

**OMNIBUS LAW IN INTERNATIONAL HUMAN RIGHT LAW PERSPECTIVE
(FOCUS ON LABOR RIGHT IN INDONESIA)**

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ABSTRACT

There is a Bill titled *All Law* one of the government's progressive steps in the legal sector. This is allegedly due to President Joko Widodo's anger at Indonesia's sluggish progress in the investment sector. Based on reports *Ease Of Doing Business 2019*, Indonesia is ranked 73rd out of 190 countries. Formation *All Law* especially in the economic sector, it is hoped that it will be able to improve the investment climate in Indonesia, Rosan Roeslani said that one of the objectives of the *law to all* This is to improve Indonesia's ranking in *Ease od doing Business*. In legal research, there are two research approaches, namely a normative approach and a sociological juridical approach. Meanwhile, what is used to examine the data are theories commonly known in doctrinal legal theory such as legal rules, legal principles, legal definitions and so on. In this case, *law to all* What is meant in the Indonesian legal system is a form of law that regulates various objects in one legal instrument. so that there is a spread of discourse regarding the omnibus *law* which is equated with the Umbrella Law, namely a law that is the parent of other laws that are still in the same sector. However, if *law to all* narrated as an Umbrella Law, the *law to all* is not regulated in Law Number 12 of 2011 concerning the Formation of Legislative Regulations, therefore *law to all* in the Indonesian context, it is narrated as a law. The protection of human rights (HAM) was originally known in the social contract theory put forward by Rousseau. Based on social contract theory, the rights owned by everyone are handed over to the state based on free will. The state's duty is to provide protection to every citizen if there is a violation of the rights of citizens to achieve order and justice.

Keywords : Human Right, International, Labor

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PROBLEM STATEMENT

Towards the end of 2019, *omnibus law* quickly became a discourse not only in the environment of legal academics in universities or practitioners but also in the ranks of government and business. During the plenary session of the People's Consultative Assembly (MPR) in the framework of the inauguration of the President and Vice President for the period 2019-2024 dated October 20, 2019, one of the contents of President Jokowi's speech was a plan to invite the House of Representatives (DPR) to issue one Law even dozens of laws called *Omnibus Law*.¹ President Jokowi's plan to make the Law is not only limited to speech, so that on January 22, 2020, the House of Representatives of the Republic of Indonesia (DPR-RI) has officially passed the National Priority Legislation Program 2020 containing 50 Bills. One of the concerns is the existence of four Bills entitled Omnibus Law, namely the Draft Law on Work *Copyright*, The Bill of Taxation Provisions and Facilities for the Strengthening of Economy, the Pharmaceutical Bill and the State Capital Bill.

The existence of a Draft Law entitled *Omnibus Law* is one of the progressive steps of the government in the field of law. This was signaled because of President Joko Widodo's anger over indonesia's progress in the field of investment. Based on *Ease Of Doing Business 2019 report*, Indonesia is ranked 73rd out of 190 countries.² The *establishment of Omnibus Law*, especially in the economic sector, is expected to improve the investment climate in Indonesia, Rosan Roeslani said that one of the *objectives of this omnibus law* is to improve Indonesia's ranking in *Ease of doing Business*.³

The existence of *the Omnibus Law* is inseparable from the attention of the public and also academics including students, especially the number of problematic things ranging from concepts, manufacturing procedures to the substance of the articles in it in addition, the establishment of *the Omnibus Law* in Indonesia and the various responses that accompany it, it is necessary to review the omnibus law to explore the basic concepts, benefit, weaknesses, opportunities in sister

¹Bayu Dwi Anggono, *Omnibus Law as a Technique for The Formation of Laws: Adoption Opportunities and Challenges In Indonesia's Procrastination System*. Journal of Right Invention. Volume 9 Number 1, April 2020. Hal, I'm sorry. 1. I'm going to have to

² World Bank. 2019. *Doing /business 2019, Training for Reform*.
https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report_web-version.pdf on 21 December 2020

³ BBC Indonesia. 2019. *Omnibus Law : Hope Interesting Investment Dan Discussion that Centralistic* . Accessed From <https://www.bbc.com/indonesia/indonesia-50837794> On Date 21 December 2020

legislation in Indonesia and how the views of the International Human Rights Law on Omnibus *Law*. Through this assessment is expected a legal reform in the formation of legislation can be done carefully and wisely, so as not to cause turmoil and look unfair in the community that actually causes legal uncertainty in its implementation.

