

# THE IMPLEMENTATION OF JOB CREATION LAW NO. 11 2020 ON THE EASE OF BUSINESS (The Analysis Of Opportunities And Threats Using The Edwards III Model Approach)

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# THE IMPLEMENTATION OF JOB CREATION LAW NO. 11 2020 ON THE EASE OF BUSINESS (The Analysis Of Opportunities And Threats Using The Edwards III Model Approach)

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## ABSTRACT

The investment procedure in Indonesia is still seen as complex and complicated. The complexity is seen in licensing, land acquisition, taxation, and other investment-related issues. A policy or regulation is required to simplify and accelerate the investment procedure. The existence of the Omnibus law No. 11 of 2021 on Job Creation is expected to make investing in Indonesia easier. However, the case with policies and regulations in general, good regulations are not always well-implemented. As a result, the Edwards III Model approach should be used to examine the execution of Law No. 11 of 2020 about Job Creation Related to the Ease of Business Cluster. The analysis's results showed that four elements will influence the success as well as potential dangers associated with the law's policy implementation, including communication factors, resource considerations, implementer attitude factors, and bureaucratic structure factors.

## INTRODUCTION

The Omnibus Law (Job creation law) was introduced by the President of the Republic of Indonesia during his inaugural speech as President on October 20, 2019. The President's optimism was encouraged by the numerous overlapping regulations and bureaucratic processes. It is believed that the Omnibus law will give good services to the community while also attracting foreign investors to invest in Indonesia.

As reported by okezone.com, Sofyan Djalil, Minister of Agrarian Affairs and Spatial Planning/National Land Agency of the Republic of Indonesia in 2017, once emphasized the necessity for an omnibus law, despite the fact that there were still many conflicting rules that negatively impacted the licensing process. As a result, the government would consider drafting the Omnibus Law in an effort to shorten the licensing process.

Investing in Indonesia was seen as a difficult process. The complexities were obvious in licensing, land acquisition, taxation, and other elements of investment. The Omnibus law's existence was supposed to make it easier for investors to invest in Indonesia.

Investing is a type of investment activity. According to the rules of Article 3 paragraph 2 of Law Number 25 of 2007 on Investment, the objectives of investment implementation were to:

- a) Increase national economic growth

- b) Create jobs
- c) Promote sustainable economic development
- d) Improve the competitiveness of the national business world
- e) Increase national technological capacity and capability
- f) Encourage the development of the people's economy
- g) Manage the potential economy into real economic strength by using funds both from within the country and from abroad, and
- h) Improve people's welfare

The omnibus law is also expected to be a solution to the legislative performance in producing laws that has not been optimized. In comparison, the house of representative of republic of Indonesia had produced 125 laws from 2009 to 2014, but just 84 laws were finished from 2014 to 2019.

The Omnibus law is divided into three (three) clusters, which include the Job Creation Law, the Taxation Law, and the Community Empowerment Law. The three clusters are then subdivided into many sub-clusters. One of the issues that has aroused public debate is the Law on Job Creation; many believed that Job Creation largely benefits large corporations and foreign investors. This law was considered to ignore the protection arrangements regarding labor issues regulated in Law No. 13 of 2003,

regarding the environment as regulated in Law No. 32 of 2009, and regarding natural resources previously listed in Law No. 07 of 2003. 2004. The government is considered only pursuing Ease of Doing Business or increasing the ranking of ease of doing business.

