation Law should have strengthened small rights like this. However, in reality, there is also no law that can be a solution to this problem. For this reason, many trade union alliances and women's unions oppose the passing of the Job Creation Law. The Government's role in structuring regulations needs to pay attention to the rights and obligations of workers, in structuring these regulations it is necessary to have written arrangements for their application in the law and must be in accordance with the Pancasila ideology adopted by the Indonesian state. The state has an important role in providing protection for its citizens, so that the formation of these regulations can create harmony and legal certainty for workers and the rights and obligations of workers are fulfilled. The role of workers in this case needs to pay attention to new policies issued by the government, workers are expected to have knowledge and be able to follow any developments regarding applicable labor regulations. So that in carrying out work agreements, the fulfillment of the rights and obligations of workers does not occur inequality. The Role of the Entrepreneur as an Employer those who have a higher position than workers must comply with applicable labor regulations to create a healthy climate of cooperation, in making employer work agreements

it is better to refer to existing laws and regulations to avoid regulations that can be detrimental to one of the parties, namely the workers.

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