



## Executive Dominance in the Ratification Process of Law Number 11 of 2020 Concerning the Omnibus Law on Job Creation

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**Abstract:** This study examines the formation and implementation of Law Number 11 of 2020 on Job Creation in Indonesia, which aims to simplify regulations related to investment and labour. Using a normative juridical approach, this study analyses the formal, material, and implementation aspects of the law. The results reveal significant challenges in the legislative process, including the dominance of executive power, limited public participation, and lack of transparency. The strong coalition of government-supporting parties in parliament enabled the accelerated passage of the law, but this raised concerns about the legitimacy of the law and its ability to balance business, labour and environmental interests. The research concludes that the legislative process reflects fundamental imbalances in Indonesia's political and legal systems, emphasising the urgency of systemic reforms to strengthen public participation, increase transparency, and restore the balance of power between the executive and legislature. Addressing these issues is critical to strengthening the foundations of democracy and ensuring better governance in Indonesia.

**Keyword:** Omnibus Law, Executive Dominance, Public Participation, Legal Legitimacy..

### INTRODUCTION

The dynamics of Indonesia's economic development in recent years have faced significant challenges. Economic growth stagnation hovering around 5% over the past five years, coupled with the economic contraction that has occurred, has prompted the government to take strategic steps in regulatory reform. One of the fundamental efforts undertaken was through the enactment of the Omnibus Law on Job Creation, which was signed by President Joko Widodo on November 2, 2020 (Putri & Tan, 2022) (Mahy, 2022).

The issue of labor is one of the crucial issues that underlies the formation of this regulation (Inversi et al., 2022). The complexity of this issue is exacerbated by the overlapping regulations and bureaucratic chains that hinder the attraction of investment (Vijayaraghavan et al., 2022). This has a significant impact on workers' rights and the dynamics of the labor market in Indonesia (Wulansari, 2021) (Mahy, 2022).

The Job Creation Law adopts the "omnibus law" method, which is a new approach in the era of Indonesian reform (Arifin, 2021). This method, also known as the "sweeping method," allows for the amendment of several legal norms within a single regulation (Putra, 2020). This regulation covers cross-sectoral aspects, including land affairs, foreign investment, employment, licensing, and local government competencies (Anggraeni & Rachman, 2020) (Putra, 2020).

However, the implementation of the Job Creation Law has not been free from controversy and criticism from various elements of society. The main criticism focuses on the lack of transparency and public participation in the drafting process, as well as the perception of counterproductive deregulation due to the many implementing regulations that need to be issued.

There is a significant dichotomy of perspectives in responding to this regulation (Kurniawan, 2020). On one side, the government, businesses, and some economists view it as a vital instrument to drive economic growth and competitiveness (Sembiring et al., 2020). On the other hand, labor unions, academics, environmental activists, and civil society organizations have criticized this regulation because it is perceived to prioritize business interests over worker welfare and environmental sustainability (Garnaut, 2015) (Harahap & Hamid, 2020).

## METHOD

This study uses a normative juridical approach with a descriptive qualitative research method. The normative juridical approach was chosen because this research focuses on the analysis of the implementation of the Job Creation Law as a legal product and its impact on the employment system in Indonesia. This study aims to examine the applicable legal norms and their implications for various social and economic aspects.

The type of research used is normative legal research, which examines the application of legal rules or norms in positive law ("Handbook on the Rule of Law," 2018). The approaches used include a statutory approach to analyze relevant regulations, as well as a conceptual approach to understand the legal concepts underlying the regulations (Inversi et al., 2017).

The data sources in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include the Job Creation Law, implementing regulations, and related regulations. Secondary legal materials include scientific journals, books, research results, and academic articles, while tertiary legal materials encompass legal dictionaries, encyclopedias, and other supporting sources.

Data collection techniques are conducted through library research, legal document analysis, and electronic data searches. The obtained data are analyzed using qualitative analysis methods with stages of data reduction, data presentation, and conclusion drawing. This process aims to simplify, organize, and systematically interpret the data.

