

WORKERS' RIGHTS ON OMNIBUS LAW SEEN FROM ISLAMIC PERSPECTIVE IN THE CONTEXT OF MAQASID SYARIAH

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ABSTRACT

This article discusses labor rights in the laws and regulations in Indonesia. In particular, regarding the rights of workers who are approaching retirement age, the subject of discussion, namely Law Number 13 of 2013 concerning Manpower and Law Number 11 of 2020 (Omnibus Law). All of this is also discussed from an Islamic perspective. The focus is on the Maqasid Syariah concept, as an effort to protect religion, life, wealth/property, intellect/mind, and descendants or the next generation, from every individual on earth. Maqasid Syariah always relies on the principles of justice and the welfare of the people. The results of this study indicate that there are a number of problems in the application of laws relating to employment in Indonesia. Especially, in the new law, namely, the 2020 Omnibus Law. The problems referred to include, among other things, the unclear working contract period, changes to the minimum wage provisions, complicated outsourcing rules, the concept of termination of employment, and ambiguous leave terms. The government must pay attention to these findings. Viewed from the perspective of Maqasid Syariah, the lack of clarity on the term of the employment contract, the provisions of the minimum wage, outsourcing, and termination of employment can be classified as endangering one's financial aspects (wealth). While the issue of leave often adverse effects to person's physical and mental health (life and mind). This study is expected to have theoretical benefits in the fields of employment, public policy, and Omnibus Law. There is also a practical benefit for readers, to open up insight about the problems around, in connection with the Omnibus Law.

Keywords: *Workers' Rights, Public Policy, Maqasid Syariah, Omnibus Law*

A. INTRODUCTION

Globalization has proven to have an impact on national law, from the system level to its elements, namely: concepts, ideas and solutions, methods and institutional structures, causing major changes in the orderly social life in Indonesia. No exception, in the field of law, where people always need legal certainty through legislation. One of the most popular regulations at the world level is the Omnibus Law. At the national level, the spirit of the Omnibus Law is accommodated through Law no. 11/2020. The definition of statutory regulations based on article 1 number 2, Law Number 12 of 2011 is a written regulation that contains legally binding norms in general and is established or determined by state institutions or authorized officials through procedures established by laws and regulations.¹

The existence of laws and regulations is important in the principle of legality, among others, because in laws and regulations it is known that there are principles that surround it, there are institutions that form and examine them, and there is a known hierarchy. A good statutory regulation becomes an important capital to realize good governance. One of the parameters for the realization of good governance are the participation and responsive behavior. In other words, good governance demands the involvement of all elements of society (including civil society and the private sector) in the process of making policies and legislation.²

The implementation of public participation is on the form of legal studies and research. With legal studies and research, it can be recognized anything the people need, problems, desires and interests and aspirations of the people are properly and correctly, and therefore the policies and regulations that are made will be able to reflect what are the interests and aspirations of the people. That is in line with

¹ Pemerintah Indonesia, *Undang-Undang 12/2011 Tentang Pembentukan Peraturan Perundang-Undangan* (Jakarta, 2011).

² UNDP, *Good Governance; Telaah Dari Dimensi Akuntabilitas, Kontrol Birokrasi Pada Era Desentralisasi Dan Otonomi Daerah* (Surabaya: Insan Cendekia, 2001).

Robert A. Dahl which states as follows: firstly, the existence of equal rights for all people/citizens.³ It means that the aspirations of citizens must be considered fairly in every strategic decision making, because every citizen has the same rights and obligations. This right is regulated in a law and regulations that can be accounted for and accepted by all parties (legitimated). Secondly, there is the active participation of all mature citizens. In the process of making collective decisions that bind all citizens, each people must have the same opportunity to express opinion on the final outcome of the policy to be determined. Citizens must actively participate in the process, thus, it is necessary to create a "space for communication and dialogue" that allows the public to share their aspirations and express their will.

Thirdly, there is an enlightened understanding on the part of the people towards the decisions made by the state, including the bureaucratic system. This clear understanding presupposes (a) that the government must provide access to information for the people, then the people can participate in knowing the policies that have been, are being, and what will be taken by the government. (b) the government must effectively socialize its decisions, and provide equal opportunities and sufficient time for all people to criticize them, in order to obtain an ideal final result.

Fourthly, there is final control by the people, in which every final decision on a state policy is in the hands of the people. In this case, the people have a decisive role: the people can approve or reject the policies and/or decisions that the government wants to make. Thus, sovereignty is fully in the hands of citizens or the people. The existence of inclusiveness: open, accommodating and non-discriminatory. All citizens who are mature enough (of sufficient age) have the right to participate actively and fully in the process of state administration, to finest protection and welfare from and by the state, especially citizens with disabilities, minority community, or marginal.

