

Theoretical Study of Authoritary Political Configuration Products of Law No. 6 Of 2023 on Job Creation Law (PPLH) and Its Implications on Environmental and Social Aspects)



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ABSTRACT: The rule of law (rechtstaat) and the power state (machtstaat) are two different things where Indonesia is one of the countries that has a rule of law pattern which means basing its national and state life on laws based on Pancasila democracy. However, the problem occurs when the Job Creation Law which is now Law No. 6 of 2023 tends to oppress people's rights by encouraging investors to obtain land more easily. This is shown by the revocation of the PPLH Law and the enactment of the Ciptaker Law, and this is identical to the authoritarian political configuration pattern that emphasizes the dominance of power and is repressive. The results of this study are that there must be control over the government system based on the values of Pancasila and democracy so that the regulations formed do not produce authoritarian political configuration products; then in practical terms, it is necessary to conduct a study of the costs and benefits of each regulation that will be made which is included in the academic paper, so that it is clear which parties benefit from the implementation of the regulation. In the context of environmental protection which is also based on Article 28H paragraph (1) of the 1945 Constitution, the Job Creation Law which changes the provisions of the Environmental Management Law must be revised and reconsidered, especially in terms of licensing and the preparation of environmental impact analysis (EIA) which involves the community.

KEYWORDS: Legal State, Power State, Job Creation Law, Authoritarian Political Configuration

I. INTRODUCTION

Indonesia is a country that has unique characteristics that are different from other countries, this can be seen from its ideology which has the Pancasila ideology and bases its national and state life on the five values contained in the principles of Pancasila. Article 1 paragraph (3) of the 1945 Constitution also states that Indonesia is a state of law that bases its national and state life on law (rechtstaat), this has the meaning that our country places law as the highest power. In the term of the rule of law, it is known as the adage "rule by law, not rule by man", which means regulated by law, and not regulated by people (rulers) (Qamar et al. 2018). Indonesia is also a democratic country which in the context of legislation contains the meaning that the community has the right to participate in determining or deciding a regulation, because the law is from the people, by the people and for the people. At the level of progressive law also supports this statement, namely with the term law for humans, not humans for the law. However, as we have witnessed with our own eyes, there are still many regulations that are made with little public participation and on the other hand, there are also regulations that are drawn up with the intention of benefiting certain parties (certain elites). This is certainly not in line with the legal system in this country. One of the regulations that sketches this condition is Law No. 11 of 2020 concerning Job Creation (Ciptaker) which has now been revoked and replaced by Law No. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. This law is no longer foreign to the general public because in fact this omnibus law eliminates many of the rights of the people and their welfare, this is proven by the Constitutional Court which stated that the Job Creation Law was formally flawed and conditionally unconstitutional. Therefore, this will be an interesting problem and will be the main focus of this study.

As explained above, the Job Creation Law has changed several provisions including provisions regarding the environment, namely Law No. 32 of 2009 concerning Environmental Protection and Management (PPLH). Before the articles in Law No. 6 of 2023 had time to be implemented, there was a lot of opposition from the community. If interpreted further, the opposition or rejection of the community in the context of PPLH is rooted in regulations that tend to be pro or support investors and weaken small communities (Sari, Sekarwangi, and Puspaningtyas 2023).

Examining the legal problems above, the author is interested in conducting a more in-depth study related to the articles amended by the Job Creation Law against the PPLH Law, what are the legal reasons for the Job Creation Law being made, why

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the changes made by the Job Creation Law can be said to be a product of authoritarian political configuration and cause unrest for the community and what are the legal implications of the regulatory changes that have been made.

II. FORMULATION OF THE PROBLEM

From the background that the author has described above, the formulation of the problems that will be studied in this research include:

1. What is the background to the formation of Law no. 6 of 2023 concerning Job Creation is reviewed and what are the articles in Law no. 32 of 2009 which was amended by Law no. 6 of 2023 and its implications?
2. How is the theoretical study of the authoritarian political configuration product of Law No. 6 of 2023 concerning Job Creation (PPLH)?

III. RESEARCH METHOD

The approach used in this study is a qualitative approach with a normative research method using a statute study approach to compare the Job Creation Law with the PPLH Law and analyze the implications of changes to the PPLH Law which are full of authoritarian political configurations, on the other hand the approach used here is also a conceptual approach to define several existing concepts according to the research to be studied such as the concepts and ideas of experts. Then in this study the analytical approach is also used to analyze the search results from primary legal materials (statutory regulations), secondary legal materials (journals, books and other scientific literature) and tertiary legal materials (legal dictionaries) (Marzuki 2011).

