

## SOCIO-LEGAL PERSPECTIVES ON THE OMNIBUS LAW IN THE ERA OF INDUSTRIAL REVOLUTION 4.0: A CASE STUDY OF BATAM CITY

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### Abstract

*Industrial Revolution 4.0 (IR 4.0) has the potential to improve the quality of life for people around the world, but it also has caused the waves of unemployment and layoffs. The Indonesian government has set 10 national priorities to deal with the IR 4.0 by “harmonization of rules and policies” (Priority 10 of Making Indonesia 4.0). In this regard, the government adopts the Omnibus Law approach by enacting the Job Creation Law. This study aims to ascertain the perspectives of Batam people regarding the Job Creation Law whose status is still conditionally valid. This study adopts empirical legal research by collecting and processing 2 types of data, namely primary data and secondary data. Both data were analyzed by using a descriptive qualitative approach. It found and concluded that based on the survey of 210 workers in Batam City, they have positive perceptions of the Job Creation Law since they consider that the Law provides more legal certainty than the former Employment Law. They are also more favorable of this Law than the former Employment Law because it abolishes the overlapping regulations and make one new effective regulation to improve the economy of people. In addition to the Central Government’s efforts to fulfil the requirements of the Constitutional Court Decision Number 91/PUU-XVIII/2020, various stakeholders in Batam City have contributed their insights and inputs to make the Job Creation Law perfect to respond many challenges in the era of RI 4.0. and it can be valid and fulfill the requirements of the Constitutional Court’s Decision.*

**Keywords:** sociology of law, job creation law, industrial revolution 4.0, Batam City

### A. Background

Industrial Revolution 4.0 (IR 4.0) is the implementation of automation technology and data exchange in the industrial sector. Many studies assert that IR 4.0 is a real threat to employment because human labor will be partly or entirely replaced by robots and other automation technologies. Although IR 4.0 has the potential to improve the quality of life for people around the world, but it also has caused the waves of unemployment and layoffs.<sup>1</sup> To respond to the IR 4.0 and to face the rapidly growing digital economy, the Indonesian government is committed to increasing the national industry by

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<sup>1</sup> Ahmad Hunaeni Zulkarnaen, “Pelatihan Para Supervisi Di PT Fasic Tentang Ketenagakerjaan Dalam Menyongsong Revolusi Industri 4.0,” *JE (Journal of Empowerment)* 2, no. 1 (2021): 139–49, <https://doi.org/https://doi.org/10.35194/je.v2i1.799>.

launching the "Making Indonesia 4.0" Roadmap on 4 April 2018.<sup>2</sup> In the "Making Indonesia 4.0" roadmap, the government has an agenda to realize the opening of ten million new jobs in 2030 where the Indonesian industry at that time is expected to be able to implement industry 4.0 and compete with other countries.<sup>3</sup> In addition, the Indonesian government has set 10 national priorities to deal with the I.R.4.0. one of the 10 national priorities is "harmonization of rules and policies" (Priority 10). In this regard, Indonesia is committed to harmonize its rules and policies to support industrial competitiveness and to ensure a close coordination of policy makers between ministries and institutions. To realize this, the government adopts the Omnibus Law approach. It is the government's choice in making an integrated law to regulate many overlapping regulations and formulating new regulations that can improve the economy.<sup>4</sup> Many laws are unsynchronized; therefore, the government took a progressive step by trimming some of the regulations and organizing them into one regulation. It was expected that a positive change would occur to attract investors to invest in Indonesia. A possible solution to deal with the regulations which are no longer harmonious is to simplify them by using an omnibus law approach which has been widely implemented in various countries with a common law system.<sup>5</sup>

The innovation in the field of law was carried out by the Government of President Joko Widodo by issuing the Omnibus Law should be appreciated.<sup>6</sup> It is true that it has reaped a reaction from the public because Indonesia under the civil law legal system, is not used to apply the omnibus law approach, which is philosophically, juridically, and sociologically different from the common law system. Nevertheless, the approach has become a challenge in a progressive legal progress of Indonesia in facing the Industrial Revolution 4.0. The purpose of the Omnibus Law according to Law No. 15 of 2019 concerning the Amendments to Law Number 12 of 2011 on the Establishment of Legislations is to reduce the disharmony and overlapping of laws by fixing the regulatory issues, namely by revising and

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<sup>2</sup> Kementerian Koordinator Bidang Perekonomian Republik Indonesia, "Pemerintah Luncurkan Making Indonesia 4.0," Kementerian Koordinator Bidang Perekonomian Republik Indonesia, 2018, <https://ekon.go.id/publikasi/detail/1443/pemerintah-luncurkan-making-indonesia-40>.

<sup>3</sup> Bey Machmudin, "Presiden Jadikan Making Indonesia 4.0 Sebagai Agenda Nasional," Kementerian Komunikasi dan Informatika Republik Indonesia, 2018, <https://www.kominfo.go.id/content/detail/12847/presiden-jadikan-making-indonesia-40-sebagai-agenda-nasional/0/berita>.

