



DOI 10.18551/rjoas.2022-02.07

## LEGIS RATIO OMNIBUS LAW ON JOB CREATION IN LAW AND DEVELOPMENT IN INDONESIA

**Zuhdi Achmad\*, Safa'at Muchammad Ali, Qurbani Indah Dwi**

Faculty of Law, University of Brawijaya, Malang, Indonesia

\*E-mail: [azuhdi93@gmail.com](mailto:azuhdi93@gmail.com)

### ABSTRACT

To overcome the problem of hyper-regulation and overlapping regulations, the Government carried out several deregulations by implementing the omnibus law to accelerate the simplification of rules. The focus of this legal study was on the legis ratio technique of the omnibus law Regulation on job creation from a legal and development perspective in Indonesia. This paper aims to analyze and contribute to the basis and reference for legal interpretation regarding applying the omnibus law technique through transplantation of national laws. This normative legal study employs both a statutory and a conceptual approach. The legal material analysis technique used is content analysis, which is any systematic procedure that encourages examining the content of the information obtained. This analysis focuses on all the secondary data obtained. After receiving the necessary data, this paper analyzes the data logically, systematically, and juridically. The research findings and discussion in this study are the subjects of the investigation. The following are obtained. First, the legislators have taken a progressive interpretation approach by changing the "omnibus" diction in the Preamble to letter e with the Job Creation Bill and not questioning the conflict between omnibus law techniques with the Act. 12 of 2011 concerning the Establishment of Legislation, so that the legal transplant process within the legal framework of development can be implemented through adjustments to national laws.

### KEY WORDS

Legal transplant, Indonesia, technique omnibus law, hyper regulation, deregulation, legal system.

Since Indonesia was freed from the shackles of Dutch colonialism, Indonesia has found its identity as a sovereign nation. A sovereign nation governs as a whole as a form of country identification. Indonesia chooses Pancasila as the basis of the state that determines the direction of the nation's ideals and goals of the state. This is supported by a constitutional provision, which states in the Preamble to the Republic of Indonesia's Constitution of 1945: (from now on written the 1945 Constitution). The purpose of establishing the state as stated in the Fourth Paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, states that national goals are: (1) Protect the entire Indonesian nation and the entire homeland of Indonesia; (2) Promote the general welfare; (3) educating the nation's life; and (4) Participate in implementing world order based on freedom, eternal peace, and social justice.

Goals are the result of what has been previously planned, and this planning is done in detail and fundamentally to achieve the state's goals. Indonesia is experiencing two types of planning that are almost the same but are different. Since the new order, development planning has been called FYDP (Five-Year Development Plan). At the same time, post-reform is divided into two, namely MTDP (Medium-Term Development Plan) and NLTDP (National Long-Term Development Plan).

While theoretically, there are many theories and even thoughts about efforts to achieve a state goal, three of which are best known, namely the Theory of Development Law by Mochtar Kusumaatmadja, Progressive Legal Theory by Satjipto Rahardjo, and Integrative Theory by Romli Atmasasmita. These three theories complement each other's development law theory, which is criticized by Progressive Law theory and Integrative Legal Theory reconstructing Development law theory and at the same time Progressive Law theory.



The purpose of development law theory and progressive legal theory is to make Law play a role in every aspect of long-term development. In the eyes of development law by Mochtar, reminding that the broad meaning is not limited to social rules as often mentioned before, but also covers the whole principles in human life, institutions, and processes that embody the application of these rules in reality.<sup>1</sup> Because of this broad scope, legal development cannot be carried out with a normative approach alone but must be comprehensive.

