

THE JOB CREATION Bill - PREVIOUSLY NAMED THE JOB OPPORTUNITY CREATION BILL And DEGRADATION OF WORKER RIGHTS

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1. INTRODUCTION

BACKGROUND

Since the public knew the wording of the Omnibus Law Bill on Job Creation through documents that had been in circulation since the end of 2019 and its official submission by the President of Indonesia to the House of Representatives on February 12, 2020, the bill has quickly received strong criticisms and objections due to its drafting procedure and substance. Open objections came massively from labor and farmer unions, labor, agrarian and environmental activists, activists and civil society coalitions as well as academicians and students of various universities across Indonesia.

Procedurally, the drafting of the Bill violated [Law number 12 year 2011 on Legislation Making](#) that regulates the making of law that covers the stages of planning, drafting, deliberation, approval or enactment, and promulgation. Its procedure has not been transparent and open since its planning and drafting.

Labor unions are the parties that have expressed most strongly their objection particularly to the Labor Cluster. Labor unions' objection to the labor cluster has been echoed and strengthened by academicians and civil society activists as well as students. Substantially, the core of the objection to the labor cluster lies in the omission of the state protection of job security, income security and social security as well as freedom of association for all workers. Procedurally, the core of the objection lies in the fact that labor unions as the main stakeholders have been bypassed; the government only involved employers' associations in the drafting of the Job Creation Bill.

The massive objection has forced the government to change the name of the bill from Job Opportunity Creation Bill to Job Creation Bill, as the previous name was echoed with its abbreviation CiLaKa Bill that became very popular among the public. The government also started to open a channel to receive the voices of labor unions by inviting them to a meeting with the Coordinating Ministry for Economic Affairs as the main sponsor and the drafter of the academic paper and the draft of the Bill and the Ministry of Manpower. The effort failed, as all labor unions, which were invited, refused unanimously to come and get involved.

Although in the course of time, labor unions not only objected to the labor cluster but also to the Job Creation Bill as a whole, this study limits its focus on the labor cluster.

OBJECTIVES

This study aims to

1. analyze the impacts of the Job Creation Bill's labor cluster on the rights of workers and economic aspect on workers.
2. make recommendations for labor unions in advocating regulations on the protection of the worker rights.

METHOD OF THE STUDY

This report was developed based on secondary data that consists of academic paper document and the draft of the Job Creation Bill, opinion articles and news from online as well as offline media, policy papers, studies and information from discussions and seminars on the Job Creation Bill and related reference sources.

ANALYSIS FRAMEWORK

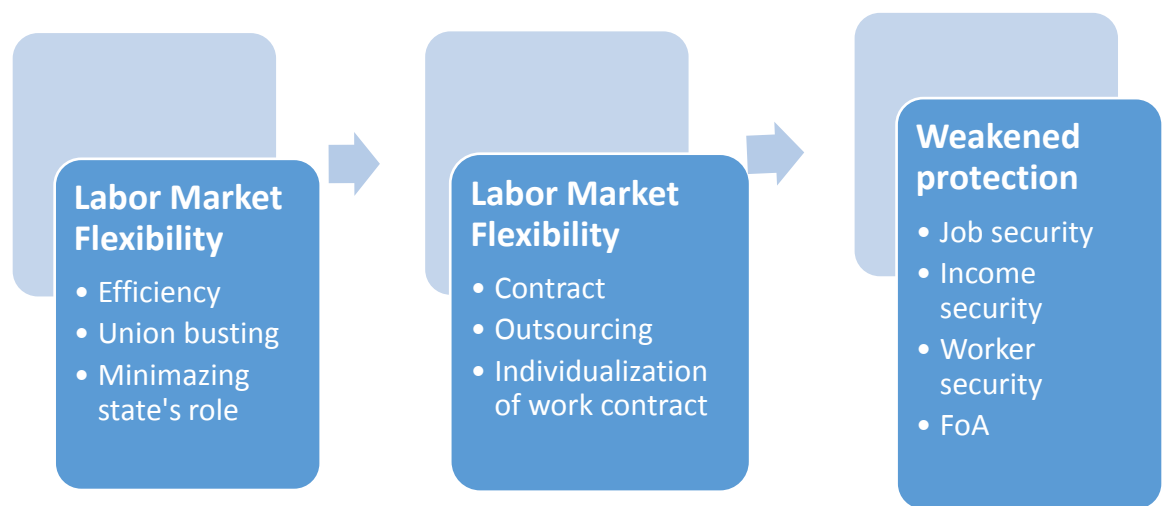
The analyses in this report use a conceptual framework on the protection and the rights of the workers and the labor market flexibility.

