

Comparison of Government Efforts in Improving the Welfare of Indonesian Workers Based on Law Number 13 of 2003 concerning Manpower and Draft Law Number 11 of 2020 concerning Job Creation

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Abstract

Manpower can be defined as everything related to labor and the time before, during and after the work period. When talking about various labor issues, this can be viewed from various factors and meanings. Due to the fact that the labor factor is a human resource, during the current national development period, it is a very important factor for the course of national development in Indonesia. The Manpower Act was created, of course, to provide welfare to workers, especially Indonesian workers. In 2020 the government will carry out a policy by drafting a new law on labor through the omnibus law. Of course, the basic needs of every human being will continue to exist and develop according to the stages or stages of the human life cycle. The procedure used to collect data in this study is documentation, namely the guidelines used in the form of notes or quotes, search for legal literature, books and others related to the identification of problems in this study both offline and online. Analysis of legal materials is carried out using the content analysis method (content analysis method) which is carried out by describing the material of legal events or legal products in detail in order to facilitate interpretation in the discussion. Comparisons related to the protection of labor welfare in Indonesia based on UUK and UUCK if it is concluded that there are several differences, for example regarding weekly breaks, the UUK regulates weekly rest periods of 2 days off in 5 working days while UUCK only regulates 1 day off within 6 working days incidentally it has also been regulated in the UUK. While the right to take a long break in the UUK is given at least 2 months and can be implemented in the seventh or eighth year of 1 month each, while the UUCK does not include the right to long leave and submit the rules for long leave to the respective companies or cooperation agreements that agreed upon. Regarding menstrual leave for female workers in the UUK, they can get a day off on the first and second days, whereas in UUCK it is not regulated. Furthermore, in the UUK it regulates severance pay while in the UUCK it is not regulated and in the UUK it regulates the work period reward money, workers who have worked 24 years or more are given 10 months of wages but this rule is abolished in UUCK. Pension security is regulated in the UUK but not in the UUCK. Meanwhile, job loss insurance is not regulated in the UUK but in UUCK adds a new social security program, namely Job Loss Security (JKP) which is managed by BPJS. Regarding the work status in UUK is regulated in Article 59 then that Article Article is deleted by UUCK, with the removal of this article, there is no limit to the rules that a worker can be contracted, as a result the worker could become a lifelong contract worker. In UUK, the maximum overtime work is only 3 hours per day in 14 hours per week, while in UUCK the maximum is 4 hours per day and 18 hours per week.

Keywords:

Government Efforts, Welfare of Indonesian Workers, Law Number 13 Year 2003 Concerning Manpower, Law Number 11 Year 2020 Concerning Job Creation.

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A. Introduction

Manpower can be defined as everything related to labor and the time before, during and after the work period. When talking about various labor issues, this can be viewed from various factors and meanings. Due to the fact that the labor factor is a human resource, during the current national

development period, it is a very important factor for the course of national development in Indonesia. Even the labor factor is a very dominant tool in the life of a nation, because of that, labor is a determining factor for the death and life of a nation. Based on Law Number 13 of 2003 concerning Manpower, precisely Article 1 point 1, employment is all things related to labor at the time before, during and after the work period, then Article 1 point 2 explains that Labor is anyone who is able to do work in order to produce goods and / or services both to meet their own needs and for the community.

The Manpower Act was created, of course, to provide welfare to workers, especially Indonesian workers. In 2020 the government will carry out a policy by drafting a new law on labor through the omnibus law. Of course, the basic needs of every human being will continue to exist and develop according to the stages or stages of the human life cycle.¹ comes from the word "Omni" from Latin and "bus" from English. The word Omnibus first came from France, after which it was only used by Americans and Canadians.² Omnibus bills are not used, neither in the UK nor in Australia. With the development of the times, the Law must also follow it, it must not be backward, that is why it is necessary to revise or delete the Law. The number of laws in Indonesia, it needs several laws that must be revised, if the laws are revised one by one it will take a lot of time, and the laws conflict with one another, so a technique called the Omnibus Bill is needed. (Ombimbus Bill). The Omnibus Bill is a law formation technique for regulations that are considered to be interrelated and based on one Act or several laws. There are 3 patterns of implementation of the Omnibus Bill, the first pattern, one law that wants to be changed, Law on A which is amended but is also related to one or two articles in Law B and Law C, without repeal of Law B and C, only changed a few new articles. Secondly, the Law that has just been issued, if the new Law is carried out by itself, there will be a collision with the old Law, so that the old Law that collides with the new Law is amended to follow the new Law. The third pattern, there are two or three Revised Laws, then the old Laws are revoked and are no longer valid. Indonesia itself also has an Omnibus Law, in writing the Omnibus Law it must be integrated, it should not be confused between one Law and another, but making the Omnibus Law Bill is a difficult thing, namely: it involves the rights and obligations of many people. , relating to many laws, and must be completed in a short time.³