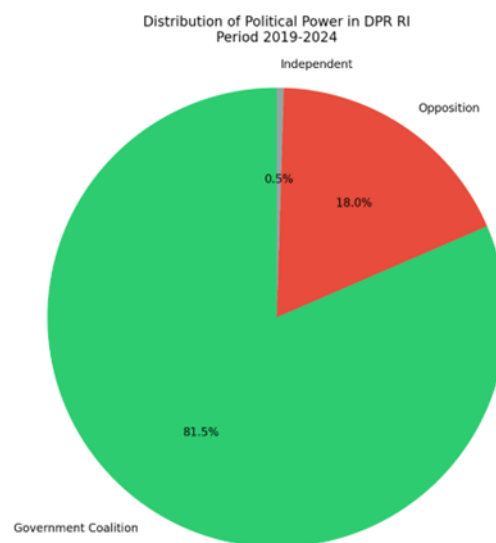
The analytical framework in this study includes three main aspects: the formal aspect, which examines the process of forming the Job Creation Law; the material aspect, which analyzes the substance of employment regulations; and the implementation aspect, which evaluates the impact of regulations on the employment system. Data validity is ensured through source triangulation, method triangulation, and peer review with labor law experts.

## RESULTS AND DISCUSSION

### History of Job Creation Law

The Job Creation Law, also known as Omnibus Law, aims to streamline regulations related to investment and labour in Indonesia. The main idea of this law was first introduced by President Joko Widodo in his inauguration speech in 2019, where he recognised the need

for a more effective and comprehensive approach to address the many overlapping regulations that hinder the investment climate. Therefore, an omnibus law framework was adopted to consolidate the diverse regulations into one integrated legal structure.



Source: Processed by the researcher

**Figure 1: Political Power Distribution of the House of Representatives for the 2019-2024 Period**

Despite objections from the Demokrat and PKS factions that the bill failed to protect workers' rights and the environment, the majority vote prevailed, and the Job Creation Bill was passed into law on 5 October 2020, which was then signed by President Jokowi on 2 November 2020. The passing of the Job Creation Law has been controversial, with the government hoping it will provide legal certainty and attract investment, while many consider it a setback in protecting workers' rights and the environment, reflecting the complex political dynamics underpinning its formation.

### Concept of Omnibus Law in the Job Creation Law

An omnibus law is a multisectoral law that covers content from various related sectors under one big theme. For example, one law may regulate investment, environment, labour, and infrastructure, all with the same goal of increasing investment. Due to its multi-sectoral nature, an omnibus law naturally consists of many articles, a logical consequence of the many sectors it covers, each of which requires specific technical and substantive regulations.

Despite its aim to strengthen Indonesia's competitiveness and promote inclusive and sustainable economic growth through the removal of bureaucratic barriers, the concept of an omnibus law was still very unfamiliar to Indonesians and sparked debate at the time of its emergence. The legislative process using the omnibus law approach is often considered efficient as it allows for the drafting and passing of many regulations in a shorter timeframe, thus enabling the legislature to be more responsive to societal needs and economic changes. However, this method also often poses challenges, especially in terms of accountability and transparency, as the public often feels marginalised in this fast-paced process, and public involvement becomes crucial to maintain the legitimacy of the resulting laws. In Indonesia, the position of laws derived from the concept of omnibus law has not been explicitly regulated, and their rapid formation process contradicts the tendency of the civil law system that prioritises long and time-consuming legislative procedures, which aim to ensure legal certainty and accommodate the interests of the wider community.

## **Procedures and Stages of the Job Creation Law**

In a democracy, the state does not have absolute power without control, so it cannot make laws arbitrarily without considering the interests of the people. The people also have the power to influence government policy, as this is influenced by the rule of law and constitutionalism. The formation of laws and regulations cannot be done carelessly, as the legislative process must be based on Law No. 15 of 2019 Amending Law No. 12 of 2011 on the Formation of Laws and Regulations. The stages of legislative procedures in Indonesia, in accordance with this law, include several formal stages that must be passed in the process of forming laws.

The first stage is planning, where the law to be formed is included in the National Legislation Programme (Prolegnas), which is prepared jointly between the House of Representatives (DPR) and the government. The second stage is the drafting of the law, which can be initiated by the DPR, the government, or the Regional House of Representatives, with the government usually drafting through relevant ministries or agencies, in collaboration with legal experts and academics. The third stage is deliberation, where a joint discussion between the DPR and the government takes place, involving meetings of commissions and special committees that discuss the articles in the bill one by one, the process of which must fulfil the principles of in-depth, transparent and accountable deliberation, and ideally allow for public consultation and input from various interested parties. Specific provisions on public participation are outlined in several articles, including the right of the public to provide oral and/or written input at every stage of the legislative process, and the obligation of the legislative body to consider the results of such consultations.

