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The Challenges of Using the Omnibus Law Method in Indonesia's Legal System

Article	Abstract
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INTRODUCTION

The formation of regulatory is a topic of significant discussion in Indonesia, especially since President Joko Widodo, during his second term inauguration speech in 2019, outlined five keys priorities. One of these priorities was to enact laws that would repeal or amend several existing

regulations simultaneously. The aim of this approach is to simplify the regulatory framework and avoid contradictions within the Constitution. This model of regulatory simplification is commonly known as the *omnibus law*.¹ The omnibus law method is widely used in countries draft with *common law system*, including the United States, Canada, Belgium, and the United Kingdom.² However, it has also been adopted by civil law countries such as Serbia.³

President Joko Widodo's proposal has sparked considerable debate among various sectors of the public. Supporters argue that even though the omnibus law has its roots in *common law* traditions, there is nothing inherently wrong with its application in Indonesia. On the other hand, critics like Maria Farida Indrati emphasize that every piece of legislation should be created based on sound principles of regulatory formation (*beginsselen van behoorlijke regelgeving*) and must be grounded in philosophical, juridical, and sociological foundations unique to each law. These principles serve as guidelines for forming good legislation, ensuring that it does not only serve the interests of a select elite group.⁴ Moreover, there are concerns about the implications of relocating numerous articles from existing laws into the *omnibus law*. This is problematic since each piece of legislation not only addresses different subjects but also encompasses unique material content.⁵

The proposal for the *omnibus law* was eventually followed by the enactment of Law Number 11 of 2020 concerning Job Creation. Despite being a groundbreaking step in legislative formation, the public response was far from positive.⁶ The new law faced considerable opposition from various community groups. Even in the early drafting stages, there were widespread protests across different regions, demonstrating the level of public discontent.

Despite the backlash, the Indonesian House of Representatives (DPR) and the government proceeded to validate the draft law, leading it to become an official law. Following its enactment, opposition efforts shifted towards a formal review, and a request was made to Constitutional Court to test the legitimacy of Law Number 11 of 2020. This request was driven by concerns that the *omnibus law* did not align with the legislative preparation techniques outlined in Law Number 12 of 2011 concerning the Formation Legislative Regulation. Additionally, critics highlighted the minimal public participation in the law-making process.

The Constitutional Court issued its ruling in Decision Number 91/PUU-XVIII/2020 on November 25, 2021, where it granted the application for judicial review. The court declared Law

¹ I Made Sarjana et al., "OMNIBUSLAW EMPLOYMENT CLUSTER: IS ITA FORM OF LABOR EXPWITATION IN THE INDONESIAN CONTEXT?," *UUM Journal of Legal Studies* 14 (2023), <https://doi.org/10.32890/UUMJLS2023.14.1.3>.

² Kukuh Tejomurti and Sukarmi Sukarmi, "Kajian Kritis RUU Omnibus Law Cipta Kerja Berdasarkan Pandangan John Rawls Tentang Keadilan," *UNNES Law Journal: Jurnal Hukum Universitas Negeri Semarang* 6, no. 2 (n.d.), <https://doi.org/https://doi.org/10.15294/ulj.v6i2.41709>.

³ Luthvi Febryka Nola, "PENERAPAN OMNIBUS LAW DALAM HUKUM KETENAGAKERJAAN DI INDONESIA," *Kajian* 25, no. 3 (April 2023): 217–29, <https://doi.org/10.22212/KAJIAN.V25I3.3894>.

⁴ Kana Kurnia, "Problematika Hukum Pembentukan Undang-Undang Nomor 13 Tahun 2022 Tentang Pembentukan Peraturan Perundang-Undangan," *Jurnal Legislasi Indonesia* 20, no. 1 (March 2023): 123–35, <https://doi.org/10.54629/JLI.V20I1.1092>.

⁵ 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 (April 2020): 17, <https://doi.org/10.33331/RECHTSVINDING.V9I1.389>.

⁶ Ana Fauzia et al., "Implementation of the Omnibus Law Concept and Consolidated Texts: Amalgamation of the Common Law and Civil Law Legal Systems," *Journal of Law and Legal Reform* 4, no. 2 (April 2023): 235–54, <https://doi.org/10.15294/JLLR.V4I2.68256>.

Number 11 of 2020 to be conditionally unconstitutional. The Constitutional Court criticized the merger method used in this law, stating that it lacked clarity and did not firmly establish whether it was creating a new law or simply making amendment.⁷ The court instructed the DPR and the President to make necessary improvements within two years of the ruling. If those adjustments were not made within the specified time, Law Number 11 of 2020 would permanently become unconstitutional, meaning that any articles or provisions revoked or altered by this law would revert to their original status.

In following the court's decision, the DPR and the President were expected to enhance the legislative process for the Job Creation Law. However, in a surprising move, they amended Law Number 12 of 2011 to Law Number 13 of 2022, incorporating the *omnibus* method to legitimize the formation of Law Number 11 of 2020. This action contradicted the court's ruling, which clearly indicated that the focus should have been on rectifying the Job Creation Law itself. Criticism poured in for the actions taken by the DPR and the President.

To address this backlash, the President issued Government Regulation Replacement in Lieu of Law (Perpu) Number 2 of 2022, which revoked Law Number 11 of 2020. This Perpu was approved by the DPR and eventually became Law Number 6 of 2023.

Research on the theme of the omnibus law has been extensive, with various studies highlighting different aspects. Some articles delve into the controversies surrounding Indonesia's omnibus law and its implications for international investors, particularly for those from China.⁸ Other research looks at how consolidated texts are used in other countries and how similar concepts could be adapted to Indonesia's law-making process.⁹ Additionally, some articles examine the omnibus law from constitutional and Islamic law perspectives,¹⁰ comparing Indonesia's approach to practices in the United States and Ireland.¹¹

This article primarily focuses on the challenges associated with implementing omnibus laws in Indonesia's legislative process, particularly regarding public participation. The Constitutional Court's decision, along with the subsequent actions taken by the DPR and the President in response, alongside significant public dissent, illustrates the complexities of altering the law through an *omnibus* model—especially when trying to ensure adequate public involvement.