<sup>4</sup> Muhammad Insa Ansari, "Omnibus Law Untuk Menata Regulasi Penanaman Modal," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, no. 1 (2020): 71–90, <https://doi.org/http://dx.doi.org/10.33331/rechtsvinding.v9i1.378>.

<sup>5</sup> Wicipto Setiadi, "Simplifikasi Regulasi Dengan Menggunakan Metode Pendekatan Omnibus Law," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, no. 1 (2020): 39–52, <https://doi.org/http://dx.doi.org/10.33331/rechtsvinding.v9i1.408>.

<sup>6</sup> Bayu Dwi Anggono, "Omnibus Law Sebagai Teknik Pembentukan Undang-Undang: Peluang Adopsi Dan Tantangannya Dalam Sistem Perundang-Undangan Indonesia," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, no. 1 (2020): 17–37, <https://doi.org/http://dx.doi.org/10.33331/rechtsvinding.v9i1.389>.

even revoking part or all of the laws, and then rearranging them into one law.<sup>7</sup> The use of the Omnibus Law method is an effective legal approach in creating an investment climate, consequently many countries have adopted it, especially those of the Common Law legal system.<sup>8</sup> As the results, Law no. 11 of 2020 concerning Job Creation (the Omnibus Law) was enacted to create a conducive climate for investment by reforming regulations in the field of business licensing.<sup>9</sup> Previously, the Omnibus Law in Indonesia had been implemented but was not effective, namely in the MPR Decree No. 1 of 2003, Law No. 23 of 2014 concerning Regional Government and the Government Regulation No. 20 of 1994 concerning Share Ownership in Companies.<sup>10</sup>

Previous studies on the Omnibus Law from various perspectives, found legislation with the synchronization problems need to be reconstructed as a legal model that can bridge and at the same time solve regulatory issues by the formation of the Omnibus Law.<sup>11</sup> In contrast, Agus Darmawan<sup>12</sup> used a normative approach which shows that the Omnibus Law has not been formulated in an effective and accountable manner, therefore it needs an improvement to balance its level of accountability based on juridical, political, sociological and economic aspects. Another researcher concluded that Sociology of Law responded to the rejection of the Omnibus Law by workers because they perceived that the Omnibus Law was contrary to the workers' rights. This was reflected by the protests of workers nationally.<sup>13</sup>

The Omnibus Law is contrary to Law No. 12 of 2011 concerning the Establishment of Legislations because the later Law does not recognize the construction of grouping chapters and articles.<sup>14</sup> The Job Creation Law is considered not to be in favor of the community, especially workers in relating to the matters pertaining to severance pay and the reduced amount of

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<sup>7</sup> Gilang Ramadhan, "Omnibus Law Sebagai Sarana Utama Penataan Regulasi," *Jurnal Yurispruden* 3, no. 2 (2020): 172–85.

<sup>8</sup> Louis Massicotte, "Omnibus Bills in Theory and Practice," *Canadian Parliamentary Review* 36, no. 1 (2013): 13–17.

<sup>9</sup> Kessa Hendriyanto, "Liberalisasi Importasi Produk Pertanian Dalam UU Cipta Kerja Dari Pemikiran Hukum Progresif," *PROGRESIF: Jurnal Hukum* 14, no. 2 (2020): 136–68, <https://doi.org/https://doi.org/10.33019/progresif.v15i2.1779>.

<sup>10</sup> Yhannu Setyawan, "Rancangan Undang-Undang Omnibus Law Cipta Kerja Dalam Perspektif Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan," *Jurnal Ilmiah Hukum Dan Keadilan* 7, no. 1 (2020): 150–64.

<sup>11</sup> Pudjo Utomo, "Omnibus Law: Dalam Perspektif Hukum Responsif," *Nurani Hukum: Jurnal Ilmu Hukum* 2, no. 1 (2019): 33–41, <https://doi.org/http://dx.doi.org/10.51825/nhk.v2i1.8168>.

<sup>12</sup> Agus Darmawan, "Politik Hukum Omnibus Law Dalam Konteks Pembangunan Ekonomi Indonesia," *Indonesian Journal of Law and Policy Studies* 1, no. 1 (2020): 14–25, <https://doi.org/http://dx.doi.org/10.31000/ijlp.v1i1.2655>.

<sup>13</sup> Hanifah Az Zahra and Agus Machfud Fauzi, "Dampak Sosial Omnibus Law Cipta Kerja Perspektif Sosiologi Hukum," *ADLIYA: Jurnal Hukum Dan Kemanusiaan* 15, no. 1 (2021): 91–100, <https://doi.org/10.15575/adliya.v15i1.10294>.

