

Omnibus Law Work Creation: Grand Design Public Policy and Neo-Paradigm Public Policy in Perspective Good Governance

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Abstract: The regulatory index in Indonesia from 1966-2017 was very low, being on average (-0.35). Second, regulations formed by the government often overlap, even from 2014-2019 there were 10,180 overlapping regulations, consisting of 131 laws, 526 Government Regulations, 839 Presidential Regulations, and 8,684 ministerial regulations. 2018, President Joko Widodo once complained about the many overlapping regulations, there are 42,000 regulations ranging from laws to regional regulations still overlap. Under these conditions, the omnibus law was formed using the method grand design public policy and revolutionary. The purpose of this research is to examine the principles of public policy with a good governance in omnibus law. The research method used is systematic literature review. The results show that omnibus law is an idea in perspective grand design public policy and neoparadigm public policy important in the renewal of the study. However, in professional practice, the omnibus law negates some of the fundamental principles of good governance in relation to public policy, namely participation, accountability, and legal certainty. The conclusion that can be drawn from this study is to grand design public policy and neo-paradigm public policy must remain in accordance with the principles of the good governance paradigm.

Keywords: Omnibus Law, Grand Design Public Policy, Neo-Paradigm Public Policy, Good Governance

1. Introduction

In Shahfritz's book "Defining Public Administration (2000)" explains that public administration refers to two different but closely related activities, namely: (1) professional practice and (2) academic fields that seek to understand, develop, criticize, and improve professionalism in its application [23]. The meaning is quite straight forward, on the one hand it refers to administrative issues which are principally related to society, the state, and its subsections. A simpler understanding is that public administration is related to the management of the field of government and public activities. So that public administration can be articulated as the study and practice concerning the professional formulation and influence of public policies and the application of policies on an organized regular basis.

Along with the development of the discourse of public administration, including the scope and paradigm, it cannot be separated from the conditions of power in which public administration is discussed or carried out (locus). Starting

from Old Public Administration (OPA), New Public Administration (NPA), New Public Management (NPM), and New Public Service (NPS). Power leads to the interpretation and formation of public administration, including the public administration system and all its derivatives depending on the system of a State. The conception of a clear relationship between power and public administration was put forward by Lasswell and Kaplan (1950) in their work entitled "Power and Society" which defines power as the ability to influence legitimate decision-making [12]. Then this concept derives decisions by including "choice" and "policy".

In Indonesia, the discourse on public administration in the contemporary era can be referred to from the thoughts of Professor Warsito Utomo in his book "Indonesia's New Public Administration" (2012) which explains that administrative activity or profession in government organizations is a process or activity that can be characterized as unavoidable, priorities, compliance, and activities not controlled by the market [26]. This means the process of making and following up on policies by articulating them

according to the goals and means of the actors. Policy by itself becomes an action that contains several processes, no matter how poor the identification, justification, formulation, and goals to achieve. Many organizations and actors make policies, but "public" policies are made by government administrators and the condition that concerns the author in this case is omnibus law.

Omnibus law is an idea full of renewal for the progress of the nation (revolutionary). The formation of regulations through one law that is able to harmonize and even cut several to dozens of laws. Omnibus law is a public policy product that targets all regulations that overlap, conflict with each other, and are disharmony. Not only that, the omnibus law is also a legal umbrella that reviews 82 laws with more than 1200 articles that have implications for improving the business climate.

The regulatory index in Indonesia from 1966-2017 was very low, being on average (-0.35). Second, regulations formed by the government often overlap, even from 2014-2019 there were 10,180 overlapping regulations, consisting of 131 laws, 526 Government Regulation, 839 Presidential Regulations, and 8,684 ministerial regulations. If you look back at the Presidential Speech in 2018, President Joko Widodo once complained about the many overlapping regulations, there are 42,000 regulations ranging from laws to regional regulations that still overlap. So that the public policy revolution is one of the development priorities to eliminate sectoral egos so that they have the same spirit. Basically, regulatory cuts can be done in two ways, namely partial revocation and revocation at once. So far, what we usually do and often do is the partial revocation of regulations, meanwhile the simultaneous revocation of several regulations is rarely carried out. And the method of revocation is still conventional, that is, the issued law only changes or revokes the same law and does not change the substance of the law. So the omnibus law has shown that Indonesia has made a big leap considering the complexity of the problems in it with various considerations related to the country's future goals demands that they have to revoke several regulations at once according to their needs. This is a sign grand design public policy being implemented in Indonesia.

