

TAKING OMNIBUS LAW SERIOUSLY

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Abstract: This article tries to understand the Omnibus Law on Job Creation and its relation to the Sustainable Development Goals/ SDGs as an aspect of the protection of human rights as the responsibility of the state. The research approach is normative legal research using a hermeneutical circle analysis. The main object (material object) is the norms in UUCK and related statutes that have been amended, added, or substituted by the Law on Job Creation. The norms studied are stated in the articles of the Law on Job Creation, especially norms that deal with the environment and sustainable development. Hermeneutical analysis, from the linguistic and phenomenological point of view, is used to find the meaning of law from the linguistic and historical point of view, and the nature of the State as the protector of citizens' human rights. The findings are divided into 3 points. First, in terms of the process, this law is a tactical and political response from decision-makers to complex and dynamic situations that can lead to complicated derivative problems if the responses are not based on a framework based on the principles and basic values of the state. Dealing with the growth agenda in SDGs, the Law on Job Creation still calls into question whether the Law enshrines the easiness of business and full employment and decent work as human rights obligations of the state, or merely as benefits of economic growth. So it still presents both opportunities for human rights monitoring and accountability.

Keywords: Omnibus Law, Job Creation, Sustainable Development Goals

Abstrak: Tulisan ini mencoba untuk memahami Omnibus Law Cipta Kerja dalam kaitannya dengan Tujuan Pembangunan Berkelanjutan (Sustainable Goals/SDGs) sebagai suatu aspek dari perlindungan HAM yang merupakan tanggung jawab negara. Penelitian dilakukan dengan menggunakan pendekatan penelitian ilmu hukum normatif menggunakan analisa lingkaran hermeneutika. Obyek utamanya adalah norma dalam Undang-undang Cipta Kerja dan peraturan perundang-undangan terkait yang telah diubah, ditambahkan atau digantikan oleh undang-undang ini. Norma yang dikaji dimuat dalam pasal-pasal Undang-Undang Cipta Kerja, khususnya aturan-aturan mengenai lingkungan hidup dan pembangunan berkelanjutan. Analisa hermeneutika dari sudut pandang bahasa dan fenomenologi, digunakan dengan maksud untuk menemukan makna hukum dari aspek linguistik dan sejarah, serta hakekat Negara sebagai pelindung HAM warga negaranya. Hasil temuan dalam kajian ini dibagi dalam tiga poin. Pertama, dalam hal proses, undang-undang ini merupakan respon penentu kebijakan yang bersifat taktis dan politis terhadap situasi yang kompleks dan dinamis yang pada kenyataannya justru membawa pada permasalahan derivatif yang kompleks jika tindakan pemerintah tersebut tidak didasarkan pada kerangka kerja yang menjadi prinsip-prinsip dan nilai-nilai fundamental Negara. Mengacu pada agenda SDGs, Undang-Undang Cipta Kerja perlu untuk dikaji lebih dalam apakah aturan-aturan di dalamnya memperkuat kemudahan usaha dan kewajiban negara menjamin hak asasi pekerja secara penuh, atau hanya bermanfaat untuk pertumbuhan ekonomi. Hal ini masih memberikan kesempatan untuk pengawasan HAM dan akuntabilitas.

Keywords: Omnibus Law, Cipta Kerja, Sustainable Development Goals

INTRODUCTION

Law Number 11 of 2020 on Job Creation has been officially passed by the Indonesian President, Joko Widodo on November 2, 2020, and put on the State Gazettes Number 245 of 2020. The draft of this Law has been discussed in the House of Representatives for 8 (eight) months since the government used its initiative right to propose the draft to the House. This Law is modeled as an *Omnibus Law*, which in its technical making covers 11 (eleven) policies. There are 186 articles in the Law consisting of amendments, deletion (*penghapusan*), dan annulment (*pembatalan*) of 79 (seventy-nine) laws concerning development and investment. In Indonesian Law history, this is the thickest codified statute since it consists of 1187 pages and 186 articles. However, the duration of discussion at the House of

Representatives was relatively fast, because it just took 8 (eight) months to pass this Law.