Law Number 11 of 2020 Concerning Job Creation has been promulgated (hereinafter referred to as the Job Creation Law). The law on job creation contains 1,187 pages long. According to smartlegal.id, there are various regulations in the Job Creation Law that provide ease for Micro, Small, and Medium Enterprises (MSMEs), namely: First, Providing Incentives and Convenience for Medium and Large Enterprises Partnering with Micro and Small Enterprises (UMK). According to Article 90 paragraph (1) of the Employment Creation Law, the central government and local governments are required to facilitate, support, and stimulate the activities of medium and large business partnerships with cooperatives, micro enterprises, and small businesses with the goal of increasing competence and business level. The government provides MSE business actors with opportunities to collaborate with medium and large business under this regulation. The collaboration entails the transfer of capabilities in the areas of manufacturing and processing, marketing, capital, human resources, and technology. Then, according to Article 90 paragraph (5) of the Employment Creation Law, medium and large businesses that collaborate with MSEs would be rewarded by the central government. As a result, not only MSEs benefit, but also medium and big businesses that cooperate with MSEs. However, the regulation concerning the providing of incentives must still be regulated under government legislation at the moment.

Second, providing simple financing options and economic incentives. Article 92 of the Job Creation Law provides MSEs with convenience/simplification facilities. The facilities supplied are as follows: MSEs actors are given tax administration convenience/simplification in order to apply for central government financing facilities; MSEs actors who apply for business licenses will be given incentives that are not subject to fees or fee waivers; Certain MSE entrepreneurs may be eligible for customs incentives; certain MSE entrepreneurs may be eligible for income tax (PPh) incentives. Then, according to Article 93 of the Job Creation Law, providing facilities

in the form of MSE activities can be used to guarantee program credit.

Third, make Business Licensing easier. Article 91 of the Job Creation Law provides convenience for MSEs actors to apply for business licenses. The government will provide a business identification number (NIB) to MSEs actors electronically. MSEs actors only need to attach an Identity Card and a business certificate from the government at the level of the neighborhood unit. The business identification number will function as a single license that applies to all business activities. The single license in question includes: Business Licensing Indonesian National Standard (SNI) Halal Product Assurance Certification For the record, if MSE business activities have medium or high risks to health, security, and safety as well as the environment, it is necessary to have standard certification certificates and/or permits. (Article 91 paragraph (7) of the Job Creation Law).

Fourth, provide Special Allocation Funds, Legal Aid, and Assistance. The central government, according to Article 95 of the Job Creation Law, gives a Special Allocation Fund (DAK) to support funding for local governments in the context of empowering and developing MSEs. Furthermore, MSEs will receive legal aid as well as government assistance (Article 96 of the Job Creation Law).

Fifth, the ease of obtaining a halal certificate. According to Article 4 of Law Number 33 of 2014 on Halal Product Guarantee, products arriving, circulating, and trading in Indonesia must be certified halal. These provisions apply to all commodities and/or services relating to food, beverages, pharmaceuticals, cosmetics, chemical products, biological products, genetically engineered products, and things used, employed, or exploited by the general public. According to that requirement, any of the above-mentioned products that are circulated or exchanged, both in retail and in supermarkets, must be certified halal. The duty to be certified halal for MSE business actors is based on a statement made by MSE business actors, according to Article 48 point 1 of the Employment Creation Law. The statement, however, must be based on halal criteria established by the Halal Product Assurance Administration Agency (BPJPH). Then, according to Article 48, number 20 of the Employment Creation Law, UMK business

actors who want to apply for halal certification are permitted to do so.

Several policies related to the ease of doing business for MSMEs in the Job Creation Law, their implementation will be analyzed in the perspective of threats and challenges as in Edward III's Theory

## LITERATURE REVIEW

### Policy Implementation Concept

In a broad sense, policy implementation is viewed as an act of the policy process that begins when the law is adopted by the competent authority and is then carried out by the government, individual to individuals, or community groups to achieve goals. To hold the synchronization, the actions conducted must be able to link between the formulated goals and the realization or results that will be and or have been carried out. According to Grindle (1980:6), as stated by Sofjan Aripin (2013:9), the purpose of implementation is to establish a link that allows the goals of public policies to be realized as outcomes of governmental activity. As a result, it includes the establishment of a "policy delivery system" in which specific means are designed and pursued in the hope of achieving certain goals.

