

Impact of the Implementation of The ASEAN Economic Community and the Job Creation Law For Labor

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Abstract: ASEAN as a regional organization in Southeast Asia has a vision to create a Southeast Asian region peaceful, safe, stable, and prosperous. Based on that vision, an ASEAN leaders was agreed to declare ASEAN Bali Concord II which it called ASEAN Economic Community (AEC). An impact of AEC is expected to resolve the development gap and accelerating the integration of ASEAN countries. The AEC merges the boundaries of the ASEAN countries into a unite free market in all ASEAN members and become a single market. The Indonesian government responded to the implementation of this AEC by enacting Law Number 11 of 2020 concerning Job Creation. This Law aims to create jobs and increase foreign and domestic investment by reducing regulatory requirements for business permits and land acquisition. The Job Creation Law is expected to provide convenience for opening businesses and investments, the implication is to absorb more workers.

Keywords: ASEAN, Job Creation Law, Employment

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A. PRELIMINARY

ASEAN (Association of Southeast Asian Nations) is a regional organization that facilitates the cooperation of 10 (ten) countries in Southeast Asia. ASEAN was formed based on the strong desire of the founders of ASEAN to create a Southeast Asia region that is peaceful, safe, stable, and prosperous. Based on this understanding, a term called the ASEAN Community emerged.

The ASEAN Community is a unitary Southeast Asian nation that looks outward, lives in peace, stable and prosperous, and bound together in a dynamic and caring development partnership. The establishment of the ASEAN Community was motivated, among other things, by the negative impact of the economic crisis that hit ASEAN member countries in 1997. This are encourage ASEAN to take the initiative to create a region that has economic resilience. beside, the establishment of the ASEAN Community was driven by the emergence of several global issues that disrupt stability in the ASEAN region, such as terrorism, narcotics trafficking, transboundary crime, and environmental sustainability.

On the basis of this, an idea was created which called the Asean Economic Community (AEC)/Asean Economic Community (AEC). AEC has a pattern that integrates the economies of ASEAN countries by establishing a free trade system among ASEAN member countries.

The forms of AEC cooperation include the development and capacity building of human resources (HR), closer

consultation on macroeconomic and financial policies, a trade finance framework, infrastructure improvements, increased private sector participation to build the AEC, and recognition of professional qualifications. The AEC is expected to have an impact on overcoming the development gap and accelerating the integration of ASEAN countries such as Laos, Myanmar, Cambodia, and Vietnam through the initiative for ASEAN integration and other regional initiatives. The implementation of the AEC merges the boundaries of the ASEAN countries into a free market unit where the markets in all ASEAN members will unite and become a single market.

The presence of the AEC can actually be the first step for Indonesia to develop various qualities related to the economy in the Southeast Asia region. However, in its implementation, the AEC can be two sides of a coin that can have a positive effect or it will make the Indonesian economy degenerate. On the one hand, Indonesian-made workers and products have the opportunity to show up. However, on the other hand, it will be a negative impact if Indonesia is fails to make good use of it.

The AEC must be seen as a good opportunity because all the barriers to trade in goods and services so far in the Southeast Asia region will disappear. Supposedly, with the AEC, Indonesia can improve the quality and quantity of exported goods which in turn to increase Indonesia's income. This free competition in terms of investment will be able to create a climate that supports

the entry of foreign capital that can stimulate economic growth through employment, technological developments, utilization of Natural Resources (SDA), and easier access to world markets.

The manpower sector is the part affected by the implementation of this MEA. Labor conditions in Indonesia at the moment are not in a good situation. The main problem of employment in Indonesia at this time is the lack of employment opportunities and the increasing unemployment rate. To overcome this, it is necessary to have community participation supported by targeted government policies.

One of the policies taken by the Government of Indonesia is to issue the Job Creation Law No. 11 of 2020. This law was One of the policies taken by the Government of Indonesia is to issue the Job Creation Law No. 11 of 2020. This law was ratified on the basis that job creation is expected to be able to absorb the widest possible Indonesian workforce in the midst of increasingly competitive competition and demands of economic globalization. . Furthermore, in Article 1 paragraph (1) of the Law it is also explained that job creation is an effort to create work through efforts to facilitate, protect, and empower cooperatives and micro, small, and medium enterprises, increase the investment ecosystem and ease of doing business, and investment from the Central Government and accelerate national strategic project. Based on this, it is hoped that this law will change the economic structure which will

eventually be able to make changes to all sectors to encourage higher economic growth. Based on this background, the authors are interested in conducting an analysis of the impact of the implementation of the MEA and the Employment Creation Law on Indonesian workers. on the basis that job creation is expected to be able to absorb the widest possible Indonesian workforce in the midst of increasingly competitive competition and the demands of economic globalization. . Furthermore, in Article 1 paragraph (1) of the Law it is also explained that job creation is an effort to create work through efforts to facilitate, protect, and empower cooperatives and micro, small, and medium enterprises, increase the investment ecosystem and ease of doing business, and investment from the Central Government and accelerate national strategic project. Based on this, it is hoped that this law will change the economic structure which will eventually be able to make changes to all sectors to encourage higher economic growth. Based on this background, the authors are interested in conducting an analysis of the impact of the implementation of the MEA and the Employment Creation Law on Indonesian workers.