The Work Creation Bill, which was born with the lure of providing the latest legal protection for workers' rights, was officially passed by the House of Representatives of the Republic of Indonesia (DPR-RI) on January 22, 2020 through the 2020 Priority National Legislation Program. which contains 50 Drafts of Law (RUU) at once. The bill entitled Omnibus Law is one of the government's progressive steps in the field of law. This is allegedly due to President Joko Widodo's anger over the sluggish progress of Indonesia in the investment sector from year to year. Regulatory problems are one of the factors that cause or inhibit the improvement of the investment climate in Indonesia. Based on the 2019 Ease Of Doing Business report, out of 190 countries Indonesia ranks 73rd. Through the formation of the Omnibus Law, especially in the economic sector, it is expected to be able to improve the investment climate in Indonesia, Rosan Roeslani, one of the well-known entrepreneurs in Indonesia, said that one of the goals of the Omnibus Law is to increase Indonesia's ranking in the Ease Of Doing Business.⁴

The DPR-RI through its 7th plenary meeting on October 5, 2020, ratified the draft Work Creation Omnibus Law into Law Number 11 of 2020 concerning Work Creation (Ciptaker Law or CK Law). Creating jobs, increasing foreign investment in the country by reducing terms and regulations for business licensing and land acquisition is one of the objectives of the enactment of Law Number 11 of 2020 concerning Job Creation which contains 1,187 pages. President Joko Widodo's background in creating the Job Creation Law was to improve the structure of the economy in almost all sectors by creating jobs, and increasing investment and productivity.⁵

There was a debate that sparked conflict in Indonesia regarding the plan to enact this Job Creation Bill. In a conflict, there is a situation where two or more parties face different interests, this will not develop into a dispute if the parties feel disadvantaged. only feeling dissatisfied or concerned, the

¹ Rahmat Ramadhani, "Legal Consequences of Transfer of Home Ownership Loans without Creditors' Permission", *International Journal Reglement & Society* 1, No. 2, (2020): p. 31.

² Jimly, Asshiddiqie, *Omnibus Law dan Penerapannya di Indonesia*, Jakarta: Penerbit Konstitusi Press, (2020), p. 3.

³ Louis Massicotte, *Omnibus Bills in Theory and Practice*, Amerika Serikat, (2013), p. 14-15.

⁴ Catur J.S, dkk, "Perlindungan Hukum Terhadap Kesejahteraan Pekerja Melalui Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja", *Jurnal Lex Specialis* 1, No. 2, (2020): p. 179.

⁵ *Ibid.*, p. 180.

conflict will develop into a dispute when the parties who feel aggrieved have expressed their dissatisfaction or concern, either directly to the party deemed to be the cause of the loss or other parties, all parties can resolve the conflict properly, then this it will happen. a dispute arises, but if the opposite occurs, the parties cannot agree on the resolution of the conflict. the problem then disputes will arise.⁶

Based on the description above, the authors are interested in making normative comparisons related to the protection of the welfare of Indonesian workers based on Law Number 13 of 2003 concerning Manpower with Law Number 11 of 2020 concerning Work Creation. Based on the description above, the main problem can be drawn, namely how are the government efforts to improve the welfare of Indonesian workers based on Law Number 13 of 2003 concerning Manpower? and how is the government's efforts to improve the welfare of Indonesian workers based on Law Number 11 of 2020 concerning Job Creation? The procedure used to collect data in this study is documentation, namely the guidelines used in the form of notes or quotes, search for legal literature, books and others related to the identification of problems in this study both offline and online. Analysis of legal materials is carried out using the content analysis method (content analysis method) which is carried out by describing the material of legal events or legal products in detail in order to facilitate interpretation in the discussion.⁷

B. Discussion

1. Government Efforts to Improve the Welfare of Indonesian Workers Based on Law Number 13 Year 2003 concerning Manpower

Indonesia is a law state where everything must be based on legal rules so that legal certainty can be found. legal certainty as aspired to, however, it is seen more as a routine activity.⁸ Manpower or Labor is regulated in Law Number 13 Year 2003 concerning Manpower, which was promulgated in State Gazette Year 2003 Number 39 on March 25, 2003, and comes into force on the date of promulgation. According to Law Number 13 Year 2003, what is meant by 'Labor' is anyone who is able to do work to produce goods and / or services both to meet the needs of themselves and the community. Furthermore, the definition of Worker or Laborer is everyone who works and receives wages or remuneration in any form. This definition is rather general, but the meaning is broader because it can include all people who work for anyone, whether individuals, associations, legal entities, or other entities by receiving wages or remuneration in any form. Confirmation of compensation in any form is necessary because wages have been identified with money, even though there are workers / workers who receive compensation in kind.