The will of the rulers to achieve the goals of the state is fixated on sustainable development. It means that from each period of Government it changes to have a kind of development plan based on Pancasila and the will of the 1945 Constitution if viewed from the aspect of development law theory which places "development interests" as the goal, the tendency of legal transplantation is not a problem. Since development law prioritizes written laws that are universally applicable, which are generally formed from the authorities' will, in other words, development law is also possible to use foreign legal models as long as they follow development policies. Which may therefore have no historical roots in the importing country.<sup>2</sup>

Although Mochtar argues that Law has a value attachment to society, a good law is following the living Law in society. However, statements like this can be contradictory, considering that Law provides space for the state to determine what kind of Law is formed and applies in the central development. It even opens space for the adoption of foreign laws as long as they support development aspirations and are open to possible conflict with the living Law.

To apply the omnibus law technique in Indonesia, legislators established Law No. 11 of 2020 on Job Creation, a legal transplant (from now on referred to as the Job Creation Law). The Job Creation Act is an example of Indonesia's legalization of the omnibus law technique, which aims to bring about social and economic change geared toward development goals, such as ease of investment. The relevance of the Job Creation Law to Law and development can be seen in the Government's focus on making legal regulations as the basis for implementing and simplifying regulations using the omnibus law method.

In its journey, the Job Creation Law has caused polemics and rejections from the public. The arguments for its rejection varied, ranging from the formation of the Copyright Law, which was formally flawed, oppressing laborers and benefiting the upper class (the owners of capital). This was exacerbated by the demonstrations carried out successively by students and workers.<sup>3</sup> Meanwhile, it is deemed to vary from existing laws and regulations in terms of substance and formation process. So shortly after its promulgation, the Job Creation Act was immediately flooded with requests for Judicial Review both related to formal and material matters. A group of workers petitioned the Constitutional Court for a formal review of the Job Creation Law, claiming that it was unconstitutional because it did not follow the principles of establishing laws and regulations outlined in the PPP Law, which is an embodiment of the Republic of Indonesia's 1945 Constitution regarding the formation of Legislative Regulations invitation.

While the opinion of the DPR and the Government is, on the contrary, the job creation law is a means for the investment climate to grow and the economy to improve, in addition, the method adopted by applying the omnibus law concept is considered incompatible with the legal system in Indonesia. Concerning the legis ratio of the Job Creation Law in the development of Law in Indonesia.

The fundamental problem is the conceptual order that needs to be continued, starting from the process of using the omnibus law technique as an alternative solution to an in-depth study of the dangers and benefits of using the omnibus law technique. This Research

<sup>1</sup> Arti hukum secara luas ini menurut Shidarta memiliki konsekuensi yang luas pula, karena Mochtar menggunakan kata asas, kaidah, lembaga, dan proses sekaligus dalam definisinya. Lihat Shidarta, "Posisi Pemikiran Teori Hukum Pembangunan", hlm. 14-1 Kusuma-atmadja, *Pembinaan Hukum dalam Pembangunan Nasional*, hal. 11.

<sup>2</sup> M. Zulfia Aulia, "Hukum Pembangunan Dari Mochtar Kusuma-Atmadja: Mengarahkan Pembangunan Atau Mengabdikan Pada Pembangunan?," *Undang: Jurnal Hukum* 1, no. 2 (2019): 363-392.

<sup>3</sup> Ary Wahyudi Nyoman, "Ribuan Buruh Demo Geruduk DPR Desak Setop Bahas UU Cipta Kerja," 2022, last modified 2022, accessed February 5, 2022, <https://ekonomi.bisnis.com/read/20220114/12/1489040/ribuan-buruh-demo-geruduk-dpr-desak-setop-bahas-uu-cipta-kerja>.



focuses on the formulation of the problem. What is the legis ratio technique of the omnibus law of the Job Creation Act in Indonesian legal development?