In addition, Andreas Harsono said that, the Government of Indonesia should revise the latest work Copyright Law to⁴meet international human rights standards. The Copyright Act passed by the House of Representatives on October 5, 2020 has restricted basic labor rights and stripped environmental protections, including threatening indigenous peoples' access to diminished tropical land and forests. According to him, this law has fundamentally reduced protections for workers under the Manpower Act of 2003, which covers the minimum wage, severance, leave, maternity benefits, health, and childcare, as well as removing environmental protections and legal protections for indigenous groups.⁵

He continued, creating jobs and attracting investment is an important goal, but all of that is not compromising the basic rights of employment and the rights of indigenous peoples. The government should review this hastily passed law, roll out with a proper opinion, and revise all articles that violate human rights. This law was passed despite opposition from Indonesian trade unions, Civil Society organizations, scientists and Religious organizations, who were concerned about the environmental and labor impacts in Indonesia. Not only the rejection in writing, the students and the labor community held demonstrations against this law in dozens of cities in Indonesia. This is a response and a form of public rejection of the ratification of this law, but the government through the House of Representatives (DPR) has passed the Omnibus⁶ *Law*.

The problem is not resolved until there, the government that wants to socialize this Law has been made revisions that are technical and not on the content. So, since the beginning of public consultation is minimal, the public is difficult to get an official version of the draft law containing about 185 articles and 15 clusters. So many organizations are protesting the lack of transparency.

⁴ Researchers Senior Indonesian From Human Rights Watch.

⁵ Andreas Harsono, *Indonesian: The Law of Undannng Copyright Work Hurt Labor and Society Data*. Accessed From [Indonesia: Law Copyright Work Hurt Labor and Society Data | Human Rights Watch \(hrw.org\)](https://www.hrw.org/indonesia-law-copyright-work-hurt-labor-and-society-data) On Date 21 December 2020 by Bangi.

⁶ *Ibid*

One of them, the National Human Rights Commission, asked the government not to continue the discussion of the Draft Law on Copyright, in order to respect, protect and fulfill human rights for all Indonesians.⁷

Meanwhile, not only related to problematic content, but in the process of its formation has also violated human rights. According to Amnesty International Indonesia Director Usman Hamid, he said that in the process of formulating the *Omnibus Law* Draft Law Create Job the government claims to have involved 14 community unions. But he said there had never been any coordination with the unions in formulating this draft labor law. In fact, the entire organization was never involved in the process of formulating the law. He added, in the perspective of human rights participation is very important.⁸

As stated in article 25 of the Intern's convention on Civil and *Political Rights*, it is stated that the state is obliged to open public facilities and guarantee the right of citizens to participate indecision-making that includes policy making. The law in Indonesia also regulates that in order to ensure public participation, every drafting of the Draft Law must be easily accessible. Thus, in the drafting of the bill it is considered to have violated human rights because it does not involve unions. In this law, there is an article that is removed, namely article 59 of Law No. 13 of 2003 on employment. This Article regulates the provisions of a certain Time Work Agreement which is two years and extended a maximum of one time in a period of one year. The impact of the abolition of this clause will open up space for employers to hire workers under certain time employment agreements indefinitely. This means that workers can be employed indefinitely under contractual agreements without the certainty of security schemes, wages, and pension guarantees as applicable to certain time contractual agreements.

In this case the author will focus on the Copyright Act which has an impact on workers in Indonesia.