Some of the criticisms have been voiced over the law, such as the attitude of the Indonesian government was not transparent and hasty in legalizing the act while Indonesia was suffering a pandemic that required extra handling through the government policies. However, Coordinating Minister for Economy Affairs Airlangga Hartarto stated that this omnibus law of job creation was the way for Indonesia to be out of the status of a middle-income country. Furthermore, he said that the elected President of the 2019 – 2024 period had delivered a speech on his inauguration speech on October 20, 2019, on how we had the potentials to be bailed out from middle-income country status.

This article tries to understand this Omnibus Law on Job Creation and its relation to the Sustainable Development Goals/ SDGs, as the protection of human rights as the responsibility of the state. The method used is hermeneutic circle by analyzing the law from linguistic and phenomenological perspectives. The result of this study shows that the Law on Job Creation still calls into question whether the Law enshrines the easiness of business and full employment and decent work as human rights obligations of the state or merely as benefits of economic growth. So, it still presents both opportunities for human rights monitoring and accountability.

RESEARCH METHOD

The research approach is normative legal research using a hermeneutical circle analysis. The main object (material object) is the norms in Law Number 11 of 2020 on Job Creation, and the related statutes which have been amended, added, or substituted by the Law on Job Creation. The norms analyzed are those dealing with the environment and sustainable development. By hermeneutical analysis –the linguistic and phenomenological point of view – is meant a kind of analysis which tries to understand a text from its connecting parts and as a whole to get a comprehensive meaning. This endeavor is conducted to find the meaning of law from the linguistic and historical point of view, the nature of the State as the protector of citizens' human rights. In this analysis, the historical analysis is used to trace the background and consideration of the legislators in formulating the norms dealing with the role of the State as well as its consequences. After analyzing these norms from these perspectives, a synthesis is conducted and explained descriptively.

RESULT AND DISCUSSION

Statute or Law is a legal text deemed very important in state life, although very few people have read it. Not many people have read Reading the Indonesian Constitution of 1945 which consists of 37 articles and 65 paragraphs although they know its content,¹ much less reading Omnibus Law on Job Creation which consists of 186 articles and 1187 pages.

In an ideal world, there is no room for legal interpretation. No one can write legal interpretation, because legal language, especially the language of the law, is clear and unambiguous. In such a world, the judges have no difficulties in implementing the language of the law, whatever cases they face. Lawyers would not debate on the meaning of the law, and references to "the intention of legislators" would have been erased. Peace and harmony would reign, and legal theoreticians would not have to endeavor to explain the meaning of the law. Unfortunately, our world is a world that is far from this perfection, and the language of law often requires interpretation. That is why the law needs interpretation, and the law itself is interpretation, as was posed by Dworkin and Gadamer.²

Legal interpretation is a must in understanding law because a law always contains legal indeterminacy. This *Legal indeterminacy* might be caused by *vagueness*, *ambiguity*, *inconsistency*, and

¹Bre Redana, Kompas 14 Oktober 2020.

²See Ronald Dworkin, Dworkin, Ronald. *Law's Empire*. Cambridge, MA: Belnap, 1986.

and Hans Georg Gadamer, *Truth, and Method*, Translation revised by Joel Weinsheimer and Donald G. Marshall, London: Continuum Publishing Group, 2004

concepts that are fundamentally contradictory or competitive, which Gallie mentioned as *evaluative openness*.³ This *legal indeterminacy* is called semantic indeterminism; we cannot determine exactly the meaning and this affects the claim of rightness which is a requirement in the process of legal reasoning.⁴

In the field of legal interpretation, we can interpret a text if we have an understanding of the text's type because we will also have a view of the values inherent in the text.⁵ However, in the method of making a statute, problems of interpretation should be avoided. In a book titled *Het wetbegriep en beginselen van behoorlijkeregelgeving*, I.C. van der Vlies grouped some principles in statute making into formal and material principles.⁶ The formal principles include:

1. The clear objectives
2. The right institution
3. The regulation needed
4. The applicability
5. The consensus.

Material principles include:

1. The right terms and structure
2. The recognizable law
3. Equal treatment before the law
4. The legal certainty
5. The legal application is in line with the individual situation.