This Research is normative juridical Research using a statute approach and a conceptual approach. Journals, books of laws, and regulations are the main materials to obtain this research information. Normative Law is directly related to legal practice, namely the formation of Law and the application of Law. This approach views Law as synonymous with written norms made and promulgated by official institutions or officials.<sup>4</sup>

There are 3 (three) types of legal resources in this study: elementary, secondary, and tertiary legal materials. Provisions connected to the omnibus legis ratio approach of the Job Creation Act in Law and legal development in Indonesia based on legal and development theories, as well as other pertinent theories.<sup>5</sup> Secondary legal materials are all publications on a law that are not official documents (books, dictionaries, journals), while tertiary legal materials are: large Indonesian language dictionaries, Thursday law, encyclopedias, and others. The technique of collecting legal materials is by using a literature study model.

The legal material analysis technique used is content analysis, which is any systematic procedure that is encouraged to examine the content of the information obtained.<sup>6</sup> Secondary data becomes an important material, and after the data is obtained, it is continued by analyzing the data logically, juridically, and systematically. Logical means that the data collected is analyzed following the principles of deductive logic, namely, concluding a general problem to the concrete problems faced.<sup>7</sup> Systematic means to analyze data with one another that are interconnected and dependent. Furthermore, the data were assessed from a legal standpoint, starting with existing regulations and comparing them to the present positive Law.<sup>8</sup>

Legal Transplant etymologically means grafting, and in a legal context, Transplant means a legal transplant from a country that is different from its social reality and legal system. Frederich Schauer defines legal transplantation as "...the process by which laws and legal institutions developed in one country are then adopted by another." Transplant law is not limited to adoption as a written rule. However, it is related to the institution as a whole, so that two different legal systems are not a problem because the need will be the main reason for transplantation.<sup>9</sup>

Notably, practical comparative Law may be especially beneficial for transitional systems where foreign models are used to develop one's own Law with the intention of legal modernization or institutional reform.<sup>10</sup> Good Law is a law that is by those who live in society because in people's lives there are values that live and continue to develop. The most important thing of development is physical and a matter of developing a way of thinking and an attitude of life. Without changing attitudes and ways of thinking about modern institutions in life will not succeed. The concept of transplantation in the perspective of Law and development does have a relationship because the Law must play a role in development, but the Transplant that is carried out is not just a transplant of legal knowledge from outside, which is considered modern, but also the dose does not blindly maintain the originality of the two must be in balance.

Sustainable development is an effort by the ruling Government to achieve the goals of the state, including increasing people's living standards, reducing poverty, and adequate infrastructure. Achieving this goal requires careful, detailed, and sustainable planning. Rapid and measurable development is impossible to rely solely on tax revenues therefore the Government relies on other aspects, one of which is foreign capital or investment.

<sup>4</sup> Poglabba, C. (2017), *Tinjauan Yuridis Penyertaan Dalam Tindak Pidana Menurut KUHP*, LEX CRIMEN, hal. ( \_ )

<sup>5</sup> Nishikawa., Y. (2020). *The Reality of Protecting the Rohingnya: An Inherent Limitation of The Responsibility to Protect Asian Security*. <https://doi.org/10/1080/14799855.2018.1547709>

<sup>6</sup> Redfern K. A Tri- Cheng M, Edwards D, Darcy S, "A Tri-Method Approach to a Review of Adventure Tourism Literature: Bibliometric Analysis, Content Analysis, and a Quantitative Systematic Literature Review," *Journal of Hospitality & Tourism Research* 42(6):997- (2016), <https://journals.sagepub.com/doi/abs/10.1177/1096348016640588>.

<sup>7</sup> Edy Lisdiyono, "Improving Legal Argument Critically in the Litigation Mechanism in Indonesia (an Empirical Study of Environmental Verdicts)," *Sriwijaya Law Review* 1, no. 1 (2017): 64–73.

<sup>8</sup> Peter M. Kruijen and Marieke van Genugten, "Creativity in Local Government: Definition and Determinants," *Public Administration* 95, no. 3 (September 2017): 825–841, <https://onlinelibrary.wiley.com/journal/14679299>.

<sup>9</sup> Frederick Schauer, "The Politics and Incentives of Legal Transplantation," *CID Working Paper Series* (2000).