The main basis used for analyzing the Job Creation Bill is the right to get job security and decent livelihood as guaranteed by the national law and the international conventions. Since the concept of labor market flexibility being developed and practiced, the protection of the rights to decent job

and livelihood has weakened. The Job Creation Bill, the main basis and spirit of which are efficiency and manpower cost reduction through the weakening of the rights to proper job and income security by using the labor market flexibility, has threatened the fulfilment of workers' rights.

In a simple way, this study analysis framework can be found in the following chart:

LABOR MARKET FLEXIBILITY CHART



2. PRESENTATION OF THE REPORT

After the introduction, the report presents the following sessions:

- The Labor market flexibility concept
- The substance of labor cluster objection
- The review and analysis of the Job Creation Bill's Academic Document and the Labor Cluster Bill document
- Conclusion
- Recommendations

3. CONCEPT FRAMEWORK

In its foreword, the academic document on the Job Creation Bill states that the Law number 13/2003 on Labor 'is deemed inconsistent with the developing condition and the existing job market demand' and,

therefore, requires a major amendment. There is no further explanation and argument to prove any inconsistencies with the Law number 13/2003.

Concerning manpower, the Academic Document's session on the theoretical study contains a chapter on economic growth and job opportunity creation, theories of the industrial relationship and work relationship. The sub-chapter on the theory of work relationship focuses mainly on the discussion on contract-based employment agreement and outsourcing. The contract-based employment agreement and outsourcing that actually serve as the main spirit of the labor cluster have a very inadequate theoretical discussion.

The Academic Document only states that outsourcing has spread rapidly and become a common practice in various countries. Quoting an academic study of a university concerning Law 13/2003 that was drafted in 2010, it presents 4 main issues related to outsourcing: 1) restriction of [piece-rate pay system](#) and the provision of outsourced workers, 2) categorization of works into core and non-core competencies, 3) the difference between [the employee agreement for a specific period \(PKWT\)](#) and the outsourcing of manpower and 4) the arrangement of employment relationship, i.e. whether it is between a worker and a company that conducts the outsourcing or it is between a worker and the provider of worker service/ the supplier of worker. The wording of the labor cluster in the Bill shows that the four outsourcing issues are the ones whose rules are to be relaxed and that the implementation of the employment relationship flexibility is to be facilitated in the article on outsourcing.

This report uses the theory of labor market flexibility as its basic argument to critically assess the direction, reason and objectives of the manpower cluster existence in the Job Creation Bill.

The labor market flexibility is a body of concept that is developed to

become a manpower regime that prioritizes agility or flexibility of the labor market.

Such a concept was designed to replace old labor market concept which was considered too rigid because there is regulation on worker protection, collective bargaining agreement and regulation on permanent employee. Those things are deemed the hindrance for flexibility efforts in view of designing the strategy to face economic turbulences due to crisis, increasing tight of business competition and fast development of technology. Old labor market is then considered inefficient.

For the supporters of flexible labor market concept, this concept assumes that a worker and an entrepreneur have an equal bargaining power to determine the realization of an employment relationship. Under the labor market flexibility system, an employer or entrepreneur gets the facilitation in recruiting a worker and severing an employment relationship in line with his or her needs. Any regulatory obstacle and state intervention in the recruitment of a worker and the severance of an employment relationship are reduced or even abolished. The recruitment and the severance of an employee relationship cost are lowered. The employment relationship model based on contract and outsourcing is implemented, and its coverage is expanded to enable the flexibility. The working hour and the amount of wage are made flexible in line with the business cycle or the fluctuation of the market demand for goods or services being produced. This type of flexibility will create production efficiency and capital gain maximization¹. The rigid labor market is deemed to have the tendency of being closed, especially, for the unemployed and the group of informal workers who want to enter

¹ World Bank, 1995;

the formal sector. This is the case because permanent workers always tend to keep maintaining their job security and benefit². In production, such labor market rigidity is also considered unable to boost work productivity, as the competition among workers tends to be low due to the feeling of security in their jobs (World Bank, 2006). The rigid labor market creates an inflexible labor cost, as the number and the types of workers required cannot be adjusted with the fluctuation of competitive pressures in the commodity market³.