Indeed, omnibus law is used by countries whose regulations follow the Common Law system, such as the United States Salam (2018) [22]. And Indonesia, which in fact adheres to the Civil Law system, could adopt this omnibus law to overcome the complexity of regulations that are increasing in number but are increasingly experiencing overlapping, conflicting, and disharmony. For this reason, we can no longer strictly separate the common law and civil law legal systems because these two legal systems actually function to complement and complement each other. Then the author draws conclusions on the merging of the two systems in public policy making as a neo-paradigm of public policy in Indonesia.

Based on Indonesia's history in resolving regulatory issues, Indonesia has implemented the practice of omnibus law

"regulation of sweeping the universe", both at the level of TAP MPR and Law. We can see TAP MPR No. I/MPR/2003 concerning the Review of the Material and Legal Status of the TAP MPRS and TAP MPR 1960 to 2002. In short, TAP MPR No. The I/MPR/2003 mandates: 1) to revoke the TAP MPRS RI and 7 TAP MPR RI; 2) 1 TAP MPRS RI and 2 TAP MPR RI remain in effect; 3) remain in effect until the formation of the government resulting from the 2004 General Election 8 TAP MPR RI; 4) remain in effect until Law 11 TAP MPR RI is formed; 5) stating that it is still valid until the new rules and regulations are stipulated by the MPR RI as a result of the 2004 General Election TAP MPR RI; and 6) 41 TAP MPRS RI and 63 TAP MPR RI do not need further legal action. At the legal level, we find Law no. 1 of 1961 concerning the Stipulation of all Emergency Laws and Government Regulations in Lieu of Laws that had been formed before January 1, 1961 turned into Laws. Law No. 1 of 1961 mandates: 1) all Emergency Laws and Perppu that were formed until December 31, 1960 have not been ratified or approved by the DPR directly to become laws; 2) State regulations that are still in effect at the time this Law comes into force, will be immediately adjusted to TAP MPRS No. I/MPRS/1960 and TAP MPRS No. II/MPRS/1960; and 3) the implementation of the provisions in this Law shall be further regulated by government regulations 1) all Emergency Laws and Perppu that were formed until December 31, 1960 have not been ratified or approved by the DPR directly to become laws; 2) State regulations that are still in effect at the time this Law comes into force, will be immediately adjusted to TAP MPRS No. I/MPRS/1960 and TAP MPRS No. II/MPRS/1960; and 3) the implementation of the provisions in this Law shall be further regulated by government regulations 1) all Emergency Laws and Perppu that were formed until December 31, 1960 have not been ratified or approved by the DPR directly to become laws; 2) State regulations that are still in effect at the time this Law comes into force, will be immediately adjusted to TAP MPRS No. I/MPRS/1960 and TAP MPRS No. II/MPRS/1960; and 3) the implementation of the provisions in this Law shall be further regulated by government regulations.

Based on this experience, the implementation of omnibus law in Indonesia is not a problem. Moreover, the reason for its application is so strong in overcoming various overlapping, conflicting, and disharmony regulations. And this is a renewal in carrying out regulatory reforms in 11 clusters that include simplification of licensing; investment requirements; employment; convenience, empowerment, and protection of MSMEs; ease of doing business; research and innovation support; government administration; imposition of sanctions; the land acquisition; investment and government projects, and economic zones.

Although along with the journey from the beginning of the formation of the Omnibus Law (still in the form of a bill) until it was ratified (at the Plenary Meeting 5 October 2020) and signed by the President (becoming Law No. 11 of 2020 concerning Job Creation), it has generated a lot of controversy. Various rejections occurred from various

elements of society despite the deadly danger of the Covid-19 [5]. UU no. 11 of 2020 concerning Job Creation (Omnibus Law) is the embodiment of the government's revolutionary policy in realizing the welfare state (Omnibus Law). As a form of public policy revolution, Law no. 11 of 2020 concerning Job Creation has not been well received by all circles.