Furthermore, Hamid S. Atamimi,⁷ stated that the following principles should be included in the law-making process:

1. Legal idea of Indonesia
2. The principle of the Indonesian State based on law and constitution as the basis of government activities.
3. Other principles

Then, the principles in the law-making in Indonesia should follow standards guided by:

1. Pancasila as the legal ideal of Indonesia
2. The fundamental norms of Indonesia, Pancasila
3. The state principles are based on laws that posit the statute as a unique regulation in legal virtues; and the principle of the Indonesia State based on law and constitution as the basis of government activities.

Gadamer in *Truth and Method* proposed a method to understand a text in his theory on a hermeneutic circle. Legal Text is a text. Thus, Hermeneutics can be used to understand a legal text. Without hermeneutics, we cannot understand or get the spirit of the age in which the document was made. This hermeneutic circle is a term posed by Gadamer to explain a process of understanding/*verstehen* of a text (written on unwritten) with a circular way between the parts and the whole, such that the parts cannot

³ Matthias Klaat, *Making the Law Explicit, The Normativity of Legal Argumentation*. Portland: Hart Publishing, 2008, pp. 262 – 264. See also: J.J.H.Bruggink, *Refleksi tentang Hukum*, translated by Arief Sidharta, Bandung: Citra Aditya Bakti, 1996, p. 60 who categorized specific difficulties in law, such as 1) synonym, 2) ambiguity, 3) vague, and 4) open evaluation. Compare also with: L. Witentangenstein, *Philosophical Investigation*, who posed a different term for the same intention, *Legal Determinacy*, in Brian Bix, *Law, Language, and Determinacy*, New York: Clarendon University Press, 2003, p. 1.

⁴ Matthias Klatt, *Ibid.*, p. 2.

⁵ Andrei Marmor., *Op. Cit.*, p. 30.

⁶ Maria Farida Indrati Suprpto, *Ilmu Perundang-Undangan, Dasar-Dasar dan Pembentukannya*[Legislative Science, the Basics and Formation], Jogjakarta: Kanisus, 1998. hlm. 196.

⁷*Ibid.*

be understood without understanding the whole, and the whole cannot be understood without understanding the parts, to get a comprehensive understanding to the text.⁸

“Understanding” (English) or *verstehen* (German), is the keyword in interpretation. Usually, people associate the concept of "understanding" with the cognitive or epistemological process. To understand or *Verstehen* is, in general, to grasp something (“I get it”)⁹; to see something more clearly (for example, when a vague article becomes clear because of the process of understanding), to integrate a certain meaning into a bigger scheme. The basic idea of "understanding" is dominant in the theory of Gadamer's hermeneutic circle.

However, understanding is a difficult activity. Understanding a text, whatever its type, including legal text, often meets certain problems. More difficulties would be faced in interdisciplinary understanding. The potential of disagreements and contradictions would happen. Then, the endeavor in understanding a legal text is not only a difficult work but also a *virtuous endeavor*. It needs patience, caution, and a sense of humanity. That is why, citing Gadamer that “the task of hermeneutics is to clarify this miracle of understanding, which is not mysterious communion of souls, but sharing in a common meaning”, this activity is a spiritual activity, which even if it doesn’t succeed, it will present a “miracle of understanding”¹⁰. To understand the Law on Job Creation, there are four things to understand: the purpose, the methods, the process, and the substance.

