

Omnibus Law on Job Creation in Adopting Labor Market Based on the Industrial Revolution 4.0



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Preface

The planning on changing of labor regulations in the National Legislation Program 2020 through the bill of Omnibus Law on Job Creation has triggered long discussions among workers and academics. Discussions and debates have begun when cognizing the point b of consideration in the bill stating ".... *that with job creation it is expected to be able to absorb the widest Indonesian labor in the midst of increasingly competitive competition and the demands of economic globalization*".

Besides, in the background, it is quite clearly stated about preparing competitiveness in facing digital revolution: "*In line with technological developments, current needs and conditions, labor challenges and problems are increasingly complex and varied, especially in facing Industrial Revolution 4.0 where in the future, the digitalization era become more dominant and the existence of demographic bonus in Indonesia. This issue will certainly have an impact especially in the employment field*". (Page 13)

These two things are simply can be seen as contradictory. The intended bill such wants to create jobs, but by encouraging the adaptation and utilization of technology, especially based on Industry 4.0, there will be a tendency to the labor reduction in existing or current industries. The production which known as Smart Factory¹ will add manufacturing productivity where the productivity occurs with the lower utilization of human labor. The tendency for layoffs will not be avoided if the transition is done in order to increase the productivity of 10-12%². The process of industrial globalization

¹ <https://binus.ac.id/knowledge/2019/05/mengenal-lebih-jauh-revolusi-industri-4-0/>

² <https://www.supplychaindive.com/news/smart-technology-higher-labor-productivity-manufacturing/563511/>

where global supply chains in many types of industries will encourage the transition process of using technology becomes trends globally.

In IGJ's Framing Paper on Omnibus Law³ also has been mentioned that the change on globalization trends nowadays is caused by the changes of global production supply chains that are become more regionalized due to the development and the use of digital technology. The IGJ's notes how the classic recipe of capitalism was again transmitted by the World Bank and OECD to Indonesia as a way out of the stagnation of current economic growth by adapting to global trends that lead to the models of economic transformation and digital technology-based industries in the Global Value Chain scheme.

According to the World Bank, the main key of GVC successes as a source of new economic growth is by doing trade transformation that leads to the industrial revolution 4.0. It is believed that this industry 4.0 has contributed to higher productivity and a greater production scale in response to the problem of the middle-income trap. Thus the new production of technology will increase the demand for imported inputs from developing countries and re-encourage the growth of global trade⁴.

The transition of this digital-based modern industry will lead to labor migration. The transition of '*old model*' labor to industries that still need such a model of labor but also creates new trends in labor market competition. The trend of labor market competition that will develop is the labor that has a trend in labor with digital-based capabilities. According to BPS (Central Statistic Bureau) data that has been processed by Bank Indonesia in the 2019 Indonesian economic report, the labor market that produces goods has continued to decline since the global economic slowdown in 2012. While on the other side there will be surges in labor market services production⁵.

This situation will continue pressuring Indonesia to immediately make improvements to the labor market, as stated in the academic text of the Omnibus Law on Job Creation (page 43) that adopted OECD analysis. The OECD analysis⁶ states "The reformation of regulation is led to ensure that this regulation is fully responsive to the changes of its surroundings economic, social and technical conditions. A lot of reformation has been determined by technological developments that have changed basic costs and competitive structures in industries start from telecommunications, banking to biotechnology. At the same time, the regulation of reformation is a strong stimulus for innovation. "

³ Framing Paper IGJ RUU Omnibus Cipta Lapangan Kerja, April 2020, dapat diunduh dari link: <http://igj.or.id/framing-paper-igj-ruu-omnibus-cipta-lapangan-kerja/>

⁴ World Development Report 2020, Bank Dunia, Hal. 15

⁵ <https://www.bi.go.id/id/publikasi/laporan-tahunan/perekonomian/Default.aspx> hal 117

⁶ <https://www.oecd.org/sti/inno/2102514.pdf>



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Omnibus Law: Labor Market Based on Digital Industry

The transition of labor will follow the development of digital-based industry models, where the service industry will get a huge portion. The transition will not only occur as labor in digital-based industries but will carry the labor market to a new model of labor. Digital-based labor models such as online driver where the business model is owned by them (vehicles, licenses, etc.) place them in an ambiguous position as workers as business partners or digital-based business people. They clearly do not get protection as workers or employers. The same thing will also happen in micro and small industries that utilize digital facilities or digital applications, where individual businesses or done by several people will be included in a category that is not much different from online driver workers. This *Cilaka* Bill does not provide anticipation or prepare for this. The government should start preparing the changes on Labor Law that more anticipate new job models in order to be able to protect workers or micro and small industry players in business or digital facilities.

In article 89 of the Omnibus Law on Job Creation (*Cilaka* Bill) concerning the amendments of Law No.13 of 2003 (Labor Law / UUK) paragraph 12 states to eliminate article 59. The previous article 59 in the UUK in paragraph 1 states "Work agreements for a certain time can only be made for certain jobs which according to the type and character or its activities work will be completed within a certain time ". Furthermore, it also explains some temporary jobs and cannot employ labor for permanent jobs for production activities and for a long time or more than 3 years. In the omnibus bill, this article was eliminated, the core work chain (Core Business) is flexed in order to fulfill the development of the digital era.

Besides eliminating strict provisions concerning the Core Business, Omnibus law also eliminates the provisions concerning outsourcing. Provisions in UUK article 64 are deleted through the provisions of article 89 paragraph 16 of the Job Creation Bill. In the production environment based on digitalization, it is clear that there will be a

lot of job types and characteristics that can be done by outsourcing. It will eliminate the strict rules on the type of Core Business to anyone without labor rules. If previously there was a prohibition for outsourced companies not to be able to employ their workers in basic production, now there are no strict rules on it. The rules stipulated in article 65 of the UUK are now will be regulated through a Government Regulation.