In order to strengthen the pillars of the rule of law, access to justice and the dispute resolution system must be a concern. It is

³ Robert A Dahl, *Perihal Demokrasi* (Jakarta: Yayasan Obor Indonesia, 2001).

closely related to human rights. Law and Human Rights (Hak Asasi Manusia or HAM) is a unity that is difficult to separate, the two are like two sides of one coin. If a legal building is built without paying attention to respect for human rights principles, then the law can be a tool for the authorities to perpetuate their power (abuse of power). On the other hand, if human rights are built without being based on a clear legal commitment, then these human rights will only become a fragile construction and easy to deviate, it means that the law must function as a juridical instrument. It is a tool paying attention to respect for the principles in human rights.⁴

The existence of worker is a crucial factor in the industrial world. In Article 1 Number 2 of Law no. 13 of 2003 concerning Manpower. "Labor/worker is every person who is able to do work to produce goods and/or services both to meet their own needs and for the community". Without good workers, business owners cannot run their business properly. On the other hand, workers also cannot act as they please when carrying out their obligations at work. Therefore, there needs to be a law that specifically regulates the relationship between business owners and workers. Moreover, Indonesia is a country based on law, all regulations concerning the rights and obligations of citizens must have clear written laws.

The main basis of labor/worker and employment law in Indonesia is the 1945 constitution, which states that every citizen has the right to obtain a job and a decent living. Therefore, labor and employment laws in Indonesia must be obeyed by all citizens. Everything related to those things at the time before, during, and after the employment relationship is called employment, both in jobs that produce goods and jobs in the service sector. In Article 1 Number 1 of Law no. 13 of 2003 concerning Manpower, employment is defined as all matters relating to labor before, during, and after the work period. Manpower is an industrial relationship consisting of elements of entrepreneurs, workers/labor, and the government based on the values

⁴ Mansyur A Effendy, *Kapita Selecta Hukum* (Bandung: Widya Padjajaran, 2009).

of Pancasila (five points basis of this country) and the 1945 Constitution of the Republic of Indonesia.⁵

The production system is always marked by the increasing escalation of industrial relations between workers and employers, where each other has a very strong interdependence and mutual influence. They have the same goal, namely to maintain the continuity and development of the company, but can also have different needs and interests. This situation usually causes the dynamics of industrial relations to emerge. As the owner of capital, the goal is always regarding to achieve the maximum profit. Meanwhile, the interests of workers is, earning money to get personal and family welfare. Thus, every companies that earn large profits should guarantee the welfare of workers. Ideally, rich companies will certainly be able to pay a living wage so that workers become prosperous. Manpower development must be regulated in such a way that the basic rights and protections for workers and workers/laborers are fulfilled and at the same time can create conducive ambience to the development of the business⁶.

In the General Provisions of Article 1 Number 14 and Number 15 of Law no. 13 of 2003 concerning Manpower, a work agreement is an agreement between a worker/labor and an entrepreneur or employer that contains the terms of employment, rights, and obligations of the parties. Meanwhile, the employment relationship is the relationship between the entrepreneur and the worker/labor based on a work agreement, which has elements of work, wages, and orders. Industrial relations must be created in such a way, as to be safe and harmonious. Then, the company can continue to increase its productivity to improve the welfare of all parties in the business. To ensure the implementation of good industrial relations, the government regulates and supervises its implementation, with the result that there is no exploitation of labor or the emergence of

⁵ Pemerintah Indonesia, *Undang-Undang 13/2003 Tentang Ketenagakerjaan* (Jakarta, 2003).

⁶ Adjat Daradjat Kartawijaya, *Hubungan Industrial Pendekatan Industrial-Inter Disiplin* (Bandung: Alfabeta, 2018).

modern slavery practices. Nowadays, the bargaining position of workers is quite weak. Regarding labor and employment in Indonesia, it is unclear, and there are multiple interpretations on the implementation of regulation. The implementation of this labor law encountered problems when the Omnibus Law contained in Law 11 of 2020 concerning Job Creation was published.