Issues milling about in public spaces regarding omnibus law should not be ignored. However, because the author sees the other side of the omnibus law as grand design public policy and neo-paradigm public policy in Indonesia, so in this article the author's academic concerns lies in the effort to examine the principles of public policy with a good governance in omnibus law. This restless position departs from the key element of public policy is policy making which can be considered as a concept and conceptual model. To understand the whole range of public policies, it is necessary to analyze the governance paradigm in the same context and timeframe as policy-making.

2. Method

In the existing literature, policy making is seen from various approaches such as behavioral models, policy cycle models, rational approaches, incremental models, group models, pluralist models and political systems models. These models focus on different aspects of public life and therefore concentrate on separate policy characteristics. Researchers critically review the most popular and generally accepted models of public administration science to provide early theoretical access to policy making. After the behavioral revolutions of the 1950s and 1960s, the policy cycle model divided policy making into distinct units to describe how policy was actually created and implemented. Each policy cycle begins with identifying community problems and placing them on the policy agenda. Next, the policy design is formulated for adoption. In short, at the next stage, the policies taken are immediately decided to be ratified. Then, the impact of the policy is evaluated. This last stage shows that the policy cycle is a continuous and endless process.

Experts interpret the policy-making process in their own way. Therefore, the definition of policy in the study of public administration becomes a major problem that does not even exist solved by existing concepts. All models are characterized by a neopositivist methodological approach, it is this methodological approach that forms the basis of critical analysis of public administration scientists. However, because this approach also leads the author to find a void in the investigations of public administration scientists regarding the tools used in public policy making and its relation to the governance paradigm. In the context of this research, the principles good governance is a "tool" for one of the government administrators in making substantive policies and procedural policies. The void of inquiry about the tool in the paradigm good governance is a phenomenon of values, political culture, manipulation and media impact that is so complex that it cannot be studied with either a

positivist or neo-positivist approach.

A study will have difficulty finding substantive problems of explicit and systematic public policy with positivist and neopositivist approaches. Thus, to gain a comprehensive understanding of policy making, it is necessary to complement the analytical framework with methods systematic literature review modified with the government paradigm good governance. Approach systematic literature review it is important to better understand the policy-making process at each stage of the policy process. The main features such as political power, interests, preventive character, responsibility, and ideals of comprehensive rationality help research understanding in reformulating the principles of public policy with a comprehensive approach good governance.

3. Results and Discussion

The omnibus law is a law made to target one big issue that can revoke and amend several laws to be simpler. The definition of omnibus law starts from the word omnibus which comes from Latin and means for all. Omnibus relates to various objects or goals, when juxtaposed with the word law it can be defined as a law for all. So the concept of omnibus law is a rule that is comprehensive and comprehensive and does not bind to one regulatory regime. Omnibus law basically comes from the omnibus bill, which is a law that covers various issues. According to Constitutional Law expert Bivitri Savitri, omnibus law is defined as a law made to target major issues that exist in a country. According to Constitutional Law expert Fahri Bachmid from the perspective of legal science, the concept of "omnibus law" is a concept of a legal product that serves to consolidate various themes, materials, subjects and laws and regulations in each different sector to become one large and holistic legal product.

Up to this concept, the framework for forming the Omnibus law proposed can be said to be ideal. First, the government sees that the regulation index from 1966-2017 is very low, at an average (-0.35). Second, regulations formed by the government often overlap, even from 2014-2019 there were 10,180 overlapping regulations, consisting of 131 laws, 526 Government Regulations, 839 Presidential Regulations, and 8,684 ministerial regulations. The government considers that overlapping regulations are mostly related to investment. So a large law was formed called the Omnibus Law on Job Creation to address priority issues, revise 88 laws, 1,194 articles, and regulate 11 clusters. As form grand design public policy In general, public policy has a hierarchy, Abidin (2004) distinguishes policies that are divided into three levels, namely general policies as policies that serve as guidelines or implementation instructions, both positive and negative, covering the entire region or related agencies. Second, implementation policies to describe general policies. And the last is the technical policy, namely the operational policy under the implementation policy [1].