Juridically, in labor law, the position of employers and workers is the same and equal. However, sociologically, in a certain condition, the position between workers or it can be said that workers and entrepreneurs are not equal and balanced. Because often workers / laborers are in a weak position.⁹ Therefore, in the world of manpower, it is the workers / laborers who must be given protection of their rights. The rights of workers regulated by UUTK are contained in Article 77 to Article 101 which covers the normative rights of laborers / workers. The development in terms of legal protection of labor rights at this time in the business world developed the idea of corporate social responsibility (abbreviated as CSR). In terminology, CSR does not yet have a single generalized meaning, there are still differences of opinion about the meaning and concept by experts. CSR is a social responsibility towards society and the environment outside of economic responsibility, or the commitment of companies or the business world to contribute to sustainable economic development by paying attention to corporate social responsibility and emphasizing the balance between attention to economic, social and environmental aspects.¹⁰

⁶ Rahmat Ramadhani dan Umami Salamah Lubis, "Opportunities and Challenges for the Badan Pertanahan Nasional (BPN) in Handling Land Cases in the New Normal Era", *Legality: Jurnal Ilmiah Hukum* 29, No. 1, (2021): p. 5.

⁷ Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, (2011), p.171.

⁸ Rahmat Ramadhani dan Rachmad Abduh, "Legal Guarantee for the Land Registration Process during the Covid-19 Pandemic", *Budapest International Research and Critics Institute-Journal* 4, No. 1, (2021), p. 349.

⁹ Fenny Natalia Khoe, "Hak Pekerja Yang Sudah Bekerja Namun Belum Menandatangani Perjanjian Kerja Atas Upah Ditinjau Berdasarkan Undang-Undang Nomor 13 tahun 2003 tentang Ketenagakerjaan", *Jurnal Ilmiah Mahasiswa Universitas Surabaya* 2, No. 1, (2013): p. 3.

¹⁰ Dani Amran Hakim, "Pemenuhan Hak-Hak Tenaga Kerja Melalui Penerapan Corporate Social Responsibility Pada Suatu Perusahaan (Studi Penerapan CSR Di PT. Great Giant Pineapple, Provinsi Lampung)", *Jurnal Law Reform* 12, No. 2, (2016), p. 198.

The Manpower Law regulates the working relationship between a worker / laborer and an entrepreneur, which means regulating the interests of an individual. The work relationship that regulates workers and employers basically contains the rights and obligations of the parties. The meaning of rights and obligations is always reciprocal between one another. The rights of workers or laborers are the obligations of employers. Vice versa. The employment relationship cannot be separated from the work agreement made by the parties. In Indonesian law, there are those who translate by agreement and there are those who translate by agreement. The rights and obligations stipulated in the agreement must be carried out as well as possible. Don't let either party commit a violation. In Law no. 13 of 2003 concerning Manpower, regulates this work relationship, in which the working relationship that is formed between a Worker / Laborer and an Employer / Company must be in the form of: Work Agreement; Unspecified time work agreement (PKWT); Fixed Term Work Agreement (PKWTT); Company regulations; Collective labor agreement; Contracting Agreement. Work protection aims to ensure the continuity of the work relationship system without being accompanied by pressure from the strong to the weak. Juridically, in Article 5 of Law No.13 / 2003, which provides protection that every worker has the right and the same opportunity to obtain a decent job and livelihood regardless of gender, ethnicity, race, religion and political ideology according to their interests. and the ability of the workforce concerned, including equal treatment of persons with disabilities. Whereas Article 6 of Law Number 13 Year 2003 obliges employers to provide workers or laborers with rights and obligations regardless of gender, ethnicity, race, religion political flow.¹¹

The scope of protection for workers / laborers according to Law Number 13 Year 2003, among others, broadly covers: ¹²

- a. Protection regarding wages, welfare, social security for workers;

