A CRITICAL REVIEW ON THE JOB CREATION OMNIBUS LAW-FORMING PROCESS

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Abstrak
This study aims to conduct a critical study of the process of formulating the "omnibus law" on job creation from the perspective of legal politics and good governance through a normative method using a conceptual and statute approach and utilizing secondary and primary legal materials which are then critically analyzed through prescription. The results of this study ultimately conclude that from a legal political perspective, the process of forming this law is very problematic and procedurally flawed. In addition, this law is a response from policymakers who are political in nature to a complex situation which in fact creates complex derivative problems as well. This is inseparable from the nature of the omnibus law itself, which lacks democracy, participation, reduces accuracy and prudence in its preparation, and has the potential to exceed the provisions in the constitution. Therefore, based on the good governance point of view, the process of forming the Omnibus Law on Job Creation has not fulfilled the principles of good governance in the form of the principles of legitimacy, transparency, accountability, responsiveness, and the rule of law. The principles of effectiveness and efficiency in the principles of good governance in this Law can still be considered.

Keywords: Omnibus Law; legal politics; good governance

I. INTRODUCTION

On October 5, 2020, in the midst of the COVID-19 pandemic crisis, the Indonesian House of Representatives passed a very controversial law known as the 'Omnibus Law' relating to Job Creation. The statutory regulations containing 11 clusters that combine 79 laws in which 1187 pages are thick were then signed by President Joko Widodo and came into force on November 2, 2020, and is now officially known as Law no. 11 of 2020 concerning Job Creation (Mahy, 2021, p. 1; Zaid, Dawaki, & Ololade, 2021, p. 22). And with the presence of the Omnibus Law, of course, it will change, delete, or stipulate new regulations for several previous laws.

Omnibus law is the concept of an umbrella law or basic law, namely a law whose articles require that the implementing rules be made in the form of law as well (Bakri, 2013, p. 47). However, the law was controversial in the community even before it was passed (Zaid et al., 2021, p. 22). Besides being considered unknown in the legal system in Indonesia (Cakra & Sulistyawan, 2020, p. 59), because the Omnibus Law theory comes from a country that adheres to a common law legal system (Busroh, 2017, p. 227). Moreover, Law Number 12 of 2011 concerning the Formation of
Legislation does not regulate the omnibus law rule, this Law is also further away from the goal of the welfare state concept and leads to the goal of nachtwakerstaat (A. A. G. D. H. Santosa, Sudiarawan, & Wijaya, 2021, p. 93). When the omnibus law creates work, it is also hoped that it will create many jobs for the community. However, previous research actually found that it was not harmonized with regulatory substances that were able to evade contraventions that had occurred so far. And in conclusion, the Job Creation Law still has many weakness (J. R. Putra, Sriono, & Panjaitan, 2021, p. 2568). In addition, the Omnibus Law was also criticized for being considered flawed and distorted in its formulation process (Sari, 2020) both formally because the discussion process was considered to have minimal public participation and was rushed. Materially, the Job Creation Law was also assessed because it violated several provisions in the 1945 Constitution 1945 (Kiswondari; Priambodo, 2020). Thus, making this Law receive various kinds of criticism and rejection from the public in various forms of expression (Atmadja, Yuliati, & Mutiara, 2020, p. 63; Riewanto, 2020).

Therefore, the research entitled "A Critical Review Of The Omnibus Law-Forming Process" aims to correct it again by criticizing the formulation or making of the Omnibus Law on Job Creation. While previous research has criticized the Omnibus Law on Job Creation using the point of view of John Rawls (Terjomurti & Sukarmi, 2020), this research will use the point of view of legal politics in its critical analysis. This is because the formation of the Indonesian national legal system cannot be separated from legal politics, because it is used as a guide in the process of making and enforcing laws to achieve national goals and objectives (Astutik & Trisiana, 2020, p. 85). Therefore, several previous studies have used legal politics as the basis of analysis in criticizing a law such as research from Prabowo, Triputra, & Junaidi (2020). However, there are still few similar studies. Although research related to Omnibus Law is experiencing a fairly rapid trend, other researchers seem to be only interested in discussing issues surrounding the technique of law formation (Anggono, 2020) and the compatibility of the use of the method (Cakra & Sulistyawan, 2020; Chandranegara, 2020), as well as comparisons of meaning and the nature of the law in the concept of omnibus law and existing laws (Sodikin, 2020).