Within an organization, these careful actions are carried out by officials who have the authority using applicable mechanisms and procedures, make use of facilities and infrastructure, and work collaboratively to accomplish goals. Lester and Stewart (2000, 104-105) explain, as cited by Kusumanegara (2010: 97), that implementation refers to the process by which numerous individuals, organizations, procedures, and approaches collaborate to implement policies. On the other hand, implementation is a multifaceted phenomenon that can be viewed as a process, an output, or an outcome.

This concept demonstrates that policy implementation is the process of enacting laws through more operational work programs carried out by actors/implementers in well-organized organizations, using well-defined work procedures and techniques, and cooperating to achieve policy objectives. Indeed, the reality reveals that policy implementation is a complicated process, since it is a system that cannot be separated from its current subsystems (input - process - output) or from its consequence or impact.

The main goal is to maximize the impact of policy implementation; hence, the agreement or consensus of subordinate authorities (implementers) is critical. Additionally, the consensus shows that the implementer's motive and accountability for establishing the organization as a platform for carrying out the mandate for the community's welfare are becoming increasingly apparent. Gross and Berstein identify several aspects that influence consensus in order to accomplish goals in Winarno (2007:153), including the following:

First, participation can create high staff morale and high staff morale which is necessary for successful implementation; second, participation creates a great commitment and a high level of commitment which is required to effect change; third, participation creates greater clarity about an update and clarity for implementation; and fourth, participation facilitates successful implementation; subordinate officials will tend to oppose a reform, if the initiative for policy implementation comes solely from the officials who are their superiors.

According to another perspective, absolute policy execution consists of three (three) essential aspects that are interconnected as a system. The three essential parts, according to Abdullah (1988: 11), are: "1) implementing elements (implementers); 2) the existence of a program to be implemented; and 3) target groups." Administrative units or bureaucratic units are the parties primarily responsible for implementing public policy at the national level (Sharkansky, 1975: Ripley & Grace A. Franklin, 1986). Furthermore, Smith uses the phrase "implementing organization" in Quade (1975:261), implying that the government bureaucracy is in charge of putting public policy into effect.

In a hierarchical position, the government bureaucracy is responsible for implementing policies, and officials in the organizational hierarchy have personnel power. According to Winarno (2007: 159), personnel authority is measured by the following:

First, authorities carry out recruitment and selection, assignments and correlations, promotions, and lastly resignation. Second, authorities have the authority to exercise budget control over existing units, respond to successful or unsatisfactory policy accomplishments, and influence subordinate conduct.

Programs that have been created and agreed upon in advance through public policy decisions are the form that the government is responsible for in terms of implementing policies. "Essentially, the implementation of policies is the implementation of programs," Tachjan (2008: 31) states, "Implementation is that set of activities aimed at putting a program into effect," according to Grindle (1980: 6), as quoted by Tachjan (2008: 31). The program implementor must understand the content of these various operational programs, as well as the program's objectives/targets, budget allocation and accuracy of its designation, proper work methods and procedures, and the clarity of standards that serve as guidelines in their implementation.

### Policy Implementation by Edwards III

Several experts have different opinion on the success of a policy's implementation in practice. This distinction indicates that some scientists believe that policy implementation can be successful if it is supported by mutually reinforcing factors such as an interconnected system, while others believe that variables are involved. The difference in viewpoints is understandable because it is dependent on the context in which the policy experts evaluate it from different perspectives. Several models of policy implementation will be described after evaluating numerous aspects and or variables that affect policy implementation:

Edwards III (1980: 9), as cited by Agustino (2017:136-142), coined the term "Direct and Indirect Impact on Implementation" for his public policy implementation model. According to Edwards III, it is necessary to begin by asking the following questions when examining policy implementation: "What are the preconditions for successful policy implementation?" "What are the preconditions for successful policy implementation? What are the primary obstacles to successful policy implementation?" Edwards attempts to address these two critical problems by outlining four critical characteristics or variables that influence policy implementation.