<sup>14</sup> Setyawan, "Rancangan Undang-Undang Omnibus Law Cipta Kerja Dalam Perspektif Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan."

compensation.<sup>15</sup> This opinion is in line with the insights of Fajar Kurniawan<sup>16</sup> when he argued that changes to severance pay under Law No. 13 of 2003 concerning Employment which was also incorporated into the Job Creation Law has absolutely not provided a solution to the problems. As the results, workers and student protested by holding demonstrations in various regions to reject the enactment of the Job Creation Law. Various strategic and comprehensive efforts are needed to improve labor law in Indonesia.<sup>17</sup> In this regard, he referred to Law No. 15 of 2019 concerning the Amendments to Law Number 12 of 2011 on the Establishment of Legislations. The Law stipulates that the Formation of Legislation must consider philosophical, juridical and sociological aspects. This is in line with other researchers who stated that the Omnibus Law (the Job Creation Law) does not contain strategic anticipation of regulatory substances to avoid conflicts in society.<sup>18</sup> The Omnibus Law actually became a controversy when it was still in the form of a bill in 2019, and it is one of the laws that was rejected by the public because it was considered to be more profitable for many investors, and could not improve many people's welfare.<sup>19</sup>

The Job Creation Law has undergone a formal review at the Constitutional Court, and on 25 November 2021 the Constitutional Court handed down a decision on the case for the Formal Review of Law Number 11 of 2020 concerning Job Creation against the 1945 Constitution of the Republic of Indonesia through Decision Number 91/PUU-XVIII/2020. The Constitutional Court decided that Job Creation Law is unconstitutional.<sup>20</sup> Yet, to avoid legal uncertainty, the Constitutional Court stated that the Job Creation Law is still conditionally valid.<sup>21</sup> It means that within 2 years since the Court decision was pronounced, namely November 25, 2021 to November 25, 2023, the Job Creation Law is still valid with the condition that the House of Representatives (DPR) and the government must make changes in accordance with orders from the Constitutional Court Decision Number 91/PUU-XVIII/2020 among them are:

1. Re-draft the Job Creation Law in accordance with the principles of forming statutory regulations contained in Appendix II of Law 12 of 2011;

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<sup>15</sup> Hesty Kartikasari and Agus Machfud Fauzi, "Penolakan Masyarakat Terhadap Pengesahan Omnibus Law Cipta Kerja Dalam Perspektif Sosiologi Hukum," *Doktrina: Journal of Law* 4, no. 1 (2021): 39–52, <https://doi.org/https://doi.org/10.31289/doktrina.v4i1.4482>.

<sup>16</sup> Fajar Kurniawan, "Problematika Pembentukan RUU Cipta Kerja Dengan Konsep Omnibus Law," *Jurnal Panorama Hukum* 5, no. 1 (2020): 63–76, <https://doi.org/https://doi.org/10.21067/jph.v5i1.4437>.

<sup>17</sup> Adnan Hamid, "Analysis of the Importance of Omnibus Law 'Cipta Kerja' in Indonesia," *International Journal of Scientific Research and Management (IJSRM)* 8, no. 8 (2020): 236–50, <https://doi.org/10.18535/ijsrm/v8i08.11a01>.

<sup>18</sup> Osgar Sahim Matompo and Wafda Vivid Izziyana, "Konsep Omnibus Law Dan Permasalahan RUU Cipta Kerja," *Rechtstaat Nieuw* 5, no. 1 (2020): 22–29.

<sup>19</sup> Adea Suci Adara, "Kontroversi Omnibus Law Cipta Kerja Dalam Perspektif Utilitarianisme" (Universitas Islam Negeri Sunan Gunung Djati Bandung, 2019).

<sup>20</sup> Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020

<sup>21</sup> Ibid.

2. Open the widest possible participation of the public who want to criticize and provide input on the revision of the Job Creation Law; and
3. Avoiding any 'sudden' changes in substance during the process of joint approval by the President and DPR and endorsement.<sup>22</sup>

In this regard, if the Job Creation Law is not amended in accordance with the Constitutional Court's Decision, then based on the Law, the Job Creation Law becomes permanently unconstitutional (not valid).<sup>23</sup> Thus, the law or the substance of the old law that has been revoked or amended by the Job Creation Law is declared to be valid again.<sup>24</sup>

## B. Identified Problems

Batam City is located on Batam Island, the Riau Islands Province. Batam City is very strategic because it is located on international shipping routes and also very close to Singapore and Malaysia. Therefore, Batam City is one of the cities with the fastest growth in Indonesia. Various advances have been achieved by Batam City, such as the availability of various business fields that are able to accommodate a workforce that comes from almost all regions in the country. The amount of regional and central revenues continues to increase from time to time. This is because of the increasingly widespread industrial, trade, ship transfer and tourism activities. However, as a rapidly developing area, Batam City is also not free from problems. One of them is in the field of employment. Hence, this study aims to ascertain the perspectives of Batam people regarding the Job Creation Law. To be more specific, this study poses the following questions:

1. What are the responses of Batam people, especially workers in Batam City regarding the Job Creation Law?
2. Which is more favorable for workers, the former Employment Law or the Job Creation Law?
3. What efforts have been done by the Central Government in obtaining inputs from the local government and stakeholders after the issuance of Constitutional Court Decision Number 91/PUU-XVIII/2020?