Therefore, this study will be different from most previous studies. And to meet the novelty standard in this study, the author adds a point of view of good governance in criticizing the omnibus law formulation process in Indonesia. This is because the principles of good governance have conformity in the formulation of good legislation, so surely, the good governance point of view, in this case, can play an important role. Thus, this study also aims to criticize whether the omnibus law that has been ratified has met the standards of good governance. Thus, The researchers strongly expect that this study article would not only contribute theoretically to legal science but also be a guide for the government and relevant stakeholders in formulating laws based on legal politics and good governance.
II. RESEARCH METHODS

This research is a critical study of the forming process the omnibus law on job creation by utilizing secondary data sources. So that this study is likely normative with a statutory and conceptual approach. To support and support this research, therefore, this research will use legal materials such as legislation, both the 1945 Constitution and Law no. 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Establishment of Legislation. In addition, materials from books, scientific articles which are secondary legal materials will also be used. These legal sources and materials were collected using literature study techniques by utilizing the practicality of technology by searching the internet (Dewata & Achmad, 2019, p. 184). After that, the sources and legal materials are processed or analyzed using the prescriptive analysis technique used to conduct an assessment by providing arguments for the research results that have been used (Dewata & Achmad, 2019, p. 184).

III. RESEARCH AND DISCUSSION RESULTS

3.1. Overview of the Omnibus Law on Job Creation

Regarded to the Omnibus Law, there is no single definition regarding this omnibus law (or often referred to as the omnibus bill) (Anggono, 2020, p. 21). Anggraeni & Rachman, (2020, p. 180) argue that Omnibus comes from the Latin word Omnis which means "all". If it is associated with the concept of law in the Black Law Dictionary, omnibus means many things or goods at once; many things or have multiple purposes. Similarly in Gluck and Connel, omnibus law: to bundle several actions into one or combine various subjects into one law. Various definitions of omnibus can be understood as laws and regulations that are made to target a big issue that can revoke or change several laws at once to be simple.

Thus, in summary, Omnibus law is a process of formulating policies method that simplifies or combines various rules to attain certain goals. Because the fundamental tenet of omnibus law is to abbreviate the plot of laws and regulations in order that goals can be attained with time efficiency in the discussion of new regulations and the ratification of new laws. Anggono, (2020, p. 17) argues that the omnibus law has benefits in the form of advantages and disadvantages in the form of disadvantages. In terms of benefits, the omnibus law for legislators will make it easier to reach an agreement and avoid political deadlocks, save time and shorten the legislative process, make the formation of laws more efficient, and increase productivity in the formation of laws. Meanwhile, the weakness of the omnibus law is that it is pragmatic and less democratic, limits the space for participation, and is structured unsystematically and not carefully.

In Indonesia, the omnibus law is an effort to simplify investment regulation constraints (deregulation) in the second period of Jokowi's administration. As it is known that hyperregulation in Indonesia occurs at every level of legislation. According to Azhar, (2019, p. 170), the potential for overlapping statutory regulations includes 7621 ministerial regulations, 765 presidential regulations,
452 government regulations, and around 30,000 regional regulations. The hyperregulation puts a burden on synchronizing and harmonizing the laws and regulations in Indonesia. In fact, there is no single institution that can monitor and evaluate the existence of such hyperregulation. Synchronization and harmonization are carried out within the framework of the four pillars as the basis of the Republic of Indonesia. Thus, it is necessary to carry out a study on the application of omnibus law as a solution to the hyperregulation of laws and regulations in Indonesia.