This article discusses the comparison of Law 13/2013 and the Omnibus Law in the employment aspect. In particular, workers at the age of retirement are vulnerable to injustice. It is related to the principle of justice. This issue is interesting to be studied from an Islamic perspective, especially through the concept of Maqasid Syariah. Public policy can be discussed through the Maqasid Syariah approach which is popularized by Muhammad Thahir Ibnu Asyur. He divides Maqasid Syariah into two parts: Maqasid Syariah al-'ammah and Maqasid Syariah al-khāṣṣah.⁷ Maqasid Syariah al-'āmmah is defined as the objectives of sharia, laws, regulations, which include the general benefit. While maqasid syariah al-khāṣṣah is a special goal of Sharia in a small sphere of one's life. For example, in relation to family law, individual worship, and the use of individual property, as well as other issues in the domestic context.⁸

The purpose of this study is to describe the implementation of policies towards workers in retirement age with respect to their rights, in Omnibus Law (Law 11/2020) concerning Job Creation. There are a number of previous studies that are used as references in this article. Research conducted by Maflahah, regarding the wage provisions in Law 11 of 2020 in the context of siyasa fiqh.⁹ Meanwhile, this article discusses wages for employees at retirement age in the perspective of Maqasid Syariah. Another research that was used as a reference was written by Sihombing about the goal of realizing welfare for workers

⁷ Al-Ghali, *Syaikh Al-Jamī' Al-A'zam Muḥammad Al-Ṭāhir Ibn 'Asyūr; Ḥayātuh Wa Āṣāruh* (Beirut: Dar Ibn Hazm, 1996).

⁸ Ibnu Asyur, *Usul Al-Nizam Al-Islamy Fi Al-Mujtama'* (Tunisia: Syirkah Al-Tunisiyah Li Al-Tauzi, 1985).

⁹ Ima Qimmatul Maflahah, "Ketentuan Pengupahan Dalam Uu No. 11 Tahun 2020 Tentang Cipta Kerja Perspektif Fikih Siyasa" (Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2021).

in Law 11/2020.¹⁰ This research portray general matters, in contrast to this article which has specific objectives. Previous studies that are used as references are the writings of Manalu, Simamora, and Anggusti.¹¹ That describes the issue of legal certainty of pension benefits. It does not mention things that are Islamic values. Comparing to the research above, the gap of the study can be concluded.

The study in this article explores the Indonesian's Omnibus Law, viewed from the Maqasid Syariah concept. A number of studies regarding Omnibus Law from an Islamic perspective have been conducted several times. For example, the research entitled *Optimalisasi Undang-Undang Cipta Kerja Pada Koperasi* published by the Jurnal Rechts¹² and *Implementasi Undang-Undang Cipta Kerja Terhadap Penyelenggaraan Sertifikasi Halal Dan Produk Halal Di Indonesia*, published by the Majalah Hukum Nasional¹³. However, the two studies discuss practical economic aspects that directly touch Islamic society, in those context: members of Sharia cooperation institution and consumers of halal products. The two studies did not directly touch workers in retirement age and the relation to Omnibus Law. In other words, the novelty of this article compared to those two studies, is a discussion regarding workers associated with an Islamic perspective in the Maqasid Syariah concept.

¹⁰ Sihar Sihombing, "Perspektif Perlindungan Dan Jaminan Kesejahteraan Pekerja Dalam Undang-Undang Cipta Kerja," *Jurnal Nalar Keadilan* 1, no. 1 (2021): 16–29, <https://jurnal.universitaskabarta.ac.id/index.php/jurnal-fh-unija/article/view/2/2>.

¹¹ Nelson Manalu, Martono Anggusti, and Janpatar Simamora, "Kepastian Hukum Manfaat Pensiun Menurut Undang-Undang No. 13 Tahun 2003 Dengan Undang-Undang Cipta Kerja No. 11 Tahun 2020 Klaster Iv Dan Peraturan Pemerintah No. 45 Tahun 2015," *Nommensen Journal of Legal Opinion* 2, no. 02 (2021): 252–267.

¹² M. Aufar Saputra Pratama Erawan, Zaid, and Dewi Nurul Mustjari, "Optimalisasi Undang-Undang Cipta Kerja Pada Koperasi," *Jurnal Rechts* 10, no. 1 (2021): 59–74.

¹³ Indah Fitriani Sukri, "Implementasi Undang-Undang Cipta Kerja Terhadap Penyelenggaraan Sertifikasi Halal Dan Produk Halal Di Indonesia," *Majalah Hukum Nasional* 51, no. 1 (2021): 73–94.