HYPOTHESIS

⁷ *Ibid*

⁸ Omnibus Law : ROO Copyright Work Rated Hit Rights Human Rights Human. Accessed From [Omnibus Law RUU Copyright Work Rated Hit Rights Human Rights Human \(kompas.com\)](#) On Day Monday Date 21 December 2020. By Bangi hit 16.32 MYTH

Based on the description of the problem above, the author tries to hypothesize that, the work copyright law that has been passed by the Government of Indonesia through the House of Representatives of the Republic of Indonesia has violated human rights. This is not only related to the content of the law that is not pro against the people, in this case more to workers and also indigenous peoples. However, in terms of the submission process and also the discussion has violated human rights because it decides something very important without including the object of the law. Therefore, when the law was passed, many people protested and asked not to pass when it was still a bill, until it asked to repeal the law. With regard to international human rights, it has also violated international agreements. Thus, if brought to the International court, it can be ascertained that the law can be overturned.

According to the author, this is as a form of prerogative president's right to use his power. However, the right has not been used as necessary, because the decisions that have been made are not acceptable to many people, especially people whose economy is substandard. The policy only benefits investors and conglomerates.

RESEARCH QUESTIONS

Based on the description of the problem above and the hypothesis that has been presented, the author tries to provide the following problem formulation:

1. What is the *concept of Omnibus Law*?
2. Where is *the Omnibus Law* in the Indonesian Legal System?
3. What is the perspective of International Human Rights Law on *Omnibus Law*?

LITERATURE REVIEW

1. ***Omnibus Law as a Technique of Law Formation: Adoption Opportunities And Challenges In the Indonesian Legal System.*** In this article, the author emphasizes the system of legal formation in Indonesia. The author does not mention anything related to human rights law. The author also pointed out that if⁹ using the omnibus law system for *the formation* of the law would be easier to reach an agreement and avoid the political

⁹ Bayu Dwi Anggono, Faculty University Law Jember. Journal Right Invention. Volume 9 Number 1, April 2020

master, save time and shorten the legislation process, make it more efficient, and increase productivity in the formation of legislation. He also mentioned the weaknesses of *the omnibus law*, namely pragmatic and less democratic, limiting the participation space and being drafted systematically and less carefully. Meanwhile, in this proposal, the author will focus more on *how omnibuslaw has violated human rights that focus on workers and workers in Indonesia as seen from the glasses of International Human Rights law*.

2. **The Architecture of *The Application of Omnibus Law*** through the Transplant Law of the National Establishment Act. ¹⁰What focus in this study is more to the establishment of legislation? As for the results of his research is. The approach that progresses if the interpretation of the law is not limited to the sound of the text of the law on the establishment of legislation and other sector laws in the omnibus law content material through it *the architecture of the application of omnibus law can be achieved*. Furthermore, the process of transplanting *the omnibus law law has gone through a national legal adjustment before it is implemented*. In this paper, the author is more likely to support the government in providing policies for the existence of omnibus law, the author does not mention about how a application to the least community groups, the author only sees from the side of the formation of legislation only.

METHODOLOGY

a. Research Approach

In legal research, there are two research approaches, namely normative approach and sociological juridical approach. Normative juridical approach is the process of finding answers to problems and the purpose of this research is based on the framework of normative legal theory. Meanwhile, used to study data are theories commonly known in the theory of law doctrinal such as the rules of law, legal principles, legal understandings and so on. While the sociological juridical approach characterized in the search for answers to problems and research objectives using empirical-sociological legal theory of law. In this study, the authors used a¹¹normative dis normative approach, with a statutory approach and concept that also

¹⁰ Ahmad Ulil EyidSakti Lazuardi, Company Chandra Princess, *Journal Scientific Policy Audience*. Volume 14. Number 1, March 2020.

¹¹ Soerjono Soekanto, *Research Law Normative*, Jakarta: King Grafindo Persada. 2009. Page. 56.

examines document studies, namely using various secondary data such as legislation and also theory in law.

b. Collect Data Method

Data collection method used in this research is literature study to obtain theories that support the analysis of proposed problematics and positive laws in the form of legislation related to the suitability of the national legal system in Indonesia.