## C. Research Methods

Socio-legal research works starting from social facts (economics, politics and others) then moving onto the legal facts.<sup>25</sup> This study adopts

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<sup>22</sup> Fitriani Ahlan Sjarif, "Cara Memaknai Keberlakuan UU Cipta Kerja Pasca Putusan MK," *hukumonline.com*, 2022, <https://www.hukumonline.com/klinik/a/cara-memaknai-keberlakuan-uu-cipta-kerja-pasca-putusan-mk-cl1703>.

<sup>23</sup> Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020

<sup>24</sup> *Ibid.*

<sup>25</sup> Zulfadli Barus, "Analisis Filosofis Tentang Peta Konseptual Penelitian Hukum Normatif Dan Penelitian Hukum Sosiologis," *Jurnal Dinamika Hukum* 13, no. 2 (2013): 307–18, <https://doi.org/http://dx.doi.org/10.20884/1.jdh.2013.13.2.212>.

empirical legal research focusing on the law identification.<sup>26</sup> The empirical legal research method can also be referred to as field research, which examines the applicable legal provisions in society.

This study collected and processed 2 types of data, namely primary data and secondary data. Primary data was obtained mainly from the results of empirical research, namely research conducted directly within the community of Batam City. Secondary data was obtained from literature<sup>27</sup> or library materials.<sup>28</sup> The primary data was obtained by using an online questionnaire with a purposive sample of workers who have at least 5 years working experiences in Batam City. The secondary data consisted of primary legal materials, namely the Job Creation Law and the Employment Law. Secondary legal materials were derived from article journals, book, reports, internet sources etc. Both primary and secondary data were analyzed by using a descriptive qualitative approach.

**D. Research Findings and Discussions**

**1. The Responses of Workers in Batam City regarding the Job Creation Law**

Questionnaires were distributed to workers in Batam City to find out their responses to the Job Creation Law (Omnibus Law) after the MK Decision. Table 1 shows the characteristics of 210 respondents.

**Table 1. Respondents' Characteristics**

| Year              | Work Experience |       |       |       | Age  |       |       |       |
|-------------------|-----------------|-------|-------|-------|------|-------|-------|-------|
|                   | 5-10            | 10-15 | 15-20 | >20   | <30  | 30-40 | 41-50 | >50   |
| <b>Total</b>      | 57              | 71    | 47    | 35    | 15   | 88    | 79    | 28    |
| <b>Percentage</b> | 27.1%           | 33.8% | 22.4% | 16.7% | 7.1% | 41.9% | 37.6% | 13.3% |

Table 1 shows that 210 respondents have very good work experience. Respondents who have the greatest work experience are 38.8% with 10 to 15 years of work experience, while 5 to 10 years of work experience is 27.1%. The age of the respondents is still productive, namely only 13.3% are over 50 years old, while those under 40 years are 49%, and middle age (41 to 50 years) are 37.6%. Accordingly, 210 respondents could represent the population in terms of age and work experience criteria. The questionnaires in the survey are deemed to ascertain:

<sup>26</sup> Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali Press, 2018).

<sup>27</sup> Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris* (Yogyakarta: Pustaka Pelajar, 2010).

<sup>28</sup> Heting Chu and Qing Ke, "Research Methods: What's in the Name?," *Library & Information Science Research* 39, no. 4 (2017): 284-94, <https://doi.org/https://doi.org/10.1016/j.lisr.2017.11.001>.

1. The awareness and understanding on the Job Creation Law.
2. The source of information regarding the Job Creation Law.
3. Advantages of the Job Creation Law.
4. Disadvantages of the Job Creation Law.

Table 2 show how 210 workers in Batam City responded to the question which aims to ascertain if they are aware or/and familiar with the Job Creation Law.

**Table 2. Respondents' Awareness and Understanding on the Job Creation Law**

| Description | Very Incomprehensible | Incomprehensible | Comprehensible | Very Comprehensible |
|-------------|-----------------------|------------------|----------------|---------------------|
| Total       | 7                     | 25               | 165            | 13                  |
| Percentage  | 3.3%                  | 11.9%            | 78.6%          | 6.2%                |

Based on the responses of 210 workers in Batam City, it was found that the majority of workers in Batam City were aware and understand about the enactment of the Law Creation Law. It was shown by Table 2 that 78.6% of respondents stated that they understood about the Law and 6.2% really understood about it. Only 11,9% of workers responded that they were not aware or comprehend the Law and 3,3% stated that they were not Very Incomprehensible. 210 respondents revealed that they came to know about the Job Creation Law from various sources as it was presented by Table 3.