Dealing with the purpose of the Law, the Law on Job Creation was introduced by President Joko Widodo in his inauguration speech before the Plenary Session of the People's Consultative Assembly of the Republic of Indonesia on October 20, 2019, which mentioned 5 (five) things to happen in 2020, one of them is the simplification of the form of regulations. In that speech, the President stated that he would invite the House of Representatives to issue two great statutes: the Law on Job Creation and¹¹ the Law on Micro, Small and Medium Enterprise (MSMEs/*Usaha Mikro, Kecil dan Menengah/UMKM*). Those Laws would be an Omnibus Law, a single law that simultaneously revises several laws, even dozens of laws. Dozens of laws that hampered job creation were immediately revised at once. Dozens of laws that hindered the development of MSMEs would also be immediately revised.¹²

This President's program was followed up in the National Legislation Program of 2020-2024. In the plenary session of the Parliament on December 17 of 2019, the House of Representatives stipulated 248 (two hundred and forty-eight) legislation drafts which became their priority. From the list of the drafts, there were drafts which were “omnibus law” in nature: the draft on Job Creation, the draft of the Regulation and Facilitation of Tax to Strengthen the Economy, and the draft on the Development and Strengthening of the Financial Sector. Since that moment, “omnibus law” had become a new term that would often be used.

The Indonesian Government as the initiator of the Law took progressive steps because the government was trying to understand the future of the sustainability of this nation. One of the unpopular steps was making a draft of Omnibus Law which eventually was passed by the Parliament into a Law. Some elements of the society, especially laborers, took to the streets to reject this draft because they viewed it as harmful to them. On the other hand, the government thought that the productive age dominated Indonesia, where it is regarded as a possibility for the welfare of the state if their quality could be increased. So, the Law on Job Creation would be deemed as an instrument for removing a high-cost economy loaded with corruption. This is achieved by shortening the license chain to minimize corruption.

⁸ Hans Georg Gadamer, *Truth and Method*, *Op. Cit.*, hlm. xxxii.

⁹ Jean Grondin, “Gadamer’s Basic Understanding of Understanding”, in Robert J. Dostal, *The Cambridge Companion to Gadamer*, (Cambridge: Cambridge University Press, 2002), p. 36, “*Verstehen (to understand)* is, in general, to grasp something (“I get it”).

¹⁰ Vanhoozer, “Discourse on Matter: Hermeneutics and the “Miracle” of Understanding”, quoted Gadamer that “the task of hermeneutics is to clarify this miracle of understanding, which is not mysterious communion of souls, but sharing in a common meaning” in Kevin Vanhoozer, James K.A. Smith, and Bruce Ellis Benson, *Op. Cit.*, p. 3.

¹¹ Parliamentary Review, Vol. II No. 1, 2020.

¹² (Ministry of Foreign Affairs, 2019:7)

The purpose of the creation of the Law on Job Creation is in line with the points in consideration of this Law, i.e. to meet the rights of citizens for work and livelihood that are appropriate for humanity through this Law; to absorb Indonesian migrant workers as much as possible during competitive and globalized economy. The protection dealing with the ease, safeguard, and empowerment of MSMEs, the improvement of investment ecosystem and the national strategic project, including the improvement of the protection and welfare of laborers, which were previously distributed in various legal sectors had not been able to meet the need to accelerate the creation of job opportunities. So there needs to be a change dealing with some of those aspects. So this Law is a breakthrough law to solve various problems by merging some laws into one comprehensive law. The promise of the Omnibus Law on Job Creation is to solve various problems in some previous laws using turning them into one law in a comprehensive manner. (Considerations, part e).

Three keywords found in the Law on Job Creation are "facilitation" (95 times) "protection" (175 times), and "empowerment" (31 times). The business ease aimed by this Law is for business players, the ease of getting environment approval, facilities for people, especially for business players to get building approval and eligibility of function certificate, simplification of licensing in business sectors, and the ease in investment requirements in various sectors (marine, forestry, mineral sources, nuclear, industry, trade, legal metrology, *halal* product security, and standardization and valuation of the suitability, trade promotion, investment requirements from general working and housing, etc.

