



DOI: <https://doi.org/10.38035/jgsp.v3i2>
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Analysis of the Effectiveness of the Omnibus Method in Drafting Laws to Realize Business Licensing Law Reform in Indonesia

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Abstract: The omnibus method is a new approach in the formation of legislation in Indonesia which aims to simplify regulations and overcome overlapping legal rules. This study aims to analyze the effectiveness of the omnibus method in drafting laws as a means of realizing legal reform of business licensing in Indonesia. Through normative studies and analysis of the Job Creation Law as an example of the application of the omnibus method, this study found that it can accelerate regulatory harmonization and provide legal certainty for business actors. However, its effectiveness has encountered challenges in public participation, transparency, and potential violations of the principles of good legal regulation formation. Therefore, it is necessary to strengthen the legislative mechanism so that the omnibus method can truly function as an instrument of sustainable legal reform.

Keyword: Omnibus Method, Legal Reform, Business Licensing

Abstrak: Metode omnibus merupakan pendekatan baru dalam pembentukan peraturan perundang-undangan di Indonesia yang bertujuan untuk menyederhanakan peraturan dan mengatasi tumpang tindih aturan hukum. Penelitian ini bertujuan untuk menganalisis efektivitas metode omnibus dalam penyusunan undang-undang sebagai sarana untuk mewujudkan reformasi hukum perizinan berusaha di Indonesia. Melalui kajian normatif dan analisis terhadap UU Cipta Kerja sebagai contoh penerapan metode omnibus, studi ini menemukan bahwa metode ini dapat mempercepat harmonisasi regulasi dan memberikan kepastian hukum bagi pelaku usaha. Namun, efektivitasnya menghadapi tantangan dalam partisipasi publik, transparansi, dan potensi pelanggaran terhadap asas-asas pembentukan peraturan perundang-undangan yang baik. Oleh karena itu, perlu dilakukan penguatan mekanisme legislasi agar metode omnibus dapat benar-benar berfungsi sebagai instrumen reformasi hukum yang berkelanjutan.

Kata Kunci: Metode Omnibus, Reformasi Hukum, Perizinan Usaha

INTRODUCTION

Legal reform in the business licensing field is an urgent need that arises from the complexity of regulations that have long shackled the business sector in Indonesia (Mayasari, 2020). Business actors are often faced with piles of overlapping, contradictory, and often mutually complicating regulations. This condition not only hampers the investment climate but also reduces the effectiveness of government policies in encouraging economic growth. In this context, the Indonesian government introduced a new approach called the omnibus method as one solution to unravel the tangled threads of these regulations (Anggono, 2020). This approach is applied in Law Number 11 of 2020 concerning Job Creation which is the initial milestone of legal reform with a massive cross-sectoral scope of changes in one umbrella law (umbrella act) (Setiadi, 2020).

The concept of legal reform used in this approach has strong roots in the thinking of Indonesian legal experts. Satjipto Rahardjo emphasized that the law must be able to be a means of social change, not just a rigid normative text (Rahmad, 2020). Legal reform means updating the way of thinking about law, legal structure, and legal substance to be more adaptive to the needs of society and developments in the era (Nugraha, 2025). Mahfud MD added that legal reform is systematically restructuring the law to strengthen justice and democracy (Jadidah, 2020). In business licensing, legal reform must be directed at creating a legal system that can facilitate business actors without sacrificing the principles of justice and legal certainty (Pujiono, 2022).

The modern legal system is characterized by simple, efficient, and responsive characteristics. Simple in the sense that it is easy to understand and access by the public, efficient in the formation and implementation process, and responsive to social changes and economic needs (Ismoyo, 2025). The omnibus approach in law formation seeks to adopt these three characteristics by cutting excessive regulations and integrating legal substances from various sectors in one integrated legal framework (Aryani, 2021). The goal is not only to accelerate the legislative process but also to create a licensing system that is more synchronized and does not collide between agencies.