**Table 3. The Source of Information regarding the Job Creation Law**

| Description | Labor Union | Press | TV/Online Media | Company | Relatives | Do Not Know |
|-------------|-------------|-------|-----------------|---------|-----------|-------------|
| Total       | 16          | 26    | 130             | 22      | 13        | 3           |
| Percentage  | 7.6%        | 12.4% | 61.9%           | 10.5%   | 6.2%      | 1.4%        |

Table 3 shows that 61.9% of 210 respondents obtain the information on the Job Creation Law from television or online media. It was followed by the information of peers which made up to 12.4%. 10.5% of respondents obtained the information from their company management and Labor Unions (7.6%). Only 6.2 % is derived from the workers' relatives. The responses of 210 workers regarding the benefits of the Job Creation Law to society can be seen in Table 4.

**Table 4. Advantages of the Job Creation Law**

| Description | Legal Certainty | Eradicating Extortion | Opening New Jobs | Opening New Business | Not Useful | Do Not Know |
|-------------|-----------------|-----------------------|------------------|----------------------|------------|-------------|
| Total       | 128             | 13                    | 24               | 24                   | 6          | 15          |
| Percentage  | 61.0%           | 6.2%                  | 11.4%            | 11.4%                | 2.9%       | 7.1%        |

Table 4 shows that 61.0% of 210 respondents stated that the Job Creation Law was able to provide legal certainty. As many as 11.4% said it could open new business, and 11.4% said it could open new jobs. 6.2% of respondents said that the Job Creation Law could eradicate extortion and only 2.9% said it was not useful. Interestingly, more respondents (7.1%) had no ideas about the advantages of the Law. In addition to the advantages of the Law, 210 respondents also gave their opinions regarding the disadvantages of the Law. Their responses are presented by Table 5.

**Table 5. Disadvantages of the Job Creation Law**

| Description       | Longer Working Hours | Reduced Holidays | Reduced Wages | Easier Layoffs | Reduced Severance Payment | Do Not Know |
|-------------------|----------------------|------------------|---------------|----------------|---------------------------|-------------|
| <b>Total</b>      | 11                   | 14               | 9             | 38             | 116                       | 22          |
| <b>Percentage</b> | 5.2%                 | 6.7%             | 4.3%          | 18.1%          | 55.2%                     | 10.5%       |

Table 5 shows that as many as 55.2% of respondents felt that severance payment would be reduced because of the issuance of the Job Creation Law, while 18.1% felt that layoffs would be easier. Others stated that the consequences of the Law were to reduce holidays (6.7%) and prolong working hours (5.2%). Those who did not know about the negative impact of the Job Creation Law were 10.5%.

Based on the perceptions of 210 workers in Batam City on the Job Creation Law, it can be deduced that as many as 84.2% of the workers understand and they also are very familiar the Job Creation Law. They obtained the information about this Law mostly from television and online media (61.9%). This evidences that the workers are actively keeping up with the new law (the Job Creation Law) since it is very relevant with their status as workers. The most effective methods of disseminating the new law are via TV and social medias. The workers also believe that the Job Creation Law provides legal certainty (61%), yet they perceive that this Law may reduce the severance payment (55.2%) and make the layoffs of workers much easier (18.1%).

**2. The More Favorable the Employment Laws for Workers (the Comparison of the Employment or the Job Creation Law)**

The research of Nirwana Hendri Sulisty and Surahmad<sup>29</sup> concluded that the Job Creation Law provides more concrete protection regarding the workers' rights in layoffs if it is compared to the previous law (the former Employment Law). This is supported by the research

<sup>29</sup> Nirwana Hendri Sulisty and Surahmad, "Pelindungan Hak Pekerja Atas Pemutusan Hubungan Kerja Dengan Alasan Pandemi Covid-19 Berdasarkan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja," *Reformasi Hukum* 25, no. 1 (2021): 57-76, <https://doi.org/https://doi.org/10.46257/jrh.v25i1.194>.



results of Rudi Febrianto Wibowo and Ratna Herawat<sup>30</sup> by showing that Article 151 of the Job Creation Law regarding layoffs has more detailed rules pertaining to the methods of layoffs than those of the former Employment Law. An exception to layoffs is found in Article 153 of the Job Creation Law, which clearly states that layoffs cannot be carried out unilaterally which are detrimental to workers.<sup>31</sup> Legal protection regarding unilateral termination of employment is regulated under Article 153 of the Job Creation Law, which states that when terminating employment, employers are strictly prohibited from terminating employment unilaterally, unless certain circumstances compel the termination of employment.<sup>32</sup> This also aligns with Law No. 2 of 2004 concerning Settlement of Industrial Relations Disputes.<sup>33</sup>