B. METHODOLOGY

The method used in this research is qualitative method. This study aims to explain the impact of the existence of the ASEAN Economic Community (AEC) to domestic workers in facing the AEC.

C. DISCUSSION

I. The State of Indonesia in Facing the Enforcement of the AEC

AEC is the result of a joint agreement between ten ASEAN leaders based on the Declaration of ASEAN Bali Concord II which was held in Bali in 2003. The main point of this AEC is to agree that trade in goods, services, capital and investment can move freely without geographical barriers, which is expected to create equitable distribution of economic growth and competitiveness so that the ASEAN region can become a unified production base to integrate with the global economy.

Steps to be taken in realizing the AEC is based on four key pillars: (1) ASEAN as a single market and a single production base that is supported by elements of the free flow of goods, services, investment, educated labor and freer flow of capital; (2) ASEAN as a region with high economic competitiveness, with elements of competition rules, consumer protection, intellectual property rights, infrastructure development, taxation and e-commerce; (3) ASEAN as a region with equitable economic development with elements of the development of small and medium enterprises, and the ASEAN integration initiative for the countries of Cambodia, Myanmar, Laos, and Vietnam; and (4) ASEAN as a region fully integrated into the global economy with elements of a coherent approach in economic relations outside the region, and increase participation in global production networks. (Diedit)Pulihkan teks asli

The purpose of this union is to improve the competitiveness between the ASEAN region, promote economic growth, reduce poverty and to improve the living standards of ASEAN which is expected to build economies of ASEAN as the backbone of the Asian economy.

Indonesia as one part of ASEAN should be immediately responsive to face the situation of the implementation of MEAs. Despite facing such a situation, Indonesia remains optimistic that it will be able to compete with other ASEAN countries, especially in terms of attracting investment. The basis for this belief is based on the results of a Price Water House Coopers (PwC) survey of 800 respondents from CEOs of companies in Asia-Pacific. The survey, released in the APEC summit on Nov. 16 was mentioned, 52% of respondents plan to increase their investment to Indonesia. Meanwhile, Singapore only got 46% of respondents¹. Similarly, based on the survey results "ASEAN Business Outlook Survey 2015" conducted AmCham Singapore and the US AmCham against Senior 588 Executive as representatives of US companies in 10 (ten) ASEAN countries, Indonesia showed most in demand by US investors, followed by Vietnam and Myanmar.² The results of these surveys are also consistent with the data of FDI Markets Financial Times said in January-September 2015 the highest FDI in ASEAN Indonesia, ie US \$ 20.96 billion, or 29.12% of the total FDI. Followed by Vietnam US \$ 14.06 billion (19.54%) and Myanmar US \$ 9.22 billion (12.81%).³

¹ Koran Tempo, Survei Ekonomi Pembawa Asa, Senin 23 November 2015.

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<http://m.inilah.com/news/detail/2132737/indonesia-paling-menarik-di-mata-investor>

³ <http://blog.bizdir.id/bkpm-optimistis-ri-bisa-menarik-investasi-saat-mea/>

One way to deal with it is with the establishment of Law Number 11 of 2020 concerning Job Creation. Ratification of Law No. 11 of 2020 concerning Job Creation is one form of response from the Indonesian Government in dealing with the AEC. The Minister of Finance of the Republic of Indonesia, Sri Mulyani Indrawati, said that the Job Creation Act was made with the aim that Indonesia was able to escape the middle-income trap. Thus, Indonesia is believed to be an efficient country and has easy regulations. In addition, the community can also be easier to start a business. In this law, the Government also encourages tax reform by providing various kinds of incentives. Thus, it is hoped that there will be an increase in productivity, innovation and creativity that will be able to push Indonesia out of the trap of middle class countries. The explanation of tax incentives and tax administration facilities is contained in Article 92 of the Job Creation Law.

The main purpose of this Working Copyright Act is to create jobs and increase foreign investment and domestic by reducing regulatory requirements for business permits and land acquisition. This law covers many sectors therefore referred to as the universal sweeping law or omnibus law. This law also revises about 79 existing laws.