B. RESEARCH METHOD

This research uses a qualitative method with a literature study approach. This study carried out based on library sources to obtain and process data.¹⁴ The discussion material in this article is public policy in the form of the Manpower/Labor/Workers, both listed in Law 13 of 2013 and the 2020 Omnibus Law. The main data or information analyzed is not only the two regulations, but also the theory and concept of Maqasid Syariah. The library data are taken from books, academic articles, and any research related to the topic being discussed. This research is descriptive and prescriptive type. Descriptive research, namely research to solve problems that exist in the present (actual problems) by collecting data, compiling, classifying, analyzing and interpreting.¹⁵ In addition, prescriptive research type is research which analytical nature leads to predictions of the future, in order to find the expected policies. The determination of the analytical method is based on the idea that this research does not only intend to reveal or describe the data as they are, but also seeks to provide arguments.¹⁶

C. DISCUSSION

There are two section on this discussion part: regarding the problems and the Maqasid Syariah concept. The problem approach in order to achieve the research objectives, which the researchers use in this research is the statutory approach and the conceptual approach. The statute approach, which is referred to “statute” in the form of legislation and regulations, as well as seeking and finding a legal framework. It aims to determine the rights of workers, especially for those approaching retirement age, in the 2020 Omnibus Law.¹⁷ In another section, this public policy will be discussed from the perspective of Maqasid Syariah.

¹⁴ M. Zed, *Metode Penelitian Perpustakaan* (Jakarta: Yayasan Pustaka Obor Indonesia, 2008).

¹⁵ Soenaryo, *Metode Riset* (Surakarta, 1985).

¹⁶ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 1986).

¹⁷ Peter Mahmud Marzuki, *Pengantar Hukum* (Jakarta: Kencana, 2017).

Problems in the field of Employment

A number of studies indicate amount of problems in Omnibus Law. A research entitled *Hilangnya Sendi Demokrasi Dan Otonomi Daerah Melalui Korporatokrasi RUU Omnibus Law* launches, there were parties put the spotlight on the Omnibus Law. There are several things that are being discussed, because they are considered problematic, for example about democracy and regional autonomy. Local governments do not have enough power to regulate the movement of business in the region¹⁸. Some basic regulations are regulated directly through regulations from the central government, including those regarding wages and worker contracts. Some research articles, for example, entitled *Konflik Gerakan Masyarakat Sipil Dan Pemerintah Dalam Proses Penyusunan Rancangan Undang-Undang Omnibus Law*, focus on the process of designing and publishing the Omnibus Law which had become a long-standing polemic in the community. The workers took part in protests and demonstrations¹⁹. The students also do that step by channeling their aspirations and arguments²⁰. There are some critical notes below, regarding the Omnibus Law, particularly in relation to the worker and employment, including about workers nearing retirement age.

The problems in the field of employment in Law no. 11 of 2020 concerning Job Creation or Omnibus Law 2020, among others,²¹ first, the abolition of the specific time work agreement deadline. In Article 56 Paragraph (3) of the act a quo. The Omnibus Law abolishes the time limit for a specific time work agreement and leaves it up to the parties'

¹⁸ Adithya Tri Firmansyah, Ema Sarila Sinaga, and Fenia Aurully Aisyah, "Hilangnya Sendi Demokrasi Dan Otonomi Daerah Melalui Korporatokrasi RUU Omnibus Law," *Widya Yuridika* 3, no. 2 (2020): 131.

¹⁹ Muhammad Fakhru Razy and Muhammad Fedryansyah, "Konflik Gerakan Masyarakat Sipil Dan Pemerintah Dalam Proses Penyusunan Rancangan Undang-Undang Omnibus Law," *Jurnal Kolaborasi Resolusi Konflik* 2, no. 2 (2020): 74.

²⁰ S. M. Sari et al., "Analisis Faktor Pendorong Mahasiswa Universitas Jambi Dalam Mengikuti Aksi Demonstrasi Omnibus Law," *Ilmu Pengetahuan Sosial FKIP Universitas Jambi* 1, no. 1 (2021): 84–93.

²¹ Sigit Riyanto et al., *Kertas Kebijakan Catatan Kritis Dan Rekomendasi Terhadap UU No 11 Tahun 2020 Tentang Cipta Kerja, Edition 2/5 November 2020*, ed. Sri Wiyanti Eddyono (Yogyakarta: Law Faculty Universitas Gadjah Mada, 2020).

agreement. Second, changes to minimum wage provisions. In the 2020 Omnibus Law, Article 88 and Article 89 of the Manpower Law, are inserted 7 (seven) additional articles, one of which is Article 88C which states that the governor sets the minimum wage as a safety net. In addition, the minimum wage as referred to in paragraph (1) is the provincial minimum wage, so there will no longer be a regency/city minimum wage nor a sectoral minimum wage, because the applicable minimum wage is only the provincial minimum wage. Regarding setting the minimum wage to other provisions, it has the potential to cause legal uncertainty.