Furthermore, for the Indonesian context, Nugroho

(2006:31), asserts that the levels of public policy are classified into three, namely: First, public policies are macro or basic consisting of the 1945 Constitution, Laws/ Perpu, Government Regulations, Presidential Regulations, and Regional Regulations. Second, public policies that are medium. This policy consists of Ministerial Regulations, Ministerial Circulars, Governor Regulations, Regent Regulations, and Mayor Regulations. It can also be in the form of a Joint Decree or SKB between Ministers, Governors and Regents and Mayors. And the third is the micro public policy as the implementation policy or the implementation of the above policy [14]. The form of this policy is a regulation issued by public officials under the Minister, Governor, Regent and Mayor. In this position, omnibus law is a public policy at the top level that is macro in nature. It is undeniable that currently most public administration systems consider that public policy is one of the best ways that the government can do to solve priority problems. However, it seems that public policy has a limited scope for dealing with the public interest (Buse, Mays and Walt, 2005 [4]; Perez M., et al., 2006 [17]; and Roth A. L., 2018 [20]).

The literature of experts on public policy from year to year continues to develop. Dye (2008) points out that public policy is anything the government chooses to do or not to do [6]. Reinforcing this view, Kraft & Furlong (2004) and Ramona (2015) assume that public policy is a series of actions taken by the government in response to public problems that not only reflect the most important values in society [9], but also show the conflict between values and what is the highest priority in a particular decision [19]. This is precisely where the government plays an important role between doing or not doing it through national, regional and local development plans.

The above definition differs from the view of Tamayo Saez (1997) who defines public policy as a process that begins when the government detects a problem which because of its interests deserves attention and ends with an evaluation of the results that have been carried out [24]. Anderson JE, (2003) defines public policy as a policy developed by the government [3]. Furthermore, Vedantham VM, and Kamruddin S., (2015) argue that public policy is a government decision to achieve certain goals and objectives [29]. A similar view is also expressed by Yalmanov N. (2020) that public policy is the setting of strategic goals for the development and stabilization of society [30].

Another understanding can also be observed from the thoughts of Lahtera Parada (2002) which explains that public policy is an action that must be in accordance with the flow of information related to the target audience that is determined democratically, then developed by the public sector [11]. This opinion implies that there must be guidelines or mechanisms to form quality public policies or at least avoid failed public policies. As Ruiz Lopez, Domingo, Cardenas Ayala, and Carlos Eduardo (2005) firmly interpret public policy, it must be understood as a privileged space for implementing agreements between the state and society to benefit the public even though many records of public policy

journeys fail [21]. Page, Edward (2006) suggest that policy is characterized by two elements: intentions in the form of principles and policy lines and actions in the form of actions and practices [16]. Furthermore, Olavarria Gambi (2007) makes it clear that public policy is an intervention in a particular subject where there is a feeling that things are not going the way we want [15].

In the governance paradigm good governance, research related to public policy and its relation to good governance has been carried out by various researchers. For example, research conducted by Kresnaliyska (2015) in Europe on the role of public policy monitoring as a modern tool in good governance [10]. Monitoring in this case is intended as an activity of research, analysis and use of information systematically and continuously for the purpose of management control, identification and corrective action in the formulation of public policy.

Public policy has an ideal portion in its implementation, starting from policy formulation, policy implementation, and policy evaluation. But in conditions of increasingly fierce global competition, of course, we cannot rely on the three public policy frameworks above. In the context of determining policy formulation, a public policy revolution is needed in order to speed up following up on the results of previous policy evaluations and to respond to all existing challenges quickly and accurately. Public policy revolution is a term that the author uses as an answer to the challenges and problems of policy formulation so far to find new formulas, replace existing formulas, and form a new formula consisting of several existing formulas into one in the shortest possible time. The concept of public policy revolution is the development of literature from the concept of public policy reform proposed by Hayat (2018; 13) about how to determine more effective and efficient policy formulations, so that the implementation of public policies is right on target and in accordance with predetermined goals [8].