Wages play a very important role and are a characteristic of a work relationship. It is even said that wages are the main goal of a worker who does work for another person or legal entity. That is why the government participates in dealing with this wage issue through various policies as outlined in the Legislation. Every worker has the right to earn decent income for humanity. To achieve decent income, the government establishes protection with wages for workers. The government can create a decent income through the determination of the minimum wage based on proper needs. Wage arrangements are determined on the basis of an agreement between employers and workers. Wages are one of the most important aspects in protecting workers or laborers. This is explicitly explained in Article 88 paragraph (1) of Law Number 13 of 2003 that every worker or laborer has the right to earn income that meets a decent living for humanity. According to Article 1 number 30 of Law Number 13 Year 2003, what is meant by wages is the right of a worker or laborer that is received and expressed in the form of money as compensation from the entrepreneur or employer to the worker or laborer who is determined and paid according to a work agreement, agreement, or laws and regulations, including allowances for workers or laborers and their families for a job and or services that have been or will be performed.

To date, there are different definitions of wages. This is due to differences in the viewpoints of various parties in formulating these definitions, both from the employer, the government, and from the workforce itself. The employer views that wages are a reward given to workers for the work they do in producing goods and services, which are profitable for them. The government views wages as a form of income earned by workers which is an important component in economic activity. The workforce views that wages are the main component for the survival of their lives and their families, which are used to meet the necessities of daily life. However, sometimes the wages received are not sufficient for the welfare of the workforce itself.¹³

Based on the Regulation of the Minister of Manpower Number PER01 / MEN / 1999 jo. The Decree of the Minister of Manpower and Transmigration Number KEP-226 / MEN / 2000 covers the area where the minimum wage is valid includes: Provincial Minimum Wage (UMP) which applies in all districts or cities in 1 (one) province; The regency or city minimum wage (UMK) applies in 1 (one) regency or city. Labor social security is a form of protection provided to workers and their families against various risks experienced by workers. The number of labor force in Indonesia is very large, that is, around 100 million

¹¹ Suhartoyo, "Perlindungan Hukum Bagi Buruh Dalam Sistem Hukum Ketenagakerjaan Nasional", *Administrative Law & Governance Journal* 2, No. 2, (2019). P. 328.

¹² *Ibid.*, p. 329-335.

¹³ Arrista Trimaya, "Pemberlakuan Upah Minimum Dalam Sistem Pengupahan Nasional Untuk Meningkatkan Kesejahteraan Tenaga Kerja", *Jurnal Aspirasi* 5, No. 1, (2014): p. 13-14.

people will continue to grow by more than 2 (two) percent per year.² Forms of Social Security Protection for workers are now manifested in Law Number 40 of 2004 concerning the National Social Security System and the Law -Law Number: 24 of 2011 concerning BPJS, which consists of BPJS Health and BPJS Ketenagakerjaan. So now the current form of protection, maintenance and welfare improvement is carried out by the Social Security Administering Body (BPJS) and the current BPJS includes BPJS Kesehatan and BPJS Ketenagakerjaan which are a continuation of the Workers' Social Security which was previously implemented by PT. Social Security. Workers' social security is a protection for workers in the form of health insurance and compensation in the form of money to replace a part of lost or reduced income and services as a result of events or conditions experienced by workers in the form of work accidents, illness, pregnancy, childbirth, old age, and died.

b. Protection of occupational safety and health;

Based on Article 86 paragraph (1) letter (a) of Law Number 13 of 2003 concerning occupational health, it is one of the rights of workers or laborers, therefore employers are required to implement systematically and integrated with the company's management system. Occupational health efforts aim to protect workers or laborers in order to achieve optimal work productivity, by preventing work-related accidents and diseases, controlling hazards in the workplace, health promotion, treatment, and rehabilitation. Thus the goals of occupational health are: To protect workers from the risk of work accidents; Improve the health status of workers / laborers; So that workers or laborers and people around them are guaranteed health; Ensuring that production is maintained and used safely and efficiently. With regard to occupational health, every employer is obliged to implement provisions. Working hours, as referred to in Article 77 Paragraph (1) of Law Number 13 Year 2003, which includes: a. 7 (seven) hours 1 (one) day and 40 (forty) hours 1 (one) week for 6 (six)) working days within 1 (one) week; or b. 8 (eight) hours 1 (one) day and 40 (forty) hours 1 (one) week 5 (five) working days in 1 (one) week. The rest of the working time is possible to work overtime a maximum of 3 hours in 1 day, therefore the entrepreneur is obliged to pay overtime wages in accordance with the provisions of the Minister of Manpower No. 102 of 2004:

- 1) Weekly break for 1 (one) day for 6 (six) working days in 1 (one) week or 2 (two) days for 5 (five) working days in 1 (one) week;
- 2) Rest between working hours, at least half an hour after working for 4 (four) hours continuously and the break time does not include working hours;
- 3) Annual leave, at least 12 (twelve) working days after the worker or laborer has worked for 12 (twelve) months continuously;
- 4) A long break of at least 2 (two) months and is carried out in the seventh and eighth year of 1 (one) month each for workers or laborers who have worked for 6 (six) years continuously at companies with conditions of workers or The worker is no longer entitled to his annual rest within the current 2 (two) years and thereafter it applies to every multiple of the 6 (six) year working period.