<sup>10</sup> Jaakko Husa, "Developing Legal System, Legal Transplants, and Path Dependence: Reflections on the Rule of Law," *Chinese Journal of Comparative Law* 6, no. 2 (December 1, 2018): 129–150.



Regarding investment, it has been previously regulated in Law Number 25 of 2007 concerning Investment. With this Law, the state's goal of attracting foreign investment has proven successful; BPKM data states that investment in Indonesia has been increasing in this decade, Indonesia's investment realization in 2019 reached Rp. 809.6 trillion, exceeding the minimum target of Rp. Seven hundred ninety-two trillion targeted by the Government.<sup>11</sup>

However, these results are not optimal because Indonesia is still a lagging country compared to other ASEAN countries, the factor that causes the Government to realize that the country's poor economic performance is due to confusing regulations and complicated bureaucracy that makes foreign investors cancel their plans.<sup>12</sup>

Broadly speaking, the content of the legis ratio in the Employment Creation Law includes, among other things, regulatory restructuring (deregulation) and economic growth. As an effort to find out the formation of Law in-depth, it can be known by reading academic texts prepared previously because academic manuscripts are arranged in a scientific research activity that produces rational, critical, and objective thinking. Therefore, the existence of an academic text is important to describe in-depth thoughts before they are finally compiled in a legal text.

The analysis of the legis ratio begins by identifying the omnibus law regulation, which is carried out by observing the process of establishing the Job Creation Law as the first set to introduce omnibus law techniques in the field of legislation in Indonesia. Based on the Archives of the House of Representatives of the Republic of Indonesia regarding the establishment of the Job Creation Act, several documents were found as follows:

- Government's proposed bill on the job creation law, dated 17 December 2019;
- Factions' Responses to the Draft Job Creation Law (Title-Article 6 of the Bill) dated 20 May 2020;
- Report on the minutes of the Legislative Body Working Committee Meeting in the Context of Discussion of the Bill on Job Creation;
- Brief Report of the Legislative Body Meeting in the Context of a Work Meeting on the Draft Law on Job Creation;
- The Draft Law on Job Creation that has Obtained Approval at the 2nd Extraordinary Plenary Meeting of the Indonesian House of Representatives, October 5, 2020.

Based on the above documents, information is obtained that the background to the creation of the job creation bill is the Government's strategy to encourage economic growth through investments carried out by regulatory reforms in the field of business licensing. The reforms that need to be carried out are aimed at resolving investment barriers, namely the length of the bureaucratic chain, overlapping regulations, and many regulations that are not harmonious, especially in central and regional regulations (hyper-regulation).

There is a common technique in dealing with deregulation, namely by changing laws one by one, but it will be difficult to complete in an integrated manner and will take a long time. Therefore, the Government proposes to use the omnibus law method.<sup>13</sup> Namely by establishing 1 (one) thematic law which changes various provisions regulated in various other laws.<sup>13</sup>

From the beginning, starting from academic manuscripts to the job creation bill, the Government's proposal in the Preamble to letter e stated that the proposed method was the omnibus law method which was considered to be able to solve various problems in several laws into one Law comprehensively. The scope of the Job Creation Law includes: (a) Improvement of the investment ecosystem and business activities; (b) employment' (c) convenience, protection, and empowerment, MSMEs, and cooperatives, (d) ease of doing business; (e) research and innovation support; (f) land acquisition; (g) economic zones; (h)

<sup>11</sup> Fauzan Ahmad, "Omnibus Law Cipta Kerja Merugikan Buruh Memanjakan Oligarki," last modified 2020, accessed February 5, 2022, <https://tirto.id/omnibus-law-cipta-kerja-merugikan-buruh-memanjakan-oligarki-f6aF>.

<sup>12</sup> Rista Rama Dhany, "Saat Jokowi Marah Dengan Batalnya Investor Asing Ke Indonesia," 2021, accessed February 5, 2022, <https://www.idxchannel.com/economics/saat-jokowi-marah-dengan-batalnya-investor-asing-ke-indonesia>.