⁷ Gunawan Widjaja, "Indonesia's Omnibus Law in the International Context: Review of Legal and Human Rights Publication Journals," *Linguistics and Culture Review* 6, no. on (December 2022): 64–76, <https://doi.org/10.21744/LINGCURE.V6NS3.2005>.

⁸ M. Iqbal, M. Misbahul Mujib, and Yuliannova Lestari, "Does Omnibus Law Affect the Indonesian Investment Regulations towards Chinese Investors?," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* V, no. 40 (2022): 179–97, <https://doi.org/10.24090/volksgeist.v5i2.6838>.

⁹ Fauzia et al., "Implementation of the Omnibus Law Concept and Consolidated Texts: Amalgamation of the Common Law and Civil Law Legal Systems."

¹⁰ Sugeng Dwiono, A Kumedi Ja'far, and Slamet Haryadi, "An Analysis on the Omnibus Law and Its Challenges in Indonesia: The Perspectives of the Constitutional and the Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (May 2024): 706–25, <https://doi.org/10.22373/SJHK.V8I2.22720>. which encompasses the Constitutional Law and the Islamic Law, has been the subject of intense dispute since its inception. The controversy has occurred from the inception to the promulgation of the design process within larger communities. Multiple issues emerged from the outset when the administration introduced the proposal for an Omnibus Law in the Indonesian People's Consultative Assembly of the Republic of Indonesia (DPR RI

¹¹ Bayu Dwi Anggono and Fahmi Ramadhan Firdaus, "Omnibus Law in Indonesia: A Comparison to the United States and Ireland," *Lentera Hukum* 7, no. 3 (2020), <https://doi.org/10.19184/ejllh.v7i3.19895>.

In Indonesia's legal context, which leans towards *the Rechtsstaat* (state governed by law) within a *civil law system*, there is a pressing need for high-quality legislation, both in terms of the process and the outcomes, to resonate with the public's sense of justice. Thus, this article discusses the various problems related to implementing the *omnibus law* model in the formation of regulatory legislation under Indonesian law.

RESEARCH METHODS

This study adopts a scientific methodological approach, engaging in a systematic and thorough process to uncover scientific truth.¹² It focuses on juridical normative research, examining laws as components that interact within a legal system and influence legal incidents.¹³ The research primarily relies on secondary data, which include a range of legal materials: primary, secondary, and tertiary sources. These data are gathered from various resources, including books, academic literature, journals, national and international regulations, and legislation. The collection of secondary data involves a bibliographic study that utilizes library resources to support both the processes and findings of the study. To gather this information, the research employs traditional methods such as reading, viewing, and listening, while also leveraging technology and internet resources. The collected secondary data will undergo analysis through a qualitative and descriptive lens, encompassing primary law, secondary law, and tertiary law materials.

ANALYSIS AND DISCUSSION

Understanding Legislative Regulation

Legislation serves as a subsystem within the national legal framework. In Indonesia, where the legal system is predominantly civil law-based, there is a strong emphasis on written legal sources, particularly legislation.¹⁴ The terms regulatory legislation derives from the fundamental concept of law, reflecting the types and forms of regulations established by the state.¹⁵ Experts in law predominantly view legislative regulation as synonymous with written law. For instance, Yuliandri explains that the term "legislative regulations" translates from the Dutch term *wettelijke regeling*, where *wettelijke* means "in accordance with the law," and *wet* generally translates to "law" or "constitution." Hence, *wettelijke regeling* effectively means "legislative regulation."¹⁶

Mahfud MD defines legislative regulation in its broadest sense as all laws formally created through specific methods by authorized officials and documented in written form.¹⁷ Meanwhile, Sj.

¹² Irwansyah, *Penelitian Hukum Pilihan Metode & Praktik Penulisan Artikel Cetak* 4 (Yogyakarta: Mirra Buana Media, 2021), 65.

¹³ Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris, Cetakan I* (Yogyakarta: Pustaka Pelajar, 2010), 36.

¹⁴ Herlin Wijayati et al., "Urgensi Pembentukan Lembaga Pemerintahan Khusus Di Bidang Pengelolaan Peraturan Perundang-Undangan," *Jurnal Hukum IUS QUIA IUSTUM* 31, no. 3 (February 2024): 666–95, <https://doi.org/10.20885/IUSTUM.VOL31.ISS3.ART8>.

¹⁵ Ni'matul Huda and Nazriyah R, *Teori & Pengujian Peraturan Perundang-Undangan* (Bandung: Nusa Media, 2011), 4.

¹⁶ Yuliandri, *Asas-Asas Pembentukan Peraturan Perundangan Yang Baik, Gagasan Pembentukan Undang-Undang Berkelanjutan* (Jakarta: PT RajaGrafindo Persada, 2011), 25.

¹⁷ Moh. Mahfud MD, *Konstitusi Dan Hukum Dalam Kontroversi Isu* (Jakarta: Rajawali Pers, Raja Grafindo Persada, 2009), 225.

Fochema, as referenced by Maria Farida, delineates the term legislation (*legislation, wetgeving* or *gesetzgebung*) from two perspectives: the formation process and the outcomes produced. From a process standpoint, legislation involves creating and instituting state regulations at both national and regional levels. In terms of the results, legislation encompasses all state regulations resulting from this formation process, again at both national and regional levels.¹⁸

According to Article 1, number 2 of Law Number 12 of 2011, which has been revised by Law Number 13 of 2022, legislative regulation is defined as written documents containing binding legal norms, established and formalized by state institutions or authorized officials through specified procedures. Importantly, understanding a law involves regulations that encompass specific material content, underscoring the necessity of following a particular formation procedure (also known as *het materiele wetsbegrip*).¹⁹

Types and Hierarchies Legislative Regulation

The concept of hierarchical regulation in legislation can be traced back to Hans Kelsen's ideas on the “*Stufenbau des Recht*” or the “*Hierarchy of Law*.” This theory suggests that laws are organized in tiers, where each lower-tier regulation derives its authority from higher-tier rules.²⁰ In Indonesia, the legal framework is established in a clear hierarchy, where the strength of each regulation corresponds to its position within this hierarchy.