Omnibus Law Concept

Bryan A. Garner in the Black Law Dictionary Ninth Edition states that *the omnibus* is "relating to or dealing with multiple objects or items at once; including many things or having various purposes".¹² Where if matched with the word *law*, it can be obtained that *omnibus law* is a law that regulates various objects, items and purposes in one legal instrument.

The Duhaime Legal Dictionary says that *the omnibus law* is "a draft law before a legislature that contains more than *one substantive matter, or several minor matters that have been combined into one bill, ostensibly for the sake of convenience*".¹³ In this case, *The Duhaime Legal Dictionary* highlights that the *omnibus law* is a bill that highlights more than one substantive problem or minor problem that has been merged into one legal instrument.

According to Barbara Sinclair, *the omnibus bill* is a complex regulatory process and the solution takes a long time because it contains a lot of material even though the subject, issue, and program are not always related. In this case, Barbara focused on the omnibus bill as¹⁴ a process in shaping the complex rule of law.

Fachri Bachmid stated that *omnibus law* is a legal product concept that serves to consolidate the tie of various themes, materials, subjects, and legislation in each different sector to

¹² Sarah Sapphire Aulianisa. 2019. *Measuring Kompabilitas Transplantation Omnibus Law In Context Regulations Legislation With System Indonesian law*. Paper Presented of Conference Scientific Law and Human Rights 2019, Ministry Law and Rights Human Rights Human

¹³ Louis Massicotte. 2013. *Omnibus Bills in Theory and Practice*. Canadian Parliamentary Review/ Spring 2013., Pp. 14

¹⁴ Barbara Sinclair. 2012. *Unorthodox Lawmaking: New Legislative Processes in the U.S Congress*. Los Angeles: Sage., Pp. 33

become one large and holistic legal product. According to Bivitri Susanti, the ¹⁵ *scope of omnibus law* often targets major issues contained in a country.¹⁶

Louis Massicotte stated that there are several reasons why legislators *use omnibus law* techniques in shaping a law. *First*, this is due to the complex negotiations of each orientation of legislators, in addition to omnibus techniques that make the government can cut the time and legislative procedures in forming a law. *Second*, the practice is intended to garner public support for a law, putting pressure on opposition groups to submit to the government's agenda.¹⁷

The *omnibus bill technique* is mostly used by countries that adhere to the common law system. The *common law system* was a legal system that developed in England since the 16th century and developed rapidly outside the British state such as Canada, America, and the former British colonies.¹⁸

According to Louis Massicotte, the omnibus law began in December 1967 when Pierre Trudeau—Canada's Minister of *Justice*—introduced a *Criminal Law Amandement Bill* governing a wide range of issues such as homosexuality, abortion, contraception, gun ownership, violence against animals, ect.¹⁹

In America, the omnibus law itself can be seen *from the regulation of the Transportation Equity Act for the 21st Century* (TEA-21) which is a replacement law of the *Intermodal Surface Transportation Efficiency Act* (ISTEA). In addition, it can be seen from the Omnibus Trade and Competitiveness Act of 1988 (OCTA) which was drafted in order to improve the trade deficit of the United States at that time. This law regulates widely the revision of trade provisions on aid adjustment, export boost, harmonization of tariffs, international trade policy, foreign investment, ect.²⁰

¹⁵ Agnes Fitryantica. 2019. *Harmonization Regulations Legislation Indonesian Through Concept Omnibus Law*. Journal Gem Justice., Vol. 6, Edition 3, October-November 2019., Pp. 303

¹⁶ *Ibid*, page. 304

¹⁷ Louis Massicotte., *Op.cit* Pp. 15

¹⁸ Farihan Aulia Dan Sholahuddin Al-Fatih. 2017. *Comparison System Common Law, Civil Law and Islamic Law In Perspective History and Characteristics Think*. Journal Legality, vol. 25, No. 1, March 2017., Pp. 103

¹⁹ Louis Massicotte., *place.cit*

²⁰ Agnes Fitryantica., *Op.cit* Pp. 304

In Australia, omnibus law can also be seen in the Civil Law and Justice Act 2015. This Law amends the regulations in 16 laws that have different content materials. Among them are the Bandung Administrative Tribunal Act 1975, the Bankruptcy Act 1966, the Federal Court Act 1976, the International Arbitration Act 1974, ect.²¹