From the perspective of employment relationship, the flexible labor market can reduce the dominance of labor unions that is deemed to strongly maintain the interest of permanent worker aristocracy by sacrificing job opportunity for the unemployed (Douglas, 2000). Labor unions with their collective power are also considered obstacles to capital flexibility in facing the ups and downs or fluctuation of market pressures. The flexibility of labor cost and the way of production as required by the capital to create production cost efficiency often cannot be easily achieved due to the pressures from labor unions. For this reason, the role of labor unions as the basis of collective power starts to be reduced or, at least, moved towards a more corporate form.

In addition to contract-based employment relationship and outsourcing, the system of collectivism in the industrial relationship has started to move towards individualism. This individualism is also implemented in the wage system and the dispute resolution. The individualization of the employment relationships is also deemed important key for boosting productivity and reducing the collective

² Nugroho & Tjandraningsih 2007:5-6 Douglas, 2000

³ Douglas, 2000 dalam Nugroho & Tjandraningsih 2007

control of labor union in the interests of production and capital expansion (Nugroho & Tjandraningsih 2004:6).

Further, the labor market flexibility also requires the withdrawal of the state's role in getting involved in any bipartite relationship between workers and employers; however, it needs the state to create various institutions that ensure the optimum functioning of the labor market flexibility, and the state is encouraged to legalize and expand as much as possible the system of contract-based employment relationship to ensure a flexible movement of both workers and capital. In line with the free market principle, the reduced intervention of the state is not only done in the area of labor market regulation but also in the social protection system (ibid).

The fully flexible business operation principle, especially in matters related to employment relationship that uses the principle of easy recruitment and severance of employment relationship based on the need of a company through the application of an employment contract and outsourcing, results in reduced production cost in labor cost components. Further implication, it brings a direct impact on workers in the form of the disappearance of job security, employee benefit, employee social security and freedom of association protection.

The concept and requirement of labor market flexibility serve as the main framework for analyzing the manpower cluster and its impacts on the rights and benefit of workers.

4. OBJECTION TO LABOR CLUSTER

The labor cluster is in chapter IV of the Job Creation Bill and consists of 55 articles that contain amended regulations concerning

employment of [people of foreign citizenship available for a job](#), contract workers, outsourcing, working hour, wage and minimum wage, severance of employment relationship, occupational accidents (GSBI 2020. Aliansi Rakyat Bergerak 2020, Iqbal 2020, Anwar 2020. FH UGM 2020).

The understanding of the presence of labor cluster in the Job Creation Bill has to be put in the historical dimension. The articles on contract employment and outsourcing, wage and severance of employment relationship have been requested by business owners who seek its relaxation since 2006 through the amendment of the articles of Law number 13 year 2003 concerning Manpower. The YLBHI media release dated April 4, 2006 states: *The Presidential Instruction number 3/2006 orders the amendment of matters pertaining to: (1) Severance of employment relationship, Severance Payment and the Rights of Workers; (2) Work Agreement; (3) Wage; (4) Temporary Employment Agreement; (5) Outsourcing; (6) Foreign Manpower Utilization Permit; and (7) Long period of Leave. However, referring to the Amended Bill containing amendment proposal, it does not only cover the above seven matters but also others, including: Welfare, Severance of Employment Relationship, the Right to Strike, Pension Fund*⁴.

In 2011 LIPI was asked by the government to review the Labor Law, particularly on the articles concerning [people of foreign citizenship available for a job](#), contract and outsourcing, long period of rest, wage, strike and layoff⁵. The planned amendment based on LIPI's review was rejected by the House of Representatives, entrepreneurs and labor unions.

⁴ <https://ylbhi.or.id/informasi/siaran-pers/sepatutnya-revisi-revisi-uu-ketenagakerjaan-kita-tolak/>)

⁵ (<https://www.hukumonline.com/berita/baca/lt4fa7ebcbcd481/revisi-uu-ketenagakerjaan-penuh-polemik/>)

In 2019, the plan for an amendment was expressed again with the intention to relax the rules pertaining to severance payment, severance of employment relationship, contract, outsourcing and [people of foreign citizenship available for a job](#)⁶.

LIPS (Lembaga Informasi Perburuhan Sedane) wrote detailed milestones concerning efforts to amend the Manpower Law in the following illustration (<http://majalahsedane.org/revisi-uuk-versi-2019/>).

Based on the milestones consisting of three stages of attempts to amend the Labor Law in the time span of 2006, 2010-2012, 2013-2019, the articles to be amended are still unchanged, i.e. Severance of Employment Relationship, severance payment, contract and outsourcing, leave, wage and [people of foreign citizenship available for a job](#). These articles are exactly the ones that are present in the labor cluster of the Job Creation Bill.