Third, odd outsourcing rules. By abolishing Articles 64 and 65 of the Manpower Law, but still retaining Article 66, it opens up more opportunities for many types of outsourcing. This is very unprofitable for workers. Fourth, changes to the concept of termination of employment. Article 151 paragraph (1) of the Omnibus Law eliminates the role of the government in trying to prevent termination of employment; Layoffs are a private matter which are entirely left to the agreement between workers and employers. Fifth, Article 156 of the Omnibus Law also removes the company's obligation to provide compensation for rights, abolishes specific provisions regarding compensation for each reason for termination of employment. Sixth, there is an ambiguous term in giving leave. There are statements which are vulnerable to misinterpretation because they use ambiguous terms. For example, Article 93 paragraph (2) of the Employment Creation Law which amends Article 93 of the Manpower Law related to the exception of the 'no work no pay' principle, which states that employers are obliged to pay wages if workers/laborers do not come to work and/or do not do work. due to absence.

Among the industrial problems currently faced by companies and workers are termination of employment or layoffs (PHK), and one of the layoffs permitted by the labor law is layoffs due close to retirement age. Workers who have retired according to regulations or early must be given an award money, the difference is the amount given. If he/she retire due to illness, generally the amount is less. Due to the existence of other allowances that can replace. However, when

retiring due to age that has passed the active period, the amount given will be higher, due to the absence of work benefits for the employee.

The issue of layoffs is still a scary thing for workers and their families, even though the layoffs are because employees are entering retirement age. This concern is due to the lack of understanding of workers' rights when they are laid off because they are entering retirement age, many companies are not transparent in providing information regarding this matter. In the Covid-19 pandemic era, many companies under the pretext that the current economic conditions are difficult due to the pandemic, do not provide compensation for rights according to applicable labor regulations. Certainly, workers and their families are scared over the economic downturn. However, compensation in accordance with the regulations should be received by workers who are laid off or who are closing retirement (early retirement).

Public Policy Should Be Based on Maqasid Syariah

There are a number of explanations about the concept of public policy. In general, experts explain about anything that is carried out or not by the government, in order to fulfill the needs of people in society²². Public policy is implemented by elements in the government, from the lowest level to the highest level.²³ The main purpose of running public policy is to provide benefits to society at all levels. Each public policy should be directed at the goal of the benefit of the people²⁴. Maqasid Syariah has the main goal of preventing harm to humans and bringing benefits. In the Islamic perspective, all public policies carried out by the government at all levels, central, provincial, and district/city, can be studied through the concept of Maqasid Syariah. Maqâsid Syariah is the purpose of implementing a policy,

²² Thomas R Dye, *Understanding Public Policy* (New Jersey: Prentice Hall, 1972).

²³ James E Anderson, *Public Policy Making* (New York: Holt, Rinehart and Winston, 1984).

²⁴ Rio Febriannur Rachman, "Optimalisasi Teknologi Informasi & Komunikasi Dalam Inovasi Surabaya Single Window," *Jurnal Khazanah Intelektual* 6, no. 2 (2022): 1428–1441.

regulation, or law, which must be based on the benefit or welfare of the people.²⁵

In the concept of Maqasid Syariah, there are five basic elements that must be protected: religion, soul/life, mind/ thoughts, property, and progeny. Those are called *al-kulliyat khomsa* or protection of the five elements. There are many references to Maqasid Syariah, among them, a book entitled *Al-Muawâfaqat Fi Usul al-Shari'ah*. The upkeeping of these five elements has a basis in the form of arguments from the Koran, as well as the hadith of the Prophet Muhammad²⁶.

The protection of religion can be categorized in the concept of tolerance. This is stated in the Surah Al Kafirun verse 1-6. The verses in surah Al Kafirun emphasize the importance of being independent in choosing a religion, as well as the obligation to respect other religions²⁷. The protection of the soul can be seen in surah Al Baqarah verse 178. This verse ensures that the protection of one's life/soul, is something that must be fulfilled. The law, in this case policies or regulations, must provide that kind of protection²⁸. The attention regarding care of mind is stated in the surah Al Maidah verse 90, which discuss mind-busting things and all of them should be avoided, for example, alcoholic beverages or drugs²⁹. The necessity of having a system to maintain property rights can be found in the argument of Al-Baqarah verse 188. A person should not take other people's property in an unjust manner³⁰. Meanwhile, the argument regarding the importance of protecting progeny or offspring can be seen in surah An-Nisa verse 25 and surah Al-Isra verse 32. Marriage for the sake of obtaining progeny/offspring is an effort to keep away from adultery, the act that

²⁵ Al-Zuhaili, *Ushl Al-Fiqh Al-Islâmi* (Damaskus: Dar Al-Fikr, 1986).

²⁶ A I Syathibi, *Al-Muawâfaqat Fi Ushul Al-Syari'ah* (Beirut: Dar al-Kutub al-Ilmiyah, 2003).