Edwards III, as cited by Mas Roro Lilik Ekowanti (2018:48), states that there are four critical factors or variables involved in the implementation of public policy: communication, resources, dispositions or attitudes, and bureaucratic structure.

The above-mentioned factors or variables have an effect on the implementation of the law and must work simultaneously and interact in close collaboration with one another in order to assist and facilitate the implementation of the law. If the following information is presented in the form of a diagram showing the relationship between various factors or variables that contribute to the success of a task, whether long-term or short-term, it can be defined as follows:

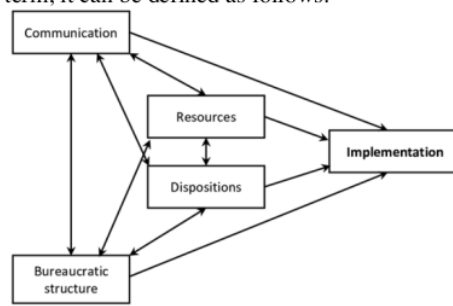


Figure: Policy implementation according to Edwards III (Ekowanti:2018)

According to the figure, communication variables, resources, implementer attitudes, and bureaucratic structure can all have a direct impact on policy implementation. Furthermore, the impact of each element has an indirect impact on policy implementation. In other words, each of these elements influences the others, who then influence policy execution as a whole.

There are other approaches, such as Van Meter and Van Horn policies, Mazmanian and Sabatier, or Merilee S. Grindle. However, there is an argument in this article for using the Edwards III Model because it is considered a simpler way to comprehensively explain policy implementation.

### The study of Job Creation Law Policy Implementation

Many studies and academic publications on the Job Creation Law have been conducted in the field of normative juridical studies, but no studies on policy implementation in the region of public administration have been found. Ima Mayasari (2020) conducted a legal study on the Job Creation Law titled Regulatory Reform Policy Through the Implementation of the Omnibus Law in Indonesia. This study focuses on regulatory reform policies in Indonesia

through the implementation of Omnibus Law, to describe the implementation of Omnibus Law in Indonesia as the primary means of structuring regulations. The normative legal research method was applied in this study. The study's findings indicate that the Omnibus Law should be introduced in Indonesia because it allows for modifications to several laws to be changed in the single law.

In addition, Hernawati RAS and Joko Trio Suroso (2020) conducted the following study, titled *Legal Certainty in Investment Law in Indonesia Through the Omnibus Law*. The purpose of this study is to evaluate and analyze the Legal Certainty of Foreign Investment in Indonesia in the Light of Law Number 25 of 2007 Concerning Investment, as well as how to analyze the arrangement of investment regulations in Indonesia through the Omnibus Law. The study method applied is normative juridical. The study's findings indicate that the government has a strategic role to play in encouraging investment, particularly foreign investment. Foreign investment is supposed to have a positive influence on Indonesia, such as stimulating economic activity, transferring technology, creating jobs, and giving other benefits that benefit people. In order to do this, legal certainty has become a separate issue, acting as an obstacle to the entry of foreign investors into the country. The unclear regulation of foreign investment leads to overlapping rules between the central government and local governments, as well as difficulties in the licensing bureaucracy, which is a common problem in Indonesian investment activities.

#### **Analysis of Law 5 of 2020 Ease of Business Cluster Opportunities and Threats Using the Edwards III Model Approach**

Problems with a policy frequently arise at the implementation stage, because the policy's linked parties (stakeholders) are extremely diverse and complex, and deal with a variety of community characteristics. If a country has a total population of 200 million, it indicates that there are 200 million community characters that must be accommodated when the existing rules are implemented.

Undoubtedly, these various community characteristics play a role as an opportunity factor or a determining factor in policy implementation effectiveness, but they also play a part as a threat component. The major

and small possibilities for success and risks to implementation are also significantly influenced by what, who, where, why, and how the policy is implemented.