Law-making, especially at the drafting and deliberation stages, is crucial. Article 96 states that the drafting of laws must involve the public, and the results of such consultations must be considered by lawmakers. Article 88 also mandates that the deliberation of a bill must be conducted in a transparent and open manner so that the public can be aware of the legislative process and provide relevant input. After the deliberation process, if the bill is agreed upon by the DPR and the government, it is brought to a plenary meeting for final approval. At this stage, factions in the DPR give their final views on the bill before it is passed. Finally, the approved bill is sent to the President for signature, and if not signed within 30 days, the bill automatically becomes a valid law and is promulgated in the State Gazette. This formal procedure should be applied in every law-making process in Indonesia.

## **Coalition Configuration of the Government in the Legislature**

The coalition configuration in the DPR RI during the ratification of the Job Creation Law has a significant impact on public policy in Indonesia. With the majority of seats held by the coalition parties, the legislative process becomes faster and more efficient, allowing the government to quickly implement development programs and economic reforms as instructed by the President. However, this also has the potential to create problems, especially regarding the quality and responsiveness of the resulting policies. When legislative decisions are made in a majority context without adequate participation from opposition parties and civil society, the resulting legal products may not fully reflect public aspirations and needs. As a result, policies formulated through an exclusive process risk neglecting the interests of certain groups, causing dissatisfaction among the public, and widening social disparities. The long-term impact of this coalition configuration has significant implications for public participation. With the ratification of the Job Creation Law amid coalition dominance, the space for the public to contribute to the policymaking process becomes very limited. Public participation, which should be an integral part of democracy, can be reduced to mere

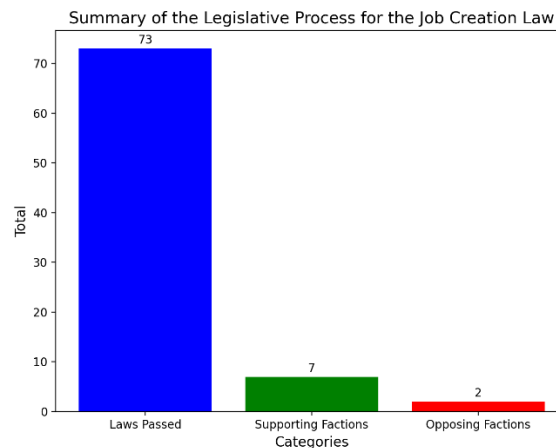
formality, leading to skepticism and distrust in the legislative process and political institutions. This dissatisfaction has the potential to trigger protests and social movements that reject government policies in the future, ultimately damaging political stability and weakening the government's legitimacy. In this context, it is important for the government and political parties to create a more open and inclusive dialogue space to ensure that public aspirations are well accommodated in the resulting policies.

### **The Executive's Role in Initiating the Job Creation Law**

The executive branch, particularly the President and relevant ministries, plays a strategic role in the initiation of the Job Creation Law. In response to global economic dynamics and domestic needs, the government has pushed for the formation of this law to accelerate the investment climate and bureaucratic reform in Indonesia. Through a series of policies and instructions, the executive has directed strategic steps in realizing the Draft Job Creation Law. This initiative reflects the government's ambition to drive economic growth and the extensive authority the executive holds in initiating regulations with a broad impact. The legislative process of the Job Creation Law shows a significant shift in the legislative pattern in Indonesia, with the executive branch playing a dominant role from initiation to formulation and ratification. President Jokowi directly stated the urgency of this law to accelerate investment and improve economic competitiveness. Through the omnibus law mechanism, the executive drafted the Job Creation Bill that simplifies and revises numerous laws simultaneously. In this case, the DPR serves as a ratification forum with limited control and influence in determining the direction of the substance of the law. This step demonstrates how the executive takes a strong initiative to drive legislation by referring to the national economic agenda and recommendations from international institutions.