IV. DISCUSSION

A. Background To The Establishment Of Law No. 6 Of 2023 Concerning Job Creation And Articles In Law No. 32 Of 2009 Which Was Amended By Law No. 6 Of 2023 And Its Implications For Environmental And Social Aspects

Every developing country always has a goal that one day the country must become a developed country, be it advanced in terms of society, development, economy and other things. Indonesia is also a developing country that also has the intention to continue to move towards becoming a developed country, therefore Indonesia must begin to advance aspects of its state, two of the many aspects are the environment and the economy. Law 11 of 2020 which has been amended by Law No. 6 of 2023, one of which is to advance economic development by breaking through investors so that they can easily enter to invest in existing business entities. Another reason why the Job Creation Law was created was due to several bases, consisting of a philosophical background, sociological background and legal background contained in the academic text of the Job Creation Law which will be explained as follows:

a) Philosophical Background

Pancasila and the 1945 Constitution stipulate that the intention of the establishment of the Indonesian State is to produce a prosperous, just, prosperous, and equitable society, both materially and spiritually. In line with this intention, Article 27 paragraph (2) of the 1945 Constitution stipulates that "Every citizen has the right to work and a decent living for humanity" therefore, the state needs to take various actions to fulfill its promise to fulfill the rights of citizens to obtain a decent life and work.

Of the many fulfillments, the fulfillment of the right to decent work and living is one of the urgent points in national development that is carried out in the framework of developing the Indonesian people as a whole. Considering the current condition of Indonesia which shows a drastic increase in the number of productive age groups, with this, it is found that there is an imbalance between the increase in the quality of human resources and the availability of jobs. The implication is that many Indonesian people do not have jobs. The low quality of human resources has implications for job seekers who are unable to compete with the specifications required by the company. On the other hand, it must be examined that the opening of job opportunities is very minimal or does not meet. In relation to this, the Government is obliged to make various comprehensive efforts with the intention of fulfilling the rights to decent work and living as stated in the 1945 Constitution.

The main way out that is implemented to maximize job creation is taken with three procedures, namely: (a)

increasing investment; (b) maximizing MSMEs; and (c) increasing the weight of Indonesian human resources (manpower) formulated in the Ciptaker Bill. The formation of the Ciptaker Bill was made with philosophical considerations to produce national constructivism and human constructivism based on our country as a whole based on the 1945 Constitution. b) Sociological Basis

Starting from 2010 to twenty-five years later, Indonesia is entering a period where the number of productive age population (15-64 years) is greater than the number of non-productive age population (0-14 years and 65 years and above). In 2030, the productive age group aged 15-64 years is estimated to reach 200 million people. This calculation represents 68 percent of the total population of Indonesia. Meanwhile, the older generation aged 65 years and above is only around 9 percent. With this calculation, Indonesia must be able to use the benefits of this population. The high number of productive age population, if it can be utilized optimally, will provide the greatest benefits for the country, especially in the economic aspect. However, if it is not maximized properly, it will have negative implications for Indonesia, such as the poverty rate which will increase rapidly due to the

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lack of employment opportunities or workers whose competence is still minimal so that many people become unemployed. This has an impact on the workforce becoming unproductive so that the percentage of dependents becomes high.

This concept map of Indonesia indicates that the increase in the number of productive age is not balanced with an increase in the quality of human resources and the availability of jobs. The implication is that many Indonesians are unemployed. The low quality of human resources makes job seekers unable to compete with each other on the specifications required by the company. On the other hand, it must be admitted that the supply of jobs is very minimal.

So far the government has made various efforts to create jobs that can absorb the high workforce in Indonesia, but the efforts that have been carried out have not been in accordance with expectations. This is because the various efforts implemented so far have not been optimal. On the other hand, the problem of job creation is complicated and multi-field, including: investment, MSMEs, education and manpower itself.

Based on the above facts, in order to produce jobs that are able to absorb the high number of workers as an implication of the unique demographics obtained by Indonesia, it is urgently needed a solution that is in accordance with the characteristics of the problems faced in job creation. The efforts made by the government to create these jobs are carried out through efforts to increase investment and the convenience and protection of MSMEs.