The omnibus method itself originates from the practice of the common law legal system, especially in the United States and Canada. In these countries, omnibus bills are used to combine various legal provisions into one draft law to speed up the legislative process, especially in emergencies or when structural reforms are needed (Putra, 2022). This practice was then adopted into the Indonesian legal system which is characterized by civil law, which is generally more rigid in the drafting of laws (Portuna, 2024). Although there is debate among legal experts regarding the suitability of this method to the Indonesian system, the government continues to encourage it as a way out of the regulatory deadlock that has occurred for years.

In Indonesian law, the application of the omnibus method finds its legal basis in Law Number 12 of 2011 concerning the Formation of Legislation, which has been amended by Law Number 13 of 2022 (Ummah, 2022). This change provides legal space for the omnibus method, which was previously unknown in the Indonesian legislative structure. In the explanation of the articles, it is explained that the formation of laws can be carried out by the method of compiling legal provisions from various relevant laws, as long as they meet the principles and procedures for formation regulated in the law (Arief, 2021). It means that even though the omnibus method is an innovation, its implementation must still be subject to standard and transparent procedures.

One of the fundamental aspects of forming laws and regulations is the principles of their formation, as regulated in Article 5 of Law No. 12 of 2011 (Firdaus, 2023). It states that laws and regulations must meet the principles of clarity of purpose and conformity between type

and content, can be implemented, and do not conflict with higher regulations (Agustina, 2023). The existence of these principles is important to ensure that a law is not only formally valid but also substantively effective. In the context of the omnibus method, any changes or deletions to articles from different laws must still be tested for consistency with these principles (Christiawan, 2021).

Apart from these formal principles, the aspect of public participation is very crucial. UU no. Law No. 12 of 2011, especially Article 96, requires public involvement in forming laws and regulations. This participation is not just a formality, but an important instrument for guaranteeing the legitimacy and accountability of a law (Andriani, 2023). In the application of the omnibus method, public participation faces major challenges due to the broad scope of the substance regulated in one legal document. The public often has difficulty following the development of the discussion of a bill containing hundreds of articles from various sectors in a relatively short time.

In addition to participation, the principle of openness is also an important touchstone in assessing the quality of the legislative process. Openness does not only mean the publication of legal documents, but also concerns easy access to information, transparency of the discussion process, and an inclusive discussion space (Arfiani, 2023). In the omnibus method, the rapid drafting process often ignores this principle. Several provisions in the Job Creation Law, for example, have been criticized for being less transparent in changing substance between the initial and final drafts (Sadono, 2021). It raises concerns about the potential for the insertion of articles that are not by the initial objectives of legal reform.

Criticisms of the omnibus method do not deny the innovative value of this approach. On the contrary, criticism indicates that the public is mindful of the legislative process and the sustainability of legal reform. In a democratic legal system, criticism is part of the control mechanism to ensure that every legislative policy runs according to the corridor of law and public ethics (Aryanto, 2021). The omnibus method can be a powerful tool to improve the business licensing system that has been fragmented so far, as long as it is implemented with a full commitment to the principles of openness, participation, and accountability. Thus, the omnibus approach cannot only be understood as a technocratic strategy to simplify regulations but as part of a larger effort to realize laws that serve the interests of the wider community. Its effectiveness is not only measured by how quickly a law is passed or how many rules are revised but also by how much it can strengthen procedural and substantial justice in the Indonesian legal system. Evaluation of this method must continue to be carried out, not only based on short-term results but also on its long-term implications for the legal system and democracy.

METHOD

This study uses a normative legal method, namely an approach that relies on literature studies by examining primary and secondary legal materials as the basis for analysis. This method was chosen because the main focus of the study lies in the study of legal norms contained in laws and regulations, especially those related to the omnibus method in the formation of laws and their relevance to business licensing law reform in Indonesia. The primary legal sources in this study include Law Number 11 of 2020 concerning Job Creation and its amendments through Perpu Number 2 of 2022 which was later ratified as Law Number 6 of 2023, and Law Number 12 of 2011 in conjunction with Law Number 13 of 2022 concerning the Formation of Legislation. In addition, relevant Constitutional Court decisions are also used, such as Constitutional Court Decision No. 91/PUU-XVIII/2020, as a reference for studying the constitutionality and procedure aspects of the formation of laws through the omnibus method. Meanwhile, the secondary legal materials analyzed include legal literature, scientific journals, and opinions of legal experts discussing legal reform, principles of

