

Omnibus Method in National Legal Development Efforts

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Abstract: *Pancasila is the view of life of the nation and state which is the basis for the implementation of national life. The precepts in "Pancasila" are the crystallization of the values that live in Indonesian society. This is certainly a new thing in the Indonesian legal system which is more inclined towards the civil law system. The omnibus concept is better known in countries with a common law system. However, as stated by Mochtar Kusumaatmadja that in efforts to develop law there must be alignment between the national legal system and the development of modern law from other countries. This alignment is solely intended so that the law can adapt to the times. The method used in this research is the normative legal method. "Invitation" which accommodates the omnibus method. This method is an effective and efficient effort to overcome regulatory obesity that occurs in Indonesia. However, in its implementation, future improvements are needed to achieve the target to be achieved.*

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Introduction

Pancasila is the view of life of the nation and state which is the basis for the implementation of national life. The precepts in "Pancasila" are the crystallization of the values that live in Indonesian society. As a basis, of course, every aspect of national and state life must be based on Pancasila. In relation to the development of national law, of course it must aim to realize the values of Pancasila. Pancasila values contained in the "1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia)" became a fundamental thing for the nation and state. The values must be concretized in order to realize the goals of the state as stated in the "Fourth Paragraph of the Preamble of the 1945 Constitution of the Republic of Indonesia" (Hamidi & Huda, 1999).

Since practically all nations desire a constitutional state life, the constitution is a framework for political life that was actually constructed at the dawn of world civilization. A constitutional government has traits like increasing political involvement, providing the people legislative power,

rejecting authoritarian control, and others (Nasution, 1995). Leon Duguit in his book *Traite de Droit Constitutionnel*, states that the constitution does not merely contain basic norms regarding state structure, but that the state structure regulated in the constitution really exists in the reality of people's life as *de riele machtsfactoren* or factors of strength. people who live in the community concerned (Djokosutono, 1995).

The constitution is "fundamental laws", about the government of a country and its fundamental values. Meanwhile, according to Sri Soemantri, the constitution means a text that contains a state building and the foundations of the state government system (Tim ICCE UIN Jakarta, 2003). The constitution must serve as the fundamental guideline for how national and state life should be implemented.

In the "Fourth Paragraph of the Preamble of the 1945 Constitution of the Republic of Indonesia" that one of the ideals and goals of the state is to advance public welfare. Of course the existence of this phrase is not without reason. If traced historically, this idea was a middle way when during the independence era there was global political and economic polarization. The rejection of the concept of capitalism and socialism led to the use of the welfare state concept. This can be seen from the goals of the country which are then concretized in the provisions of Articles 33 and 34 of the 1945 Constitution of the Republic of Indonesia (Riwanto, 2018).

The concept of the welfare state or also known as the "welfare state" is inseparable from the flow of utilitarianism put forward by Jeremy Bentham. According to Bentham, the purpose of law is to provide benefits, namely "the greatest happiness for the great number". Starting from this flow, another definition has been put forward relating to the welfare state. Espig-Anderson defines the welfare state as a model in which there is a responsibility for the state to ensure the welfare of its people through regulating the economy (Sukmana, 2016).

The welfare state is the antithesis of the concept of a night watchman state ("nachtwachterstaat"). This is because in the concept of "nachtwachterstaat" the state only plays a role in regulating it, whereas in the "welfare state" the state also actively participates in regulating the country's economy to achieve prosperity (Ridlwani, 2011).

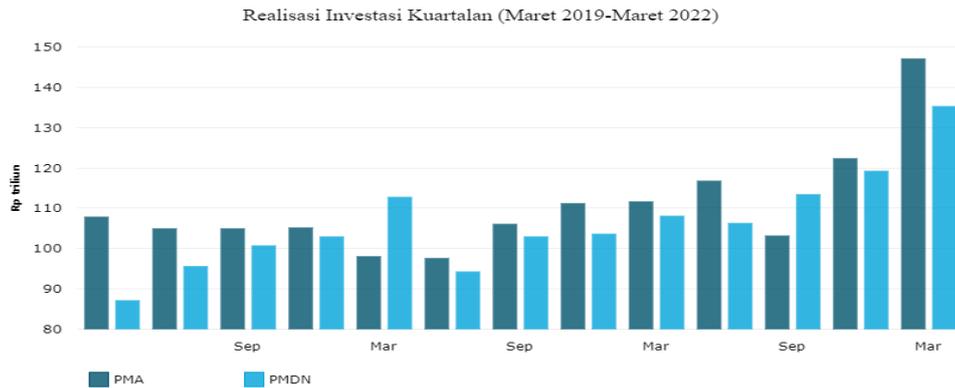
In an effort to uphold the state's objectives and principles, of course there is an obligation for the government to improve the national economy. Referring to data from the Central Statistics Agency (BPS) there was a 5.01% increase in the national economy as of the first quarter of 2022 (Javier, 2022). This growth is a good thing due to the crisis caused by the "Corona Virus Disease 2019 (COVID-19) pandemic").