⁶ (<https://finance.detik.com/berita-ekonomi-bisnis/d-4607578/soal-revisi-uu-ketenagakerjaan-menaker-perlu-perhatikan-hal-ini>;
<https://finance.detik.com/berita-ekonomi-bisnis/d-4731674/sederet-poin-revisi-uu-ketenagakerjaan-yang-bikin-buruh-was-was/3>)

LINTASAN WAKTU REVISI UU KETENAGAKERJAAN



POIN UTAMA REVISI UUK

1. MEKANISME (MUDAH) PHK
2. HUBUNGAN KERJA KONTRAK & OUTSOURCING
3. PEREKRUTAN MELALUI PIHAK SWASTA
4. PESANGON DAN TUNJANGAN
5. WAKTU ISTIRAHAT (CUTI)
6. PENGUPAHAN
7. TENAGA KERJA ASING



The second historical dimension pertains to a series of policies and regulations, which aims to attract foreign investment through the relaxation of rules deemed obstacles for investment, and manpower rules make up the factors that are categorized as obstacles for investment by the government in addition to the issues of red tape in the licensing process and its related corruption.

The first period of President Joko Widodo's administration has attempted to invite foreign investment that is believed to drive economic growth through the 16 policy packages; and one of the policy packages of series IV regulates the policies of fair, simple and projected wage through the fixing of provincial minimum wage using a formula that aims at opening job opportunities as wide as possible and increases the welfare of workers⁷ (The series IV of the economic policy package was later made into Government Regulation no 78 year 2015 that stipulates that the calculation of the minimum wage is to use a formula and omit the mechanism of tripartite negotiation.

The government admits that the 16 economic packages did not achieve optimum result due to the presence of various obstacles pertaining to the coordination between the central government and local governments and the absence of synchronized regulations⁸.

The third historical dimension pertains to the *omnibus law* on Job Creation. Bivitri Susanti, state administrative law expert, stated in a television program Satu Meja The Forum that the Bill was previously named the Bill on Doing Business Facilitation; however, it suddenly

⁷ <http://ksp.go.id/paket-kebijakan-ekonomi-jilid-iv-tingkatkan-kesejahteraan-pekerja/>).

⁸ <https://finance.detik.com/berita-ekonomi-bisnis/d-4926713/16-paket-kebijakan-ekonomi-jokowi-tidak-optimal-ini-penyebabny>

changed name to Job Creation. Nobody knows the process of deliberation that has resulted in such a name change.

Since the draft of the Job Creation Bill was in circulation, the objection from labor unions on a national scale to the manpower cluster has been very strong. The objection was manifested in various actions and the drafting of arguments concerning the objection. In addition to labor unions, farmers unions, environmental activists and academicians have also objected to the Bill by presenting strong arguments. The objections center on the procedure and the substance.

The core of the objection to the substance of the labor cluster is the omission of manpower flexibility restriction, relaxations of minimum wage, the procedure and requirement for severing employment relationship and severance payment and the requirement for employing [people of foreign citizenship available for a job](#). Confederation and labor union alliances have conducted a comparative review of the labor cluster and the Labor Law and concluded that the labor cluster in the Bill has omitted job security, increased workers' vulnerability in any employment relationships and lowered workers' welfare (Iqbal 2020, Anwar 2020, Fraksi Rakyat Indonesia 2020).

The conclusion is strengthened by the academicians from state-run and private universities across Indonesia and several economists (YLBHI 2020, FH UGM 2020, Yudhistira 2020, Basri 2020).

The articles of the labor cluster regulate the use of [people of foreign citizenship available for a job](#) (TKA), workers based on [an employee agreement for a specific period \(PKWT\)](#), outsourcing, working hour, rest hour and leave, wage, severance of employment relationship, criminal sanction - compared with the Manpower Law number 13/2003 - show the following points:

- a. TKA - omit TKA permit for all types of works, TKA qualification, any obligation to conduct transfer of technology and mentoring of local workers
- b. PKWT - allow all types of works to have PKWT status, PKWT status applied throughout a work period, make easy to terminate, omit any legal consequences of violation in case the PKWT is changed into [an employee agreement for an indefinite period \(PKWTT\)](#).
- c. *Outsourcing* - open all types of works to be done by outsourced workers, i.e., workers who are recruited by a third party without any written agreement, omit the separation of core works and supporting works, omit any protection and work requirement for outsourced workers that are equivalent to organic workers.
- d. Working time - it can be extended in line with the need of a company
- e. Break time and leave - abolish the right for long period of leave
- f. Wage - Abolish District-level Minimum Wage (UMK), which shall be fixed in the provincial level; the bipartite agreement becomes the basis for the obligation to pay wages; wages are based on time unit and output unit; abolish tripartite negotiations in fixing the increase of minimum wage; fix the minimum wage of labor intensive work based on a specific formula that is fixed by a Governor, who will be sanctioned if he or she breaches the law; abolish the prohibition to pay wage under the City/District Minimum Wage (UMK); abolish the agreement for not paying wage under the minimum wage; abolish the obligation of the government to provide job security and the fulfillment of [decent living need](#) and wage protection.
- g. Lay off (PHK) - facilitate employers to sever an employment relationship (PHK), abolish the role of the Industrial Relations Court in the PHK process, reduce the amount of a long-service pay and abolish Compensation of Rights, abolish the requirement for the issuance of a warning letter prior to PHK, abolish the right of workers to receive severance pay if the PHK is done due to the closing down or loss or

bankruptcy or merger of a company, or due to retirement period, disability from occupational accident, resignation, death.

- h. Criminal sanction - abolish a criminal sanction for a company that violates articles concerning payment of wage under the minimum wage, placement of workers, and the use of [people of foreign citizenship available for a job](#).

As a whole, the use of the articles under the labor cluster shows the manifestation of labor market flexibility implementation through:

1. Work agreement relationship and outsourcing without any restriction and are applicable to all types of works
2. Working hour flexibility and the optimization of working hour
3. Flexibility of wage
4. The absence of government's role and protection for the right of workers against any violation, and government's role as the protector for proper job opportunities
5. The decrease of the role of trade union in defending workers interest.

Five points above clearly show the adoption of labor market flexibility concept into the provisions of Job Creation Law draft: easy hiring and firing through contract and outsourcing, reduce labor costs by means of flexible working hour and wage system, omit state's protection role through flexible working relationship and wage system which has been embedded in the Law Number 13 Year 2003 on Labor and omit the role of trade union as an impact of flexibility and individual working relationship. The implementation of these five aspects also shows that the concept of flexible labor market will increase worker's vulnerability due to the omission of protection instrument and mechanism provided both by the state and trade unions.

Various researchers and workers' experiences show that the labor market flexibility and employment relationship have omitted job security and income security, reduces welfare and state protection for workers. Researches on the practices of contract-based employment agreement and outsourcing in the metal industry sector shows that, for the same type of work and working hour, the average total wage of outsourced workers is 17% lower than that of permanent workers, and the average total wage of contract-based employment workers and that of outsourced workers are 26% lower than that of permanent workers (Tjandraningsih et.al 2010). Other researches show that 50% of formal workers with the PKWT status are in a vulnerable working condition that resembles that of informal workers, receive lower allowances and facilities than those of permanent workers and, based on the aspect of stability and job security, have the same level of vulnerability as the informal workers (Herawati & Purwanto 2012).

Various anecdotal facts experienced by workers in a number of industrial centers indicate an increasing flexible working relationship and followed by a wage system as an impact of that kind of working relationship. The practice of contract-based employment agreement in Bandung Raya shows that the workers only receive basic wage and are not paid on holidays⁹, while in Tangerang, Banten, contract-based and outsourced workers only receive minimum wage, and some of them receive additional payment in the form of attendance allowance or production allowance¹⁰, while permanent workers receive wages and attendance allowance, [adjustment wages \(upah sundulan\)](#), transport/meal allowance, [functional allowance](#), and [piece rate \(upah borongan\)](#) that is implemented in Sukoharjo, Central Java.

⁹ Agus Saepudin Garteks KSBSI

¹⁰ Siti Istikharoh KSPN

In a garment company producing dresses and underwear, every worker has to perform sewing process from the beginning up to the final product of shirt or pants, and they receive different amounts of wages. For pants, they receive between Rp15, 000 and Rp25, 000 per piece. In a day, each of them can produce 3 to 4 pieces with uncomplicated styles. In other words, they receive wages of Rp60, 000 to Rp70, 000 per day or around Rp1,200,00 per month with 20 working hours. For a more complicated styles, normally they can finish only 1 or 2 pieces and, consequently, only receive Rp30, 000 to Rp50, 000 per day. If no sewing process is needed, the workers will not receive any wages¹¹.

Piece rate applied at the above garment company is a very obvious example of the adoption of wage system which is normally applied to the informal sector / small industries and in farming sector. As a comparison, jacket sewing workers in the informal garment industry in Ciangir village, Tasikmalaya, West Java receive Rp5,000 per jacket and earn Rp50,000 per day out of 10 jackets. Within a month, a worker is able to produce 300 jackets but earns just Rp1,600,000¹³.