Apart from being delivered in the Presidential inauguration speech on October 20, 2019 (Anggraeni & Rachman, 2020), this omnibus law agenda has been stated in one of the 2020 National Legislation Program Priority Bills (Prolegnas) that the government must prepare, namely the Job Creation Bill (Kurniawati, Salahudin, Yumitro, & Kusumaningrum, 2021, p. 1). Previously, 4 bills were proclaimed at once, including (1) job creation, (2) taxation, and (3) the nation's capital city. Meanwhile, there is a plan that from the legislature, an Omnibus Bill will be issued in the pharmaceutical sector. However, the ambitious plan encountered resistance at the level of policy concept and implementation due to the assumption that it was contrary to the legal system adopted (Chandranegara, 2020, p. 243; Sembiring, Fatimah, & Widyaningsih, 2020, p. 97).

Indeed, the State of Indonesia tends to adhere to a continental European legal system in the form of civil law, while Omnibus Law comes from a country that adheres to a common law legal system (Busroh, 2017, p. 227). However, this is not a real problem. Because even though the existence of the State of Indonesia as a state of the law is strongly influenced by the type of Continental European legal state that relies on rechtstaat, besides that the State of Indonesia has also adopted some good elements from the type of Anglo Saxon law state (common law). The Indonesian state is also affected in terms of adhering to the legal system. The legal system adopted by the State of Indonesia leads to the Continental European legal system (Samosir, 2016, p. 774).

But after experiencing various kinds of drama, finally on October 5, 2020, the omnibus bill of job creation was finally legalized as Law Number 11 of 2020 on Job Creation. This Law was then implemented based on several principles, including the principle of "equal rights, legal certainty, ease of doing business, togetherness, and independence" as stipulated in Article 2 Law Number 11 of 2020 on Job Creation. As for the purpose, Article 3 states that Law Number 11 of 2020 on Job Creation was established with the aim of:

a. “creating and increasing job opportunities by providing convenience, protection, and empowerment for cooperatives and MSEs as well as national industry and trade as an effort to be able to absorb Indonesian workers as widely as possible while taking into account the balance and progress between regions in the national economic unit’’;

b. “ensuring that every citizen gets a job, and gets fair and proper remuneration and treatment in an employment relationship’’;
c. “undertaking adjustments to various aspects of regulation related to alignments, strengthening, and protection for cooperatives and SMEs and national industries; and”

d. “undertaking adjustments to various regulatory aspects related to improving the investment ecosystem, facilitating and accelerating national strategic projects oriented to national interests based on national science and technology guided by the ideology of Pancasila”.

And so that the overall objective of establishing Law Number 11 of 2020 on Job Creation as referred to in Article 3 goes well and is achieved, then Article 4 of the Law regulates its scope to regulate strategic job creation policies which include:

a. improvement of the investment ecosystem and business activities;
b. employment;
c. facilitation, protection, and empowerment of cooperatives and MSEs;
d. ease of doing business;
e. research and innovation support;
f. land acquisition;
g. economic area;
h. Central Government investment and acceleration of national strategic projects;
i. implementation of government administration; and
j. imposition of sanctions.

Therefore, it can be understood that the formation of this law is based on the right principles and noble goals. But of course, from the point of view of legal politics, every statutory regulation that is made cannot be separated from various kinds of interests and goals that may not be stated. As Susanti (2020) says that in legal politics, it is important to understand which direction a law will actually lead a society. An effort to read the legal politics is an attempt to find out the real purpose of why a law was made and reading the politics of law must read between the lines of the text. Concerning legal politics, the process of forming an omnibus law regarding job creation, the following is an explanation.

3.2. Legal Politics in the Forming Process of the Omnibus Law on Job Creation

Law basically consists of what is written, the rules for its implementation, and the practice of interpretation and application (Zack, 2018, p. 197). However, when it comes to legal politics, the law must also be seen from before it was made. This is based on the findings of previous research which states in its conclusion that legal politics includes policy formulation or making laws and regulations (Rifai & Anwar, 2014, p. 279). That's why Mahfud MD (2007, p. 3) said that usually talking about legal politics often simplifies the list of legal material plans that will be made. Therefore, Mahfud MD (2007, p. 2) defines it as a state policy regarding laws that will be enforced or will not be enforced in the country which can take the form of the formation of new laws or the repeal and replacement of old laws.
laws to suit the needs of the community. In another written source, Mahfud MD (2006, p. 5) then termed legal politics as legal policy and defined it as a legal direction that will be enforced by the state to achieve state goals in the form of making new laws and replacing old laws. The definition of legal politics was then expanded to include aspects of the background and the environment that influenced it as well as various problems faced in the effort to enforce it.