²⁷ Rohidin, *Pengantar Hukum Islam* (Yogyakarta: FH UII Press, 2018).

²⁸ Ismail Muhammad Syah, *Filsafat Hukum Islam* (Jakarta: Bumi Aksara, 1992).

²⁹ Mohd Fazali Abdul Manas, Abd Rahman Abd Ghani, and Mohd Noor Daud, "Aplikasi Maqasid Syariah Terhadap Pentafsiran Ayat Hukum Arak Dalam Tafsir Al-Azhar," *Sains Humanika* 10, no. 3–4 (2018): 145–153.

³⁰ F Bakti et al., "The Urgency of Sharia Maqashid in the Development of Mudharabah Contract in Sharia Banking," *International Journal of ...* 9, no. 7 (2022): 266–275, <https://ijmmu.com/index.php/ijmmu/article/view/3895%0Ahttps://ijmmu.com/index.php/ijmmu/article/viewFile/3895/3403>.

can damage the lineage³¹. The arguments of the Qur'an presented above are only some of the many foundations of the urgency of Maqasid Syariah. Certainly, in each of those arguments, there must be some of as-sunnah argument or supporting hadith from the Prophet Muhammad³².

The concept of Maqasid Syariah is in line with the objectives of public policy. The target of the public policy must be all citizens. Handling of workers' rights issues is the same. All community members must be touched.³³ Maslahah or welfare is not just the main issue of *al-kulliyat al-khomsa*, besides that, the government has to make the movement of the economy and other factors supporting to fulfill the need of citizen. In the other side, welfare is also about justice.³⁴ Thus, all forms of legal action have to protect every people, including workers. It should not be arbitrary, so as to harm parties which do not deserve negative impact. Accuracy in implementing the duties of the policy makers is absolutely necessary. Importantly, all programs that intersect with the public interest must be transparent, monitored, and accountable.³⁵ In a democratic country like Indonesia, the government must also be open to suggestions and criticism from the public.³⁶

Referring to the problems in the Omnibus Law described in the previous section, it appears that there are things that are not in line with the spirit of Maqasid Syariah. Because, there are a number of things

³¹ Sayidah Khoirun Nisa, "Maqashid Sharia Concerning Sexual Violence Against Wife In Law Number 23 Year 2004," *QONUN: Jurnal Hukum Islam dan Perundang-undangan* 6, no. 1 (2022): 68–81.

³² Ahmad Deski, "Maqasid Syari'ah Menurut Abdul Wahab Khalaf," *Al-Furqan* 7, no. 1 (2022): 203–213.

³³ Rio Febriannur Rachman, "Kebijakan Pendidikan Anak Berkebutuhan Khusus Di Surabaya Dalam Perspektif Islam," *Bidayatuna: Jurnal Pendidikan Guru Madrasah Ibtidaiyah* 3, no. 1 (2020): 125–143.

³⁴ Catur J. S. et al., "Perlindungan Hukum Terhadap Kesejahteraan Pekerja Melalui Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja," *Lex Specialis* 1, no. 2 (2020): 178–188.

³⁵ Ibnu Asyur, *Naqd Al-'Ilmi Li Kitab Al-Islam Wa Usul Al-Hukmi* (Kairo: Al-Salafiyah, 1925).

³⁶ Kacung Marijan, *Sistem Politik Indonesia: Konsolidasi Demokrasi Pasca Orde Baru* (Jakarta: Kencana, 2019).

that seem to prevent workers from getting the maximum benefit. A number of basic rights are threatened. In particular, in the field of finance, mental health and mind/intellect. Therefore, this problem must be found a way out. Academic studies on the Omnibus Law 2020, especially regarding the workers' rights, need to be taken into consideration in deciding the next policy from the government.³⁷

D. CONCLUSION

The results of this study indicate that there is an intention from the government to provide benefits for the community. This is clearly in accordance with the principles of Maqasid Syariah. There are a number of problems from the issuance of the Omnibus Law 2020. This issue must be resolved by policy makers. The problems referred to include, among other things, the unclear working contract period, changes to the minimum wage provisions, complicated outsourcing rules, the concept of termination of employment, and ambiguous leave terms. The government must pay attention to these findings. Viewed from the perspective of Maqasid Syariah, the lack of clarity on the term of the employment contract, the provisions of the minimum wage, outsourcing, and termination of employment can be classified as endangering one's financial aspects (wealth). While the issue of leave often has a negative impact on a person's physical and mental health (life and mind).