The former Employment Law in practice often creates legal uncertainty. This was found by Grace Angelia<sup>34</sup> in her research that legal protection for laid-off workers pursuant to the company efficiency was governed by Article 164 paragraph (3). However, both employers and the government did not implement this provision, consequently it becomes a form of injustice for workers because they lost their jobs for the sake of the company's efficiency even though they made no mistakes. A large amount of severance payment was provided by the former Employment Law than those of the Job Creation Law.<sup>35</sup> Yet, Luxena Gabriella<sup>36</sup> who researched the case of PT Sari Gemilang Lestari found that the unilateral layoffs and the amount of severance payment under the former Employment Law provide uncertainty. In this case, the employer laid off an employee named Taarifudin and three other workers on the ground of a disharmony between the employers and company. There are no rules that specifically regulate the amount of severance payment for workers who have been terminated from their

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<sup>30</sup> Rudi Febrianto Wibowo and Ratna Herawati, "Perlindungan Bagi Pekerja Atas Tindakan Pemutusan Hubungan Kerja (PHK) Secara Sepihak," *Jurnal Pembangunan Hukum Indonesia* 3, no. 1 (2021): 109–20.

<sup>31</sup> Wibowo and Herawati.

<sup>32</sup> Agung Prasetyo Wibowo Agung, "Perlindungan Hukum Terhadap Pekerja Dalam Pemutusan Hubungan Kerja (PHK) Dengan Alasan Efisiensi Akibat Pandemi Covid 19," *To-Ra* 7, no. 1 (2021): 135–53, <https://doi.org/https://doi.org/10.33541/JtVol5Iss2pp102>.

<sup>33</sup> Sulistyono and Surahmad, "Pelindungan Hak Pekerja Atas Pemutusan Hubungan Kerja Dengan Alasan Pandemi Covid-19 Berdasarkan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja."

<sup>34</sup> Grace Angelia, "Perlindungan Hukum Terhadap Pekerja Akibat Pemutusan Hubungan Kerja Sepihak Berdasarkan Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan (Studi Putusan Pengadilan Negeri Bandung No. 211/Pdt.Sus.PHI/2018/PN.Bdg)" (Universitas Tarumanegara, 2020).

<sup>35</sup> Muhammad Ferial, "Pertanggungjawaban Perusahaan Terhadap Karyawan Yang Di PHK Pada Masa Pandemi Covid-19 Menurut UU No. 13 Tahun 2003 Jo UU No. 11 Tahun 2020 Tentang Cipta Kerja" (Universitas Sriwijaya, 2021).

<sup>36</sup> Luxena Gabriella, "Analisis Pemutusan Hubungan Kerja Dengan Alasan Disharmoni : Studi Kasus Putusan Pengadilan Hubungan Industrial Nomor 21/ Pdt.Sus-PHI/2018/PN.Bdg Juncto Putusan Mahkamah Agung Nomor 942 K/Pdt.Sus-PHI/2018" (Universitas Tarumanegara, 2020).

employment relationship on the ground of a disharmony, thus the company would not be obliged to provide the severance payment.<sup>37</sup> Different from the former Employment Law, the Job Creation Law strictly prohibits companies to lay off their employees for any reason other than those clearly stipulated in Article 153 of this Law. It provides clear provisions to prevent layoffs. In this regard, a company which plans to lay off its workers, it must go notify its workers, and follow by the bipartite negotiations, and the mechanisms of settling industrial relations. Based on the studies, it was found that the Job Creation Law provides legal certainty regarding layoffs, thus it protects public more than the former Employment Law.<sup>38</sup> This submission is also supported by the survey of 210 respondents in Batam City. 61.0% of 210 respondents stated that the Job Creation Law were able to provide legal certainty. However, in relation to severance payment, the former Employment Law provide more amount of payment than the Job Creation Law. This submission is also true as it is evidenced from the survey in Batam City that 55.2% of respondents felt that severance payment would be reduced because of the issuance of the Job Creation Law.

However, Agus Suntoro<sup>39</sup> argued that that the substances of the Job Creation Law are contrary to human rights in the aspects of employment, natural resources and the environment because there are indications of a decrease in decent and fair conditions for workers. This aligns with the research of<sup>40</sup> which also argued that the presence of the Job Creation Law raises injustice and negates the common people. The Research by Adara<sup>41</sup> questioned whether this Law creates prosperity for many people. Different from these arguments, Ima Mayasari<sup>42</sup> claimed that a global competition in the era of I.R. 4.0 needs a reform and legal revolution regarding the hyper and overlapping regulations to establish social welfare for all people. The socio-legal approaches are needed in the process of drafting the Job Creation Law, so the goals and substances of this Law can be understood by public since the Law is the government's choice to innovate the regulations to improve the economy by arranging several overlapping regulations into one new

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<sup>37</sup> Gabriella.

<sup>38</sup> Sulistyono and Surahmad, "Pelindungan Hak Pekerja Atas Pemutusan Hubungan Kerja Dengan Alasan Pandemi Covid-19 Berdasarkan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja."