Data from the Ministry of Cooperatives and SMEs shows that 62 million or 99% of businesses in Indonesia are SMEs with a workforce absorption of 97%. This sketches that the concept map of business scale in Indonesia is mostly SMEs. However, with such a large number of business units, SMEs are considered unable to maximize the level of community welfare, especially the lower middle class, towards a higher level. This is certainly a special concern because most Indonesians depend on SMEs. For this reason, efforts to develop SMEs must be prioritized. Efforts to generate employment through increased investment and ease and protection of SMEs must be followed up with a policy to maximize the quality of human resources so that workers (job seekers) can compete on the specifications required by the world of work or companies.

The solution to create jobs through the above mechanism is very much in line with the characteristics of the

problems faced by Indonesia. Thus, the preparation of the Ciptaker Bill containing various solution policies as described above is greatly needed by the Indonesian people, the business world and the Indonesian Government. c) Legal Basis

The outline of job creation is basically done through: (1) maximizing investment increase in Indonesia; and (2) advancing the MSME sector in the form of research and creativity support so that MSMEs can advance and compete in the business world. The intended solution needs to be carried out universally and comprehensively, considering the various policies related to investment, MSMEs which are stated in various laws and regulations, especially in the Law. Various laws that regulate investment and MSMEs are faced with several problems, namely:

- a. Less in tune with the progress of the times and the evolution of public needs;
- b. There is an indication of disharmony or overlapping between regulations between one law and another because the MSME investment regulations have been included in various regulations. Not a few of the laws and regulations that have been described have overlapped. Referring to this fact, do not ask again why business development is ineffective.
- c. The regulations already exist but are inadequate so their enforceability is weak.
- d. The regulations already exist but do not have the competence so their enforceability is not strong enough.

In the NA of the Job Creation Law, it is stated that the preparation of job creation policies is intended to make changes conventionally. By changing laws one by one as has been done so far, it is certainly very ineffective and inefficient and requires a long duration of time. Therefore, the formation of job creation policies must be carried out through the omnibus law legislative mechanism. The academic paper also explains that omnibus regulation reflects a unification and codification of regulations whose ultimate goal is to maximize the implementation of these regulations. The formation of the Job Creation Law through the omnibus law technique is believed to be able to provide a way out of various legal problems that exist on the basis that has been described previously.

If reanalyzed, the implications of the formation of the Job Creation Law were not entirely successful and instead caused many new problems. If examined from an economic perspective, then as mentioned above, the Job Creation Law did not have much effect in overcoming these problems. This can be proven by the number of workers affected by layoffs (PHK) reaching 46 thousand by the end of August 2024 and has the potential to continue to increase every year (Metro TV 2024).

With this, the economy in Indonesia will continue to decline due to unemployment. Not only that, the Job Creation Law also has a negative impact on the environmental aspect which will be explained in the next sub-chapter.

B. Articles in the PPLH Law that were amended by the Job Creation Law and their Legal Implications for the Environment and Society

As mentioned by the author above, the Job Creation Law not only has an impact on the economic aspect, but also has an

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impact on the environmental aspect (Rahman 2022). This was revealed in the changes to several articles in the PPLH Law which the author will present in table form. The following is a table containing several articles that were changed by the Job Creation Law in the PPLH Law:

No.	Before the Amendment to the PPLH Law	After being Amended by Law No. 6 of 2023 concerning Job Creation	The Implication
1.	There is Article 1 number 36 which states the definition of a business permit which is a permit that issued by a technical agency to carry out business and/or activities.	Article 1 number 36 is deleted.	The lack of regulation of business permits can be a reason for the government to facilitate access to carry out business for economic interests.
2.	There is Article 25 c which states that suggestions, input and responses can be made by the community regarding business plans and/or activities.	Article 25 c was amended to state that only members of the public who are directly affected can provide suggestions, input and responses.	Reducing community participation in considering the implementation of business activities.
3.	In Article 26 paragraph (2) there is an explanation and confirmation that community involvement must be carried out based on the principle of providing transparent and complete information and must be notified before the activity is carried out. In paragraph (3) it is emphasized that the community referred to is those affected by the impact; environmental observers; and/or those affected by all forms of decisions in the environmental impact analysis process.	The provisions for providing transparent and complete information and notification before business activities are carried out in Article 26 paragraph (2) have been removed, and only those directly affected by the impact can participate in preparing the environmental impact analysis.	Facilitates business implementation but reduces the element of community participation and even eliminates environmental observers and those affected by all forms of decisions in the environmental impact analysis process.
4.	Article 26 paragraph (4) states that the community as referred to in paragraph (1) can submit objections to the environmental impact analysis documents that have been prepared	The clause on submitting objections has been removed, and the PP on the Implementation of Environmental Management and Protection does not regulate public objections to the environmental impact analysis document.	The elimination of the element of filing an objection is the same as the elimination of the community's right to live in a decent environment.
5.	There is an environmental impact assessment commission whose job is to determine whether or not a business activity is feasible to be carried out through a study of the environmental impact assessment documents contained in Articles 29 to 31.	Eliminating Article 29, Article 30 and Article 31 concerning the environmental impact assessment commission.	The environmental impact assessment commission therefore does not have access to carry out assessments of areas that they understand.
6.	An Environmental Permit is required, which is a permit given to all persons who conduct business and/or activities that require an AMDAL or UKL-UPL in the context of environmental protection and management as a prerequisite for obtaining a business and/or activity permit. The permit is regulated in Article 36	Eliminating Article 36 regarding environmental permits.	Entrepreneurs now no longer need environmental permits to carry out their businesses.