According to *Firman Freaddy Busroh*, there are several objectives related to the establishment of omnibus law, among others (1) to resolve the conflict of legislation quickly, effectively, and efficiently; (2) uniformize government policies at the central and local government levels; (3) licensing management is more integrated, efficient, and effective; (4) able to break the lingering bureaucratic chain; (5) the increasing coordination relationship between relevant agencies because it has been regulated in an integrated omnibus policy; (6) there is a guarantee of legal certainty and legal protection for policy makers.²²

However, in a *commonwealth vs Barnett ruling* issued by the Commonwealth Court of Pennsylvania, there was a commentary on the legislation process in the ruling. The court even referred to the omnibus bill as crying *evil* because it stirred up inappropriate subjects.²³

Omnibus Law Position In Indonesia Law System

According to Hans Kelsen, the norm is tiered and multi-layered in a hierarchical order, the norms below apply, sourced and based on higher norms apply, sourced and based on higher norms, so on until finally this 'regresses' stops at a highest norm called the basic norm *or groundwork*.²⁴

Hans Nawiasky—a disciple of Hans Kelsen—developed his teacher's theory of noma levels in relation to a country. He argued that in addition to the norms are multi-layered and tiered, legal norms in a country are also clustered, and the grouping of legal norms in a country consists of four large groups *namely stats fundamental norm, stats grund gesetz, formell gesetz, and verordnung & autonome satzung*.²⁵ This theory is also the basis prevailing in modern countries regarding the hierarchy of legislation.

²¹ *Ibid*,

²² Sign Freaddy Busroh. 2017. *Konseptualitas Omnibus Law In Complete Problems Regulation Land*. Journal Legal Arena, Vol. 10, No. 2, August 2017., Pp. 247

²³ Louis Massicotte., *place.cit*

²⁴ M Farida air Indrati. 2011. *Science Legislation I*. Yogyakarta: Canisius., Pp. 41

²⁵ *Ibid*

In article 7 paragraph (1) of Law No. 12 of 2011 concerning the Establishment of Laws and Regulations states that the hierarchy of laws and regulations in Indonesia is as follows:

1. Constitution of the Republic of Indonesia 1945
2. Decree of the People's Consultative Council
3. Government Act / Regulation Replacement Act
4. Government Regulation
5. Presidential Regulation
6. Provincial Regulations
7. District/City Regulations

In this case, the context of Hans Nawiasky's theory can be reflected in the Indonesian legal system. *Stats fundamental norm* which is the basic philosophical basis containing the basic rules for further state regulation is in the details of Pancasila contained in the opening of the 1945 Constitution, *stats grund gesetz* as reflected in the 1945 Constitution, *formell gesetz* as reflected in the Law, *verordnung & autonome satzung* which is the implementing regulation and autonomous regulations reflected in the pp hierarchy down.

Where is the *omnibus law*? In this case, the *omnibus law* referred to in the Indonesian legal system is a form of law that regulates various objects in one legal instrument. However, if *the omnibus law is* narrated as an Umbrella Law, *then the omnibus law is* not regulated in Law No. 12 of 2011 on the Establishment of *Legislation*, *hence the omnibus law in* the context of Indonesia is narrated as a law

Omnibus Law of Job Create and Labor

The expansion of job openings as a result of increased investment is one of the main reasons and the main logic that the government is trying to build to pass this Omnibus Law Bill. Indeed, the expansion of investment – especially direct investment – is positively correlated with job openings, especially direct investment, be it in manufacturing, services, agriculture and various other sectors. This is a bullet for the government to build collective awareness that the Omnibus Law Bill is indeed necessary for economic growth and also the need for job openings. However,

looking further, the spirit of protection and improvement of labor quality prosperous seems not to be the main spirit of the Omnibus Law Bill.