Efforts to realize national prosperity must certainly go through a series of policies. One of the things that can be done is through the opening of investment both domestically and abroad. Investment is an investment activity carried out by another party.

Currently referring to the data released by the Ministry of Investment/Investment Coordinating Board that there has been an increase in investment realization in Indonesia. In the first quarter of 2022 there was growth of 16.9% or 28.5% year on year. The nominal investment is around

IDR 282.4 trillion with a classification of domestic investment of IDR 135.2 trillion and foreign investment of IDR 147.2 trillion (Annur, 2022).

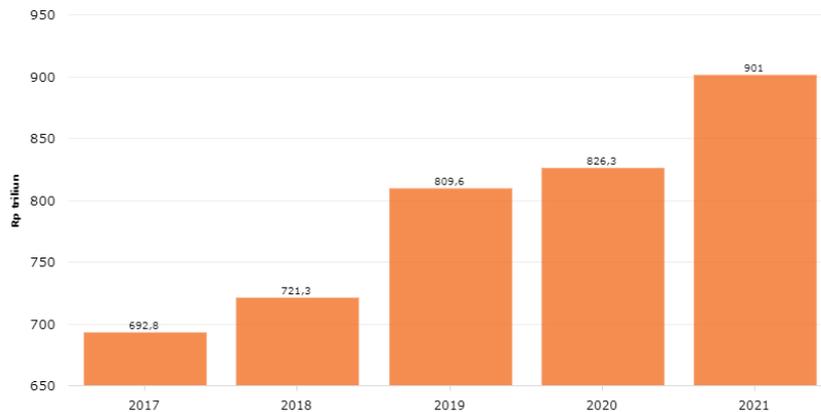
Figure 1. Graph of Indonesian Investment Growth in the First Quarter of 2022



(Source: Databooks Katadata)

The trend of increasing investment does not only occur at the beginning of 2022. If you look at the statistics for the last 5 (five) years, there has been a growth of 6.9% annually in the period 2017 – 2021. In 2021, foreign investment is recorded to be one of the biggest contributors with a nominal value of 454 trillion rupiah (Dihni, 2022). These statistics are certainly proof that Indonesia is a country with considerable investment potential.

Figure 2. Graph of Indonesian Investment Growth 2017 – 2021



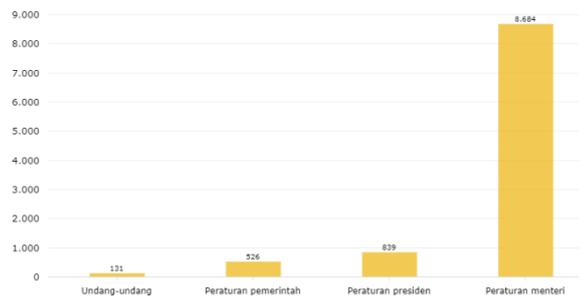
(Source: Databooks Katadata)

Even though there is great potential to invite investors to invest in Indonesia, there are regulatory issues that are one of the obstacles. President Joko Widodo since 2019 has said that there is regulatory obesity in Indonesia. It is noted that there are at least thousands of laws and regulations in Indonesia. Then the President requested that the omnibus method be accommodated in the formation of laws and regulations in Indonesia to simplify regulations (Asmara, 2020).

The idea to use the omnibus method has been conveyed since 2019. The implementation of this method was carried out for the first time in "Law Number 11 of 2020 concerning Job Creation". Even so, the formation of this law reaped pros and cons because the content material was considered detrimental to the public interest.