In Subang, the wages of permanent and contract-based employment workers are not too different, as all of them receive basic wages based on the UMK, while the wages of the outsourced workers are very different, as their UMK wages are deducted by the outsourcing service agencies¹².

In labor cluster wage cost is reduced not only through flexible wage system but also is designed to reduce the wage cost through minimum wage range by means of following provincial minimum wage that is 50% lower than district / town minimum wage range. As an illustration, it could be seen in the comparison between district / town and provincial

¹¹ Emelia Yanti GSBI

¹² Esti Setyo Rini aktivis buruh

minimum wage year 2020 in 3 provinces and 3 districts / towns in Java¹⁵ island as the most important economic centers and national industry in the following table:

Table 4. Comparison of Provincial and District / Town Minimum Wage Year 2020 in Java

Location	Provincial Minimum Wage (Rp)	District/Town Minimum Wage (Rp)
West Java	1.810.350	
Karawang Districy		4.594.324
Bogor Town		4.169.806
Central Java	1.742.015	
Semarang District		2.229.880
Kendal District		2.261.775
East Java	1.768.777	
Sidoarjo Town		4.193.581
Pasuruan District		4.190.133

Source: Taken from different sources

The above cases clearly show that the flexibility of employment relationship using contract and outsourcing schemes has provided entrepreneurs with opportunities to lower the labor cost and, therefore, the wages received by workers are getting lower although the regulation on minimum wage is in place. Further impacts include the reduced workers' welfare and economic resources to support themselves and their families.

The decrease of wage earned as shown above certainly affects worker's welfare since the purchasing power to fullfil decent living condition decreases as well. Decent living condition which is the basis to determine the increase of minimum wage encompasses number and prices of the

¹⁵ <https://www.disnakerja.com/daftar-upah-minimum-ump-di-34-provinsi-indonesia-tahun-2020/>

needs of food, drink, clothing, housing, education, health, transportation and saving.

Determining the value of Annual Decent Living Condition or KHL as one of the considerations to increase annual minimum wage has officially been omitted since 2015 through Government Regulation Number 78 Year 2015 on Minimum Wage System. Such a regulation mandates that the increase of decent living condition is reviewed every five years and the increase of minimum wage is based on the inflation rate and economic growth. Besides, KHL review is no longer based on the survey on market prices conducted by Wage Council but is based on the data and information released by authorized statistic institution, that is the National Statistic Agency (BPS)¹⁶.

As an illustration, decent living condition of Bogor District in 2020 was calculated around Rp2,250,000¹⁷. If this minimum wage in 2020 is converted to provincial minimum wage, it tells that Rp1,810,350 West Java minimum wage could not fulfill decent living condition of workers in Bogor District.

The above illustration depicts how minimum wage could not cover the needs of decent living condition and therefore becomes an indicator of the decrease of worker's welfare.

The widespread use of contract-based employment and outsourced workers has resulted in the union density or union membership. At least, there are two factors. Firstly, union busting indirectly takes place through the practice of requiring contract-based employment and

¹⁶ <https://www.gadjian.com/blog/2019/11/20/hubungan-standar-kebutuhan-hidup-layak-khl-dengan-upah-minimum/>

¹⁷ <https://www.koranperdjoeangan.com/rapat-koordinasi-upah-2020-depekab-dan-dpc-sp-sb-se-kabupaten-bogor/>

outsourced workers not to join any labor union if they want to be accepted to work or if they want their employment agreement to be extended (Tjandraningsih dkk 2010). Secondly, due to such a requirement, the interest to join labor union is low in addition to the fact that the number of permanent workers is declining. This reality shows that the labor market flexibility has succeeded in achieving its objectives to conquer labor unions in order to make a company's decision making and policy making easier without requiring any negotiation with labor unions.

The data on the number of labor unions' members for the past 10 years have shown a drastic decline. Ministry of Manpower's data shows the number of labor unions in 2017 reached 7,000. The number dropped in a decade as in 2007 the Ministry of Manpower recorded the number of labor unions across Indonesia reached 14,000. Meanwhile, the number of labor unions' members in 2017 was only 2.7 million or dropped from 3.4 million in 2007¹⁸. If compared with the total number of formal sector workers in Indonesia at the figure of 55 million people¹⁹, trade union members are only 4,9%. The low number of union membership indicates reduced trade union representation to struggle for workers' interest and reduced influence on the decision-making process of labor policies and of other public policies.