Meanwhile, Dewansyah (2015, p. 143) argues that legal politics is a policy related to law or policy in the field of law, with a scope in the form of legal direction, legal form, legal content (substance), and the scope of legal politics. The legal direction is the goal to be realized or achieved, while the legal form shows the existence of various forms of legislation and legal content related to the substance regulated in statutory regulation. On the other hand, Zaman (2020 p. 13) provides a middle point that can be drawn as a conclusion that legal politics is basically a law that is formed and will be formed to achieve state goals, so legal politics should not conflict with state goals and the ideals of the country. But the legal politics that is formed is legitimate when it translates what the state's goals and ideals are. State goals that have abstract characteristics require a concrete interpretation so that the goals of the state can be implemented. Therefore, building legal politics requires its own expertise and ability in formulating any norms that should be normalized or used as material content for the law to be formed.

Legal politics and order regularly become a major issue in both political and law science (Wenzelburger, 2015). According to Mahfud MD (2007, p. 2), the study of legal politics began to be included as part of the study in the curriculum of the Faculty of Law towards the mid-1990s. But before that, the study of legal politics at the Faculty of Law in Indonesia was considered a foreign field that did not need to be studied. In the long term, law at the Faculty of Law was understood as norms or rules containing obligations and prohibitions whose violations could be subject to sanctions based on state authorities. But who and how to choose these norms to be made law by the state does not get the attention it deserves. This has resulted in many legal scholars who are disappointed and even frustrated when they cannot understand why laws that are ius constitutum often conflict with laws that are ius constituendum. However, at this time, legal politics is something that is needed in legal science and is also a central issue in the formation of legislation which from the material point of view and the mechanism for making legal politics in Indonesia is regulated in Law no. 10 of 2004 concerning the Establishment of Legislation in the sections of the National Legislation Program (Prolegnas) and the Regional Legislation Program (Prolegda), which are currently replaced by Law No. 15 of 2019 Concerning Amendments to Law Number 12 of 2011 Concerning the Establishment of Legislation

And speaking of legal politics as well, the enactment of the Law on Job Creation. The Law on Job Creation reflects the development of legal politics (especially legal politics of legislation) in Indonesia. And the formal legal politics of the Job Creation Law starts from planning, drafting,
discussing, ratifying, to enacting. The legal politics of the Job Creation Law stems from the political will of the President to form a Job Creation Law with the legal method for all/everything (omnibus law). This is intended to simplify regulations and deregulate regulations that hinder job creation and empower micro, small and medium enterprises through an omnibus law in the form of the Job Creation Law (Kartika, 2020, p. 2).

The existence of political will from President Joko Widodo to make the Job Creation Act an omnibus law is the beginning of the planning stage. To make it happen, the Job Creation Bill was agreed to be one of the bills in the 2020-2024 National Legislation Program (Prolegnas) and the 2020 Priority Bill. This means that there has been an agreement between the DPR RI, DPD RI, and the President to make the bill a national law development agenda. At the same time, it is a tangible manifestation of the implementation of national legal politics, even though the government is not ready with the draft law and academic text for the Job Creation Bill, at the time of its stipulation as a 2020 Priority Bill. To realize the Prolegnas, the academic text and the Job Creation Bill draft were compiled in the technocratic preparation stage, which was then submitted to the DPR RI through Presidential Letter No. R-06/Pres/02/2020 dated February 7, 2020. This means that there is a formal legal political shift in the formation of the Job Creation Law to be discussed by the legislative body. The planning and preparation stages are considered problematic because there have been formal defects. The absence of this draft bill and academic text does not meet the prerequisites of a bill in the National Legislation Program and Priority Bill (Kartika, 2020, p. 3). In addition, the academic manuscript of the Job Creation Bill is also very problematic because the academic text and the draft of the Job Creation Omnibus Law is made simultaneously or simultaneously. Whereas ideally, the draft of the bill is made after there is an academic manuscript. On the other hand, the content and material content as well as the existence of several versions of the draft Law on Job Creation, namely versions 1,028, 905, 1,035, 812, and 1,187 pages further add to the list of ambiguities in the planning process for making this omnibus law (Hidayat, 2020).