The estuary of every concept of concrete steps in public policy is none other than good governance as a goal, the goal of a series of public policy implementation and as a goal of governance as a manifestation of the realization of the public benefit, public welfare, and improving the quality of life for all Indonesian people. And the omnibus law is one of the products of revolutionary public policy in Indonesia. The omnibus law on job creation is the largest and most revolutionary public policy product in Indonesia, so it deserves to be said as an enabling factor for development, and the vision and mission of Indonesia's development. The omnibus capacity of a strong job creation law illustrates. The ability to create and implement public policies in response to the dynamics of changing social, political and economic contexts (strategic environment) in Indonesia, both at the global, regional and domestic levels.

Analyzing the Omnibus Law on Job Creation which is based on the principles good governance; participatory, efficiency, effectiveness, accountability and justice function as enabling factors for achieving national development and people's welfare, it must be reviewed from the omnibus law

design, namely, a framework and framework for building and strengthening capacity. Omnibus law as the main design Grand Design Public Policy (GDPP) has become a necessity. There are 3 (three) determinant factors that become the rationality of the omnibus law formulation as GDPP, namely:

First, the dynamics of changes in Indonesia's strategic environment as a result of globalization and regionalization which is currently defined as the Global Megatrend. Second, the national policy to formulate Indonesia's Vision 2045. And third, the unavailability of strategic policies that are comprehensive, directed, and focused on building Indonesia's Omnibus law as an enabling factor for achieving national development goals that are able to respond to the dynamic challenges of changing strategic environments, both at the global and regional levels.

In this case, the author analyzes the general description of the conditions from the omnibus law formulation until it is promulgated indicating that there are 6 (six) issues, namely:

1. Interaction between government and non-government actors is unequal;
2. Weak governance capabilities;
3. Public organizational structure that creates siloization and fragmentation;
4. Public policy products that are not yet evidence-based;
5. Public service products are not responsive and have not been oriented to public needs; and
6. Public bureaucracy that is not impartial.

These six conditions are the impact of problems from 4 (four) dimensions of state administration, namely:

1. The culture and mental model of human resources for the apparatus that is corrupt and oriented to procedural routines;
2. Low institutional organizational capability in managing government functions and not result-oriented;
3. Public service governance that is formal-procedural; and
4. Policies on relations between the central government, local governments, and communities that are not adaptive.

The dynamics of changes in the strategic environment (socio-political-economic context) that determine the construction of the omnibus law. To map the strategic environment and its impact on omnibus law, scenario planning analysis is used which examines the global megatrends phenomenon. By using a scenario planning analysis framework, the driving factors and uncertainty factors are formulated which are then developed into a strategic environmental scenario. The results of the scenario planning analysis map out 2 (two) scenarios as follows:

Scenario I: Socio-political-legal optimism (positive) and economic optimism (positive). Scenario I reads that the omnibus law is a product of the public policy revolution with the predicate grand design good public policy.

Scenario II: Socio-political-legal pessimism (negative) and economic pessimism (negative). Scenario II reads that the omnibus law is a product of the public policy revolution with the predicate grand design bad public policy.

In the midst of the deadly danger of the Covid-19 pandemic in the lives of the people of the nation and state, the government of the Republic of Indonesia invited extraordinary public commotion, namely the ratification of the omnibus law. Various resistance movements from various elements of society held demonstrations everywhere. Starting from the media movement #tolakomnibuslaw, #jegalsampaibatal, #mositidakpercaya and also the demonstration movement gathered in large numbers. It was emphasized once again, that people gather and move in the midst of the deadly danger of the Covid-19 pandemic. Omnibus law is conceptually an innovative legal product which includes several laws. If referring to the model of the policy formulation process by Philipus and Nurul Aini (2006; 159), then omnibus law is in the model of policy formulation of corporatism and state corporatism [18]. Alfred A. Stephan in Philipus and Nurul Aini (2006; 162) argues that the model of corporatism and state corporatism is a set of policies and organizations representing interests whose existence is deliberately created by the government, then regulated or controlled and granted monopoly and special rights based on the organization [18].