The law which was passed by the President together with the House of Representatives (DPR) is believed to be able to overcome economic and business problems, especially regarding job creation in Indonesia. President Joko Widodo explained about the omnibus law which aims to encourage the creation of new jobs. On the other hand,

the omnibus law is also targeted to cut the bureaucratic flow that has been seen as a lot of obstacles in the business licensing process and at the same time the intention of investors to invest in Indonesia. So basically, the omnibus law aims to improve people's welfare

In Article 3 of the Law it is explained that the purpose of its formation is to (a) create and increase job opportunities by providing convenience, protection, and empowerment for cooperatives and MSEs as well as national industry and trade as an effort to be able to absorb the widest possible Indonesian workforce while taking into account the balance and progress between regions in the national economic unit; (b) ensure that every citizen gets a job, and gets fair and proper remuneration and treatment in an employment relationship; (c) make adjustments to various regulatory aspects related to alignments, strengthening, and protection for cooperatives and MSEs as well as national industry; and (d) making adjustments to various regulatory aspects related to improving the investment ecosystem, facilitating and accelerating national strategic projects oriented to national interests based on national science and technology guided by the ideology of Pancasila.

Further described in Article 4 of the law that in order to achieve the objectives referred to the scope of this Law of Human Work set strategy that includes; (a) improvement of the investment ecosystem and business activities, (b) employment, (c) convenience, protection, and empowerment of cooperatives and MSEs, (d) ease of doing business, (e) research and innovation support, (f) land acquisition, (g) the

economic area, (h) and acceleration of central government investment projects of national strategies, (h) the implementation of public administration, and (i) the imposition of sanctions.

Regarding the ratification of the Job Creation Law, there are two things in strategic policies that need to be highlighted in relation to the implementation of the AEC, namely improving the investment ecosystem and business and employment activities.

In terms of improving the investment ecosystem and business activities, these include activities; (a) implementation of risk-based Business Licensing, (b) simplification of the basic requirements for Business Licensing, (c) simplification of sector Business Licensing, and (d) simplification of investment requirements. From these activities, the Job Creation Law is expected to be able to attract the attention of investors to Indonesia because one of them is considered capable of providing legal certainty and ease of regulation.

II. Impact of the enactment of the MEA and the Job Creation Act

If examined further, there are at least 6 (six) significant impacts on the business and investment climate in Indonesia. First, the licensing process for doing business and investing is simpler and faster. Second, illegal levies and corruption are cut by integrating the entire licensing process into the electronic licensing system through the OSS (Online Single Submission) system. Third, business activities and investing

are made easier. The formation of a limited liability company is made simpler and there is no longer a minimum capital limitation. Fourth, investing in special economic zones, free trade areas, and free ports will be made easier and more attractive with various facilities and incentives. Fifth, Indonesia has also established a sovereign wealth fund institution that will manage and place a number of state funds and or assets directly or indirectly, as well as cooperate with third parties. And sixth, protect and enhance the role of workers in supporting investment in Indonesia, including providing legal certainty in the regulation of minimum wages and severance pay.

However, besides the positive effects expected as mentioned above, there are some things that need to be considered because it can adversely affect the business climate. These include, firstly, that the Job Creation Law changes many articles so that it requires a lot of technical regulations at the level of Government Regulations (PP) to Ministerial Regulations and Regional Regulations that change.

Second, the presence of the Job Creation Law cannot directly guarantee investment into Indonesia. There are many other variables that investors consider when investing their capital in Indonesia, such as the government's seriousness in eradicating corruption, the effectiveness of fiscal and non-fiscal incentives, the availability of raw materials, and logistics costs.

The third thing that must be considered is that the Job Creation Law also revokes some workers' rights, causing concern for negative perceptions from investors,

especially developed countries because investors in developed countries highly respect fair labor practice and decent work where labor rights are highly respected and on the contrary, it reduces labor rights, which means it is contrary to the principles of developed countries.

In terms of manpower, based on Article 80, the Job Creation Law also revised Law Number 13 of 2003 concerning Manpower (Labor Law), where several articles in the Act have been amended, added or even deleted. The Job Creation Law amends 31 articles, deletes 29 articles, and inserts 13 new articles. According to a release issued by the Coordinating Ministry for Economic Affairs, the Job Creation Law is expected to provide convenience for opening businesses and investments, the implication of which is to absorb more workers. This law also discusses the rules for working hours, severance pay, wages, and the mechanism of contract workers aimed at increasing the certainty and quality of workers in Indonesia. The government hopes that the ratification of the Job Creation Law will be able to create 2.7 - 3 million jobs per year (an increase from the current 2 million per year), to accommodate 9.29 million people who are not/not yet employed (7.05 million). unemployment and 2.24 million new labor force). In addition, the Job Creation Law is also expected to increase the competence of job seekers, worker welfare, and increase worker productivity, which will have an effect on increasing investment and economic growth.