This occupational health is a way for workers to do work that is decent for humanity and is not only aimed at employers who wish to exploit workers / laborers, but is also aimed at the workers / laborers themselves. Work Safety, With the advancement of industrialization, mechanisms and modernization, it is in most rights that there will also be an increase in the intensity of operational work and the workplace of workers. This also requires intensive labor deployment of the workers. This can cause fatigue, lack of attention to these things, loss of balance and others as a result of it and the cause of accidents, it is necessary to understand that there is a need for proper knowledge of work safety, then with advanced regulations good safety and security will be achieved. realistic, which is a very important factor in providing a sense of peace, activity and enthusiasm to work for the workforce concerned, in this case it can enhance the quality of work, increase production and work productivity. Work safety is safety that is related to machines, work equipment, materials and their processing processes, workplaces and their environment, and ways of doing work. The object of work safety is all workplaces, whether on land, in the ground, on the surface of the water, in water or in the air. In Article 1 of Law Number 1 Year 1970 Concerning Work Safety, there are 3 (three) elements: A place where work is carried out for a business; There are workers who work there; There is a work hazard in that place.

c. Legal protection for forming and joining unions; Workers / labor unions;

A trade union / labor union is an organization formed from, by and for workers / laborers both within the company and outside the company, which is free, open, independent, democratic and responsible in order to fight for, defend and protect the rights and interests of workers / laborers and improve welfare of workers / laborers and their families. Legal protection relating to the rights of workers / laborers to form and become members of a trade / labor union is contained in Article 104 of Law No.13 / 2003. Article 104 paragraph 1 states that every worker / laborer has the right to form and become a member of a trade / labor union. Workers / laborers who are members of a trade / labor union have the right to manage finances and be accountable for the organization's finances, including for strike funds. The provisions in Article 104 of Law No.13 of 2003 are in line with the provisions of Law No. 21 of 2000 concerning Trade Unions / Labor Unions, especially article 5 paragraph 1, which reads the same as Article 104 paragraph 1 of Law NO.13 of 2003. Even legal protection for workers / labor in Law No.21 of 2000 is manifested in the form of easiness to form a union. / Labor unions, where workers / laborers at least 10 (ten) people have the right to form a trade / labor union.

d. Protection of workers / laborers' basic rights to bargaining; with businessmen

The Manpower Law regulates the working relationship between a Worker / laborer and an entrepreneur, which means regulating the interests of an individual. The working relationship that regulates workers / laborers and entrepreneurs basically contains the rights and obligations of the parties. The meaning of rights and obligations is always reciprocal between one another. The rights of workers or laborers are the obligations of entrepreneurs, and vice versa, the rights of entrepreneurs are also obligations of workers / laborers. To make this happen, in Law no. 13 of 2003 concerning Manpower in article 106 has regulated an institution which is a forum for communication and negotiation for workers / laborers with employers, namely the existence of a bipartite institution. This Bipartite Institution functions as a forum for communication and consultation regarding manpower matters in a company. The membership of the Bipartite Institution consists of elements from entrepreneurs and workers / laborers appointed by workers / laborers in a democratic manner to represent the interests of the workers / laborers in the company concerned. The Bipartite Institution is also the first institution to resolve disputes between workers / laborers and entrepreneurs. Law No. 13 of 2003 concerning Manpower in article 107 also regulates other bargaining rights in a Tripartite Cooperation institution which functions almost the same as a Bipartite institution. This Tipartite Institution functions to provide considerations, suggestions and opinions to the government and related parties, including workers / laborers and entrepreneurs, in formulating policies and solving labor problems. The membership of the Tripartite Cooperation Institution consists of elements from the government, employers' organizations and trade / labor unions representing workers / laborers. This Tripartite Cooperation Institution consists of National, Provincial and Regency / City Tripartite Cooperation Institutions, as well as National, Provincial and Regency / City Tripartite Cooperation Agencies.