Regarding the methods, this Law uses an omnibus law approach. This method has not been recognized yet in the history of Indonesian legislation so far and has not been regulated in Law Number 12 of 2011 in the Law-Making Regulation, although the method has been recognized in the law-making mechanisms in some foreign countries. In the USA, for example, there is Omnibus Proceeding,¹³ Omnibus Taxpayers' Bill of Rights Act¹⁴, Antitrust and the Omnibus Trade and Competitiveness Act Of 1988,¹⁵ Omnibus Trade Law,¹⁶ Omnibus Banking Law,¹⁷ Omnibus Coverage Clause¹⁸, etc.

The technique of making an Omnibus Law covers many fields so that it affects the changes and invalidations of the 79 related laws with different philosophical and sociological considerations. The purpose of this method is to ensure business purposes and investment can be easily achieved. The applied legal philosophy used is pragmatism, recognizable from the keywords that frequently appear in the Law on Job Creation (i.e. facilitation, protection, and empowerment). These perspectives are part of capitalism ideology and neoliberal ideology, some of whose characteristics are to remove all inhibitors of investment, trade liberalization, privatization of state-owned enterprises, and indefinite opening of channels for foreign investments. In the context of Law on Job Creation, this means deregulation by reducing government responsibility and intervention.

Regarding the process, the Law on Job Creation had gone through 64 times of meeting sessions until it was passed on November 2 of 2020, and the sessions were always be broadcasted through parliament television and some social media accounts of the parliament, so the discussion of the Law was transparent and accountable.¹⁹

¹³ Jerome M. Smith, Investigation of Unauthorized Practice of Law by Omnibus Proceeding: The Ohio Method. Source: Michigan Law Review, Vol. 62, No. 8 (Jun. 1964), pp. 1425-1433).

¹⁴ Creighton R. Meland, Jr., "Omnibus Taxpayers' Bill of Rights Act: Taxpayers' Remedy or Political Placebo?" *Michigan Law Review*, Vol. 86, No. 7 (Jun. 1988), pp. 1787-1818.

¹⁵ Harvey M. Applebaum, "Antitrust and The Omnibus Trade And Competitiveness Act of 1988", *Antitrust Law Journal*, Vol. 58, No. 2, 37th ANNUAL MEETING (August 6-9, 1989), pp. 557-567)

¹⁶ Yearn Choi, Congress and The Press: Odd couple? The Case of The Omnibus Trade Law, *Journal of East and West Studies: Perspectives on East Asian Economies and Industries*, 18:2, 21-38.

¹⁷ University of Pennsylvania Law Review, Branching and Merging under New York's Omnibus Banking Law, Vol. 115, No. 2 (Dec. 1966).

¹⁸ Insurance. Permissive Use under "Omnibus Coverage Clause" of Automobile Policy *The Yale Law Journal*, Vol. 34, No. 5 (Mar. 1925).

¹⁹ Supratman Andi Agtas, Kompas, October 6, 2020.

However, the adoption of several laws by the parliament elicited resistance from the public and academics, which shows just how serious the political problems in the field of legislation. The house of representatives was accused of only doing the will of the government and harmed public trust about the meaning of a norm, which in turn would encourage people to fight and ignore the rule of law.

The government and parliament were accused of prioritizing a law as a tool of social engineering approach while ignoring sociological considerations that law should have been accepted by the society. The Law Number 12 of 2011 on the Making of Law and Regulation and the Law Number 15 of 2019 on the Amendment of the Law Number 12 of 2011 also confirm the important meaning of academic research before a law is passed, which should have presented a detailed analysis of the philosophical, sociological, and legal bases.

The three bases have always been the foundation in making a law. It means that a new law should be planned seriously and includes various parties from many sectors, especially those who would be affected by this law. As a serious note, the process of the discussion and approval of this Law was very quick, lacking public participation, and did not consider the inputs from the public and academics, as well as the very forced atmosphere in which the law was passed.