In Law No. 13 of 2013 Chapter 1 Article 1 paragraph (1), Manpower is all matters related to labor at the time before, during, and after the period of employment and what is meant by labor based on Article 1 paragraph (4) is Labor is everyone who is able to do work to produce goods and / or services both to meet their own needs and for the community. Departing from the Article, when we talk about labor-related issues, we should not just focus on opening up jobs. But also have to pay attention to how the rights of the worker during work, see how the instruments - instruments used to expand the employment and also to see how the condition of the worker after work from where he worked.

Looking at the state of the workforce must certainly look at how much participation and their access to lines of work, which can be macro-drawn from the percentage rate of unemployment. These two variables have a negative correlation, namely when the unemployment rate is lower, the labor participation rate towards the sectors - the employment sector is getting higher. Thus, the expansion of labor can be seen from one of them is how the government is able to lower the unemployment rate.

Sub-technical, Omnibus law is a legal instrument proposed by the government with the aim of boosting Investment in Indonesia. This omnibus will change all thematic laws that are considered capable of hindering investment in Indonesia. The rules consist of eleven clusters, one of which is focused on labor and job opening.

It cannot be considered investment does have an important role for the Indonesian economy. And clearly, the purpose of this study was not to confirm the role of investment in the Indonesian economy. Investment has a big role for the Indonesian economy, one of which is reflected in the portion of investment in gross domestic product (GDP). Investment will also certainly be able to absorb labor, individuals and of course will open new jobs. Also to the multiplier effect that will be carried by the investment activities. However, the main problem point in this Omnibus Law is the "*trade off*" chosen by the government to improve investment performance.

The narrative that continues to be built by the government is that Indonesia's investment performance is so poor. As explained above, Indonesia's investment is actually included in the top 20 recipients of Foreign direct investment (FDI), as well as the portion of investment to GDP compared to ASEAN countries is also one of the highest. The government is really trying hard to build a collective awareness that investment must be continuously boosted, no matter what "²⁶*cost*" that must be spent for this push.

To perpetuate the "passion" of this government, once again in order to build collective awareness about the need for investment, through the discourse that with the ratification of this "Gift", will open wider employment, decrease unemployment, to economic growth that will skyrocket. However, in reality, in the Omnibus Law there are many rules that actually reduce workers' rights and do not pay attention to labor rights at all. Perhaps, it is labor that is used as a *trade off* by the government to increase investment.

INTERNATIONAL HUMAN RIGHT LAW FOR LABOR

The perspective of workers in looking at working relationships is the human rights perspective. From a worker's perspective, the fulfillment of human rights should be given to all workers without distinguishing workers from permanent employment relationships or workers with flexibility of employment relationships based on non-discrimination principles. Legal protection for workers is provided because the safety and sustainability of work becomes threatened due to the implementation of flexibility of employment relationships.

Human rights are basic rights or basic rights that people bring from birth as a gift from God. Human rights literally mean the rights that a person has solely because he or she is a human being. Human rights are rights that every human being has equal or the same as that of others. Human rights are an irrevocable right. Human rights are universal rights in the sense that all human beings are human rights holders. Human rights became the basis for the birth of other rights.

The Bill of Rights in America and the Declaration of The Rights of Man and Citizen in France drafted in the late *eighteenth* century were the first documents to list human rights (Human Rights) The document was born in reaction to the tyrannical repression of rulers who violated the rights of individual freedoms. In the field of employment law, an important stage in the

²⁶ United Nations. 2019. World Investment Report 2019. New York: United Nations Publications

development of employment rights was the establishment of the International Labour *Office* in 1919, as the *forerunner of the International Labour Organizations* (ILO), with the task of *drawing up international labour standards*. Although there is a skeptical view that the move was taken to protect the interests of companies from developed countries in competition with companies established in countries with low labor standards, the start-up of recognition of labor rights in the international sphere has already begun.

In 1948 the UN General Assembly *declared the Universal Declaration of Human Rights*, followed up with the establishment of the International Covenant on Civil and Political *Rights* (ICCPR) *and the International Covenant on Economic, Social, and Cultural Rights* (ICESCR) in 1966. In the field of employment, the *International Labour Organizations* (ILO) was formed which continues the task of drafting and promoting international labor standards.