2. Government Efforts to Improve the Welfare of Indonesian Workers Based on Law Number 11 of 2020 concerning Job Creation

The emergence of labor law is due to the inequality of the bargaining position that exists in the work relationship (between workers and employers), as Otto Khan Freund stated that the main purpose of labor law is to be able to eliminate the imbalance of the relationship between the two that arises in work relations. This is due to the considerable difference in economic capacity in addition to differences in responsibilities between employers and workers / laborers. In this case, the entrepreneur can be classified as a strong party, while the worker / laborer is a weak party. Soetiksno stated that basically all regulations in the field of labor are to provide protection to the workers / laborers (the "weak" party) both for employers and the place where workers work and for working tools. Indonesia is classified as a welfare state, because the government's task is not only in the field of government, but also has to carry out social welfare in order to achieve the goals of the State, which is carried out through national development. Government intervention in labor issues is a model of protection of the public interest by limiting individual freedoms, because in this government intervention ethically demonstrates taking sides with the interests of workers as a general reflection, and at the same time limiting the interests of employers that reflect freedom. individual. The ethical foundation in the form of siding with the interests of workers as a starting point for government intervention, is based on the fact that the unbalanced

bargaining position between workers and employers must be restored in order to maintain the balance of the social order of life (*restitutio in integrum*). In relation to Indonesia as a Welfare State and Labor Law, if the relationship between workers and employers is still fully left to the parties (workers and employers), then the objective of the Labor Law to create social justice in the labor sector will be very difficult to achieve, because the parties involved strong will always dominate the weak (*homo homini lupus*). Providing good services in accordance with the principles of good governance is an obligation that must be carried out by every public servant. There needs to be a process of openness, supervision and justice. By fulfilling these three elements, public services will run well.¹⁴

The purpose of government intervention in the field of labor is to create fair labor and ensure the rights of workers / workers so that they can become whole human beings. So that a rule of law which is based on laws is certainly in the Indonesian constitutional system where the highest position is the Pancasila and the Constitution, so that in this case the laws under it cannot be contradictory. Moreover, the reason for the State's intervention in particular for groups who are less or powerless to fulfill their own needs is not just a complementary function of the State, not a subsidier function of the State but a primary function in the form of the State's obligation to act fairly. Whereas the inability of certain groups in this case is laborers / workers not solely due to individual incapacity, but structural incapacity, namely incapacity due to the weakness of their position in social, political, economic and cultural life Therefore, the State, in this case the Government of Indonesia, is obliged to protect all rights possessed by Workers in the form of rules or regulations that clearly protect workers.¹⁵

Based on Article 3 of the Employment Creation Law Number 11 of 2020, it is stated that this law aims to create employment opportunities for all Indonesian people as widely and equally as possible:

- a. UMKM and cooperatives obtain empowerment and protection facilities;
- b. The investment ecosystem is enhanced;
- c. Facilitate Business Opening;
- d. Improved worker welfare;
- e. The government becomes a center for investment;
- f. Accelerated National strategic projects.

Another benefit of the passing of the Employment Creation Law is:

- a. Align and Simplify licensing and regulations;
- b. Achieving quality investment by increasing economic growth;
- c. Quality jobs will be created and workers will be guaranteed their welfare on an ongoing basis;
- d. Economic value and people's standard of living have increased;
- e. Micro enterprises have experienced an increase in productivity, so that Indonesia is able to compete in the world.

In essence, this Law is beneficial for all parties, namely for employers, workers and more importantly for the Indonesian economy. The Indonesian government hopes that through this law, healthy and productive jobs will be opened. The existence of the Job Creation Law Number 11 of 2020 is also to improve the quality of laborers / workers in Indonesia1 so that they can adapt to the Industrial Revolution that is currently happening. Early 2020 will be a challenge for workers / workers facing the Industrial Revolution 4.0 while other developed countries such as Japan have initiated a new concept, namely Society 5.0. At least the workers / workers are expected to be able to adjust so that our competitiveness in the eyes of the international increases. The Manpower Act is one of the clusters that attracts the attention of the government because of the overlapping regulations on labor so that there is often a legal vacuum. For example, arrangements regarding partnerships and protection of partners. As we know, partnership is a new pattern of working relations that has been going on for a long time in Indonesia. There are many articles in Law Number 13 of 2003 concerning Manpower which were revised through the Employment Creation Act which made many parties critically criticize the contents of the Job Creation Law. On the grounds that the rights of workers or laborers are being harmed, but instead it increases deforestation, because of reduced environmental protection in Indonesia. In fact, as we know, there have been massive demonstrations so that this Law is repealed.¹⁶

¹⁴ Mohammad Fandrian Adhistianto, "Politik Hukum Pembentukan Rancangan Undang-Undang Cipta Kerja (Studi Klaster Ketenagakerjaan)", *Jurnal Pamulang Law Review* 3, No. 1, (2020): p. 2-3.