In relation to the implementation of Law No. 11 of 2020 on Job Creation for Business Cluster Ease using the Edwards III Model approach in terms of opportunities and threats, the following analyses can be conducted: According to Edwards III, policy implementation is influenced by four elements. These variables include communication, resources, the implementer's mindset, and the bureaucratic system. Furthermore, these elements have an indirect effect on the implementation of policies due to their interaction. In other words, each of these elements has an effect on the others, which then has an effect on policy implementation. Additionally, any factor or variable that has an effect on policy execution, either directly or indirectly, is described as follows.

#### **Communication Factor**

Clarity regarding the policy measures and objectives must be communicated to implementers. Consistency in measurements and objectives must be communicated so that implementers understand the policy's actual scope and objectives. Organizational communication is a highly complex and perplexing process. One may retain it for certain purposes or share it. Moreover, different sources of information will generate different interpretations. To ensure effective implementation, people in charge in making decision must first determine whether they are capable of doing so. Indeed, all workers must accept the policy's implementation and must comprehend the policy's goal and purpose completely and precisely. If policymakers recognize the ambiguity of the policy specifications, they may conclude that they do not understand where the policy will be directed. Policy implementers are doubtful about their actions, which means that if they are forced, they will provide unsatisfactory results. Inadequate communication with implementers has a significant impact on policy implementation.

In the context of the Job Creation Law, Since the bill's drafting, approval, and even now, the Job Creation Law has frequently been opposed in the form of protests or rejection scenarios. This was supposedly due to a lack of

communication, socialization, brainstorming, and hearings during the preparation period and prior to ratification. Many community groups, stakeholders, academics, and company owners, particularly SMEs, have not been represented in the creation of the Job Creation Law.

Because of the speed with which it was drafted, many ideas were unable to be accommodated in the formulation of the Job Creation Act. Because the preparation was so quick, the drafting team was not attentive, as evidenced by the fact that errors remained in the Job Creation Law after it was approved.

Even if the substance of a policy is good, if it is not communicated properly, it can result in rejection or, at the very least, the public believes that the policy was born not from public aspirations, but rather from repression of the authorities' will.

#### **Resources Factor**

This resource component includes the number of staff, the implementers' expertise, relevant and sufficient information to implement policies and the fulfillment of related resources in program implementation, the presence of authority to ensure that the program can be directed as expected, and the presence of supporting facilities that can be used to carry out program activities such as a funds and infrastructure.

Inadequate human resources, both in terms of numbers and capabilities, prevented the program from being fully executed because they were unable to carry out supervision properly. If the quantity of personnel implementing the policy is restricted, the item that must be done is to strengthen the implementers' skills/ability to implement the program. As a result, in order to improve program effectiveness, good human resource management is required.

Based on the resource factor, there are several opportunities that can be utilized for the successful implementation of the Job Creation Law policy, namely human resources in the form of State Civil Apparatus (ASN), even though the percentage of education turns out to be only 50% with undergraduate qualifications, 37 percent of State Civil Apparatus in Indonesia their educational background does not match their competence. However, many of them have routinely received professional education and training to support their performance.

However, various factors can represent a threat to the implementation of the previously mentioned public service policy, such as the placement of personnel/equipment that is still not in accordance with the field of research and competence. Furthermore, the possibility for bribery and gratification is projected to remain, as indicated by the Indonesian corruption index, which has not greatly decreased. So, if the bribery culture remains, the various ease of doing business in the Job Creation Law may not be of much use to MSME business actors.

#### **Disposition Factor**

There are two types of policy implementer attitudes, namely: awareness and comprehension in reacting to the program so that it might be accepted or rejected. Implementers may understand the program's purposes and objectives, yet they frequently fail to properly implement the program because they reject the objectives stated in it, causing them to secretly redirect and avoid program implementation. Furthermore, the support of implementing officials is critical in meeting program objectives.