However, when viewed numerically the number of laws and regulations in Indonesia is in the thousands. Based on data from the Indonesian Center for Law and Policy Studies (PSHK) in the 2014-2019 period, there were 10,180 laws and regulations issued by the government with details of '131 laws, 526 government regulations, 839 presidential regulations, and 8,684 ministerial regulations'. Data shows the massive number of laws and regulations in Indonesia (Lidwina, 2020).

Figure 3. Number of Laws and Regulations Range 2014 – 2019



(Source: Databooks Katadata)

In 2022, referring to data from the 'Ministry of Law and Human Rights (HAM)', there are '3,970 central government regulations, 17,375 ministerial regulations, 4,689 non-ministerial government agency regulations, and 15,982 regional regulations'. (Statistics of laws and regulations in Indonesia, 2022). The data shows the magnitude of laws and regulations in Indonesia from the central to regional levels.

Figure 4. Number of Indonesian Laws and Regulations 2022



(Source: regulation.go.id)

In Indonesia, there are various kinds of laws and rules. According to "Article 7 of the hierarchy of laws and regulations" in Indonesia, "Law Number 12 of 2011 concerning the Formation of Legislation" as amended several times, most recently by "Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation":in Indonesia, namely:

- a. "The 1945 Constitution of the Republic of Indonesia;
- b. Decree of the People's Consultative Assembly;
- c. Laws/Government Regulations in Lieu of Laws;
- d. Government regulations;
- e. Presidential decree;
- f. Provincial Regulation; And
- g. Regency/City Regional Regulations."

In addition to the seven types as referred to in the hierarchy in Article 8 it is also stated that what is meant by laws and regulations includes "rules stipulated by the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council, the Supreme Court, the Constitutional Court, the Supreme Audit Agency, the Judicial Commission, Bank Indonesia, Ministers, agencies, institutions, or commissions at the same level established by law or the Government by order of law, Provincial People's Legislative Council, Governor, Regency/City Regional People's Legislative Council, Regent/Mayor, Village Head or level."

The number of laws and regulations has caused fat regulations in Indonesia. Regulatory obesity often causes disharmony and out of sync between one regulation and another. For example, with regard to the environment, there is an overlap between the arrangements in "Law Number 32 of 2009 concerning the Protection and Management of the Environment" and "Law Number 41 of 1999 concerning Forestry".

Regulatory obesity on the other hand also creates overlapping regulations not only within equivalent regulations, but also between regulations below them. This of course creates legal uncertainty and can affect the life of the nation and state. From a business perspective, the existence of legal uncertainty will certainly affect business decisions, causing low investment interest in Indonesia. Indonesia itself is still ranked 73 out of 190 countries related to 'Ease of Doing Business (EODB)'. (Agung Sandy Lesmana, 2022) This rating has stagnated since 2019 and is a decrease compared to 2018 at rank 72 (Ima Mayasari, 2020). This shows that there has been no development related to the ease of doing business in Indonesia in the last 3 (three) years.

One of the reasons for this is the complexity of licensing and regulatory issues. With regard to licensing, the government has implemented an integrated system, namely 'Online Single Submission Risk Based Approach (OSS RBA)'. Through this mechanism there is a simpler and integrated licensing process.

Nonetheless, regulatory issues remain unresolved. To overcome this, the government has issued "Law Number 11 of 2020 concerning Job Creation". The law was made using the omnibus method, which consists of 11 clusters.

Through this law, it is expected to overcome overlapping regulations to support investment growth in Indonesia.

However, the Constitutional Court through "Decision Number 91/PUU-XVIII/2020" stated that "Law Number 11 of 2020 concerning Job Creation" was declared "conditionally unconstitutional". The Court in this case ordered the government together with the People's Representative Council (DPR) to amend the law within a period of 2 (two) years. In its consideration, the assembly stated that there was a formal flaw in the formation of the law (A. & A., 2021).

The consideration of the panel of judges is a natural thing because in "Law Number 12 of 2011 concerning the Formation of Legislation as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 regarding Formation of Legislation" does not regulate the mechanism for forming laws using the omnibus method. Thus there is no basis for the formation of the omnibus.

This method has only been accommodated in the second amendment to "Law Number 12 of 2011 concerning the Establishment of Legislation" namely "Law Number 13 of 2022". With the inclusion of the omnibus method in the law, of course it will become the basis for implementing the omnibus in the formation of future regulations.