<sup>13</sup> Omnibus Law menurut pendapat pemerintah merupakan sebuah praktik penyusunan peraturan perundang-undangan, yang banyak dilakukan di negara-negara yang menganut sistem common law/anglo saxon seperti Amerika, Kanada, Inggris, Filipina dan lainnya. Prosesnya disebut Omnibus Legislating dan produknya disebut Omnibus berasal dari bahasa latin yang artinya segala atau semuanya (For Everything).





central government investment and acceleration of national strategy projects; (i) implementation of government administration and (j) imposition of sanctions.<sup>14</sup>

Based on this information, at least it can be seen that the regulation regarding the omnibus law technique has become one of the aspects that are considered and the only alternative for the Government's idea to resolve deregulation, overlapping laws with the hope of bureaucratic efficiency and ease of investment. However, at the working committee meeting on May 20, 2020, in the response agenda of the factions, there were varied responses, but there were 2 (two) factions who gave related differences in concepts, including the following:

Table 1 – Responses description

No	Fraction	Response	Description
1	PKS (Partai Keadilan Sejahtera)	Changed	<ul style="list-style-type: none"> <li>- The omnibus law method can only be used if there is a conflict of norm found.</li> <li>- As for changes in the substance of sectoral laws that do not contain conflict of norm issues, they must be carried out following the process determined by Law</li> <li>- Legislative riders are prone to smuggling articles of particular interest.</li> <li>- Not accommodated in Law no. 12 of 2011 concerning the establishment of laws and regulations</li> </ul>
2	PAN (Partai Amanat Nasional)	Potentially Violating Law no. 12 of 2011 concerning the Establishment of Legislations.	<ul style="list-style-type: none"> <li>- The use of the omnibus law method in the formation of the Ciptaker Bill without heeding the provisions of Law no. 12 of 2011 Jo Uu No. 15 of 2019 can be said to violate the Act.</li> <li>- If the Government wants to make massive changes using the omnibus law method, then the best way is to amend Law no. 12 of 2011 concerning the establishment of legislation.</li> </ul>

The responses mentioned above by the two PKS (Partai Keadilan Sejahtera) factions and the PAN (Partai Amanat Nasional) faction regarding the legal application of the omnibus law method are quite reasonable because historically, the omnibus law or what is called the omnibus bill is generally applied by common law countries system, Canada and the United States became the first two countries to apply the omnibus law method. Canada in 1888, namely the Law in the context of the unification of 2 (two) railroad laws, while the United States only implemented it in the 19th century and there have been three omnibus bills that received enough attention in its time, one of which was an event that known as "the Compromise of 1850".<sup>15</sup>

Conceptually, this omnibus bill method is an efficient method applied to amend some or even many laws that contain various policy materials that are interrelated with one another. In general, the omnibus bill can be drafted with 3 (three) possible models of change, namely:<sup>16</sup>

- One or more laws are repealed and amended with and become one new Law;
- Only certain articles of several laws are amended by a new law, while the old Law remains in effect with changes based on the new Law;
- With the formation of a new law, there are one, two, or more old laws that are declared revoked and no longer valid, and there are also one, two, or more other laws that remain valid but with changes to certain articles as regulated by the new Law.

Since the three techniques listed above are general omnibus techniques used by various common law countries, it can be said that the method of forming legislation through omnibus is relatively dependent on needs because the three techniques listed above are not good or bad choices. But rather ways to supplement and strengthen existing mechanisms in the law-making process by allowing legislative and Government institutions to work more efficiently and effectively, as well as more quickly.

According to Jimly Asshidiqie, Indonesia has implemented an omnibus law system, namely Law no. 7 of 2017 concerning General Elections, although some opinions state that

<sup>14</sup> Pemerintah Republik Indonesia, "Naskah Akademis RUU Cipta Kerja," *Journal of Chemical Information and Modeling* 53, no. 9 (2019): 1689–1699.