According to Article 7, paragraph (1) of Law Number 12 of 2011, which has been amended multiple times, most recently by Law Number 13 of 2022, the hierarchy of legislative regulations is structured as follows:

1. 1945 Constitution of the Republic of Indonesia
2. Decree of the People's Consultative Assembly
3. Law/Regulation in Lieu of Law
4. Government Regulation
5. Presidential Regulation
6. Provincial Regional Regulations
7. Regency/City Regional Regulations

Having a well-defined hierarchy in the creation of legislation leads to clear and reasonable regulations that the public can easily understand and comply with.²¹ This structure ensures that lower level regulations do not contradict higher-level ones, as the higher regulations serve as the legal foundation for those at lower tiers. Consequently, legislation at a lower level can only be amended, revoked, or replaced by a higher regulation or an equivalent level of legislation. In Indonesia, the standard practice for legislative change involves a single constitutional amendment or replacement. This method allows for a thoughtful, unhurried process that maximizes public participation in the legislative development.

¹⁸ Maria Farida Indrati Soeprapto, *Ilmu Perundang-Undangan, Dasar-Dasar Dan Pembentukannya* (Yogyakarta: Penerbit Kanisius, 1998), 3.

¹⁹ A. Hamid S. Attamimi, *Peranan Keputusan Presiden Republik Indonesia Dalam Penyelenggaraan Pemerintahan Negara* (Jakarta: Disertasi Fakultas Pascasarjana UI, 1990), 198.

²⁰ Bagir Manan, *Teori Dan Politik Konstitusi* (Yogyakarta: FH UII Pres, 2003), 207–8.

²¹ Suwardi Sagama, “Reformulasi Hierarki Peraturan Pada Pembentukan Peraturan Perundang-Undangan Di Indonesia,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 1, no. 2 (December 2018): 185–97, <https://doi.org/10.24090/VOLKSGEIST.V1I2.1967>.

Material Content of Legislative Regulation

The terms “material content” in legislative regulation was introduced by A. Hamid S. Attamini in the Law and Development Magazine, highlighting the significance of the specific issues addressed by law.²² According to Soehino, each type of legislative regulation addresses concrete matters or circumstances.²³

The material content of legislative regulations varies based on their type, function, and hierarchical position. Essential components must adhere to the Constitution and include: Provision for further regulation under the 1945 Constitution of the Republic of Indonesia; Guidelines for enacting laws, including international agreements that have significant implications for people’s lives and may require constitutional changes with the approval of the DPR;²⁴ and Actions based on decisions from the Constitutional Court regarding constitutional tests. The material under the Constitutional Court’s decisions reflects the laws that were declared with The 1945 Constitution, prompting action from the DPR and the President to ensure compliance and prevent legal gaps.

The material content of Regulation in Lieu of Law is similar to that of the Constitution,²⁵ although it arises under different circumstances. The Constitution is crafted according to the national legislative agenda or Article 10 of Law Number 12 of 2011. In contrast, Regulations in Lieu of Law are designed to address urgent situations, as stipulated in Article 22 of the 1945 Constitution: paragraph (1) states, “in matters of compelling urgency, the President has the right to issue government regulation in lieu of law;” paragraph (2) asserts that these regulations require DPR approval in subsequent sessions; and paragraph (3) notes that if approval is not granted, the regulation must be revoked.

The material in the government regulation must facilitate the implementation of the Constitution and should align with relevant laws.²⁶ Similarly, the material in Presidential Regulations typically includes directives from the law, guidance for implementing government regulations, and any necessary support for government authority. These presidential regulations help arrange matters that are further specified in other legislative procedures.²⁷ Lastly, the material content of Provincial and Regency/City Regional Regulations (as outlined in Article 14) addresses the specifics of regional autonomy and responsibilities, taking into account local contexts and providing explanations that align with higher legislative standards.²⁸

Formation of the Constitution

The formation of legislative legislation involves a comprehensive process that includes several essential stages: planning, preparation, discussion, ratification, and promulgation.²⁹ The legislative process is carried out by various institutions in accordance with the authorities granted by the 1945 Constitution of the Republic of Indonesia. Specifically, laws are created through collaboration between the DPR (House of Representatives) and the President. When the material concerns regional autonomy, the DPD (Regional Representative Council) is also involved.

²² Soeprapto, *Ilmu Perundang-Undangan, Dasar-Dasar Dan Pembentukannya*.

²³ Soehino, *Hukum Tata Negara, Teknik Perundang-Undangan, Edisi Ketiga* (Yogyakarta: Liberty, 2003), 10.