This is certainly a new thing in the Indonesian legal system which is more inclined to the civil law system. The omnibus concept is better known in countries with a common law system. However, as stated by Mochtar Kusumaatmadja that in efforts to develop law there must be alignment between the national legal system and the development of modern law from other countries (Rasjidi & Sidharta, 1994). The alignment is solely intended so that the law can adapt to the times.

In this paper the author will discuss the efficiency of the omnibus as a method of establishing legislation in overcoming regulatory obesity in Indonesia. The author relates this to the development of national law which aims to improve national welfare. How is the efficiency of the omnibus method in forming statutory regulations as an effort to develop national law?

Research methods

The method used in this research is the normative legal method, which is a process to find legal rules, legal principles, and legal doctrines to answer legal issues at hand or it is also called doctrinal legal research because it is based on document studies or is aimed at regulations written regulations and other legal materials. Data collection techniques in this research use library techniques to strengthen facts and analyze comparisons between theory and practice related to the problem of Omnibus in efforts to develop national law (Marzuki., 2013).

Discussion and Reuslts

Before discussing further about the omnibus, it is necessary to examine what is meant by the omnibus. In the "Black Law Dictionary", omnibus is defined as a relationship with several objects in one unit or includes several things or goals in a product. So that when it is related to law, especially

related to statutory regulations, the omnibus law is interpreted as a legal product that regulates several content materials at once (Rahardjo, 1981).

Fahri Bachmid is of the view that the essence of the omnibus law is to consolidate various laws and regulations spread across certain sectors to become one massive and holistic legislation (Bagir Manan, 1997. According to Refly Harun, the implementation of the omnibus law is very good if it is carried out in order to synchronize and harmonize between laws and regulations in Indonesia. This is because currently there are various laws and regulations that are not in sync both vertically and horizontally (Fitryantica, 2019).

Jimly Asshiddiqie defines the omnibus law as a product of statutory law which contains several law content materials at once, both directly and indirectly related (Ahmad Ulil Aedi, Sakti Blueardi, Ditta Chandra Putri, 2020). Ekawestri Prajwalita Widiati put forward the omnibus law as a method for forming several laws and regulations in one package as long as they are of the same level and form (Roihan, 2021).

This definition shows that the omnibus is a method in forming laws and regulations by combining several content materials at once. This concept is basically unknown in countries that adhere to the civil law system, but in countries with the common law system. In the common law system this concept is also known as the omnibus bill. The Omnibus Bill is defined as:

“an omnibus bill seeks to amend, repeat or enact several acts, and is characterized by the fact that it is made up of a number of related but separate initiatives. The working parliamentary understanding of an omnibus bill is a bill that has “one basic principle or purpose which ties together all the proposed enactments and thus renders the Bill intelligible for parliamentary purposes.”

The Omnibus Law was created with the following goals in mind: Quickly, effectively, and efficiently resolving legal and regulatory problems; consistent regional and national government policies to enhance the business climate; Management of licenses is more streamlined, effective, and efficient; capable of severing the remaining bureaucratic chain; improved cooperation between linked agencies as a result of the regulation's inclusion in an integrated omnibus regulation policy; A guarantee of legal security and protection for decision-makers exists (Busroh, 2017).

Basic Implementation of Omnibus

The basis for the idea of implementing the omnibus in the mechanism for forming laws and regulations in Indonesia is inseparable from investment issues in Indonesia. The number of regulations causes the rules to be out of sync with one another. For example, in 2016 the central government canceled as many as 3,143 regional regulations because they were deemed to be hampering investment entry into the country. However, the Constitutional Court then revoked the authority of the central government to cancel the regional regulations through “Decision Number 137/PUU-XIII/2015 and Number 56/PUU-XIV/2016” (Roihan, 2021).

According to the "Ministry of National Development Planning/National Development Planning Agency" the problems that are always experienced in the practice of laws and regulations in Indonesia are overlapping and disharmony. As a result, there are different interpretations between one norm and another (F. Putuhena, 2012). The implication of this is that there is no legal certainty that can be the basis for the implementation of certain things.

According to (Firman Freaddy Busroh, 2017) the causes of disharmony are:

- a. "Change of leadership.
- b. The absence of a standard arrangement of the same.
- c. There is frequent change of officials in authority.
- d. Lack of community participation.
- e. There is no coordination between parties.