From February to October (the same year, 2020), the completion of the Omnibus Law from formulation to ratification is proof that the omnibus law is a product of the public policy revolution. The content of the omnibus law is not only 1 law that is accommodated and in the context of the emergency situation of the covid-19 pandemic, it has shown the revolutionary nature of omnibus law. The speech of the President of the Republic of Indonesia Joko Widodo in the omnibus law Press Statement when responding to the community's rejection of the omnibus law has closed the space to issue a PERPPU, there is only 1 way that Jokowi stated can be taken by people who are still dissatisfied, through judicial review to the Constitutional Court. In the paradigm good governance, the press conference held by the President was to negate aspirations from the legislative-executive side.

Administratively, we know very well that there are 9 judges at the Constitutional Court, appointed by the president and proposed by the Supreme Court, three by the House of Representatives, and three by the President (UUD 1945 Article 24C paragraph 1) [28]. Candidates for Supreme Court judges are proposed by the Judicial Commission (UUD 1945 Article 24A paragraph 3) [28]. And members of the Judicial Commission are appointed and dismissed by the President (UUD 1945 Article 24B paragraph 3) [28]. In terms of planning, discussion, and even the ratification of the omnibus law, isn't the legislature in the majority the same as what the President wants? This means that taking a material test or formal test related to the Omnibus law through the Constitutional Court has the potential to still close the aspiration space. As Evi Etzioni-Halevy (2011; 226) states that the alliance/alliance between the bureaucracy and interest groups increases the fragmentation in government that allows for independent control of resource allocation [7].

Furthermore, legal certainty can be seen from Law

Number 7 of 2020 Article 59 paragraph 2 which reads, "If changes are needed to the laws that have been tested, the DPR and the President will immediately follow up on the Constitutional Court's decision" [27]. The use of the word "immediately" does not oblige the president and the DPR to follow up if they win in the judicial review. Tomy Michael (2020; 173) argues that omnibus law can also be associated with tyranny in democracy, meaning that in a democracy there is tyranny where the president acts as the ruler [25]. This tyranny is associated with the purpose of the omnibus law, which is to provide convenience for the community, so it cannot be called pure tyranny but is part of democracy. As Siagian (2020; 78) stated that in principle, the State of Indonesia is a representative democracy, it must recognize and uphold the sovereignty of the people [2].

Community aspirations towards PERPPU (executive review) carried out by various elements were rejected as the DPR also rejected the aspirations (legislative review). Even the President leads the community to conduct material and formal tests to the Constitutional Court (judicial review). But even so, the public still follows the president's directives to do this judicial review related to the Omnibus law to the Constitutional Court. Someone did judicial review from the formal aspect such as the Serikat Petani Indonesia (SPI), Yayasan Bina Desa Sadajiwa (Bina Desa), Federasi Serikat Pekerja Pertamina Bersatu (FSPPB), and others. And there are also those who do judicial review from the material aspect, such as the Federasi Serikat Pekerja Singaperbangsa, Konfederasi Serikat Pekerja Indonesia, and individuals such as Zakarias Horota, Agustinus R. Kambuaya, and Elias Patege [13].

As the efforts that have been made by the community regarding the omnibus law, be it legislative review, executive review, and judicial review have shown the negation of some of the fundamental principles of good governance. Likewise, on June 17, 2021, President Jokowi through Airlangga Hartanto as the Coordinating Minister for the Economy submitted four requests to the panel of judges of the Constitutional Court. First, accept the president's statement in its entirety; secondly, stating that the applicants have no legal standing; third, rejecting the formal review of Law Number 11 of 2020 concerning Job Creation; and fourth, stating Law no. 11 of 2020 concerning Job Creation does not conflict with the Constitution of the Republic of Indonesia 1945.

4. Conclusion

Based on the above discussion, the conclusions that can be drawn from this study are to initiate grand design public policy and neo-paradigm public policy must remain in accordance with the principles of the good governance paradigm. The internalization of the principles of good governance in shaping public policy serves to produce substantive public policies, implemented and normatively valid.

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