<sup>15</sup> Jimly Asshidiqie, *Omnibus Law Dan Penerapannya Di Indonesia* (Jakarta: Konpress, 2020).

<sup>16</sup> *Ibid.*



the Law is the result of a codification (combination) of other laws. The Law includes the amalgamation of three laws, namely Law Number 42 of 2008 concerning the Election of the President and Vice President, Law Number 15 of 2011 concerning General Election Organizers, Law Number 8 of 2012 concerning Elections for DPD Members, and DPRD. Since the intention of the legislator is only to unite various provisions deemed important by the Law, this action can be referred to as a limited omnibus or omnibus legislative technique.

This means that, in terms of experience, Indonesia has the historical experience, although it is not entirely possible to use the omnibus law technique, while normatively the Law on the Formation of Legislation does not accommodate the formation using this technique, that does not mean that this omnibus law technique cannot be applied in Indonesia, as long as the Law is enacted. Comply with the provisions of the formal requirements and principles, as well as the principles of the formation of other laws, and then it is legally valid. This means that legal interpretation is not always interpreted with formal legalism but uses a progressive legal approach by emphasizing the importance of other interpretations of the Rule of Law.

In other words, this omnibus law is a legal tradition of the common law system, which is transplanted into a trend in the development of Law in various countries because it adapts to global trends. The current trend of legal development in various countries is not based on the context of the type and system adopted, but depending on what is needed and how to improve it, science continues to evolve.

The next search is to use Mochtar Kusumaatmadja's method of thinking with his legal theory of development, which reveals that Law is universal, and from its nature, it is possible to transplant foreign laws. From the perspective of development law, it may be true, but the other side of this development law is to give the state the widest possible space in the name of development so that conflicts with the laws that live in society will arise.

Although Mochtar argues that Law has a value attachment to society which means that a good law is following the living Law in society (the living Law). But besides that, statements like this can be contradictory, considering that in the main, development law provides space for the state to determine what kind of Law is formed and applies, and even opens space for the adoption of foreign laws as long as they support development aspirations, and are therefore open. The possibility of conflict with the Law that lives in society.

Problems with such a system indicate that the legal problems we face are very complex. On the one hand, the Law is seen as a value system that is entirely under the umbrella of a basic norm called the *grundnorm* or basic norm. Law moves between two different worlds, both the world of values and the world of everyday life (social reality). As a result, tensions often occur when the Law is applied. When the Law, which is full of values, is to be realized, it must deal with various factors that influence the social environment.<sup>17</sup>

For this reason, consideration of the omnibus law transplant needs to be adjusted to the existing legal culture, because according to Friedman, legal culture is a kind of gasoline that will drive the motor of the existing legal order, and without this motor, the legal system will become a dead institution.<sup>18</sup> In its development, the omnibus bill practices in Canada are relatively more widely accepted than in the United States. The controversy arising from the application of this omnibus bill formation technique in the United States is classified as very strong, so many states oppose and even prohibit the practice of omnibus bills from being implemented.

In practice, it turns out that legislators do not have the ability and speed to work that can keep up with the speed of changing legal needs. Therefore, the Law always limps behind the development of the legal needs of society.<sup>19</sup> After the Reformation, various kinds of laws and regulations were formed without a thorough study; as a result, causing hyper-regulation, which is a situation where a lot of laws and regulations are formed, without considering (1)

<sup>17</sup> Ditta Chandra Putri Ahmad Ulil Aedi, Sakti Lazuardi, "ARSITEKTUR PENERAPAN OMNIBUS LAW MELALUI TRANSPLANTASI HUKUM NASIONAL PEMBENTUKAN UNDANG-UNDANG (Architecture of the Application of Omnibus Law Through National Legal Transplantation Formation of Law)," *Jurnal Ilmiah Kebijakan Hukum* 14, no. 2 (2020): 1–18.

