

## PEMBENTUKAN *OMNIBUS LAW* SEBAGAI SARANA PENATAAN REGULASI BIDANG KETENAGAKERJAAN DI INDONESIA

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### ABSTRAK

Penelitian ini bertujuan untuk mengetahui dan menggambarkan faktor-faktor yang menjadi pertimbangan pembentukan *Omnibus law* Cipta Kerja sebagai sarana penataan regulasi di Indonesia, serta kelemahan dan kelebihan *Omnibus law* UU Cipta Kerja sebagai sarana penataan regulasi Hukum Ketenagakerjaan di Indonesia.

Penelitian ini menggunakan metode penelitian hukum normatif, atau penelitian hukum doktriner atau penelitian kepustakaan. Penelitian ini membutuhkan data sekunder yang terdiri dari bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Teknik pengumpulan data dalam penelitian ini dilakukan melalui studi pustaka (*library research*) dan penelusuran (*searching*) melalui internet baik dari buku maupun jurnal hukum yang berkaitan dengan permasalahan. Pendekatan yang digunakan adalah pendekatan undang-undang (*statutory approach*) dan pendekatan konseptual (*conceptual approach*). Data yang diperoleh dianalisis secara kualitatif.

Hasil penelitian menunjukkan faktor-faktor yang menjadi pertimbangan pembentukan *Omnibus law* Cipta Kerja sebagai sarana penataan regulasi di Indonesia adalah dari segi tujuannya menciptakan lapangan pekerjaan, meningkatkan peran dunia usaha dalam penciptaan dan perluasan kerja, melakukan penyerderhanaan dan penataan regulasi. Dari segi sarana, *omnibus law* digunakan sebagai metode penataan regulasi dalam rangka mencapai tujuan Cipta Kerja. Kelemahan *Omnibus Law* Cipta Kerja ditinjau dari proses pembentukan adalah kurangnya sosialisasi, prosesnya terlalu cepat, proses pembahasan di forum parlemen dalam arti teknis mengalami penurunan kualitas dan derajat kepercayaan publik menurun, menimbulkan perdebatan di ruang publik. Kelebihannya, lebih efisien dan efektif dari segi waktu, peraturan perundang-undangan menjadi lebih tertata dan harmonis, memberikan jaminan kepastian hukum bagi dunia usaha, lebih mudah diimplementasi. Dari segi substansi, ketentuan TKA memberikan kemudahan perizinan, akan tetapi pembatasan terhadap TKA tetap diberlakukan. Dari sisi hubungan kerja, kelemahannya ketentuan PKWT tidak menetapkan batas waktu dan jenis pekerjaan untuk selesainya suatu pekerjaan tertentu. Kelebihannya memberikan uang kompensasi dan jaminan kehilangan pekerjaan ketika PKWT berakhir. Ketentuan *outsourcing*, membuka peluang untuk diterapkan pada seluruh jenis pekerjaan. Waktu kerja, ada tambahan waktu kerja lembur. Upah, kelemahannya UMSK dihapus. Kelebihannya ada beberapa pilihan pembayaran upah perjam, harian, atau bulanan. PHK, kelemahannya jumlah perhitungan hak-hak pekerja akibat PHK berkurang. Pengusaha dalam melakukan PHK tanpa melalui penetapan lembaga penyelesaian perselisihan hubungan industrial. Kelebihannya, akan mendapatkan jaminan kehilangan pekerjaan yang diselenggarakan BPJS Ketenagakerjaan.

**Kata Kunci :** *Omnibus Law*, Undang-Undang Cipta Kerja, Regulasi, Hukum Ketenagakerjaan, Lapangan Kerja.

# **ESTABLISHMENT OF OMNIBUS LAW AS A MEANS OF REGULATIONS IN THE EMPLOYMENT SECTOR IN INDONESIA**

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## **ABSTRACT**

*This study aims to identify and describe the factors that have taken into consideration the establishment of the Omnibus law on job creation as a means of structuring regulations in Indonesia, as well as the weaknesses and strengths of the omnibus law on job creation as a means of structuring regulations on labor law in Indonesia.*

*This research uses normative legal research methods, or doctrinal legal research or library research. This study requires secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Data collection techniques in this study were carried out through library research and searching through the internet both from books and legal journals related to the problem. The approach used is a statutory approach and a conceptual approach. The data obtained were analyzed qualitatively.*

*The results of the study show that the factors that are considered for the establishment of the Omnibus law on job creation as a means of regulating regulations in Indonesia are in terms of creating jobs, increasing the role of the business world in creating and expanding work, simplifying and regulating regulations. In terms of facilities, omnibus law is used as a method of structuring regulations in order to achieve the goal of job creation. The Omnibus Law on Job Creation in terms of the weaknesses of the formation process is the lack of socialization, the process is too fast, the discussion process in the parliamentary forum in a technical sense has decreased in quality and degree of public trust, causing it to emerge in the public sphere. The advantages are that it is more efficient and effective in terms of time, the laws and regulations are more organized and harmonious, provide legal certainty for the business world, are easier to implement. In terms of substance, the provisions for foreign workers provide ease of licensing, but restrictions on foreign workers remain in effect. In terms of employment relations, the weakness of the PKWT provision does not set a time limit and type of work for the completion of a particular job. The advantage is that it provides compensation money and job loss guarantees when the PKWT ends. Outsourcing provisions, open opportunities to be applied to all types of work. Working time, there is additional overtime. Wages, the weakness of UMSK is removed. The advantage is that there are several options for paying hourly, daily, or monthly wages. Layoffs, the weakness of the calculation of workers' rights due to layoffs is reduced. Employers in performing layoffs without going through the establishment of an industrial relations dispute settlement institution. The advantage is that you will get a job loss guarantee organized by the Employment Social Security Administration.*

**Keywords: Omnibus Law, Job Creation Law, Regulation, Labor Law, Employment Law.**