<sup>39</sup> Agus Suntoro, "Implementasi Pencapaian Secara Progresif Dalam Omnibus Law Cipta Kerja," *Jurnal HAM* 12, no. 1 (2021): 1–18, <https://doi.org/http://dx.doi.org/10.30641/ham.2021.12.1-18>.

<sup>40</sup> Hendriyanto, "Liberalisasi Importasi Produk Pertanian Dalam UU Cipta Kerja Dari Pemikiran Hukum Progresif."

<sup>41</sup> Adara, "Kontroversi Omnibus Law Cipta Kerja Dalam Perspektif Utilitarianisme."

<sup>42</sup> Ima Mayasari, "Kebijakan Reformasi Regulasi Melalui Implementasi Omnibus Law Di Indonesia," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, no. 1 (2020): 1–15, <https://doi.org/http://dx.doi.org/10.33331/rechtsvinding.v9i1.401>.

effective regulation.<sup>43</sup> The Job Creation Law was formed to create a conducive climate for investment by reforming regulations in the field of business licensing.<sup>44</sup> Based on the survey of 210 respondents in Batam City, 11.4% said that the Job Creation Law provides opportunities to open new businesses, and 11.4% said it could open new jobs. This survey suggests that the Law may improve the economy of people.

### 3. The Efforts of the Central Government in Obtaining Inputs from the Local Government and Stakeholders After the Issuance of Constitutional Court Decision Number 91/PUU-XVIII/2020

Information regarding regulatory changes made by the Job Creation Law should be disseminated effectively, so that misperceptions do not occur. The misinterpretations can be used by irresponsible parties by interpreting the meaning and content of the Job Creation Law according to their purpose.<sup>45</sup> To avoid distortion of the communication process in public spaces caused by differences in understanding may lead to misperceptions, but this can be reduced by effective and positive communication skills supported by multi-cultural communication literacy from sources of information delivery.<sup>46</sup>

As previously mentioned, that the current status of the Job Creation Law is conditionally valid and it is given 2 years (from 25 November 2021 to 25 November 2023) to refine the Law. One of the requirements of the MK decision is to open the widest possible participation of the public to criticize and provide inputs on the revision of the Job Creation Law. In this regard, the public via communication medias are invited to participate in an open, transparent and accountable manner,<sup>47</sup> so that the substances of the Law are able to avoid conflicts,<sup>48</sup> especially those regarding the calculation of severance payment and the issue of easier layoffs.<sup>49</sup> To follow up on the Constitutional Court (MK) Decision Number 91/PUU/U-XVIII/2020 to create meaningful community participation. The Task Force for the Acceleration of Dissemination of Law Number 11 of 2020 concerning Job Creation held a meeting in Batam City on 8 December 2021 to accommodate input regarding the implementation of the Job Creation Law from local governments in the Riau Islands, Riau, Bangka Belitung and Lampung.

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<sup>43</sup> Ansari, "Omnibus Law Untuk Menata Regulasi Penanaman Modal."

<sup>44</sup> Ramadhan, "Omnibus Law Sebagai Sarana Utama Penataan Regulasi."

<sup>45</sup> Zahra and Fauzi, "Dampak Sosial Omnibus Law Cipta Kerja Perspektif Sosiologi Hukum."

<sup>46</sup> Perdana, Aji Aditra, and Irwansyah. "Model Interaksi Multi Kultur Dalam Ruang Virtual Whatsapp: Silaturahmi, Konflik, Leave Group." *Jurnal ASPIKOM* 3, no. 6 (2019): 1063–75. <https://doi.org/http://dx.doi.org/10.24329/aspikom.v3i6.255>.

<sup>47</sup> Darmawan, "Politik Hukum Omnibus Law Dalam Konteks Pembangunan Ekonomi Indonesia."

<sup>48</sup> Muhammad Fakhruddin Zuhri, "Omnibus Law: Inovasi Dalam Bertradisi Hukum (Sisi Lain Undang-Undang Cipta Kerja)," *MAGISTRA Law Review* 2, no. 1 (2021): 1–12, <https://doi.org/http://dx.doi.org/10.35973/malrev.v2i1.1852>.

<sup>49</sup> Matompo and Izziyana, "Konsep Omnibus Law Dan Permasalahan RUU Cipta Kerja."

The targets of socialization of the Job Creation Law in Batam City are local governments in the Riau Islands Province.