<sup>18</sup> Rahardjo Satjipto, *Hukum Dan Masyarakat* (Jakarta: Angkasa, 1980).

<sup>19</sup> Sidharta Arief B, *Pengembangan Hukum Dewasa Ini Di Indonesia* (UNPAR: Epistema Institut, Berkala Isu Hukum dan Keadilan Eko-Sosial, 2012).



whether the legislation is needed to support priorities development. And (2) whether the substance has been regulated by other sector laws and regulations.

As a result, if the method of changing the Law one by one is used, the hyper-regulation reaction and overlapping of these regulations would take a long time and cost a lot of money, thus the omnibus law approach is regarded as capable of solving hyper-regulation problems that occur in Indonesia. Hyper regulation and the lack of quality of the laws that are formed will lead to legal consequences that are increasingly alienated and alienated from the people themselves, and the meaning alienation is that there are many rules but these rules are ineffective and cannot be enforced. In addition, hyper-regulation also creates legal uncertainty, complicates investment growth, and ultimately harms Indonesia internationally.

Legislators are required to not be fixated on formal legal in the legislative process and respond to the needs of the community. Formalizing the omnibus law in the content of Law Number 12 of 2011 concerning the Establishment of Legislation as amended by Law Number 15 of 2019 concerning Amendment to Law Number 12 of 2011 concerning the Establishment of Legislation, is an option when the legal transplant process is in the form of a law text. However, the choice to formalize the omnibus law in the material for the formation of the Law implies that the benefits of Law through an interpretative approach to the legal text itself are not free and absolute. The Panja's agreement to change the "Omnibus" diction in the Preamble to letter e of the Job Creation Act proposed by the Government is appropriate. Considering that the omnibus diction is not recognized in the regulations for the formation of laws. Hence, a progressive interpretation is needed to ensure the community's need for the Law.

It is characterized by the application of the transplant technique in Law and development because it presupposes that the Law is uniform, applies equally to all people, is reasonable, emphasizes individual rights and obligations, and is managed by professionals. As a result, the emphasis is solely on institutions or the state, with no acknowledgment or denial of the existence of a system outside the Law.

This paradigm contradicts the progressive Law proposed by Satjipto Rahrdjo, where the Law does not only look at legal factors but also has to pay attention to non-legal factors in which there are customs from the local culture and customs of the community. The legislators are expected to pay attention to this and not get caught up in narrow progressive thinking. When examined further, Pancasila and the Republic of Indonesia's 1945 Constitution show that the Law's transplanting or application is dependent not just on legal or written legal considerations but also on non-legal reasons.

## **CONCLUSION**

As a closing of this legal study, Research to come up with the conclusion: The need for realignment with the omnibus law technique is the right choice compared to using the amendment method one by one Law, related to the omnibus law technique in the findings of the legis ratio of the Job Creation Act that the former The Law has used a progressive legal interpretation approach that is not fixated on legal formalism in the provisions of Law 12 of 2011 concerning the Formation of Legislation, by changing the preamble diction of letter e of the Job Creation Bill with a more appropriate language, without changing the intent and will of the proposer of the Act, namely the omnibus law technique. Meanwhile, legal transplanting is a compatible technique in Law and development because the focus on Law and development is only on a uniform system that maximizes the role of the state in development so that the Transplant in development law does not need to be formalized into a legal product but can become legal teaching that is applied from the common law system to the civil law system.

The following can be given as a contribution from the outcomes of Research on legal studies about omnibus law techniques through the transplantation of national laws for the formation of laws: The use of omnibus law procedures varies by country, as evidenced by the disparities in public responses seen in the United States and Canada. Although the development law is in the argument that the Law is universal and open, but not merely the



transplant method can be enforced. Therefore there is a need for an adjustment process to the national legal system accompanied by reform of the legal education system, through reform of the legal education system, which aims to organize legal education goals to create law graduates who are not legalistic and can make interpretations of legal texts. The Government and legislators are expected to form a paradigm of progressive interpretation broadly by considering non-legal aspects because they are directly related to legal culture so that public rejection and suspicion do not arise.