This can cause several problems, namely:

- a. "There is no legal certainty.
- b. Lack of effectiveness and efficiency in implementing regulations.
- c. Misinterpretation.
- d. Not achieving the ideals of law as a guideline.

Omnibus Concept and Implementation

The concept of Omnibus grew and developed from the common law system implemented in several countries, for example the United States, Britain, Canada, Belgium and other Anglo Saxon countries. This model was born as an attempt to simplify obesity regulation which gives rise to overlapping norms. If the problem is solved in the usual way, it will take quite a long time and cost a lot. Not to mention that the process of designing and establishing laws and regulations often creates deadlocks or does not match interests (Antoni Putra, 2020). The implementation of the omnibus in the 2000s was carried out by Serbia by arranging special autonomy for Vojvodina (Putra, 2020).

Historically, the omnibus concept has its starting point from common law countries' customs. This concept has existed since 1937 (Prabowo et al., 2020). At the practical level according to Glen S. Krutz that in the United States itself omnibuses have been implemented since 1970 (Ulil et al., 2020). This shows that the omnibus method is not something new when viewed from a macro perspective.

Juridically, in the formation of laws and regulations in Indonesia, this matter has not been regulated *expressis verbis*. So far, the provisions in the "Act for Formation of Legislation" only regulate the formation, amendment, and repeal of one law. In connection with the formation of laws with the material content "broom of the universe" has never been known for a long time.

The term omnibus has probably only been heard since President Joko Widodo's speech asking for the establishment of an omnibus law related to job creation and empowerment of micro, small and medium enterprises (MSMEs). On the other hand, the idea emerged to form an omnibus law in the field of taxation (Rizal, 2020).

"Law Number 11 of 2020 concerning Job Creation" itself was ratified on "2 November 2020" which consists of 11 (eleven) clusters, namely: Licensing and Sector Business Activities; Cooperatives and MSMEs as well as Village Owned Enterprises (BUMDes); Investment; Employment; Fiscal Facility; Spatial planning; Land and Land Rights; Environment; Construction and Housing; Economic Zone; And Government Goods and Services

The government has also issued 49 (forty nine) derivative regulations from the "Job Creation Law". These derivative rules are technical arrangements for norms regulated in law (Nurhaliza, 2021). To support the investment opening agenda, the government has also planned to issue an omnibus in the field of taxation which consists of several clusters as follows: Investment Funding; Territory System; Individual Tax Subjects; Taxpayer Compliance; Working Climate Justice; And nFacility (Rizal, 2020). The laws that will be amended in the tax omnibus are: Law on General Provisions and Tax Procedures; Income Tax Law (PPH); Value Added Tax (VAT) Act; Customs Law; Excise Law; Constitution of electronic information and transaction; Investment Law; Law on Regional Taxes and Regional Levies; And Local Government Law

The Ministry of Finance stated that the establishment of an omnibus in the field of taxation was aimed at creating an investment-friendly Indonesian economic climate. This aims to attract investors, both domestic and foreign, so they can invest their capital in the hope of strengthening the national economy (Santoso, 2020).

When referring to "Decree of the House of Representatives Number 8/DPR RI/II/2021-2022 concerning the National Legislation Program for the 2022 Priority Draft Law and the National Legislation Program for the Third Amendment Draft Law for 2020-2024" there are several laws Laws that are planned to use the omnibus method are:

1. Draft Law on the State Capital;
2. Draft Law on Job Creation (change as ordered by the Constitutional Court);
3. Draft Law on Tax Provisions and Facilities for Strengthening the Economy; And
4. Draft Law on Financial Sector Development and Strengthening Reform."

Referring to the list, it can be seen that there is an application of the omnibus method in the formation of future laws. This is certainly not without reason because through the formation of an omnibus it is easy to harmonize and synchronize content material at once. Of course with this method can create efficiency in the formation of laws and regulations.

The practice of implementing the omnibus has been carried out by many countries. For example, Ireland has done an omnibus on 3,225 laws at once. Then in 2019 Türkiye also implemented an omnibus related to tax rules. Indonesia's neighboring country, the Philippines, has also implemented an omnibus through "The Omnibus Investment Code" in the investment sector (Citradi, 2020).