### **The Executive's Influence in the Legislative Process**

The legislative process of the Job Creation Law involved two state institutions, the executive and the legislative. The government as the executive branch played a key role in the initiation, drafting, and discussion of the draft law with the House of Representatives. In this process, the government formed a small team to formulate the details of the articles, while the DPR compiled a List of Inventory of Issues to identify the issues that needed to be discussed. Although there were differences of opinion, especially from the PKS and Democratic factions, the majority of the factions in the DPR approved the draft law submitted by the government. This demonstrates the government's success in influencing the legislative process. The analysis of the legislative process for the Omnibus Law on Job Creation shows a dominant role of the executive branch throughout the entire process. The government not only served as the initiator, but also actively participated in the discussion and alignment of the substance of the law. Through the omnibus law mechanism, the government succeeded in amending nearly 73 laws simultaneously, demonstrating the broad scope of the changes initiated. The support of the majority faction in the House of Representatives, with only two factions rejecting it, indicates the strong influence of the executive in the legislative process.



Source: Processed by researchers

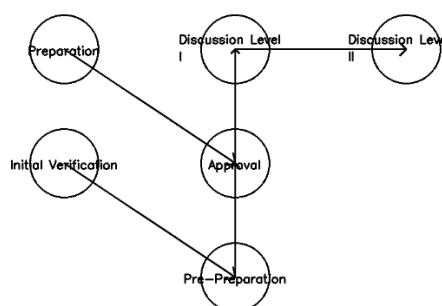
**Figure 2. Summary of the Legislative Process of the Omnibus Law on Job Creation**

The chart shows the composition of the substance of the Omnibus Law on Job Creation, where 78% originated from government proposals, 15% from DPR modifications, and only 7% from public input. This highlights the dominance of the executive in the drafting of the substance of the law, with very limited public involvement.

### Limited Public Participation and Transparency

The controversy surrounding the formation of the Omnibus Law on Job Creation in Indonesia highlights fundamental issues regarding the limited public participation and transparency in the legislative process. This process was initially dominated by the executive branch, sidestepping the principles of deliberative democracy. Although the government claimed that the law was designed to improve the investment climate and simplify licensing, widespread criticism emerged due to the limited involvement of the public, including labor unions and civil society groups directly affected. The rushed approval process without considering input from various elements of society raises concerns that this policy reflects the political agenda of the executive branch rather than the broader public interest. Furthermore, the lack of transparency in this process impedes accountability, reinforces perceptions of injustice, and is at odds with the principles of democracy.

Flow of the Legislative Process for the Job Creation Law



Source: Processed by researchers

**Figure 3. The Legislative Process of the Job Creation Law**



The government's approach in drafting the Omnibus Law on Job Creation has significant legal implications. The lack of public participation in this process is considered a violation of the principles stipulated in the law on the formation of laws, which mandates transparency and openness in the discussion of draft laws. The failure to comply with these legal provisions not only triggers public criticism and dissatisfaction, but also creates the potential for legal challenges to the validity of the law. The lack of accommodation of public aspirations in this policy further exacerbates public distrust of the government and the legislative system. Thus, this approach not only weakens the legal legitimacy of the Omnibus Law, but also risks eroding public trust in the democratic institutions in Indonesia.

## CONCLUSION

The analysis of the legislative process for Law Number 11 of 2020 concerning the Job Creation Omnibus Law reveals fundamental issues within Indonesia's political and legal systems. The significant dominance of executive power, demonstrated through the consolidation of a strong governing coalition, has substantially influenced the legislative decision-making process. This phenomenon reflects an imbalance in the checks and balances system, exacerbated by the lack of public participation and transparency in the legislative process. This condition not only affects the legitimacy of the resulting legal products but also has the potential to create public dissatisfaction that could escalate into broader social conflicts.

The implications of this suboptimal legislative process underscores the urgency for systemic reforms within Indonesia's political and legal systems. These reforms must include strengthening mechanisms for public participation, increasing transparency in the legislative process, and restoring the balance of power between the executive and legislative branches. Furthermore, an effective communication platform between the government and the public, as well as reinforcing the oversight role of political opposition, is necessary to ensure that the resulting legal products reflect public aspirations and protect the constitutional rights of citizens. This transformation is crucial to strengthening the foundations of democratization and ensuring the establishment of better governance in Indonesia.

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