## REFERENCES

1. Ahmad, Fauzan. "Omnibus Law Cipta Kerja Merugikan Buruh Memanjakan Oligarki." Last modified 2020. Accessed February 5, 2022. <https://tirto.id/omnibus-law-cipta-kerja-merugikan-buruh-memanjakan-oligarki-f6aF>.
2. Ahmad Ulil Aedi, Sakti Lazuardi, Ditta Chandra Putri. "Arsitektur Penerapan Omnibus Law Melalui Transplantasi Hukum Nasional Pembentukan Undang-Undang (Architecture of the Application of Omnibus Law through National Legal Transplantation Formation of Law)." *Jurnal Ilmiah Kebijakan Hukum* 14, no. 2 (2020): 1–18.
3. Ary Wahyudi Nyoman. "Ribuan Buruh Demo Geruduk DPR Desak Setop Bahas UU Cipta Kerja." 2022. Last modified 2022. Accessed February 5, 2022. <https://ekonomi.bisnis.com/read/20220114/12/1489040/ribuan-buruh-demo-geruduk-dpr-desak-setop-bahas-uu-cipta-kerja>.
4. Aulia, M. Zulfa. "Hukum Pembangunan Dari Mochtar Kusuma-Atmadja: Mengarahkan Pembangunan Atau Mengabdikan Pada Pembangunan?" *Undang: Jurnal Hukum* 1, no. 2 (2019): 363–392.
5. Cheng M, Edwards D, Darcy S, Redfern K. A Tri-. "A Tri-Method Approach to a Review of Adventure Tourism Literature: Bibliometric Analysis, Content Analysis, and a Quantitative Systematic Literature Review." *Journal of Hospitality & Tourism Research* 42(6):997–(2016). <https://journals.sagepub.com/doi/abs/10.1177/1096348016640588>.
6. Husa, Jaakko. "Developing Legal System, Legal Transplants, and Path Dependence: Reflections on the Rule of Law." *Chinese Journal of Comparative Law* 6, no. 2 (December 1, 2018): 129–150.
7. Jimly Asshiddiqie. *Omnibus Law Dan Penerapannya Di Indonesia*. Jakarta: Konpress, 2020.
8. Kruijten, Peter M., and Marieke van Genugten. "Creativity in Local Government: Definition and Determinants." *Public Administration* 95, no. 3 (September 2017): 825–841. <https://onlinelibrary.wiley.com/journal/14679299>.
9. Lisdiyono, Edy. "Improving Legal Argument Critically in the Litigation Mechanism in Indonesia (an Empirical Study of Environmental Verdicts)." *Sriwijaya Law Review* 1, no. 1 (2017): 64–73.
10. Pemerintah Republik Indonesia. "Naskah Akademis RUU Cipta Kerja." *Journal of Chemical Information and Modeling* 53, no. 9 (2019): 1689–1699.
11. Rahardjo Satjipto. *Hukum Dan Masyarakat*. Jakarta: Angkasa, 1980.
12. Rama Dhany, Rista. "Saat Jokowi Marah Dengan Batalnya Investor Asing Ke Indonesia." 2021. Accessed February 5, 2022. <https://www.idxchannel.com/economics/saat-jokowi-marah-dengan-batalnya-investor-asing-ke-indonesia>.
13. Schauer, Frederick. "The Politics and Incentives of Legal Transplantation." *CID Working Paper Series* (2000).
14. Sidharta Arief B. *Pengembangan Hukum Dewasa Ini Di Indonesia*. UNPAR: Epistema Institut, Berkala Isu Hukum dan Keadilan Eko-Sosial, 2012.