From the substance perspective, this Law places investment and investor interest as a priority. These can be known from the keywords: "the easiness of business" and "business approval". It means that the promotion of inclusive and sustainable industrialization is the key driving force in transforming development in Indonesia. This is in line with the medium-term of SDGs to 2030 that aims to the diversification of current economic growth, poverty reduction, full employment, and decent work, which is central to sustained economic growth. The target of SDG 9.2 in the 2030 Agenda proposes a significant rise in industry's share of employment and gross domestic product by 2030, in line with the national circumstances. The movement of workers from low paid jobs in agriculture and the informal economy into higher paid jobs in manufacturing should help reducing inequality and poverty as it focuses on workers in the lower half of the income distribution. SDG 10.1 aims to "progressively achieve and sustain income growth of the bottom 40 percent of the population at a rate higher than the national average." A range of economic policies will need to be brought to realize SDG 8, including many aspects of tax, social and labor market policies which are also relevant to SDG 10. Infrastructure investments and an enabling environment for sustainable enterprises are further key features of the policy framework for the SDGs in general, and SDG 8 and 9 in particular.²⁰

The inclusion of full employment and decent work in the SDGs, as well as some of the targets and indicators, are built upon well-established norms in international law, which provide detailed guidance for monitoring and accountability. Nevertheless, the context and formulation of SDG 8 give cause for concern because it is embedded in potentially conflicting visions of development. Corporate interests represented by the International Organization of Employers (IOE) advanced a market-centered business approach. From this perspective, governments are not human rights protectors. Instead, they are enterprise enablers. Governments create a good business environment in which successful enterprises and economies will sustainably grow, prosper and create jobs. In contrast, human rights and labor groups envision a rights-based partnership in which all actors at the global and national level are accountable for their contributions to the development and the creation of decent work for all.²¹

Still from the legal substance perspective, in Environment aspect, the topic sparking debates on this Law is the abolishment of the environmental permit, the limits of public participation, the abolishment of the commission of environmental impact analysis, the closing of lawsuits of environmental damages, and the losses of the types of administrative sanction.

Article 13 regulates the simplification of business permits, covering: (a) the conformity of space utilization activities; (b) environmental permit; and (c) building approval and certificate of eligibility to

²⁰The 2030 Agenda for Sustainable Development: Challenges and Opportunities for Indonesia, ILO discussion paper for Conference on Indonesia's Agenda for SDG's toward Decent Work for All, Jakarta 17-18 February 2016.

²¹ Diane F. Frey, Economic Growth, Full Employment, and Decent Work: The Means and Ends in SDG 8, THE INTERNATIONAL JOURNAL OF HUMAN RIGHTS, 19 August 2017.

function. Furthermore, Article 14 (6) stipulates that If the businessmen have received confirmation that their business plans are compatible with the local spatial details plan, then the businessmen can propose a business permit. This stipulation indicates that if a business or activity is located at a location that is compatible with the spatial details plan (RDTR/*Rencana Detail Tata Ruang*), there is no need for an Environmental Impact Analysis (*Analisis Mengenai Dampak lingkungan/ AMDAL*).

The RDTR is an elaboration of the spatial layout of an area completed with a zoning map. The question is: is the spatial plan adequate to vet business or activity in place of an Environmental Impact Analysis? The more substantive question is: is the spatial plan able to ensure the realization of a national economy with the principles of being sustainable, environmentally sound, and independent, as intended by Article 33 (4) of the Constitution of the Republic of Indonesia?

Provisions on the exceptions to the AMDAL business plan and/or activity located in a space with RDTR have been regulated in the Government Regulation Number 27 of 2012 on Environment Permit, and in the Ministry of Environment and Forestry Regulation Number 24 of 2018, but it is done through a tight procedure. The governor/regent/mayor submits a proposal except of AMDAL to the Ministry of the Environment and Forestry with a document of Basic Spatial Plan (*Rencana Dasar Tata Ruang/ RDTR*) and the Analysis of Strategic Living Environment/ KLHS (*Kajian Lingkungan Hidup Strategies*). If the Minister agrees, then the business plan excepted still should attach environmental management efforts (UKP/UKL (*upaya pengelolaan lingkungan*)). In the Law on Job Creation, no such procedure is enforced, as long as it is in line with the RDTR, the business permits would be issued after the provision on the environmental permit is abolished. The weakening of the existence of AMDAL would be a threat to natural sustainability. Moreover, environmental impact analysis is now only for high-risk projects although the basis for determining low-risk or high-risk project have not been clarified until now.