²⁴ Pasal 10 Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan

²⁵ Pasal 11 Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan

²⁶ Pasal 12 Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan

²⁷ Pasal 13 Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan

²⁸ Pasal 14 Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan

²⁹ Pasal 1 angka 1 Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan

The planning and preparation of legislation take place through the National Legislation Program (Prolegnas). This program serves as a systematic and integrated framework for drafting laws in a structured manner. When using the omnibus method to prepare a draft law, it is essential that this approach is clearly documented in the planning phase.³⁰ Draft laws can originate from either the DPR or the President. Each draft must be accompanied by an Academic Manuscript, which is a scholarly document that presents findings and legal assessments regarding specific issues. These manuscripts are crucial as they provide a scientific basis for the proposed legislative measures, presenting solutions to identified problems and addressing the public's legal needs. As noted by Friday Asshiddiqie, these academic manuscripts are created through rigorous research, adhering to principles of rational, critical, and objective inquiry.³¹ The presence of academic manuscripts is essential for shaping the material that will be included in the drafted laws.³²

The discussion of the draft law is conducted collaboratively by the DPR and the President. If the matter involves regional autonomy, it also includes discussions about the relationship between central and regional authorities, the formation, expansion, and merger of regions, resource management, and financing balances between the central and regional governments. During these discussions, the DPD participates, but only at the initial discussion level. The discussion process consists of two levels: Level I, involving meetings with various commissions, including joint commission sessions, meeting of the Legislative Body, the Budget Body, or special committee, and Level II, taking place during a plenary meeting. Once the draft law has been approved by both the DPR and the President, it is submitted by the DPR leadership to the President for confirmation to become an official law. The endorsement is finalized when the President affixes their signature to the document. If the President does not validate the draft within 30 days of its approval, it automatically becomes law without needing the President's signature. In this case, the law is formalized by publishing it in the State Gazette of the Republic of Indonesia.

Society Participation

According to Article 1, paragraph (2) of the 1945 Constitution of the Republic of Indonesia, sovereignty lies with the people and is exercised in accordance with the Constitution. As a nation that embraces the principle of popular sovereignty, Indonesia emphasizes the importance of public involvement in the formation legislative regulation. This involvement is often referred to as participation. Public participation is crucial in the law-making process because the laws that are created affect society and are used to resolve conflicts within the community. Participation serves as a means for transforming societal values into legislative regulation. In Islamic teachings, deliberation and consultation are encouraged when making decision, as highlighted in Qur'an Surah Ash-Shura, verse 38, which states that matters should be decided through mutual discussion.³³

³⁰ "Pasal 42A Undang-Undang Nomor 13 Tahun 2022 Tentang Perubahan Kedua Atas Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan" (n.d.).

³¹ Jimly Asshiddiqie, *Perihal Undang-Undang* (Jakarta: Konstitusi Press, 2006), 320.

³² Hestu Cipto Handoyo, *Prinsip-Prinsip Legal Drafting & Desain Naskah Akademik* (Yogyakarta: Universitas Atma Jaya Yogyakarta, 2008), 170.

³³ Mirza Satria Buana and Rahmat Budiman, "INDONESIA'S MINIMUM WAGE POLICY AFTER THE OMNIBUS LAW," *UUM Journal of Legal Studies* 13, no. 2 (July 2022): 187–214, <https://doi.org/10.32890/UUMJLS2022.13.2.8>.

Unfortunately, public participation in the legislative process remains quite low and often feels more like a formality than a genuine engagement.³⁴

Public participation in the creation of legislative regulation can take various forms, depending on the political development and circumstances of society. The level of awareness among citizens about their role in societal, national and state affairs greatly influences their participation. Increased public involvement can also strengthen the representative function of elected officials, which in turn enhances public trust in political institutions. Furthermore, effective participation fosters strong relationships between representatives and their constituents. There are several models of public participation, which include:³⁵

1. *Pure Representative Democracy*: In this model, public participation is straightforward. Citizens engage indirectly in the decision-making process by voting for their representatives in elections. In this setup, the public generally accepts the laws produced by these legislators without further involvement.
2. *Basic Model of Public Participation*: This model illustrates that the public has some level of engagement in the decision-making process, not only through elections but also by interacting with their representatives. However, this interaction may not fully capture the essence of meaningful participation.
3. *Realism Model of Public Participation*: Here, public participation is often dominated by the interests of organized groups and organizations. While citizens participate in elections, only a subset actively engages with their representatives. This model indicates a trend toward understanding “the public” in a limited context defined by specific interest groups.
4. *Possible Ideal for South Africa*: This alternative model suggests expanding participation beyond the typical frameworks. It includes three types of participants: *those who are strong and organized*; *those who are organized but weaker*; and *those who are weak and unorganized*. By implementing this model, the government can develop strategic vision that address the needs of all three group. This approach introduces two additional dimensions: the role of political parties and majorities, and the relationship between representatives and the executive branch.

Public participation is essential and must be taken seriously, especially when implementing the omnibus law model for legislative regulation. The Constitutional Court, in its Decision Number 91/PUU-XVIII/2020, emphasized that meaningful participation is necessary alongside formal legal rules in the legislative process. This ensures that public involvement is genuine and truly impactful. For participation to be considered meaningful, it must meet three critical prerequisites: *The right to be heard*. Individuals should have the opportunity to express their opinions; *The right to be considered*. The opinions must be taken into account during the decision-making process; and *The right to be explained*. Participants should receive clear explanations or answers regarding their feedback. This meaningful participation is especially important for communities that are directly affected by the legislation and have specific concerns about the proposed regulations. It

³⁴ Noor Tri Hastuti et al., “INTEGRASI ANALISIS HUKUM DALAM PEMBENTUKAN PERATURAN UNTUK MEWUJUDKAN GOOD GOVERNANCE,” *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 13, no. 3 (December 2024): 2024, <https://doi.org/10.33331/RECHTSVINDING.V13I3.1943>.

³⁵ Saifudin, *Partisipasi Masyarakat Dalam Pembentukan Peraturan Perundang-Undangan* (Yogyakarta: FH UII Press, 2009).

should occur at all stages of the legislative process, including the submission of draft regulations, discussions, and final approvals.