³⁷ Fajar Kurniawan, "Problematika Pembentukan Rru Cipta Kerja Dengan Konsep Omnibus Law Pada Klaster Ketenagakerjaan Pasal 89 Angka 45 Tentang Pemberian Pesangon Kepada Pekerja Yang Di Phk," *Jurnal Panorama Hukum* 5, no. 1 (2020): 73–86.

BIBLIOGRAPHY

- Abdul Manas, Mohd Fazali, Abd Rahman Abd Ghani, and Mohd Noor Daud. "Aplikasi Maqasid Syariah Terhadap Pentafsiran Ayat Hukum Arak Dalam Tafsir Al-Azhar." *Sains Humanika* 10, no. 3–4 (2018): 145–153.
- Al-Ghali. *Syaikh Al-Jamī' Al-A'zam Muḥammad Al-Ṭāhir Ibn 'Asyūr; Ḥayātuh Wa Āšāruh*. Beirut: Dar Ibn Hazm, 1996.
- Al-Zuhaili. *Ushl Al-Fiqh Al-Islāmi*. Damaskus: Dar Al-Fikr, 1986.
- Anderson, James E. *Public Policy Making*. New York: Holt, Rinehart and Winston, 1984.
- Asyur, Ibnu. *Naqd Al-'Ilmi Li Kitab Al-Islam Wa Usul Al-Hukmi*. Kairo: Al-Salafiyah, 1925.
- . *Usul Al-Nizam Al-Islamy Fi Al-Mujtama'*. Tunisia: Syirkah Al-Tunisiyah Li Al-Tauzi, 1985.
- Bakti, F, A Shomad, T P Usanti, and P Thalib. "The Urgency of Sharia Maqashid in the Development of Mudharabah Contract in Sharia Banking." *International Journal of ...* 9, no. 7 (2022): 266–275. <https://ijmmu.com/index.php/ijmmu/article/view/3895%0Ahttps://ijmmu.com/index.php/ijmmu/article/viewFile/3895/3403>.
- Dahl, Robert A. *Perihal Demokrasi*. Jakarta: Yayasan Obor Indonesia, 2001.
- Deski, Ahmad. "Maqasid Syari'ah Menurut Abdul Wahab Khalaf." *Al-Furqan* 7, no. 1 (2022): 203–213.
- Dye, Thomas R. *Understanding Public Policy*. New Jersey: Prentice Hall, 1972.
- Effendy, Mansyur A. *Kapita Selecta Hukum*. Bandung: Widya Padjajaran, 2009.
- Erawan, M. Aufar Saputra Pratama, Zaid, and Dewi Nurul Mustjari. "Optimalisasi Undang-Undang Cipta Kerja Pada Koperasi." *Jurnal Rechtsens* 10, no. 1 (2021): 59–74.
- Firmansyah, Adithya Tri, Ema Sarila Sinaga, and Fenia Aurully Aisyah. "Hilangnya Sendi Demokrasi Dan Otonomi Daerah Melalui Korporatokrasi RUU Omnibus Law." *Widya Yuridika* 3, no. 2 (2020): 131.

- Juhari, J., & Masdar, M. (2015). Konsep Kepemilikan dan Usaha Dalam Islam. *Al-Insyiroh: Jurnal Studi Keislaman*, 1(1), 44-69.
- Kartawijaya, Adjat Daradjat. *Hubungan Industrial Pendekatan Industrial-Inter Disiplin*. Bandung: Alfabeta, 2018.
- Kholid, M. (2018). Praktik Akad Pembiayaan Gadai Emas Perspektif Hukum Islam. *Al-Insyiroh: Jurnal Studi Keislaman*, 2(1), 128-137.
- Kurniawan, Fajar. "Problematika Pembentukan R UU Cipta Kerja Dengan Konsep Omnibus Law Pada Klaster Ketenagakerjaan Pasal 89 Angka 45 Tentang Pemberian Pesangon Kepada Pekerja Yang Di Phk." *Jurnal Panorama Hukum* 5, no. 1 (2020): 73–86.
- Maflahah, Ima Qimmatul. "Ketentuan Pengupahan Dalam UU No. 11 Tahun 2020 Tentang Cipta Kerja Perspektif Fikih Siyasah." Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2021.
- Manalu, Nelson, Martono Anggusti, and Janpatar Simamora. "Kepastian Hukum Manfaat Pensiun Menurut Undang-Undang No. 13 Tahun 2003 Dengan Undang-Undang Cipta Kerja No. 11 Tahun 2020 Klaster Iv Dan Peraturan Pemerintah No. 45 Tahun 2015." *Nommensen Journal of Legal Opinion* 2, no. 02 (2021): 252–267.
- Marijan, Kacung. *Sistem Politik Indonesia: Konsolidasi Demokrasi Pasca Orde Baru*. Jakarta: Kencana, 2019.
- Marzuki, Peter Mahmud. *Pengantar Hukum*. Jakarta: Kencana, 2017.
- Mashudi, M. (2018). Perilaku Dan Budaya Konsumen Madura Dalam Dinamika Etika Bisnis Syariah. *Al-Insyiroh: Jurnal Studi Keislaman*, 2(2), 133-149.
- Muttaqin, I. (2015). Konsep Al-Kasb Dan Modernisasi Islam. *Al-Insyiroh: Jurnal Studi Keislaman*, 1(1), 23-43.
- Nisa, Sayidah Khoirun. "Maqashid Sharia Concerning Sexual Violence Against Wife In Law Number 23 Year 2004." *QONUN: Jurnal Hukum Islam dan Perundang-undangan* 6, no. 1 (2022): 68–81.
- Pemerintah Indonesia. *Undang-Undang 12/2011 Tentang Pembentukan Peraturan Perundang-Undangan*. Jakarta, 2011.
- . *Undang-Undang 13/2003 Tentang Ketenagakerjaan*. Jakarta, 2003.
- Rachman, Rio Febriannur. "Kebijakan Pendidikan Anak Berkebutuhan Khusus Di Surabaya Dalam Perspektif Islam." *Bidayatuna: Jurnal Pendidikan Guru Madrasah Ibtidaiyah* 3, no. 1 (2020): 125–143.
-