In addition to the positive impact as expected by the government, the enactment of the Law of Human Work can also be a negative impact on the

employment climate in Indonesia. There are at least five (5) effect for Indonesian workers.

First, the Job Creation Law abolishes at least 5 articles regarding severance pay. As a result, workers are threatened not to receive severance pay when they resign, experience termination of employment (PHK), or die. Article 81 of the Law of Human Labor 51 points to delete provisions of Article 162 of the Labor Law which contains the rules of reimbursement of severance pay to workers who resign. In Article 81 of the Law of Human Labor 52 points to delete Article 163 in the Labor Law related to providing severance pay in the event of layoffs due to changes in status, merger, consolidation, or change in ownership of the company. Article 81 point 53 Work Copyright Act also remove Article 164 of the Manpower Law governing the granting of severance pay in the event of layoffs due to the company suffered losses continuously for two years or circumstances force (force majeure).

Second, the Job Creation Law makes it easier for foreign workers (TKA) to enter Indonesia. This is done through Article 81 points 4 to 11 of the Job Creation Law which amends and abolishes a number of rules regarding foreign workers in the Manpower Act. In the Job Creation Law, the government abolished the obligation of written permission for entrepreneurs who wish to employ foreign workers as stated in Article 81 point 4 of the Job Creation Law. Previously, this obligation was stated in Article 42 point 1 of the Manpower Law which states that every employer who employs foreign workers is required to have written permission from the minister or appointed official. Subsequently, this provision was

changed to an obligation for every employer to have a plan for the use of foreign workers approved by the central government. Furthermore, the government also narrows the scope of positions that are prohibited from being occupied by foreign workers. Previously, this was regulated in Article 46 of the Manpower Law which states that foreign workers are prohibited from holding positions in charge of personnel and certain positions which are regulated by a ministerial decree. However, the government deleted the article through Article 81 point 8 of the Job Creation Law. The government only prohibits foreign workers from occupying positions dealing with personnel.

Third, the Government amended and deleted a number of articles related to the provisions of the Employment Agreement for a Certain Time (PKWT) through the Job Creation Law. One of the controversial points is that the government has removed the maximum limit for contract employees for 3 years in the Job Creation Law. Previously, Article 59 point 1 of the Manpower Law stated that PKWT was only made for work which was estimated to be completed in a not too long time and a maximum of 3 years. However, Article 81 point 15 of the Job Creation Law changes the sound of Article 59 of the Manpower Law so that it only states that PKWT can only be made for jobs that are estimated to be completed in a not too long time. Clearly, the government removed the maximum limit of 3 years. However, the government includes Article 81 point 15 which amends Article 56 of the Job Creation Law if the period or completion of a particular job is determined based on a work agreement. This means that the length of the contract period depends

on the agreement between the employer and the worker or laborer.

Fourth, in the Job Creation Law, Article 81 point 22, to be exact, amends Article 78 of the Manpower Law regarding overtime work. Article 78 of the Manpower Law states that overtime work can only be done for a maximum of 3 hours in 1 day and 14 hours a week. However, in the Job Creation Law, overtime is increased to a maximum of 4 hours a day and 18 hours a week. In addition, Article 81 point 79 to delete the provision that 1-month sabbatical in the 7th and 1 month in the 8th. In fact, in the Manpower Act the provision is regulated in Article 79 paragraph 4 letter d.

Fifth, the Job Creation Law abolishes wages based on province or city/district (UMK) and minimum wages based on sector in provincial or city/district areas as stated in Article 89 of the Manpower Law. Instead, the Job Creation Law states that the governor can set a district/city minimum wage with certain conditions stated in the insertion of Article 88C of the Job Creation Law.

D. CONCLUSION

The government responded to the implementation of the MEA by enacting the Job Creation Law which aims to create jobs and increase foreign and domestic investment by reducing regulatory requirements for business permits and land acquisition. The Employment Creation Law is expected to provide convenience for opening businesses and investments, the implication of which is to absorb more workers. In addition to the positive impact as expected in accordance with the objectives of the establishment of the

Job Creation Law, there are several things that must be considered, especially in the fields of investment and employment. There are two (2) important part in this case can be concluded is viewed from:

- In terms of investment, Job Creation Law Work takes time to change and adjustment of laws and regulations of derivatives, this law also can not directly guarantee investment into Indonesia. The Job Creation Law also revokes some workers' rights, raising concerns about negative perceptions, especially from investors in developed countries.
- In terms of employment, the Job Creation Law also affects Indonesian workers such as threats for workers not to receive severance pay, convenience for Foreign Workers (TKA) to work in Indonesia, and the abolition of the maximum 3 year limit for contract employees. In addition, in the Employment Creation Law there are additional hours of overtime and the loss of long leave and the abolition of the Regency/City Minimum Wage (UMK).

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