5. CONCLUSION AND RECOMMENDATION

The labor cluster of the Job Creation Bill signifies employer victory in their 15-year attempts to amend some articles that currently appear in the manpower cluster. Their previous failures to amend those articles of the

¹⁸ <https://www.cnnindonesia.com/nasional/20180328143824-20-286542/menaker-jumlah-serikat-pekerja-menurun-signifikan>

¹⁹ <https://lokadata.beritagar.id/chart/preview/jumlah-pekerja-formal-dan-informal-2012-2019-1565591307>

labor law (UUK) due to the objection from labor unions and the House of Representatives have found a momentum for success.

The milestones of attempts to amend some articles of Law 13/2003 from 2006 to 2019 show a consistency in the direction of the amendment that aims to reduce the labor cost through creating a flexibility in the employment agreement and reducing the rights of workers. This direction shows that the managements of companies in Indonesia still or only consider human resources to be one of the production factors and view workers as costs that need to be continuously made efficient.

Inserting the labor cluster in the Job Creation Bill with its earlier intention and dominant content to simplify the issuance of business license, which has been deemed obstacles for investment, is tantamount to agreeing with the government and the business sector that view the regulations on employment agreement and worker protection as obstacles to investment. In fact, several surveys on the ease of doing business²⁰ show that the primary obstacle to do business in Indonesia is red tape and the abundance of regulations, the fulfilment of which has wasted lots of money and time - all these contradict with the business sector's principle - efficiency.

The labor cluster also shows the withdrawal of the state from its roles and responsibilities to protect its worker-citizens by handing over issues concerning the worker basic rights merely to a bipartite negotiation. In the industrial relationships, a bipartite negotiation is of course important, however, it should be done in the context of fair regulation that is consistently applied. Without such a context, the workers' position is

²⁰ <https://finance.detik.com/berita-ekonomi-bisnis/d-4416821/bank-dunia-mau-cek-kemudahan-bisnis-aturan-di-ri-masih-tak-sinkron>; <https://economy.okezone.com/read/2019/10/25/320/2121761/bank-dunia-peringkat-kemudahan-berinvestasi-di-indonesia-tak-berubah>; <https://www.liputan6.com/bisnis/read/3682256/menko-darmin-ungkap-sebab-peringkat-kemudahan-berusaha-ri-turun>

certainly weak. In fact, seen from another perspective, the state is present precisely to lower the minimum wage by fixing the provincial minimum wage and the central government is forcing local governments to apply it by imposing a sanction against any violation. The government has also lowered wages through a rule on hourly wage and piece rate.

The principle and the practice of labor market flexibility and employment agreement, one of the goals of which is to abolish the role of labor unions, are systematically, consistently and effectively carried out through the use of contract-based employment workers. The labor unions' collective principle has been successfully weakened through individual employment agreements and the manpower recruitment using outsourcing mechanism.

To avoid a drastic drop in the working condition and the welfare of workers, we make the following recommendations to labor unions:

1. The labor cluster to be excluded from the Job Creation Bill and replaced it with the draft law on Worker's Protection.

Worker Protection draft law is crucial in view of balancing the role of state before capital and workers since the state is seen more and more in the position to protect the investment as described in the whole provisions of Job Creation draft law. In this light, it is needed to conduct in depth studies and analyses on existence and legitimacy of Law Number 13 year 2003 on Labor which is more and more substantially fragmented²¹.

2. Propose labor protection concept in flexible working condition - flexicurity.

Considering that labor market flexibility could not be stopped, it is therefore balanced with flexicurity concept in order to balance the easy business with worker protection. Flexicurity combines easy business to

²¹ <https://www.hukumonline.com/klinik/detail/ulasan/lt5078c83ecf921/perubahan-isi-pasal-atau-isi-ayat-pada-utk-no-13-thn-2003>

hire and fire worker and provide training options²² so that when a worker loses the job, he /she could find new opportunity.

3. To restructure the organizing strategy and the management of labor unions.

Labor market flexibility has significantly changed the system of working relationship and worker organizing that it has direct impact on the existence of trade union. This change of system seriously needs the rethinking of workers organizing strategy so that it continues to maintain and increase the relevance of trade union existence and influence in the efforts to fight for worker's interest.

4. To advocate the welfare of workers as the catalyst and driver of economic growth and national productivity.

It is necessary to advocate and campaign for an effective contra-narrative underlining that workers are not the obstacle of investment, instead one of prime movers of the national economic growth.