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From the table that has been described above, it can be seen that the regulations contained in the Job Creation Law are like pro-investors, but are detrimental to society and the environment. In the articles in the table, it can be seen that there are many articles that make it easier to obtain permits to establish a business, for example in article 25 c and article 26 paragraph (2) which in essence have been changed so that there are several people who do not have access to convey objections or participate in business development.

It is not surprising that in practice the Job Creation Law has caused a lot of losses in society, this is also due to the minimal participation of the community in the formation of the Job Creation Law and the government's haste to draft and ratify this regulation. The formation of regulations should also be based on moral values and social values that exist in society. On the other hand, Article 6 of the Job Creation Law concerning the formation of regulations also states that the substance of the provisions must be based on the principles of humanity, justice, as well as balance, harmony, and harmony.

Not only does it conflict with the regulations on the formation of legislation, but the Job Creation Law also conflicts with the 1945 Constitution which relates to living in a decent environment. This is written in Article 28H paragraph (1) of the 1945 Constitution which emphasizes that everyone has the right to live in prosperity both physically and mentally, to have a place to live, to have a good and healthy living environment, and to receive health services.

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Analytical studies on the implications of the Job Creation Law have been described above, where this regulation is a regulation that supports economic progress and also provides opportunities for investors to be able to more easily carry out development referring to the table above, it can be seen that the mechanism that is simplified is in terms of licensing access. It is true that this country needs to improve the economy and open up jobs for its people (it has been stated in the sociological basis), but the method used tends to be less good because here the community also becomes a victim of the ease of business permits in certain areas. If associated with the study of legal politics, of course politics plays a role in the preparation of this regulation, this is because the law does not exist and moves in a vacuum as stated by Hugo Shinzeimer (Wulandari 2020). The legal politics at play here is an authoritarian political configuration, the political configuration itself is basically a composition or order of a political system that intends to direct the existing legal destination. While the authoritarian political configuration itself has the meaning that the direction of law or the formation of law is controlled by a group of rulers and certain elites. This configuration can be identified with the bad influence of the power elite to carry out forced integration, open elimination of opposition, control of broad state leaders to determine state policy and domination of political power by the eternal political elite, on the other hand behind these actions there are principles that justify the concentration of power. The benchmark used in categorizing the political configuration in a country can be seen from the implementation of the three pillars of democracy, namely, the role of political parties and representative bodies, freedom of the press, and the role of the executive (Perbawa 2022).

Following up on the description of the definition and elements of the authoritarian political configuration above, if we flashback to the background of the formation of the Ciptaker Law which was only made in a period of 6 months which was then passed, then we can see that there was a dominant executive role and of course in that 6-month period there was no public hearing or meaningful participation. On the other hand, the parliament also functions as a "stamp maker" here and it is still a big question why the Ciptaker Law was passed, of course something like this illustrates an authoritarian system of government. Philip Nonet and Selznick once stated that an authoritarian system of government must have a legal condition that is subordinate to politics, which means that the law is controlled by politics (Nonet, Selznick, and Kagan 2017).