In addition, the Task Force for the Acceleration of Socialization of the Job Creation Law held a Group Discussion Forum (FGD) with a number of stakeholders in the context of perfecting and monitoring the implementation of Law Number 11 of 2020 concerning Job Creation and its derivative regulations. This step was taken as an effort to accelerate the implementation of the Job Creation Law. The FGD was held at the Best Western Premier Panbil Hotel, Batam City on 16 September 2022. The Task Force invited a number of stakeholders, especially workers to contribute useful suggestions and input for the improvement of regulations, especially in the labor cluster.<sup>50</sup> Around 50 people attended the discussion including representatives from the Batam City All Indonesian Workers Union (*Serikat Pekerja Seluruh Indonesia/SPSI*), the Batam City All Indonesian Trade Union Confederation (*Konfederasi Serikat Pekerja Seluruh Indonesia/KSPSI*), the Batam City Creative Economy Movement, the Batam City Indonesian Association of Persons with Disabilities, the Association of Online Driver Communities of Batam, Riau Islands Provincial, as well as academics from Universitas Batam and Universitas Internasional Batam. One of the inputs was to include a clause regarding workers engaged in online transportation within the framework of the Job Creation Law. The other input is the facilitation of people with disabilities is needed in terms of access to jobs and human resource development.<sup>51</sup>

The other effort is conducted by the Task Force for the Acceleration of Dissemination of the Job Creation Law when opening the Cooperative and Micro, Small and Medium Enterprises (MSMEs) Protection and Empowerment Workshop activities together with cooperative and MSMEs offices from the provinces/districts/cities of the Riau Islands, Riau, and Bangka Belitung, and cooperative and MSMEs actors in Batam on 15 September 2022. It was stated that one of the objectives of the formation of the Job Creation Law is to provide convenience for MSMEs with various facilities such as access to finance, market access and access related to management, improving business management, and at the same time providing protection.<sup>52</sup> The

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<sup>50</sup> Kementerian Sekretariat Negara Republik Indonesia, "Jaring Aspirasi Serikat Pekerja Di Batam, Satgas Percepatan Sosialisasi UU CK Gelar FGD Untuk Penyempurnaan Omnibus Law," Kementerian Sekretariat Negara Republik Indonesia, 2022, [https://www.setneg.go.id/baca/index/jaring\\_aspirasi\\_serikat\\_pekerja\\_di\\_batam\\_satgas\\_percepatan\\_sosialisasi\\_uu\\_ck\\_gelar\\_fgd\\_untuk\\_penyempurnaan\\_omnibus\\_law](https://www.setneg.go.id/baca/index/jaring_aspirasi_serikat_pekerja_di_batam_satgas_percepatan_sosialisasi_uu_ck_gelar_fgd_untuk_penyempurnaan_omnibus_law).

<sup>51</sup> Kementerian Sekretariat Negara Republik Indonesia, "Sosialisasikan Manfaat NIB, Satgas Percepatan Sosialisasi UU Cipta Kerja Gelar Workshop Bersama Para Pelaku Koperasi Dan UMKM Di Batam," Kementerian Sekretariat Negara Republik Indonesia, 2022, [https://setneg.go.id/baca/index/sosialisasikan\\_manfaat\\_nib\\_satgas\\_percepatan\\_sosialisasi\\_uu\\_cipta\\_kerja\\_gelar\\_workshop\\_bersama\\_para\\_pelaku\\_koperasi\\_dan\\_umkm\\_di\\_batam](https://setneg.go.id/baca/index/sosialisasikan_manfaat_nib_satgas_percepatan_sosialisasi_uu_cipta_kerja_gelar_workshop_bersama_para_pelaku_koperasi_dan_umkm_di_batam).

<sup>52</sup> Ibid.

workshop aimed to discuss the regulations provided for by the Job Creation Law regarding the protection for cooperatives and MSMEs, single permits which are considered difficult to process and the integration of the Job Creation Law at the regional level related to systems and resources. One of the problems to be considered for the Job Creation Law in relation to MSMEs in Batam City is how to encourage the government to issue affirmative policies in Batam City, including the adjustment of exit rates for MSME products which currently reach 18.5 percent for each transaction, then the need to simplify the laboratory test mechanism for MSME products to only 1 (one) time for all product certificates traded by MSMEs in Batam City.<sup>53</sup>

#### E. Conclusions

1. Workers in Batam City are mostly aware and understand about the enactment of Job Creation Law. They have also positive perceptions of the Law since they consider that it provides more legal certainty than the former Employment Law. They also believe that the Law may improve the economy of people because it provides provisions which open the opportunities for new businesses and jobs. Yet, they opine that severance payment would be reduced and layoffs would be easier.
2. The Job Creation Law is more favorable than the Employment Law because it provides more legal certainty for workers. In addition, it abolishes the overlapping regulations and make one new effective regulation to improve the economy of people. Based on the survey, workers in Batam City seem to be positive and favorable of the Job Creation Law.
3. The Central Government has put lots of efforts to fulfil the requirements of the Constitutional Court Decision Number 91/PUU-XVIII /2020 by gaining inputs from many areas in Indonesia, including Batam City. At the local level, various stakeholders in Batam City have provided their insights and inputs to make the Job Creation Law perfect, so it can obtain a valid status. The validity of this Law is very important, so it can be fully implemented to respond many challenges in the era of RI 4.0.

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<sup>53</sup> Ibid.

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