forming laws and regulations, and the practice of the omnibus method in Indonesia and other countries. The analysis was carried out by interpreting and criticizing the conformity between legal theory and the practice of forming regulations that occur, as well as assessing its effectiveness in the context of licensing law reform. With this approach, it is hoped that the research can provide an in-depth and comprehensive academic contribution regarding the role and challenges of the omnibus method as an instrument in improving the regulatory system in Indonesia.

RESULT AND DISCUSSION

Application of the Omnibus Method in the Preparation of the Job Creation Law

The birth of Law Number 11 of 2020 concerning Job Creation cannot be separated from the reality of bureaucratic complexity and overlapping regulations which for years have been the main obstacles in the business licensing process in Indonesia. Before this law, the licensing process often took a long time, incurred high costs, and did not provide adequate legal certainty for business actors, both domestic and foreign. This condition not only slows economic growth but also makes Indonesia's investment climate considered less competitive compared to neighboring countries in the Southeast Asian region. The government then responded to this condition by designing a legal instrument that could overcome regulatory obstacles in a comprehensive and integrated manner. In this context, the omnibus method is considered relevant and effective because it allows simultaneous improvements to various legal provisions spread across dozens of sectoral laws in one main regulation.

Structurally, the Job Creation Law uses an omnibus law approach by amending, deleting, and establishing new provisions in 78 laws spread across various sectors, such as employment, environment, land, energy, and business and investment licensing. This method is reflected in the provisions of Article 185 of the Job Creation Law which emphasizes that the law revokes and/or amends provisions in several laws listed in the appendix. From a legal perspective, this approach creates a breakthrough because it allows for rapid and systematic synchronization of regulations, compared to the process of revising laws one by one which has often taken years. However, the application of the omnibus method in the Indonesian legal system must still be subject to the principles of the formation of laws and regulations as stipulated in Law No. 12 of 2011 in conjunction with Law No. 13 of 2022, especially regarding the principles of clarity of objectives, openness, and public participation.

The key substance of the Job Creation Law in business licensing lies in the simplification of the licensing system and the implementation of a risk-based approach through Norms, Standards, Procedures, and Criteria (NSPK). These provisions are regulated, among others, in Articles 8 and 11 of the Job Creation Law, which are further elaborated in implementing regulations such as Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing. This approach divides types of business activities into low, medium, and high-risk categories, each of which requires different licensing requirements. It aims to make licensing more proportional, efficient, and measurable, according to the level of risk inherent in the business activity. It is an important normative leap because previously, almost all types of businesses were subject to the same complicated licensing procedures, without considering the scale or potential impact on society and the environment.

The effectiveness of regulatory simplification in the Job Creation Law can also be seen from the integration of the licensing service system through the Online Single Submission (OSS) platform. This system is a concrete implementation of Article 13 of the Job Creation Law which mandates the simplification and acceleration of licensing services through information technology. The latest version of OSS (OSS-RBA) allows business actors to obtain business licenses electronically in a short time, with a relatively transparent and

standardized process. The efficiency offered by OSS not only cuts time and costs but also reduces direct interaction with the bureaucracy which has been prone to corrupt practices and extortion. With this system, legal certainty increases because business actors can access information and licensing procedures in real-time and based on integrated data between ministries/institutions.

The application of the omnibus method in the Job Creation Law initially received appreciation as a form of progressive legal reform but then faced serious challenges when the Constitutional Court (MK) in Decision Number 91/PUU-XVIII/2020 stated that the Job Creation Law was conditionally unconstitutional. In its ruling, the Constitutional Court stated that the law did not comply with the procedures for the formation of legislation, especially regarding the aspects of public participation and transparency of the legislative process, as stipulated in Article 5 letter g and Article 96 of Law No. 12 of 2011. The Constitutional Court also highlighted irregularities in the technique of drafting the draft law which was considered not by the principles of the formation of good legislation. Although it did not immediately revoke the Job Creation Law, this ruling gave the government and the DPR two years to improve the process of its formation.