Following the Constitutional Court's ruling, provisions regarding public participation have been incorporated into Law Number 13 of 2022, which amends Law Number 12 of 2011 concerning the Formation Legislative Regulations. Article 96 states that the public has the right to provide input both verbally and writing, whether online or offline, at every stage of the legislative formation process. This input can come from individuals or groups who are directly affected or have a vested interest in the content of the proposed regulations. To make it easier for the public to provide feedback, all Academic Manuscripts and/ or draft regulations should be readily accessible. To gather community aspirations effectively, legislative bodies can conduct public consultations through various formats, such as general opinion hearings, site visits, seminars, workshops, discussions, and consultation activities. The results of these consultations should be taken into consideration during the planning, preparation and discussion of draft regulations. However, despite these provisions being formalized in Law No. 13 of 2022, meaningful participation remains insufficient. This is evident from the minimal public involvement in the issuance of the Government Regulation in Lieu of Law that ratified the Omnibus Law on Job Creation, as well as the Constitutional Court's ruling on Law No. 6 of 2023, which deemed public participation irrelevant for emergency laws. This inconsistency in applying the principle of meaningful participation highlights a significant gap in Indonesian legislative practices, underscoring the need for a more inclusive approach to engage the public effectively.³⁶

Omnibus Law Method

The term “*omnibus*” has its origins in Latin, where “*omni*” means “many,” and in English, “*bus*” refers to a vehicle. Originally used in France to describe a horse-drawn carriage that transported people around the main streets of Paris, the term has evolved significantly. In modern usage, particularly in the United States and Canada, “*omnibus*” refers to something that is meant for everyone or includes all.

For instance, in Canada, an omnibus law can refer to a new law that brings together and organizes material from multiple existing documents.³⁷ According to legal scholar Muladi, an *omnibus law* addresses a wide range of topics that may not necessarily be related to each other (*diverse or unrelated*) but need to be consolidated and synchronized. Maria Farida Indrati interprets the *omnibus law* as a single, new law encompassing various subjects to simplify the legal landscape while still keeping existing laws intact.³⁸ Fachri Bachmid adds that an *omnibus law* is a legislative product designed to consolidate diverse themes, materials, subjects, and regulations from different sectors into one comprehensive law.³⁹ Antoni Putra further defines it as a law that revises or repeals

³⁶ Zainal Arifin Mochtar et al., “From Meaningful to Meaningless Participation: The Tragedy of Indonesia’s Omnibus Law on Job Creation,” *Jurnal Media Hukum* 31, no. 2 (December 2024): 351–70, <https://doi.org/10.18196/JMH.V31I2.23557>.

³⁷ Jimly Asshiddiqie, *Omnibus Law Dan Penerapannya Di Indonesia, Cetakan 1* (Jakarta: Penerbit Konstitusi Press, 2020), 3.

³⁸ Anggono, “OMNIBUS LAW SEBAGAI TEKNIK PEMBENTUKAN UNDANG-UNDANG: PELUANG ADOPSI DAN TANTANGANNYA DALAM SISTEM PERUNDANG-UNDANGAN INDONESIA.”

³⁹ Agnes Fitryantica, “Harmonisasi Peraturan Perundang-Undangan Indonesia Melalui Konsep Omnibus Law,” *Gema Keadilan* 6, no. 3 (December 2019): 300–316, <https://doi.org/10.14710/GK.2019.6751>.

many existing laws.⁴⁰ In Black's *Law Dictionary*, an *omnibus law* is defined as a law that applies to everyone and contains two or more distinct matters. It is most often used to describe a legislative bill that addresses multiple general subjects within a single piece of legislation. Essentially, it is a comprehensive bill that incorporates various independent topics, making it a broad-ranging piece of legislation.⁴¹

This leads us to the concept of an *omnibus bill*, which is a legislative proposal that consolidates various separate and distinct matters into one act. Often, this can create a situation where the executive authority must accept provisions they do not agree with or rejecting the entire bill. In a legal context, the term *omnibus* is closely associated with practices in common law systems, such as those in the United States and the UK.⁴²

In Indonesia, the omnibus law has begun to be discussed as a method or technique for law formation that allows for simultaneous changes to several existing laws previously. Epistemologically, the concept of an omnibus law is essentially a method for arranging, normalizing, or formulating legal norms within the legislative framework.⁴³ As pointed out by Christiawan in his book on the subject, the term does not refer to a specific type of regulation but signifies a set of rules developed using this particular approach. He also suggested that, essentially, an omnibus law is a single rule or piece of legislation that encompasses a wide range of provisions.⁴⁴

From the various definition outlined above, it can be said that omnibus law represents a method or draft for creating a unified regulation that encompasses multiple substantive rules under one umbrella law. This approach aims to establish a new law while simultaneously repealing or amending several existing regulations all at once. The goal of an omnibus law is to address widespread issues by streamlining changes across different sectors, thus minimizing the potential for conflicts or inconsistencies between legal norms.⁴⁵ However, in practice, implementing an omnibus law can be quite complex. It often interacts with numerous pre-existing legal frameworks, making it susceptible to conflicts and involving the interests of various stakeholders. The complexity also necessitates adjustments to various derivative regulations to ensure coherence in the legal system.⁴⁶

Implementation of the Omnibus Law Method in Indonesian Legal System

Indonesia currently faces a significant issue known as regulatory obesity, making it one of the countries with the most regulations in the world. When compared to larger nations like the United States, Germany, or the United Kingdom, Indonesia has developed an extraordinary number of

⁴⁰ Antoni Putra, "PENERAPAN OMNIBUS LAW DALAM UPAYA REFORMASI REGULASI," *Jurnal Legislasi Indonesia* 17, no. 1 (March 31, 2020): 1–10, <https://doi.org/10.54629/JLI.V17I1.602>.

⁴¹ Novianto Murti Hantoro, "Konsep Omnibus Law Dan Tantangan Penerapannya Di Indonesia," *Parliamentary Review* 2, no. 2 (2020).

⁴² Hantoro.