The application of the omnibus law as previously stated is commonly used by common law countries. However, in practice it does not rule out the

possibility for countries with a civil law system to implement similar things. For example, Vietnam has also implemented an omnibus law to overcome overlapping regulations (Bayu Dwi Anggono, 2020). The omnibus is outlined in "Law Amending and Supplementing a Number of Articles of the Law on Value-Added Tax, Law on Excise Tax and the Law on Tax Administration". (Citradi, 2020).

Although *expressis verbis* the omnibus method is not regulated as a method for forming statutory regulations, in practice the "sweep the universe" method has been used in Indonesia. For example, in the "Decree of the People's Consultative Assembly Number I/MPR/2003 concerning Review of the Material and Legal Status of the Provisional People's Consultative Assembly Decree and the Decree of the People's Consultative Assembly of the Republic of Indonesia from 1960 to 2002", which revokes the MPRS and MPR Decrees that are not valid and stipulate those that are still valid with certain conditions. Then in Law Number 7 of 2017 concerning General Elections where through this law harmonization and synchronization of several laws are carried out.

This shows that basically the implementation of the omnibus has been carried out for a long time. However, from the past until now it has not been known as an omnibus. This concept officially applies in the future after the enactment of "Law Number 13 of 2022".

Louis Massicotte, a Canadian political expert stated that there are at least 2 (two) advantages of the omnibus method. First, there is efficiency because it can reduce the process of forming several laws at once because it can be accommodated in 1 (one) legal product. Second, through this method it can accommodate both the interests of the majority and the opposition in parliament. This is because there is an opportunity for each party to liberate each other with regard to the content material to be regulated. A. Gluck, Aj O'Connel, and R. Po explained that through the omnibus method it is complex on the one hand and on the other hand it can accommodate the interests of all parties, both in parliament and the executive.

Regarding the implementation of the omnibus method, there are several implications, namely: Resolving conflict issues between regulations quickly, effectively and efficiently; Harmonizing government policies both at the central and regional levels; The licensing process is integrated, efficient and effective; Reducing bureaucratic chains; Improving inter-agency coordination; And Creating legal certainty and protection.

However, one cannot close one's eyes that of course there are drawbacks to this omnibus method. Journalist Lorn Gunter explains that the omnibus formation of laws can be anti-democratic due to the lack of social control. In addition, the size of the regulated content allows political transactions to occur for the benefit of certain groups.

Regarding its application in Indonesia, there are several things that are the focus of many parties, namely : The origin of the omnibus concept is different from the legal system in force in Indonesia; Establishment that heeds the procedures for the formation of laws and regulations; The discussion of content material is not mature enough (Setiadi, 2020).

However, these deficiencies can be avoided with careful preparation and public participation. If you look at it, of course there are great benefits that are presented through the omnibus method, especially to overcome the problem of regulatory obesity that has occurred in Indonesia to date.

Related Regulations

The problem of regulatory obesity needs serious attention and cannot be taken lightly. Referring to the regulatory quality index issued by the World Bank, Indonesia is ranked 92 out of 193 with a value of -0.11 on a scale of -2.5 – 2.5. When compared to other countries in the Southeast Asia region, Indonesia's position is still lagging behind compared to Singapore, Malaysia, Thailand and the Philippines (Adhisatya et al., 2021). The data shows the low quality of regulations in Indonesia.

The indicators for measuring the regulatory quality index are as follows (Anonymous, 2022):

1. “Enforcement of regulations and administrative requirements that can burden businesses; ease in setting up and terminating a business; ease of registering property;
2. Government intervention in the economy; the extent to which government subsidies keep non-competitive industries alive;
3. employment policy; labor law makes it easy to accept and fire; control over wages;
4. The complexity and efficiency of the tax system; pro-investment tax policy;
5. Trade policy; high tariff barriers; number of tariff bands; rate stability; the extent to which non-tariff barriers are used; transparency and predictability of trading regimes;
6. Investment attractiveness; financial regulation of foreign investment; legal restrictions on business and equity ownership by non-residents; foreign currency regulation; general uncertainty regarding regulatory costs; regulation of financial institutions;
7. The reach of the rule of law and the effectiveness of regulation in banking and securities; losses due to uncertainty in regulations, laws, and government policies;
8. The strength of the banking system; the existence of barriers to entry in the banking sector; ease of access to the capital market; protection of domestic banks from foreign competitors;
9. Private sector participation in infrastructure projects; domination of state-owned enterprises; public sector openness to contracts with foreign investors; range of market competition; effectiveness of competition and anti-trust policies and regulations;
10. Existence of policy, legal and institutional frameworks that support commercial development;
11. Adoption of appropriate policy, legal, and regulatory frameworks to support the development of the rural business sector; establishment of simple, fast, and transparent procedures for agribusiness establishment