The other problem of the Law on Job Creation in the environmental sphere is licensing process that does not involve the role or participation of the public. Public participation is restricted to those directly affected. The public can no longer object to the AMDAL document in the new regulation. The government's ideal to support and accelerate investment turns out to not correlate with the increase in quality and life expectancy and the environment. Regarding agrarian issues, the law is considered to perpetuate investment domination and will accelerate the rate of environmental damage.

The Law on Job Creation also revised the businessmen's obligation regarding AMDAL as stipulated in Law Number 32 of 2009 on the Protection and Management of the Environment. AMDAL is a study of the significant impact of a planned business and/or activity on the environment which is required for the decision-making process regarding the conduct of a business and/or activity. Besides the AMDAL, there is environmental management efforts/ *Upaya Kelola Lingkungan* (UKL) and environmental monitoring efforts (*Upaya Pemantauan Lingkungan/ UPL*), which are the management and monitoring of businesses and/or activities that do not have a significant impact on the environment required for the decision-making process regarding business and/or activities.

In Article 36 of Law Number 32 of 2009, AMDAL has been a requirement for a businessman to do his/her business activities.

Article 36

- (1) Every business and/or activity that is required to have an Amdal or UKL-UPL must have an environmental permit
- (2) The environmental permit as referred to in paragraph (1) is issued based on the environmental feasibility decision as referred to in Article 31 or the UKL-UPL recommendation.
- (3) The environmental permit as referred to in paragraph (1) must include the requirements contained in the environmental feasibility decision or UKL-UPL recommendation.
- (4) Environmental permits are issued by the Minister, governors, or regents/mayors under their respective powers

Furthermore, in the Law of Job Creation, Article 36 regulating the obligations regarding AMDAL have been removed, but in Article 37 there is an explanation about the sanction for the businessmen violating the Amdal and UKL-UPL, as follows:

Article 37

The business licensing can be canceled if:

- a. the requirements submitted in the application for Business Licensing contains legal flaws, error, misuse, as well as untruth and/or falsification of data, documents, and/or information;
- b. its issuance is conducted without fulfilling the requirements as stated in the environmental feasibility decision or a statement of environmental management capability;
- c. the obligations stipulated in the documents of AMDAL or UKL-UPL are not carried out by the person in charge of the business and/or activity.

So, it can be concluded that the Law on Job Creation summarizes the articles in the articles called a business license. AMDAL dan UKL-UPL are parts of business license, not environmental license. Article 40 of the Law Number 30 of 2009 on the environmental license has been removed in the Law on Job Creation. The old regulation stated that an environmental permit was a requirement for obtaining a business license. The elimination of this permit has the potential to eliminate the right to a good and healthy environment as a part of human rights. Furthermore, the new law also eliminates the question of the right of everyone to file a lawsuit at the state administrative court or *Pengadilan Tata Usaha Negara* (PTUN) if the company or official issues an environmental permit without AMDAL. The Law on Job Creation reduces and eliminates public participation in the judicial and licensing space.

This weakening of environmental regulations has solved the problem by taking sides with investors. The authority of the corporation is getting bigger now, and this is happening during national struggles against the health and economic crisis due to the Covid-19 pandemic. The number of agrarian conflicts is difficult to reduce from year to year. The fluctuation of this case is based on the unstable national agrarian conditions without any end of resolution. As a result of this agrarian conflict, there are always victims who have fallen either because they were shot, tortured, or detained. From the data from the Consortium for Agrarian Reform (KPA), 659 agrarian conflicts occurred in 2017. This figure is the highest in the last five years.