⁴³ Ahmad Redi and Ibnu Sina Chandranegara, *Omnibus Law Diskursus Pengadopsiannya Ke Dalam Sistem Perundang-Undangan Nasional* (Depok: Rajawali Pers, 2020), 5; Imam Asmarudin et al., "Initiating the Reform of Principle Norms in the Formation of Laws in Indonesia," *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 2 (August 19, 2024): 208–26, <https://doi.org/10.29303/IUS.V12I2.1390>.

⁴⁴ Rio Christiawan, *Omnibus Law: Teori Dan Penerapannya* (Jakarta: Bumi Aksara, 2021), 11.

⁴⁵ Taufiq Ismail and Sahid Jayadi Hamzah, "Penerapan Metode Omnibus Law Dalam Pembentukan Peraturan Daerah Pada Pemerintahan Kabupaten Cianjur," *Jurnal Hukum Lex Generalis* 6, no. 8 (July 2025), <https://doi.org/10.56370/JHLG.V6I8.1358>.

⁴⁶ Nola, "PENERAPAN OMNIBUS LAW DALAM HUKUM KETENAGAKERJAAN DI INDONESIA."

overlapping legislative rules—over 220,346 regulations. While a large volume of regulations is not inherently problematic if they are of a high quality, the reality is that many of these laws lack substance.⁴⁷ In such cases, quantity without quality can lead to confusion and ineffective governance. This situation can create a malfunctioning regulatory environment, where overlapping laws may conflict with one another, both vertically (between levels of government) and horizontally (between similar authorities). Moreover, these excessive regulations can lead to jurisdictional conflicts among various ministries and institutions.⁴⁸ To address these issues, the omnibus law method has emerged as a key strategy for improving and streamlining regulations. According to legal scholar Wicipto Setiadi, the ideal approach to reforming existing regulations should adhere to specific standards of regulations. This adherence will help ensure that the resulting laws are legitimate and less susceptible to judicial challenges. It is important that the process of forming regulations pays attention to the formation steps, the substance of the laws, and, importantly, public participation.⁴⁹

The omnibus law method has already been used in the legislative process for various laws, including not only the Job Creation Law but also Law Number 7 of 2021, which relates to the Harmonization of Tax Regulations. Although the omnibus law model is outlined in Law Number 13 of 2022 and has been applied in several instances, there are still shortcomings in its implementation. A major concern revolves around the legislative procedures, which often lack transparency and provide minimal opportunities for public involvement. This situation contradicts the principles of democracy and transparency that are guaranteed by the Constitution. As stated in Article 20A, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the House of Representatives (DPR) has legislative, supervisory, and budgetary responsibilities that must be carried out in a transparent and accountable manner.

In addition to the lack of meaningful public participation, there was also insufficient time allocated for public discussions and consultations. The complexities of the law demanded thorough analysis and input from a diverse range of stakeholders. Unfortunately, the process felt rushed and did not adequately incorporate feedback from various segments of society, particularly academics and legal experts. This raises serious concerns about whether the legislative process has truly adhered to the principles of openness and participation mandated by the Constitution. When legislative procedures lack transparency and public involvement, it undermines the legal legitimacy of the laws created and erodes public trust in the legislative process.⁵⁰

The Indonesian legal system has established several key principles for designing legislation: clarity of purpose, appropriate institutions or officials to handle formation, alignment between type, hierarchy, and content, enforceability. Usability and effectiveness, clarity of formulation,

⁴⁷ Rizal Irvan Amin and Achmad Achmad, “MENGURAI PERMASALAHAN PERATURAN PERUNDANG-UNDANGAN DI INDONESIA,” *Res Publica: Jurnal Hukum Kebijakan Publik* 4, no. 2 (December 2020): 205–20, <https://doi.org/10.20961/RESPUBLICA.V4I2.45710>.

⁴⁸ Roman Situngkir, “Urgensi Penerapan Omnibus Law Untuk Menyelesaikan Permasalahan Pembentukan Regulasi Di Indonesia,” *Juris Studia: Jurnal Kajian Hukum* 3, no. 1 (February 2022): 1–8, <https://doi.org/10.55357/IS.V3I1.193>.

⁴⁹ Ismail and Hamzah, “Penerapan Metode Omnibus Law Dalam Pembentukan Peraturan Daerah Pada Pemerintahan Kabupaten Cianjur”; Siti Kunarti et al., “The Legal Politics of Outsourcing and Its Implication for the Protection of Workers in Indonesia,” *Sriwijaya Law Review* 8, no. 1 (January 2024): 1, <https://doi.org/10.28946/slrev.Vol8.Iss1.2750.pp1-19>.

⁵⁰ Indra Utama Tanjung and Arminsyah, “Kritik Terhadap Implementasi Omnibus Law Dalam Sistem Hukum Indonesia: Analisis Dari Perspektif Hukum Tata Negara,” *Juris Sinergi Journal* 1, no. 1 (May 2024): 01–08, <https://doi.org/10.70321/JSJ.V1I1.11>.

and the principle of openness. Among these principles, the principle of openness is particularly challenging to achieve within the omnibus law framework. This difficulty arises because not all members of society affected by the legislation have the opportunity to participate or voice their opinions, especially concerning the content of the law. This lack of inclusivity is problematic, public participation is essential during the legislative formation process. It should not be treated as a mere formality; it needs to be substantive and meaningful. Therefore, one of the significant weaknesses in implementing the omnibus law model is the struggle to adhere to all procedural requirements for legislation, especially when it comes to involving all relevant segments of society. Given that laws created under the omnibus law model often cover extensive and complex topics, they require greater public participation to ensure that all interests are represented. This level of involvement necessarily demands a longer timeframe for formulation, which is crucial for fostering an inclusive and effective legislative process.