12. Existence of policies, laws and frameworks that support agribusiness market liberalization;
13. To what extent;
 - a. Company laws encourage ownership and financial disclosure and protect shareholder rights, and are generally enforced;
 - b. State intervention in goods and land markets is generally restricted to regulation;
 - c. Excise service free from corruption, transparent operation, relying on risk management; And
 - d. Trade laws, regulations and guidelines are made public, simplified and rationalized.”

When viewed from the 13 (thirteen) indicators, most of them focus on the formation of regulations that support investment. This of course cannot be separated from the concept of the welfare state as the author stated earlier. Shimin Chen stated that the economic development of a country depends on the right government policies (Darmawan, 2020).

The current reality shows that there are regulatory issues that hinder incoming investment. The current regulations do not support effectiveness and efficiency in business activities. Amending these regulations if carried out through ordinary procedures will certainly take a long time.

Therefore, the omnibus method is a necessity as an effort to streamline existing regulations. Nevertheless, according to Maria Sriwulani Sumardjono, there are 5 (five) requirements for the implementation of the omnibus method, namely: “Stable political conditions; Efficient market conditions; Massive share of the domestic market; The economy is in stable condition; And There is support for infrastructure, manpower, and financial institutions.”

Stephen K. Aikins argued that in view of the global economic crisis, there is a demand for every government to make a series of efforts to improve welfare. Concretization of this matter is necessary through the preparation of a law through the omnibus in order to avoid conflicting norms.

Starting from the implementation of the omnibus in other countries, 2 (two) important things can be drawn, namely: “Amending and repealing laws can be done in 1 (one) process at a time so as to reduce political costs and lengthy processes. If there is a qualified analysis, then the omnibus can be a breakthrough in forming effective and efficient rules.” (Darmawan, 2020)

Referring to the theory put forward by Nathan Roscoe Pound that law functions to harmonize all interests in society (Darmawan, 2020). The essence of law is always left behind by the development of society because of the dynamics of social life.

To overcome this, it is in line with the responsive legal theory put forward by Phillippe Nonet and Selznick that the law must be one step ahead to respond to developments in society (Nur Azmi, 2020).

The government through "Law Number 13 of 2022" has accommodated the omnibus method. This is certainly a breakthrough as well as legitimizing the formation of laws using this method. This is as stated in the provisions of "Article 64".

The formulation of this article has explicitly stated that there is an omnibus method in the formation of laws and regulations in Indonesia. Therefore, the debate about what is the basis for the use of the omnibus in the formation of laws and regulations has been completed. However, this does not mean that the evaluation of the formation of the "Job Creation Law" has been completed.

Another problem is that in "Article 5 letter g of the Law on Formation of Legislation" it has been regulated that the formal principle in forming rules is openness. Zainal Arifin Mochtar argued that in drafting the "Omnibus Law on Job Creation" there was no community participation. This of course has violated the formal principle as stipulated in "article 5" (Ramadhan, 2020).

Public participation is expressly regulated in "Article 96 of the Law on Formation of Legislation" namely:

- (1) "The community has the right to provide input verbally and/or in writing in the Formation of Legislation.
- (2) Input verbally and/or in writing as referred to in paragraph (1) can be made through:
 - a. public hearing meeting;
 - b. work visit;
 - c. socialization; and/or
 - d. seminars, workshops, and/or discussions.
- (3) The public as referred to in paragraph (1) are individuals or groups of people who have an interest in the substance of the Draft Legislation.
- (4) To make it easier for the public to provide input orally and/or in writing as referred to in paragraph (1), each Draft Legislation must be easily accessible to the public."

The existence of public participation in the formation of laws and regulations is inseparable from the conception of a democratic state that is adhered to by Indonesia. Through community involvement it becomes a social control over every policy made by the government. In general, there are benefits to be gained through community involvement, namely: "As legitimacy; Increasing opportunities for community obedience; Increase the probability of success in its implementation; And As a collaborative effort between the government and the community." (Jati, 2012)

In line with this, Sad Dian Utomo argued that if the government involves the community in formulating policies, of course there will be benefits in the form of "There is a solid foundation; There is a guarantee of successful implementation because the community already knows; Increasing public trust in the government; And Communication efficiency." (Jati, 2012).