This situation opens up a very spacious space for the inception of industries that are fully working in a chain or network of outsourcing. Industries that do not have a clear core industry, where smaller capital will tend to develop with bigger risk. The fragile industry model, flexible and low in protecting industry players, especially the workers involved inside of it. The *Cilaka* bill tends to be overly optimistic seeing the development of this industrial model provides value-added and business opportunities rather than the risks that will be suffered by most people who will be involved.

Regarding working hours, one of the characteristics of the industry in the digital era is its flexible character. The *Cilaka* Bill revised article 77 of the UUK, which previously had rules, and provisions on more fixed working hours are then being loosened. Article 89 of the *Cilaka* Bill through the provisions in paragraph 20 allows companies can determine work hours exceeding 8 working hours a day and 40 hours a week with consideration of the work scheme which will further be regulated in Government Regulation. It opens up uncertainty which is seen tend to provide more freedom for business actors (investors) than for workers.

Facing a very significant change especially on the transformation of this digital-based industrialization model, the government seems to be fully aware there will be a lot of workers lost their jobs due to work efficiency in the industry. Mass layoffs due to this technological transformation are only given a very pragmatic guarantee. It is only by preparing money in the form of a job loss guarantee and money awards. A model that easily provides more flexibility for businesses to get a room for doing layoffs with low compensation to the workers. The provisions of the *Cilaka* Bill Article 90 on amendments to Law No. 40 of 2004 concerning the Social Security System amend 1 article and add 5 articles (46A, 46B, 46C, 46D, and 46E) between articles 46 and 47, namely guaranteed job loss issue. Through this article, the government hopes that the benefits received by the workers from the insurance dues after being affected by job loss. Likewise through training and certification, cash and placement facilitation. However, those who take part in the training or guarantee according to article 46 C are workers who have paid dues. The company's expense becomes very low, especially the state that is not burdened by the potential of this policy.

Job training guarantees, money, and certification as part of the industrial transition process can be underlined is carried out with the expense of the workers themselves. Valid for those who have paid dues. The company's burden becomes smaller, whereas the guarantee for post-transition workers is difficult to measure or even arguably will be very small. For companies that employ large numbers of workers, this is a relief opportunity compared to workers. What the government showed in handling Covid-19 in providing job training for participants of the pre-employment card shows the model and capability and effectiveness of similar programs that will be carried out for this transition program.

In the amendment of Law No.24 of 2011 concerning the Social Insurance Administration Organization (BPJS) of the *Cilaka* Bill in article 91 amend 2 articles of the BPJS Law. The policy on BPJS as executor of social security, its provisions only adds job loss guarantees issue in articles 6 and 9 of the BPJS Law. If we see in its practice there are really a lot of provisions that should be changed and added in BPJS Law but it later by *Cilaka* Bill will only be regulated in a Government Regulation (PP), different from 4 previous existing legacy guarantees.

In order to add to the preparation, the government re-arranged the provisions on the award in article 92 concerning giving money awards to labor. With some measure of work time, the government asked the companies to give money awards. With these 6 paragraphs the government endeavors to provide preparations for laborers that will lose their jobs to receive a money award. This rule will then be regulated by government regulations. Once again from the many patterns done in this bill, namely leave out a lot of problems through PP where it is not clear. The regulatory frame is carried out through *Cilaka* bill, several important issues are carried out through the PP, where most people, especially workers, doubt that. This *Cilaka* Bill has a trap to be approved, such as 'buying a cat in a sack'.

Another problem that arises is the issue of wages which is determined by the company's "capability" which is made together with workers through a "bipartite" dialogue mechanism. This further loosens the rules on the protection of workers' wages as in article 90 A amendments *Cilaka* bill. So that the issue of wages outside of basic wages such as overtime, a holiday allowance (THR), and other benefits will be very difficult to obtain by the workers. The amendment to article 88 of the Omnibus Law, the government eliminates wage supervision by no longer determining the net wages for workers known as Regency / City minimum wages and sectoral wages in Regency / City. This rule is then re-weakened in Article 90B, which excludes MSMEs. That in order to pay workers the company should make a wages scale that will be dialogue, confusing rules remake with the time unit scheme on the amendment of article 92 and can be changed according to the company's capabilities such as article 92 A. This further weakens the workers' position, especially the protection of workers' wages. Because in the field there have been many delays in the payments of labor wages. This is re-legitimized by the loss of criminal sanctions for those who provide labor wages below the Minimum Wage that has been determined by the abolition of article 90.

Besides wages and workers' status issues (PKWT / PKWTT) other things become a problem is rest and leave issues in article 79. This change makes changing work schemes such as working shift models because of work on 6 working days a week. Strict rules regarding long breaks that were previously regulated in the Labor Act have been removed. The issue of wage rights for leave is also easing. If in Article 93 of the Law that the employer must provide wages to workers who are sick, menstruate for women, are married/circumcised/baptized or the wife is sick, giving birth and miscarriages and parents or family members died are not strictly regulated. Because its degree was lowered in government regulations. Thus, periods of rest and leave will be increasingly difficult to obtain by workers in the future.

Through the *Cilaka* Bill, it is seen that the government consciously will make changes to the rules relating to labor, following the interests of investments and digital changes that are happening globally, including digital economic models. The plan seen in the *Cilaka* Bill is quite clear making labor rules becomes very flexible. While the reality on the field today a lot of companies start to apply pressure on workers to end their work with an early retirement scheme, as he case happened in several companies in Jakarta Bogor Depok Tangerang and Bekasi (Jabodetabek). The addition of modern machines has had an impact on labor reduction. The changes by the Indonesian industry which generally still use low technology by relying on human labor.