The use of the omnibus law model can complicate the process of amending laws and regulations. In the traditional legislative system in Indonesia, changes or replacements of regulations typically occur on a one-to-one basis; that is, one law is modified or replaced by another specific regulation. For instance, if a law is amended, it is done through a specific amendment to that individual legislation. In contrast, the omnibus law method enables the amendment or repeal of multiple laws through a single piece of legislation. While this approach may seem efficient, it is often viewed as unsystematic and even undemocratic.⁵¹ Typically, when a regulation is amended, the title of that regulation reflects the changes by incorporating the phrase “amendment” at the beginning. For example, Law Number 15 of 2019 is titled “Amendment to Law Number 12 of 2011 concerning the Formation Regulation Legislation. If multiple changes are made, the title may include phrases that indicate how many changes have been made, such as in Law Number 13 of 2022, which is “Concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation Regulation Legislation.”

When implementing the omnibus law method, it is essential to align it with the legal framework of the respective country. Every system has its advantages and disadvantages. One significant advantage of using the omnibus law model is that it streamlines the creation and discussion process for drafting new regulations. This method can lead to quicker agreements on legislative designs and helps avoid political gridlock. Given the omnibus laws often cover complex and multiple topics, they allow for various interests to be accommodated since each member of parliament can propose the changes they deem necessary.⁵² Additionally, this method can save time because it eliminates the need to amend numerous individual laws. Instead, changes can be consolidated into a single piece of legislation.⁵³ For example, Law Number 6 of 2023 concerning Job Creation amended more than seventy regulations. By consolidating many changes into one law, it reduces the need for endless debates among legislative members over each individual amendment, as would typically occur with the standard method of legislative change.

Despite its advantages, the omnibus law model has several weaknesses in practice. According to Aaron Whery, the omnibus law tends to be a pragmatic approach that lacks democratic

⁵¹ Charles Simabura and M Nurul Fajri, “Konstitusionalitas Penerapan Mekanisme Omnibus Law Dalam Pembentukan Undang-Undang Di Indonesia,” *Jurnal Konstitusi & Demokrasi* 2, no. 1 (June 2022): 4, <https://doi.org/10.7454/JKD.v2i1.1204>.

⁵² Anggono and Firdaus, “Omnibus Law in Indonesia: A Comparison to the United States and Ireland.”

⁵³ Anggono and Firdaus.

foundations because it replaces and amends various regulations that originate from different political initiatives.⁵⁴ Critics argue that this model undermines democratic principles, as it is viewed by some as anti-democratic.⁵⁵ One significant concern is that the discussion process often does not involve enough experts, and both public research and participation are minimal due to limited opportunities for input. This lack of engagement contradicts the core principles of a democratic rule of law, where diverse voices should be heard in the legislative process. Furthermore, the preparation of regulations under the omnibus law model is usually executed within a short timeframe, which can result in poorly shaped regulations that lack thoroughness and care. The complexity and volume of the material can lead to oversights, including potential violations of constitutional provisions and important court decisions. A notable example of these challenges arose during the contentious debates over omnibus bills in the Canadian Parliament, where some draft omnibus laws were even banned from implementation in several countries due to similar issues.⁵⁶

When examining the Job Creation Law through the political law lens, the formation process appears to be problematic and flawed. This law, shaped by political considerations in response to complex situation, generated its own set of derivative problems. The process lacked democratic participation and careful preparation, which raised concerns about possible violations of constitutional provisions. From the perspective of good governance, the establishment of the Job Creation Law using the omnibus law model does not meet key principles such as legitimacy, transparency, accountability, responsiveness, and rule of law.⁵⁷

The omnibus law method has been specifically incorporated into Law Number 13 of 2022. This is laid out in Chapter IV, which includes a new section titled Part Seven: Planning Regulation Legislation Using the Omnibus Method. In Article 42A, it is stated that the use of the omnibus method in preparing a legislative draft must be documented as part of the planning process. Article 64. paragraph (1a), confirms that the drafting of legislative regulations can utilize the omnibus approach. Paragraph (1b) further clarifies that this method of preparing regulations include several key aspects:

1. **New Material:** This refers to content that has not yet been addressed in existing regulations using the omnibus method, or additional material added to amended regulations included in the omnibus legislation. The material regulated under the omnibus method can only be altered or revoked through subsequent changes to the legislation.
2. **Related Changes:** This includes modifications to material that are interconnected or need to be regulated across various types of regulation and at the same hierarchy level.
3. **Combined Regulations:** This involves repealing types of legislation of the same hierarchical status and combining them into single regulation to achieve specific goals.

⁵⁴ Anggono and Firdaus.

⁵⁵ Putu Eva Ditayani Antari, "The Implementation of Omnibus Law in Indonesia Law Making Process on Philosophy Review," *De Jure: Jurnal Hukum Dan Syar'iah* 14, no. 1 (June 2022): 179–94, <https://doi.org/10.18860/J-FSH.V14I1.15757>.

⁵⁶ Anggreany Arief and Rizki Ramadani, "Omnibus Law Cipta Kerja Dan Implikasinya Terhadap Konsep Dasar Perseroan Terbatas," *Al-Adalah: Jurnal Hukum Dan Politik Islam* 6, no. 2 (July 2021): 106–20, <https://doi.org/10.35673/AJMPL.V6I2.1550>.

⁵⁷ B. Y. (Bobi) Fajar and Z. (Zaid) Zaid, "A Critical Review on the Job Creation Omnibus Law-Forming Process," *Syiah Kuala Law Journal* 5, no. 2 (August 2021): 195–211, <https://doi.org/10.24815/SKLJ.V5I2.21605>.