¹⁵ *Ibid.*, p. 3-4.

¹⁶ Catur J.S, dkk, *Op.Cit.*, p. 180.

Currently, the government forms a legal policy to be used in determining the pattern of composing laws and updating them with the legislative process, which are binding in nature as the norm that will be enforced in creating employment opportunities. 8 The Omnibus Law was first announced in the form of the Job Creation Bill, which was later changed to the Job Creation Bill (RUU Ciptaker). Since it was announced its substance has caused controversy in the community because it is considered to have a bad impact, especially among workers, the presence of the Ciptaker Bill is considered to be impartial for workers as a major factor in national economic development. Through this, the Work Creation Bill was formed which was ratified by the DPR on October 5, 2020 and promulgated on November 2, 2020. This shows that there is legal politics coming from the executive by way of legislation. The executive body includes the president and his deputy as well as the Ministers who assist in running the government. We can see that the Job Creation Law has become the legal politics of the government which applies the Omnibus Law in formulating existing norms to increase investment so as to create jobs. Among the 11 clusters in the Job Creation Bill, employment is one of the things that is regulated in it. There are three laws that will undergo amendments through the Employment Creation Act, namely: First Law 13/2003 on Manpower, Second Law 40/2004 on the National Social Security System, and Third Law 24/2011 on Social Security Administering Bodies. The government seeks to harmonize the Law so that it is able to provide space for investors without causing losses as well as avoiding overlapping regulations. With the presence of the Job Creation Law, it is hoped that it will be able to fulfill strategic policies, especially protecting the welfare of workers because workers are a vital asset for the company's running process. This means that the Job Creation Law can become a legal umbrella for the welfare of workers in order to increase economic growth and national development. The frequent problems of overlapping regulations and the vacuum of the previous law have resulted in economic development in Indonesia from year to year instead of increasing but sluggish. Next, we see a graph of Indonesia's economic development from 1998 to 2020, which was reported by the Central Statistics Agency (BPS) in the second quarter of 2020, it was recorded at -5.32% .¹⁷

The formula for calculating the minimum wage for workers is regulated in Article 88 letter (d) of the Job Creation Law which is calculated based on the economic growth / inflation variable by the regional governor concerned as the executor of determining the minimum wage. The Job Creation Law is considered to be a balance of rights between permanent workers and contract employees, both contracts from companies and outsourcing (outsourcing) because it is considered a form of business relationship. Workers / or laborers have basic rights that are inherent and protected by the constitution through the 1945 Constitution of the Republic of Indonesia Article 27 paragraph (2). This article serves as legal protection for workers / laborers in Indonesia with the aim of guaranteeing workers' rights and obtaining equal opportunity and treatment without discrimination. Outsourcing (outsourcing) is the delegation / transfer of several business processes through administration and management in accordance with the definitions and criteria agreed by the parties to a service provider. Previously, the practice of outsourcing was more profitable for companies than workers / laborers because it was contractual or not permanent, career development guarantees were not regulated, and sometimes wages were lower. For this reason, the Job Creation Law drafts several articles that regulate equality of rights between contract / outsourcing workers and permanent workers.¹⁸

BPJS Ketenagakerjaan will run five programs in the scheme of giving additional severance pay in the Job Creation Law, namely Old Age Security (JHT), Work Accident Security (JKK), Death Security (JK), and Pension Security (JP), Job Loss Guarantee (JKP). Regarding severance pay, there is a difference between Law 13/2003 concerning Employment and Law 11/2020 concerning Job Creation, including severance pay due to layoffs, namely the provision of severance pay is 19 times borne by employers and 6 times covered by the Job Loss Guarantee program (JKP) from BPJS Ketenagakerjaan where previously 32.2 times. Job Loss Security (JKP) is a new program created by the government for workers who have lost their jobs. The JKP program is regulated in the Job Creation Law Article 46 letter (a), the Job Loss Guarantee is different from Severance Pay or Employment Award Money (UPMK). The Manpower Social Security Administering Body is the one that organizes this program. In addition,

¹⁷ *Ibid.*, p. 183-184.