- . “Optimalisasi Teknologi Informasi & Komunikasi Dalam Inovasi Surabaya Single Window.” *Jurnal Khazanah Intelektual* 6, no. 2 (2022): 1428–1441.
- Razy, Muhammad Fakhru, and Muhammad Fedryansyah. “Konflik Gerakan Masyarakat Sipil Dan Pemerintah Dalam Proses Penyusunan Rancangan Undang-Undang Omnibus Law.” *Jurnal Kolaborasi Resolusi Konflik* 2, no. 2 (2020): 74.
- Riyanto, Sigit, Maria SW Sumardjono, Sulistiowati, and Eddy OS Hiariej. *Kertas Kebijakan Catatan Kritis Dan Rekomendasi Terhadap UU No 11 Tahun 2020 Tentang Cipta Kerja, Edition 2/5 November 2020*. Edited by Sri Wiyanti Eddyono. Yogyakarta: Law Faculty Universitas Gadjah Mada, 2020.
- Rohidin. *Pengantar Hukum Islam*. Yogyakarta: FH UII Press, 2018.
- S., Catur J., Djongga, Heriyandi, Herry Poerwanto, Jelita Hutasoit, Khairul Anam, and Bambang Wiyono. “Perlindungan Hukum Terhadap Kesejahteraan Pekerja Melalui Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja.” *Lex Specialis* 1, no. 2 (2020): 178–188.
- Sari, S. M., M. Salam, D. Sariyani, and H. Usmanto. “Analisis Faktor Pendorong Mahasiswa Universitas Jambi Dalam Mengikuti Aksi Demonstrasi Omnibus Law.” *Ilmu Pengetahuan Sosial FKIP Universitas Jambi* 1, no. 1 (2021): 84–93.
- Sihombing, Sihar. “Perspektif Perlindungan Dan Jaminan Kesejahteraan Pekerja Dalam Undang-Undang Cipta Kerja.” *Jurnal Nalar Keadilan* 1, no. 1 (2021): 16–29. <https://jurnal.universitaskota.ac.id/index.php/jurnal-fh-unija/article/view/2/2>.
- Soekanto, Soerjono. *Pengantar Penelitian Hukum*. Jakarta: UI Press, 1986.
- Soenaryo. *Metode Riset*. Surakarta, 1985.
- Sukri, Indah Fitriani. “Implementasi Undang-Undang Cipta Kerja Terhadap Penyelenggaraan Sertifikasi Halal Dan Produk Halal Di Indonesia.” *Majalah Hukum Nasional* 51, no. 1 (2021): 73–94.
- Syah, Ismail Muhammad. *Filsafat Hukum Islam*. Jakarta: Bumi Aksara, 1992.
-

- Syathibi, A I. *Al-Muawâfaqat Fi Ushul Al-Syari'ah*. Beirut: Dar al-Kutub al-Ilmiyah, 2003.
- UNDP. *Good Governance; Telaah Dari Dimensi Akuntabilitas, Kontrol Birokrasi Pada Era Desentralisasi Dan Otonomi Daerah*. Surabaya: Insan Cendekia, 2001.
- Zed, M. *Metode Penelitian Kepustakaan*. Jakarta: Yayasan Pustaka Obor Indonesia, 2008.