Human rights are generally divided into two groups, *namely Civil and Political Rights* and *Economic, Social, and Cultural Rights*. Civil and political rights are rights relating to the freedom of an individual as citizens of a democratic state, which includes protection from the tyranny of arbitrary rulers, equality before the law, freedom to choose and be elected in the democratic process, freedom of speech, and so on. While economic, social, and cultural rights are rights related to the rights of individuals in the fulfillment of the needs of life, which include the right to work, the right to health care, the right to a healthy environment, the right to social security, and so on. Economic, social, and cultural rights have enormous relevance to employment law, while civil and political forms of rights that have relevance to employment law include union rights for strike rights workers, and the right not to get discrimination in the workplace.

Two types of civil and political rights relevant to employment relations are union rights for workers and non-discrimination rights. Union rights are contained in Article 23(4) *of the Universal Declaration of Human Rights* and Article 22 *of the International Covenant on Civil and Political Rights* (ICCPR). ICCPR provides general explanation of the rights of association as follows:

Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and join trade unions for the protection of his interest.

Non-discrimination rights are included in almost all human rights documents. Article 26 of the ICCPR contains the following non-discriminatory rights:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, religion, language, political or other opinion, national or social origin, property, birth, or other status.

The types of social, economic, and cultural rights relevant to employment relationships are the right to work, the right to wages, and the right to occupational health and safety. Employment rights are included in Article 23(1) of the *Universal Declaration of Human Rights* and Article 6 of the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR). The right to a living wage for workers is included in Article 23(3) of the *Universal Declaration of Human Rights* and Article 7 of the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR).

Respect for human rights in the workplace is included in the basic conventions of the *International Labour Organizations* (ILO). The basic ILO convention on basic rights in the workplace consists of 8 (eight) ILO conventions divided into 4 (four) groups as follows:

- a. Freedom of Association (ILO Convention No. 87 and No. 98).
- b. Elimination of Discrimination (ILO Convention No. 100 and No. 111).
- c. Elimination of Forced Labor (ILO Conventions No. 29 and No. 105).
- d. Elimination of Child Labor (ILO Convention No. 138 and No. 182).

The protection of human rights was first known in the theory of social contracts put forward by **J.J. Rousseau**. Based on the theory of social contracts, the rights owned by each individual are handed over to the state based on free will. The duty of the state is to provide protection to every citizen in case of violation of the rights of citizens to realize order and justice.

Respect for human rights is one of the characteristics in the concept of state law. The concept of state law is contained in the general explanation of the 1945 Constitution which states that Indonesia is a country based *on the law (rechtsstaat)* not based *on power (machsstaat)*. The

concept is contained again in Article 1 paragraph (3) of the 3rd amendment (third) of the 1945 Constitution which states that the state of Indonesia is a state of law.

The concept of a state law has characteristics of state power limited by law, respect for individual rights, and the existence of a free and impartial judiciary. The state of law is a state that places the law as the basis of the exercise of state power and the organizer of state power in all its forms is carried out under the rule of law.

The rule of law is the concept of the state of law put forward by **Dicey** with the following characteristics:

- A. State power is not exercised arbitrarily but is limited by law (*supremacy of law*).
- B. Every citizen has an equal position before *the law*.
- c. The legal process runs in accordance with the established rules (*due process of law*).

While *rechtsstaat* is the concept of the state of law put forward by **Julius Stahl** with the following characteristics:

- A. Recognition and protection of human rights.
- B. Separation of state power based on the theory of Trias Politica.
- c. Governance is organized based on the law (*wetmatig bestuur*).
- d. The existence of administrative justice as a means of legal protection for the people.

CONCLUSION

Omnibus Law as a new law passed by the government is certainly inseparable from the pros and cons of various parties. Therefore, it would be very nice to look at many aspects, one of which is in terms of International Human Rights Law. Thus, the government will have a reference before implementing a law, meaning that the law should not violate human rights, especially workers in the Country of Indonesia. Because when viewed from the view of International law, workers get rights that should not be contested.

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