Prosperous workers will increase their productivity and therefore move the economic growth. High economic growth is able to provide not only many but also decent job opportunities.

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REFERENSI:

²² <https://economic-research.bnpparibas.com/Views/DisplayPublication.aspx?type=document&IdPdf=30102>

Aliansi Rakyat Bergerak, 2020, *Gagalkan Omnibus Law: Masa Depan Kesejahteraan ada di Tangan Kita*,

Anwar, S, 2020. Sandingan draft RUU Cilaka Omnibus Law vs UU 13 tahun 2003 dan PP 78 tahun 2015

Eyck, Van Kim, *Flexibilizing Employment: An Overview*,
https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---ifp_seed/documents/publication/wcms_117689.pdf

FH UGM, 2020, Kertas Kebijakan: Catatan Kritis dan Rekomendasi terhadap RUU Cipta Kerja, Yogyakarta:FH UGM

GSBI, 2020, Alasan GSBI Menolak Omnibus Law RUU Cipta Kerja, Jakarta:Departemen Diklat Propaganda DPP GSBI

Herawati, R & Edy Purwanto, 2012, *Hubungan Kerja PKWT dan Kontrak:Dampaknya terhadap Upah dan Kondisi Kerja*, paper tidak diterbitkan

Iqbal, S, 2020, RUU Cipta Kerja Klaster Ketenagakerjaan: Analisa Singkat Perbandingan dan Dampak bagi Pekerja - bahan presentasi

Nugroho, H & Indrasari Tjandraningsih, 2007, “Negara dan Pasar Kerja Fleksibel”, Link URL: <https://indoprogress.com/2007/09/negara-dan-pasarkerja->

World Bank, 1995, World Development Report 1995 : Workers in an Integrating World

Berita:

<https://ylbhi.or.id/informasi/siaran-pers/sepatutnya-revisi-revisi-uu-ketenagakerjaan-kita-tolak/>

<https://www.hukumonline.com/berita/baca/lt4fa7ebcbed481/revisi-uu-ketenagakerjaan-penuh-polemik/>

<https://finance.detik.com/berita-ekonomi-bisnis/d-4607578/soal-revisi-uu-ketenagakerjaan-menaker-perlu-perhatikan-hal-ini>

<https://finance.detik.com/berita-ekonomi-bisnis/d-4731674/sederet-poin-revisi-uu-ketenagakerjaan-yang-bikin-buruh-was-was/3>

<http://majalahsedane.org/revisi-uuk-versi-2019/>

<http://ksp.go.id/paket-kebijakan-ekonomi-jilid-iv-tingkatkan-kesejahteraan-pekerja/>

<https://finance.detik.com/berita-ekonomi-bisnis/d-4926713/16-paket-kebijakan-ekonomi-jokowi-tidak-optimal-ini-penyebabnya>

<https://www.pikiran-rakyat.com/jawa-barat/pr-01302710/menengok-ciangir-kampung-penjahit-di-perbukitan-kota-tasikmalaya-432249?page=2>.

<https://www.disnakerja.com/daftar-upah-minimum-ump-di-34-provinsi-indonesia-tahun-2020/>

<https://www.gadjian.com/blog/2019/11/20/hubungan-standar-kebutuhan-hidup-layak-khl-dengan-upah-minimum/>

<https://www.koranperdjoeangan.com/rapat-koordinasi-upah-2020-depekab-dan-dpc-sp-sb-se-kabupaten-bogor/>

<https://www.cnnindonesia.com/nasional/20180328143824-20-286542/menaker-jumlah-serikat-pekerja-menurun-signifikan>

<https://lokadata.beritagar.id/chart/preview/jumlah-pekerja-formal-dan-informal-2012-2019-1565591307>

<https://finance.detik.com/berita-ekonomi-bisnis/d-4416821/bank-dunia-mau-cek-kemudahan-bisnis-aturan-di-ri-masih-tak-sinkron>

<https://economy.okezone.com/read/2019/10/25/320/2121761/bank-dunia-peringkat-kemudahan-berinvestasi-di-indonesia-tak-berubah>

<https://www.liputan6.com/bisnis/read/3682256/menko-darmin-ungkap-sebab-peringkat-kemudahan-berusaha-ri-turun>

<https://www.hukumonline.com/klinik/detail/ulasan/lt5078c83ecf921/perubahan-isi-pasal-atau-isi-ayat-pada-uutk-no-13-thn-2003>

<https://economic-research.bnpparibas.com/Views/DisplayPublication.aspx?type=document&IdPdf=30102>