In response to the ruling, the government then issued Government Regulation instead of Law (Perpu) Number 2 of 2022, the contents of which were largely the same as the previous Job Creation Law, but this time through a procedure that was claimed to have been adjusted to constitutional provisions. The Perpu was then passed into Law Number 6 of 2023, which formally improved the legal position of the Job Creation Law within the constitutional framework. In the appendix and explanation of Law No. 6 of 2023, it is stated that the drafting was carried out by considering the Constitutional Court's decision, including increasing public participation and public involvement in the drafting of the Bill. Although there is still criticism of the process, the formation of this Law shows a legal awareness to adjust to formal provisions in the national legislative system.

After the ratification of Law No. 6 of 2023, the omnibus method legally gained stronger legitimacy in the Indonesian legal system. In fact, in Article 42A paragraph (1) of Law No. 13 of 2022 concerning the Second Amendment to Law No. 12 of 2011, the omnibus method is explicitly referred to as a drafting legislation technique. The provision shows that the omnibus method has been normatively accepted and has become part of the modern Indonesian legislative system. It means that this approach is no longer experimental, but has a binding legal basis. However, the sustainability of this method still depends heavily on the ability of lawmakers to carry out the legislative process in a transparent, participatory, and accountable manner, as required by the law on the formation of regulations.

The application of the omnibus method in the Job Creation Law and its follow-up shows that Indonesia is in a transition phase towards a more integrative and efficient legislative model. This transition is certainly not free from obstacles, both in terms of technical drafting, legislative politics, and public acceptance. However, efforts to improve the licensing system through one comprehensive regulation show a strong will from the state to strengthen legal certainty, accelerate economic growth, and create jobs widely. The effectiveness of the omnibus method is not only measured by its success in combining many laws, but also by how much it contributes to ease of doing business, bureaucratic reform, and the fulfillment of democratic legal principles.

Challenges and Problems of Implementing the Omnibus Method in Licensing Law Reform

The application of the omnibus method in licensing law reform does bring great hope for simplifying regulations, but many challenges accompany its implementation, especially in terms of public participation and transparency. In the context of a democratic system, public

participation is a non-negotiable element in the formation of legislation. Article 96 of Law Number 12 of 2011 states that the public has the right to provide input verbally or in writing in constructing regulations. However, in practice, drafting the Job Creation Law using the omnibus method is considered to have minimal meaningful public involvement. The legislative process seems rushed and does not involve adequate consultation with stakeholders from various sectors. As a result, harsh criticism has come from various groups, ranging from civil society organizations, and academics, to labor unions who consider that the substance and process do not reflect the spirit of deliberative democracy.

In addition to the issue of participation, the structure of the omnibus method is considered less compatible with the system of forming legislation in Indonesia which is codification and hierarchical. This inconsistency is evident from the difficulty in adapting the omnibus method, which is very flexible and touches many sectors at once, to the Indonesian legislative model, which is still based on the division of authority between ministries/institutions and the grouping of regulations based on certain sectors. The process of harmonizing sectoral regulations becomes very complex because the changes made through the omnibus are not always in line with the structure, substance, and spirit of previously applicable sectoral laws. This creates confusion in implementation in the field, especially when new norms are not followed by the revocation or adjustment of old norms that are still in effect.

Difficulties in the design techniques and systematics of articles are also significant technical problems. In the omnibus method, one law can change many provisions in dozens of other laws. This situation creates complexity in legal drafting because the structure of the articles becomes irregular and it is difficult to trace their relationships. In academics and legal practice, this complicates the interpretation and application of the law. The ambiguity in the systematics of articles also impacts the interpretation of law at the court level, which ultimately has the potential to cause inconsistent decisions. This issue shows that the omnibus method requires high skills in legislative techniques that have not been fully mastered by regulatory designers in Indonesia.