Moreover, the government is considered to have never provided public access to provide input on the bill. This is contrary to the principles of participation and openness as stipulated in Law no. 14 of 2008 concerning Disclosure of Public Information and Law no. 12 of 2011 concerning the Establishment of Legislation as amended by Law no. 15 of 2019 (Kartika, 2020). Formal legal politics at this stage of preparation led to the filing of a state administrative lawsuit with case no. 97/G/2020/PTUN-JKT regarding the cancellation of the Presidential Letter on the Job Creation Bill (Kartika, 2020, p. 3). In fact, a number of requirements need to be met in the use of omnibus law in Indonesia, namely the fulfillment of the principles of openness, prudence, and community participation and should not be carried out for policies containing large-scale, mainly related to human rights (Anggono, 2020). Moreover, there are many problematic articles that are not in favor of the community and are not in accordance with the expected goals contained in the law and The 1945
Constitution, 1945. Thus, according to Susanti (2021, p. 21), this law is a tactical and political response of policymakers to a complex and dynamic situation that actually creates complex derivative problems if the government’s actions are not based on the framework that becomes the basic principles and values of the State.

3.3 A Critical Review Of The Principles Of Good Governance In The Process Of Establishing The Omnibus Law On Job Creation

Governance has always been a central issue of the evolutionary history of civilization since ancient times, and one of the most commonly used concepts of government or governance that have given the idea and character of ‘reform’ over the last three decades is good governance (Farazmand, 2017, p. 599). However, the transfer of other uses such as good governance and good corporate governance makes it difficult to use these terms to clarify the argument (Colebatch, 2014, p. 314). Therefore, when talking about good governance, one should not confuse good governance with good corporate governance, although these two terms may have some similar features, namely, both focus on transparency and accountability. However, good governance reflects that organizations in general (De Dycker, 2019, p. 116) deal more with government behavior and emphasize respect for the rule of law (Gu, 2017, p. 400).

The concept of good governance is an ancient concept that dates back to the emergence of political organizations in human society. For example, Aristotle distinguishes between regimes from the point of view of goodness and corruption, where he points out that a good system aims for the public good and a corrupt system aims to achieve private interests and rule without law. Both the terms good governance and good governance come from Latin which means: how to regulate and direct ships. In the thirteenth century, the term (governance) was used in French as a synonym for the term government, then as a legal term in 1478, and later included the demands of democracy, but in 1937 (governance) in English (Abdou, 2021, p. 2). This then makes good governance have a close relationship with democracy and law. Especially when good governance includes setting the Rules of Law for the implementation of its wings professionally with strong support from Democratization (Rahim, 2019, p. 137). Therefore, good governance can also be said to be part of a reasonable vocabulary of law (Koivisto, 2014, p. 590).

Good governance is achieved through professional governance that meets the principles of good governance (Rojikinnor, 2020, p. 401). Therefore, because of the large role of the government in the formation of laws (especially in the job creation law), the principles of good governance are needed so that the government must pay attention to the interests of the community at large. In addition, in carrying out the process of forming laws not to conflict with the Indonesian constitution, namely the 1945 Constitution. And of course, this is the point where the government is tested in all
policies and regulations whether it has fulfilled the conception of good governance or whether the efforts of good governance have been fulfilled.

According to Santosa (2001, p. 87) the principles of good governance include community involvement, accountability, and transparency. Meanwhile, according to Hamra, Siddiqi, Carmel, & Ammar (2020, p. 1) the principles of consensus-based good governance, with a focus on participation, transparency, accountability, information, and responsiveness. In another source mentioned that, integrity, ethics, transparency, and accountability, are among the many characteristics of good governance (Albertus, 2019, p. 65). On the other hand, Keping 2018 (pp. 4–5) has done a very good effort by summarizing all the perspectives on good governance, we can see that it has six essences which will be mentioned and explained as follows.