Still related to this, from the description above, it can be interpreted or juxtaposed with repressive law, still from the same perspective, namely according to Nonet and Selznick, repressive law is a law that is interpreted as an instrument of repressive authority from the leader of the country who controls the government. The law is implemented as a component of an absolute power system that intends to maintain the status quo power where repressive law is harsh and concrete for the people but soft in binding the drafters of regulations and the government because the law is subject to the politics of power. Coercion on society to obey is absolute and people's disobedience will be interpreted as a deviation in behavior that will be punished in a cruel way. Suggestions and criticisms to the ruler of the country are considered as condemnation (Nonet et al. 2017). When analyzed in the context of the Job Creation Law, the ratification of the Job Creation Law is almost in line with the repressive state system of Philip Nonet and Selznick, which were both formed from the demands of political power and are harsh on society, especially those who will be affected by government projects but soft on certain elite rulers, but here the Job Creation Law can still be declared formally flawed and conditionally unconstitutional, which means it is not entirely in line with Selznick's repressive legal theory, and this is the bright side of the preparation of this regulation.

With the fact of this authoritarian political product, such a legal system also looks like what has been described in the legal positivism school. The legal positivism school is famous for its idea as a thought that prioritizes logic in law. On the other hand, this school is based on several principles where something is considered true if it shows itself in its experience (Sukarno Aburaera et al.

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2014). From a positivist perspective, it is necessary to separate what is law and what is moral. Hans Kelsen is one of the philosophers who wants to apply legal positivism in social life. Law is a logical system of regulations that apply in a certain place and legal science is the science of these regulations. The main point of Hans Kelsen's theory is that the purpose of legal theory is to reduce chaos and diversity into unity, law is a normative science, not a natural science, legal theory as a theory of norms does not care about the effectiveness of legal norms and legal theory is a formal theory that discusses how to govern and change the contents of regulations in a careful manner (Suteki and Taufani 2018).

The legal positivism school was also initiated by another philosopher, John Austin. Austin in his theory "The Command of Sovereign" asserts that law is an order issued by the government; orders are the main element of the state supported by means of coercion; the ruler is someone who must be obeyed. So the conclusion is, law is identical to the order issued by the ruler, the law has the power of force that is feared. If examined using Austin's legal theory, then the Job Creation Law is in line with the command of sovereign theory, which

only applies regulations to be obeyed and does not see other values that live in society. The law only functions as a power of force, not to realize the ideals of the law of the Indonesian state which implements a democratic government system to achieve public welfare.

If examined further, then every regulation certainly has advantages and disadvantages in its implications for certain parties, including the Ciptaker Law. Despite all the weaknesses and implications of the Ciptaker regulation, there are several positive impacts, namely facilitating opportunities to open businesses for Indonesian citizens and also for foreign nationals, considering that in the regulations before the Ciptaker Law was drafted, entrepreneurs experienced many difficulties in terms of development for their business activities.

V. CONCLUSIONS

The Job Creation Law is a regulation created to reduce unemployment and also provide convenience for investors, but this regulation is called controversial because many parties are harmed rather than benefited, one of the many aspects that are harmed is the environment and society. Of course this is contrary to the procedures for the formation of good laws and regulations and the basis of our country, the UUD'45.

In its implementation, the Job Creation Law has failed in its efforts to open up employment opportunities for its human resources, in fact many people are still affected by layoffs in just a few months of work, not only that, the Job Creation Law also has an impact on the environment, where the process of issuing permits to build buildings for businesses is greatly simplified, and of course this can damage the environment and harm residents around the project site.

This Ciptaker regulation tends to depict an authoritarian political configuration that emphasizes the dominance of power in making its regulations, and this is also almost similar to the repressive legal theory by Philip Nonet and Selznick. The Ciptaker Law seems to be drafted only for pro-investors, which is also similar to the command of sovereign theory pattern by John Austin where the law is only drafted without considering living law and is coercive based on the power of the related parties (power of force).

1. Based on the problems and analysis that have been described, the author has the following suggestions:
2. In the context of harmonizing the paradigm of a state based on law, there must be control over the government system based on the values of Pancasila and democracy so that the regulations that are formed do not result in authoritarian political configurations.
3. The Job Creation Law must be revised again by considering the values that live in society (living law), which on the other hand must also look at the vision/mission and goals of the Indonesian state which are based on the 1945 Constitution.
4. The government must make efforts to revise the Job Creation Law that balances the interests of both parties, both the general public and other parties concerned without benefiting or dominating other parties and the government in drafting the bill must also consider reviewing the costs and benefits which then need to be considered together whether the bill is worthy of being passed to become a positive law.
5. In the context of environmental protection which is also based on Article 28H paragraph (1) of the 1945 Constitution, the Job Creation Law which changes the provisions of the Environmental Management Law must be revised and reconsidered, especially in terms of licensing and the preparation of environmental impact analysis (EIA) which involves the community.

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