The leadership's support has a significant impact on the program's implementation in order to achieve goals in an effective and efficient manner. This leadership support takes the form of prioritizing policies, pairing implementers with program supporters, and devoting proportional attention to regional conditions, religion, ethnicity, gender, and other demographic characteristics. Furthermore, appropriate funding must be provided to program implementers in order for them to support and work collaboratively in the implementation of policies/programs.

Only the threat side is found in this factor, specifically officers' obedient behavior as long as there is a reward, and the apparatus' reaction in service remains low, as does leadership commitment to improving service quality. Because the intended incentives are still material/monetary, the size of the rewards can be entirely determined by the amount of nominal money received. While incentives are not always monetary, they might take the form of recognition for accomplishments, rewards, and assistance. Awards and support for implementers remain extremely limited; in fact, there is essentially no recognition or support for the accomplishments of implementers in the sector.

### **Bureaucratic Structure Factor**

Bureaucratic structure in policy implementation plays an important role in addition to communication factors, resources, and behavior of implementers. One of the most basic aspects of this bureaucratic structure is the Standard Operating Procedure (SOP).

Several points from Edward III's opinions concerning essential variables or elements that influence policy implementation, which in this case are related to the Jobs Creation Law police specially the ease of doing business cluster, are important to note: First, significant variables or factors can be performed to measure the effectiveness of a government policy, both nationally, regionally, and locally to improve the welfare of the community according to their needs and expectations. The government must intervene in numerous policies to meet the community's needs and expectations. Because the government has observed the difficulty of the procedure for opening business fields faced by business actors, especially MSME business actors who still face many problems, the complexity of the licensing bureaucracy, the difficulty of getting capital assistance, etc. The Job Creation Law should benefit business actors.

Second, when implementing a policy, the government should ideally be prepared with a variety of options/alternative actions in case something unexpected occurs. In terms of the Job Creation Law, while some groups continue to reject or oppose to the Job Creation Law's material or substance, the government retains the option of taking alternative methods if problems to its implementation arise. These steps include modifying more technical policies in the form of more technical rules, such as government regulations, ministerial regulations, and other sectorial policies. If alternative technical policies fail to fulfill public expectations, additional steps, such as modifying the policy on the Job Creation Act itself, can be implemented.

Third, when implementing policy, the characteristics of the target group must be considered so that the implementer and the target group synergize and, eventually, the policy implementation achieves the intended goals. In connection to the Job Creation Law, the implementer, meaning the government, should be more intensive in its synergy with the

target group, namely business actors and the community in general, who are affected or become targets for the Job Creation Law policy's implementation. With increased synergy, it will be easier to identify common ground on what each party expects.

### **CONCLUSION**

According to the previous discussion, the Job Creation Law's policy regarding the ease of doing business cluster and its implementation in consideration of threats and challenges as Edward II and Edward III theories are as follows: (1) Factor of communication; Since the draft law's formulation, approval, and once approved, the job creation law is frequently rejected. This was supposedly due to a lack of communication, socialization, brainstorming, and public hearings both during the preparation phase and prior to approval. Numerous community groups and stakeholders were excluded out of the Job Creation Law's formulation. (2) The resource factor. The competence and integrity of the state civil apparatus are strongly emphasized in the successful implementation of the Job Creation Law. Competence can be improved by professional education and training, while integrity must be fostered through the application of professional ethics in order to avoid corruption, bribery, and gratuities. (3) The implementer's attitude. There is a potential threat, notably officers' obedient behavior as long as there is a reward, and the reaction of officers in service is still poor, and the commitment of the leadership is still low to improve service quality. Because the expected incentives are still material/monetary, the amount of the incentives can only be determined by the amount of money received. (4) Bureaucracy Structure. Even though it does not influence the bureaucratic institutional structure, the Job Creation Law simplifies procedures so that business players who are starting a business or investing do not have to go through tables or agencies that are too long and complicated.

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