The first is legitimacy which refers to the state being recognized and obeyed voluntarily. This of course has no direct relevance to laws and regulations. Because from a legal point of view (based on this principle) something legal is not necessarily legal. Only authority and order that are truly recognized by people in certain groups are legitimate in political science. The higher the degree of legitimacy, the higher the good governance will be. The main approach to achieving and increasing legitimacy is to maximize the consensus and political identity shared by citizens. Therefore, good governance must manage various conflicts of interest between citizens and between them and the state to the maximum to obtain maximum approval of citizens towards their public interests (Keping, 2018, p. 5).

Concerning omnibus law, there is no doubt that omnibus law can play an effective role in reducing disharmony and conflicting norms in legislation, but on the other hand, it also has accountable democratic legitimacy through public review mechanisms and broad public participation and is carried out with the principle of prudence caution (Darmawan, 2020, p. 23). This is because the implementation of practical politics must be based on the legitimacy of the people or must have democratic legitimacy (Kaelan, 2014, p. 94). In this case, the role of community participation in the formation of legislation (including also in the formation of the Job Creation Law), and answering how the community is involved in the implementation and supervision of a law (Riskiyono, 2015, p. 159). In this case, the Omnibus Law on Job Creation in Indonesia still does not meet the elements of legitimacy and participation from the community. Because it is in accordance with the weaknesses of the omnibus law itself which is less democratic, limits the space for participation, reduces accuracy and prudence in the preparation, and has the potential to exceed the provisions in the constitution (Kartika, 2020, p. 3). Although the process has involved the DPR and DPD, it is still not enough. Moreover, research also finds that the DPR, DPD, and the Government are considered not yet aspirational in carrying out their legislative functions (Riskiyono, 2015, p. 159). In addition, the Omnibus Law must also be given legitimacy in Law no. 15 of 2019 concerning Amendments to Law
Number 12 of 2011 concerning the Establishment of Legislation, must be amended in an amendment to include the Omnibus Law concept.

Second, Transparency refers to the publicity of information. All citizens have the right to information about state policies related to their own interests, including legislative activities, policymaking, legal provisions, policy enforcement, administrative budgets, public expenditures, and other relevant political information. Transparency requires that such political information be properly communicated to citizens through various media means so that they can participate in public policymaking and oversee the public administration process effectively. The higher the level of transparency, the higher the level of good governance (Keping, 2018, p. 5).

Transparency is a form of good governance in a democratic government. The provision of accurate, clear, and relevant information is needed to realize an open government and gain public trust (Ngatikoh, Kumorotomo, & Retnandari, 2020, p. 181). Today's society tends to have a more transparent government, especially with the Omnibus Law on Job Creation which is considered less transparent and has minimal community involvement. Transparency is a very important element in the law-making process. A research result also reveals that the DPR and the government must be transparent in providing any information on the progress of the formulation process of the Job Creation Law (Kurniawan, 2020, p. 74; Ramadhani & Fauzi, 2020, p. 224). Departing from the principle of openness in the formation of laws and regulations, therefore from the beginning, many parties wanted the work creation bill to be discussed transparently by taking into account input from parties who have an interest and relationship with the law (Anggono, 2020, p. 34).

The third is accountability. Accountability is one of the most important principles in good governance. The same applies to the Omnibus Law. Therefore, before the omnibus law concept is actually implemented in forming regulations, in addition to the principles of participation and transparency, accountability must first be put forward (A. Putra, 2020, p. 9). Central Information Commision (2020) also requests that in the preparation of national legislation it is mandatory to prioritize transparency and accountability as well as maintain space for public participation in the process of making it. This includes the drafting of the Employment Creation Law, which broadly regulates the public sector, from licensing, labor, the environment to investment. Request that the House of Representatives and the Government in every legislative and public policymaker are required to open access to public information to ensure transparency, participation, and active role of the community to realize accountability for the processes and products of legislation and policies.

Accountability means holding everyone accountable for his or her own behavior. It refers specifically to the duties associated with a particular position or institution and its corresponding obligations. Accountability relates to the fulfillment of the functions and obligations of the position it carries. If they fail to fulfill their assigned functions or obligations, or if they do so in an inappropriate manner, their conduct constitutes dereliction of duty or lack of accountability. The greater the public
accountability, especially public officials, the higher the level of good governance. In this case, good governance requires the application of law and ethics to increase the accountability of individuals and institutions (Keping, 2018, p. 5).