Through the formation of participatory laws, it will certainly minimize the occurrence of resistance from the community. There was a massive wave of rejection that occurred when the "Job Creation Law" was ratified due to the lack of socialization by the government. This caused public panic when there was a lot of slanted news regarding the provisions in the law.

Misperceptions and misinterpretations that occur in society are caused by ignorance of what is known as an omnibus. Demonstrations took place against the omnibus law which, when viewed as an error in objecto.

Theoretically, omnibus law is a method for forming statutory regulations by combining many rules at once.

As the author has explained that the omnibus is a formation concept. When there is widespread rejection of the omnibus, this occurs as a logical fallacy because there is nothing wrong with the concept. The main problem when talking about the "Job Creation Law" is that there are formal defects, namely: The omnibus method has not been regulated *expressis verbis* in the Indonesian legal system; And Lack of transparency in its preparation.

Therefore, it becomes irrelevant if the rejection of the omnibus is associated with efforts to reduce people's rights. If there is a problem with the content material in the "Job Creation Law", it is only fitting that the substance is at issue, not the method of formation.

The occurrence of this thinking error was because the government was negligent and failed to socialize and make changes to the "Law on the Formation of Legislation". The implication led to the conditional unconstitutional status determined by the Constitutional Court against the "Job Creation Law". The government is also prohibited from forming derivative regulations until amendments to the law are made.

If you look at the regulatory quality indicators from the World Bank, this is a form of legal uncertainty. This is because on the one hand the "Job Creation Law" has been ratified by the government together with the "House of Representatives". However, on the other hand the Constitutional Court determined conditional unconstitutional status. This condition causes the application of the "Job Creation Law" to appear gray and has no legitimacy.

The government together with the "People's Representative Council" is also limited by 2 (two) years to make revisions. If within this period no changes are made to the "Job Creation Law", it will be declared null and void and returned to its previous application before the "Job Creation Law" was passed. If this condition occurs, it will cause chaos to the Indonesian legal system.

In addition, because the content material in the omnibus is "sweep the universe" of course, harmonization and synchronization efforts must be made. Harmonization is an act of analysis of a draft law to check whether the draft is with the applicable law or the values that exist in society are in harmony.

1. "Harmonization of the contents of the draft law with:
 - a. Pancasila;
 - b. The 1945 Constitution of the Republic of Indonesia/vertical harmonization;
 - c. Legislation/horizontal harmonization;
 - d. Principles of laws and regulations:
 - 1) Formation principle;
 - 2) The principle of the payload material;
 - 3) Other principles in accordance with the legal field of the draft law in question.
2. Harmonization of draft laws with techniques for drafting statutory regulations which include:
 - a. The statutory framework;
 - b. Special matters;

- c. Variety of languages;
- d. The form of the draft legislation."

Meanwhile, synchronization is an adjustment and alignment of the substance of the draft with the applicable law. In this synchronization is done vertically and horizontally. Vertically, namely adjusting to the regulations above it. Horizontally, it is intended that adjustments and alignments are carried out with equivalent regulations (Suhartono, 2011).

If the formation of the omnibus in the future is carried out in a participatory manner and harmonization and synchronization is carried out, of course there is hope for resolving the classic problem, namely regulatory obesity. In addition, there is hope to resolve the conflicting norms that are rife. Of course, the hope of creating legal certainty that will lead to an increase in the economy is not something that is impossible to achieve.

Conclusion

Omnibus is a method in the formation of legislation. This concept is not new because it has been applied by many countries for a long time. Indonesia officially implements this concept through the "Job Creation Law" even though in practice many regulations are "sweep the universe". The regulation then reaped problems that led to conditional unconstitutionality. The government then stipulated "Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation" which accommodates the omnibus method. This method is an effective and efficient effort to overcome regulatory obesity that occurs in Indonesia. However, in its implementation, future improvements are needed to achieve the target to be achieved.

Suggestion

The suggestions that the author can give regarding future development are:

- a. The need for increased openness and transparency in the formation of laws and regulations.
- b. There is political will from the government to prioritize national interests.
- c. Carry out the national legal development agenda through the omnibus in order to streamline existing regulations.

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