¹⁸ *Ibid.*, p. 185- 186.

when layoffs occur, workers who stop working before entering retirement will be provided with JKP services during unemployment until training.¹⁹

In addition, several changes have appeared regarding the annual bonus, overtime duration, occupational safety and health (K3) protection and the amount of compensation for layoffs. According to Ellen Setiadi, Expert Staff of the Coordinating Ministry for the Economy, said that the same rights and protections will be given to contract workers and permanent workers as well as outsourcing employees. This is because in the Manpower Act Number 13 of 2003 there is no confirmation regarding the equal guarantee of rights and protection for permanent and contract workers. A certain period of time (PKWT) or what is commonly referred to as contract workers will be very much needed in the era of the industrial revolution 4.0, because at this time many new types of work are emerging that are not permanent. This is with the aim of reducing unemployment, which is increasing from year to year. Improvement of the business system is indeed very important in efforts to develop the national economy, but the welfare of workers also needs to be studied carefully in the Ciptaker Law. This is very interesting to study because logically companies will find it difficult to develop if there is an imbalance between entrepreneurs as owners of capital and workers as human resources. Having reliable and productive workers will give birth to a healthy company. One of the factors that encourage worker productivity to increase is by increasing the welfare of workers through the rights stipulated in the Job Creation Law. Workers are likened to life for a company.²⁰

In article 88 B of the Ciptaker Law Number 11 of 2020, the unit of time and the unit of yield are the parameters for determining wages. This means that the wages received by workers depend on how long they work and the results of the work are more. The more hours worked at the company, the more wages are received. Examples are online / online taxi and ojek drivers at companies such as Grab, Maxim, Gojek and others, where when they work more than their working hours in general they will get a bigger income. Meanwhile, when workers get large wages, it does not guarantee the level of welfare to be appropriate for a job, because the structure and scale of wages depend on the ability of the company as well. In Law 13/2003 on manpower, the structure and scale of wages are measured from the work competency, class, education, position and years of service of the worker / laborer. Finally, the government legalized a low wage system for almost all workers / laborers in Indonesia with the passing of Law 11/2020 on Job Creation. Therefore the Job Creation Law brings calamity to the working class in Indonesia. The role and responsibility of the government to protect workers and regulate industrial relations has been separated. The collective labor agreement (PKB) between employers and workers will regulate all kinds of disputes over labor and industrial relations, especially in fulfilling workers' rights that have been regulated by the previous Manpower Law Number 13/2003, violations still often occur. For example, about 46% of formal Indonesian workers receive wages below the minimum wage requirement.²¹

C. Conclusion

Comparisons related to the protection of labor welfare in Indonesia based on UUK and UUCK if it is concluded that there are several differences, for example regarding weekly breaks, the UUK regulates weekly rest periods of 2 days off in 5 working days while UUCK only regulates 1 day off within 6 working days incidentally it has also been regulated in the UUK. While the right to take a long break in the UUK is given at least 2 months and can be implemented in the seventh or eighth year of 1 month each, while the UUCK does not include the right to long leave and submit the rules for long leave to the respective companies or cooperation agreements that agreed upon. Regarding menstrual leave for female workers in the UUK, they can get a day off on the first and second days, whereas in UUCK it is not regulated. Maternity leave in UUK is regulated and holiday can be obtained, while in UUCK it is not regulated. Then the right to breastfeed is also given by the UUK, while the UUCK does not regulate it. In the UUK, employers are obliged to provide opportunities to carry out worship while UUCK is not regulated. Regarding the sectoral and district / city minimum wages in the UUK, it is given the right for each region to regulate it while the UUCK eliminates the district / city sectoral minimum wage.

¹⁹ *Ibid.*, p. 186.

²⁰ *Ibid.*,

²¹ *Ibid.*, p. 187.

Furthermore, in the UUK it regulates severance pay while in the UUCK it is not regulated and in the UUK it regulates the work period reward money, workers who have worked 24 years or more are given 10 months of wages but this rule is removed from UUCK. Pension security is regulated in the UUK but not in the UUCK. Meanwhile, job loss insurance is not regulated in the UUK but in UUCK adds a new social security program, namely Job Loss Security (JKP) which is managed by BPJS. Regarding the work status in UUK is regulated in Article 59 then that Article Article is deleted by UUCK, with the removal of this article, there is no limit to the rules that a worker can be contracted, as a result the worker could become a lifelong contract worker. In UUK, the maximum overtime work is only 3 hours per day in 14 hours per week, while in UUCK the maximum is 4 hours per day and 18 hours per week.

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