The fourth which is still related to accountability is responsiveness which basically means that the government must respond to the demands of citizens in a timely and responsible manner and is prohibited from delaying or ignoring without cause or leaving any problem unresolved without a response. Where necessary, they should proactively seek advice from the community, explain their policies to them, and answer their questions regularly. The greater the level of responsiveness, the higher the level of good governance (Keping, 2018, p. 6). Considering the weaknesses of the omnibus law itself which is less democratic, limits the space for participation, reduces accuracy and prudence in the preparation, and the potential to exceed the provisions in the constitution, it seems that the government and the DPR are still not responsive and do not proactively seek advice from the public about the process of forming this Job Creation law.

Concerning the formation of law in Indonesia, it is understood that the application of the principles of the rule of law and democracy in the formation of law in Indonesia, ideally is reflected in the application of the principles of legality, the principle of legal certainty, and the protection of human rights in the law. While the principle of democracy in the formation of laws can be seen from the involvement or participation of the community in the formation of laws. However, what is happening in Indonesia today is that the formation of laws has led to an indifference to the principles of the rule of law and democracy. This resulted in protests and rejection of the laws that had been passed and against the Job Creation Bill which was being discussed in the legislature at that time (Iswari, 2020, p. 127).

Lastly, effectiveness refers to the efficiency of management. It has two important meanings: rational structure, scientifically designed procedures, and flexible activities; and minimize administrative costs. Ineffective or inefficient activities are inconsistent with good governance. The higher the good governance, the higher the effectiveness of its implementation (Keping, 2018, p. 6). In connection with this, nowadays, making or changing until the ratification of regulation takes quite a long time. Based on Law Number 12 of 2011 as amended by Law Number 15 of 2019, to establish or amend a regulation requires the following stages: preparation and design; discussion or discussion; ratification or determination; and invitations or announcements. On the other hand, life in the modern era is dynamic and accompanied by the rapid development of technology, which allows for an urgency to change or form many regulations in a short time. Therefore, acceleration and innovation are urgently needed in the process of drafting laws and regulations that are more effective and efficient. This Omnibus Law will accelerate the obstacles from these overlapping rules so that business certainty can be guaranteed (Mayasari, 2020, p. 13).
Mayasari (2020, pp. 8–9) also explained that the Omnibus Law on Job Creation was prepared with considerations to support job creation where adjustments to various aspects of regulation were needed where changes to sectoral laws were partially felt to be ineffective and efficient, so legal breakthroughs were needed through the formation of laws using the Omnibus Law method which can solve various kinds of problems in several laws into one comprehensive law.

Thus, the process of forming the Omnibus Law on job creation has not fulfilled the principles of good governance. For this reason, this law has received protests and has been rejected even to this day. Therefore, the inclusion of a good governance code usually ends with a list of public values that no one will challenge. And indubitably, this research then suggests that the law on job creation can be re-evaluated.

IV. CONCLUSION

The process of forming the law on job creation, which came to be known as the omnibus law, is perhaps one of the most controversial that has ever taken place in Indonesia. Many aspects were damaged in the process of forming this law. In terms of legal politics, the process of forming this law is very problematic and procedurally flawed. In addition, this law is a tactical and political response from policymakers to a complex and dynamic situation that actually creates complex derivative problems that are not based on the framework that is the basic principles and values of the State. This is inseparable from the nature of the omnibus law itself, which lacks democracy, limits the space for participation, reduces accuracy and prudence in its preparation, and has the potential to exceed the provisions in the constitution. Therefore, from a good governance perspective, the process of establishing the Omnibus Law on Job Creation has not met the principles of good governance, which means that this law does not meet the principles of legitimacy, transparency, accountability, responsiveness, and the rule of law. The principles of effectiveness and efficiency in the principles of good governance in this Law can still be considered. So based on this, this study suggests that the Law on job creation can be re-evaluated.
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