The formulation of Article 64, paragraph (1a) in Law Number 13 of 2022 indicates that the omnibus law method is presented as an alternative in the legislative formation process. It is designed to assist in the preparation of draft laws, highlighting that the omnibus law approach is not a new category of legislation that supersedes existing laws.⁵⁸

With the implementation of the omnibus law method articulated in Law Number 13 of 2022, it is crucial to adhere to a clear harmonization mechanism. If this is overlooked, the expectation that the omnibus law will effectively address existing regulatory issues may fall short. This is because the challenges posed by regulations are not solely about their sheer quantity; they also involve quality concerns, such as regulatory disharmony, inappropriate material content, and overlapping jurisdiction among state institutions.⁵⁹

According to Professor Sumarjono, an important aspect of implementing the omnibus law is simplifying the names in the legislative formation process. This simplification can sometimes derive from the philosophies, principles, and concepts of existing laws that are being replaced or revoked. Another significant question that arises is whether diverse backgrounds and objectives of various types of regulations can be unified under a single interest. This concern is quite logical, especially in the context of Job Creation Law. The changes made do not solely pertain to employment and business sectors; they also impact laws related to the environment, spatial planning, forestry, government administration, land use, and more. When numerous regulations are combined into one, if done carelessly or hastily—especially for specific interests—it risks undermining the significance of each law, all under the guise of simplification and standardization. The Commonwealth Court in Pennsylvania has pointed out the potential negative consequences of the omnibus law model, describing it as a “crying evil” or a legislative crime. This is because the omnibus approach can serve as a shortcut for parliament to pass numerous pieces of legislation that would otherwise be difficult to advance through the standard process. Moreover, the implementation of the omnibus law in forming regulation does not necessarily provide maximum access for the public. In fact, it can restrict opportunities for public input and control, which should ideally be as expansive as possible. From a discussion standpoint, forming legislation using the omnibus method can become complicated or rushed, especially when many mandatory articles require thorough deliberation.⁶⁰

Given the advantages and disadvantages outlined, and considering the legal framework in Indonesia, implementing the omnibus law method for legislative formation is not straightforward. The omnibus law approach has primarily developed in countries with common law system. Therefore, if applied in countries that adhere to a civil law system, such as Indonesia, it must be adapted to fit the constitutional framework and specific conditions of each country. An example of a civil law country that has successfully adopted the omnibus law method is Vietnam. In Vietnam, the need to address the overlapping laws and lengthy legislative processes for changing, revising,

⁵⁸ Erlangga Hamid Putra Zakaria, “Penerapan Omnibus Law Dalam Sistem Legislasi Nasional Menurut Undang-Undang Nomor 13 Tahun 2022,” *Innovative: Journal Of Social Science Research* 3, no. 3 (August 2023): 10719–33.

⁵⁹ Alfian Prahasta Adhisatya, “Penerapan Omnibus Law Dalam Sistem Peraturan Perundang-Undangan Indonesia,” *Res Publica* 5, no. 3 (2021), <https://doi.org/10.20961/respublica.v5i3.58461>.

⁶⁰ Rizal Irvan Amin, “OMNIBUS LAW ANTARA DESIDERATA DAN REALITA,” *Jurnal Hukum Samudra Keadilan* 15, no. 2 (December 2020): 190–209, <https://doi.org/10.33059/JHSK.V15I2.2729>.

or amending regulations prompted the adoption of this approach.⁶¹ The omnibus law method is viewed as a way to streamline the legislative process and simplify regulations, making it more efficient for lawmakers to enact necessary changes.

Indonesia operates as a democratic state founded on the rule of law, which emerges the concepts of *rechtstaat* and the rule of law. This approach leans towards *rechtstaat* within a civil law system, where written regulations serve as the primary source of law. Given this framework, the omnibus law model is not particularly well-suited for implementation in Indonesia. When legislation serves as the foundation of law, it is vital for its content to be clear and straightforward to facilitate effective implementation. If the omnibus law model is applied by creating a single regulation that amends numerous regulations or encompasses highly diverse content, it risks becoming confusion and difficult to understand. This complexity can lead to significant problems and potentially disrupt social order. Therefore, crafting legislation requires careful, thorough, and patient consideration, where each stage of the regulatory formation process be conducted correctly.

Another crucial aspect is the principle of openness. During the legislative process—including stages like planning, preparation, and discussion—public involvement is essential. Public participation should not be treated as a merely formality; instead, it must genuinely reflect the Constitution's requirements for meaningful community engagement. The goal is for public involvement to be maximized so that the resulting laws are effective and of high quality.

Unfortunately, the omnibus law method tends to limit opportunities for openness and public participation. Its implementation is often rushed, with a pressing need to manage numerous legal subjects, which further diminishes public engagement or may even eliminate it altogether. To ensure the creation of high-quality, implementable legislation, each law should focus on specific legal subject, steering clear of the omnibus law approach. This strategy will promote greater public involvement and meaningful contributions to the legislative process. Consequently, legislation will be viewed positively rather than as a burdensome or daunting entity. Instead, the presence of well-crafted laws will be welcomed by the community, as they promise a more organized, protected, and prosperous life.

CONCLUSION

In summary, the implementation of the omnibus law method faces several challenges, including insufficient research and minimal public participation, which undermine its democratic nature. As a country rooted in the rule of law that leans towards a civil law system, Indonesia finds the omnibus law model inadequate for effective legislation. However, since the omnibus law method has been integrated into Indonesia's legal framework, it is essential that any legislation developed in this way is approached with extreme caution and diligence. Every stage of formulating regulations must be executed properly. As a sovereign democratic nation that values transparency in its legislative process, Indonesia must provide ample opportunities for public participation at every step. This will ensure that the resulting regulations are responsive and of high quality. Additionally, the

⁶¹ Muhammad Ihsan Firdaus, "Metode Omnibus Law Dalam Pembaharuan Hukum Pembentukan Peraturan Perundang-Undangan Di Indonesia (Studi Perbandingan Negara Kanada, Amerika Serikat, Filipina Dan Vietnam)," *Jurnal Hukum IUS QUIA IUSTUM* 30, no. 2 (May 2023): 233–55, <https://doi.org/10.20885/IUSTUM.VOL30.ISS2.ART1>.

government will need to enhance the capabilities of its institutions in implementing the Omnibus Law while ensuring rigorous oversight of its application.

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