Furthermore, the more problematic article is more problematic is the article regarding the protection and management of the environment. Article 88 of the Law on Protection and Management of Environment regulates an absolute responsibility, as follows: "a person whose actions, business and/or activities use the hazardous and toxic materials (*Bahan Berbahaya dan Beracun / B3*), produce and/or manage B3 waste, and/or who pose a serious threat to the environment, are responsible for the losses incurred without the need to prove the element of fault." In the Law on Job creation, that article is changed into: Anyone whose actions, business, and/or activities use B3, produce and/or manage B3 waste, and/or which pose a serious threat to the environment are responsible for the losses that occur from their business and/or activities. So far, article 88 of the Law on Protection and Management of Environment is used by the Indonesian Government to punish the forest destroyers and burners.

A growing number of writers over the last few decades have recognized the impact of the activities of an organization on the external environment and have suggested that such an organization should therefore be deemed accountable to a wider audience than simply its shareholders.²² In a global world, Indonesia should take part in the Sustainable Development Goals (SDGs), an issue which has been the global agenda for more than forty years at least, dating back to 1972 with the first UN Conference on the Human Environment in Stockholm and the simultaneous publication of *Limits to Growth*, which correctly pointed out that the challenge of combining economic development and environmental sustainability would pose huge threats in the twenty-first century.²³

Sustainable Development as an Analytical and Normative Concept. Sustainable development is both a central concept and a central challenge for our times. It is both a way of understanding the world and a method for solving global problems. Sustainable Development Goals (SDGs) will guide the world's

²²David Crowther, ShahlaSeifi, Abdul Moyen (eds), *The Goals of Sustainable Development, Responsibility and Governance*, Springer Nature Singapore Pte Ltd. 2018, p. 6.

²³Jeffery D. Sachs, *The Age of Sustainable Development*, Columbia University Press, New York, 2015, p. 481.

economic diplomacy in the coming generation. Sustainable development is the central challenge of our times. Our world is under strain. Poverty continues to plague communities and families. Climate changes threaten livelihoods. Conflicts are raging. Inequalities are deepening. These crises will only worsen unless we change course. That is why world leaders are hard at work on a new development agenda—including a set of concrete sustainable development goals—to help guide humanity to safety and prosperity. We must understand how sustainable development can be achieved in practice, on the ground, in all parts of the world.²⁴

And finally, to ensure the achievement of SDGs, goals not only mobilize knowledge networks but also mobilize stakeholder networks. Community leaders, politicians, government ministries, the scientific community, leading nongovernmental organizations, religious groups, international organizations, donor organizations, and foundations are all constituents that need to be pulled together. That kind of multi-stakeholder process is essential for the complex challenges of sustainable development and the fight against poverty, hunger, and disease.²⁵

CONCLUSIONS

The law is embedded and rooted in society. It is the reflections of a society, as it does not exist in an abstract world, but in the reality of society. A law should not be seen only as a legal achievement but more seriously as a social achievement and a sociological achievement. The passing of this law is a social achievement, it still needs to look at its social impact, whether it is constructive or destructive for human rights, a healthy environment, and responsible state governance.

In terms of the process, this law is a tactical and political response from decision-makers to complex and dynamic situations, so that the system they had can adapt quickly. Such responses are survival-focused, focused, and ignore context. Such decisions can lead to complicated derivative problems if they are not based on a framework based on the principles and basic values of the state. An adaptive attitude is needed that examines long-term vision and goals, noble values/principles, and national life guidelines so that a true response is obtained in national life.

Dealing with the growth agenda in SDGs, the Law on Job Creation still calls into question whether the Law enshrines the easiness of business and full employment and decent work as human rights obligations of the state or merely as benefits of economic growth. So, it still presents both opportunities for human rights monitoring and accountability.

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²⁴Jeffery D. Sachs, *Ibid.*, p. xi.

²⁵*Ibid.*, p 491.

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