This condition is further complicated by the increasing potential for judicial review at the Constitutional Court in response to dissatisfaction with the substance and procedures for the formation of omnibus-based laws. Evaluation of various requests for judicial review shows that many articles are being challenged because they are considered to be detrimental to citizens' constitutional rights or contrary to the principles of the rule of law. When the Constitutional Court grants some of the requests, concerns arise about legal stability because the norms that have been in effect can be revoked at any time. It creates legal uncertainty that is counterproductive to the initial goal of forming an omnibus law, namely to provide certainty and convenience for the business world. This situation proves that fast and integrated legislative methods must still be subject to constitutional review.

On the other hand, the problem of inconsistent legal substance also creates the potential for overlapping between regulations that should be removed, but are not explicitly revoked. In the context of Indonesian law, the revocation of legal norms requires clarity so that there is no conflict of norms in the future. In several cases, articles in sectoral laws remain in effect even though they have been implicitly replaced by provisions in the Job Creation Law. This ambiguity causes a dualism of norms that confuses regulatory implementers at the ministerial and regional government levels. When two different norms apply at the same time without clarity about which one is superior, the licensing process is again hampered by differences in interpretation in the field.

Another problem is the readiness of state institutions to implement the new legal system born from the omnibus law. Not all government agencies, both at the central and regional levels, have the same understanding and ability to implement legal provisions based on a risk

approach. When the legal system changes drastically, a process of institutional adaptation is required that is not simple. Training, adjustment of internal procedures, and integration between information systems are major jobs that must be done simultaneously. When it does not run optimally, it confuses the implementation and inconsistencies between central and regional policies.

Evaluation of the Online Single Submission (OSS), which is the main instrument for implementing risk-based licensing, also shows that its effectiveness is highly dependent on the readiness of the bureaucracy and technological infrastructure. Although conceptually OSS can accelerate the licensing process, its implementation still faces technical challenges such as data asynchronous, limited internet access in remote areas, and dependence on the technical capacity of service officers. In addition, business actors in the regions, especially MSMEs, still have difficulty understanding OSS procedures and requirements due to limited socialization and assistance. When the digital system is not balanced with the readiness of human resources, the purpose of simplification turns into a new administrative burden.

All of these challenges show that the success of the omnibus method in licensing law reform cannot only be measured by the number of articles simplified or the speed of the formation of laws. The main challenge lies in the consistency between normative intentions and structural readiness. When democratic legal principles, clarity, and institutional capacity have not been fully met, then a method that looks efficient on paper can have complex consequences in the field. Legal reform truly requires not only a technocratic approach but also the courage to build a system that is fair, participatory, and accountable as a whole.

CONCLUSION

The omnibus method in drafting laws, especially as implemented in the Job Creation Law, has significant effectiveness in simplifying regulations and accelerating the harmonization of laws and regulations related to business licensing. This approach allows the government to revise dozens of laws in one comprehensive legal framework, thereby encouraging regulatory efficiency and providing legal certainty for business actors. However, the effectiveness of the omnibus method is not entirely free from obstacles. The major problems lie in the lack of meaningful public participation during the legislative process, minimal transparency in discussions, and the potential for inconsistencies in norms due to non-standardized legal drafting techniques. These challenges pose risks to the legal legitimacy and social acceptance of these legislative products.

In response to these conditions, the main recommendation in this study is the need to strengthen legislative procedures that are more adaptive to the omnibus method through revisions to the technical guidelines for drafting laws regulated in the Presidential Regulation or related technical laws and regulations. Besides, increasing public participation must be a priority by adopting an inclusive digital consultation mechanism and requiring the publication of academic papers and draft laws from an early stage. The government also needs to conduct periodic evaluations of laws drafted using the omnibus method so that it can immediately adjust overlapping or substantively problematic norms. On the other hand, the capacity of state apparatus needs to be strengthened through intensive training on the substance of new laws and the operation of systems such as Online Single Submission (OSS) so that the implementation process runs effectively and does not cause administrative confusion at the central and regional levels.

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