

# CRITICIZING THE MEANING OF GOVERNMENT REGULATION IN LIEU OF LAW NUMBER 2 OF 2022 CONCERNING JOB CREATION (PERPPU NO.2/2022) FOR WORKERS AND ENTREPRENEURS: PERSPECTIVES ON LABOR LAW IN INDONESIA

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**Abstract** - This study aims to investigate and criticize the meaning of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation (Perppu No.2/2022). The methodology used in this study is using a normative juridical method approach. Research findings reveal that Perppu No.2/2022 as the latest labor regulation tends to have no meaning and implications for workers and employers from the perspective of labor law which serves as a mediator between the government, organizations and employers, workers, and trade unions. This study's results are expected to significantly contribute to stakeholders in the labor sector in making and implementing rules and regulations. This scientific contribution concluded that the government is considered to need more political will as mandated by the constitution, the 1945 Constitution. In this case, the government has not answered the essence of the people's lawsuit in the judicial review of Law Number 11 of 2020 concerning Job Creation (UU No.11/2020) to the Constitutional Court, mainly the process of its formation, not the material content. This study is expected to be a reference for academic studies so that all interested parties can follow up on the Constitutional Court Decision (MK) Number 91/PUU-XVIII/2020.

**Keywords:** Perppu No.2/2022, UU No.11/2020, Constitutional Court Decision Number 91/PUU-XVIII/2020, Manpower Law, 1945 Constitution.

## INTRODUCTION

Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation (Perppu No.2/2022) was signed by the President of the Republic of Indonesia Joko Widodo on December 30, 2022. Thus, currently regulations related to labor law in Indonesia are regulated by Perppu No.2/2022. The government issued Perppu No.2/2022 to replace Law Number 11 of 2020 concerning Job Creation (UU No.11/2020) which was declared conditionally constitutional by the Constitutional Court (Kamil, 2022; Hidayat, 2022; Idris, 2023). In this case, the government reasoned that the issuance of Perppu No.2/2022 was carried out by considering the urgent need to anticipate global conditions, both economic and geopolitical.

According to the coordinating minister for Political, Legal and Security Affairs of Republik Indonesia, Mahfud M D, in Putra (2023) explained that the reasons for the potential threat of inflation, stagflation, multisectoral crises, interest rate issues, geopolitical conditions, and food crises trigger the government to take strategic steps as soon as possible, and cannot be done until waiting for the deadline for the Constitutional Court decision as decree Number 91 of 2021. According to Idris (2023), Perppu No.2/2022 as a labor regulation is the most controversial because it concerns the living standards of millions of workers in Indonesia compared to other regulations in UU No.11/2020. According to the Central Bureau of Statistics (2022). The number of labor force based on the National Labor Force Survey (Sakernas) in August 2022 was 143.72 million, and the working population was 135.30 million.

Therefore, the problem of this research is what and how the substance or material of Perppu No.2/2022 as an employment rule for workers and employers from the perspective of labor law. According to Hamid (2021a), labor law is a right that imposes obligations on workers/laborers in



connection with the employment relationship outlined in the employment contract. In general, an employment contract is an employment agreement related to a legal business relationship. It contains rights and responsibilities between the employer and the worker during the employment period, for example: a series of functions that must be performed by an employee, working time, salary, and other benefits agreed by both parties (Hamid, 2021a).

Perppu No.2/2022 has sparked controversy from the labor law perspective, especially about workers and employers. Matters related to the controversial articles in Perppu No.2/2022 are as follows:

1. Article 64 paragraph 1 of Perppu No.2/2022 stipulates that companies can hand over part of the work implementation to other companies through written outsourcing agreements. Furthermore, the government will determine the types of work that can be outsourced through government regulations.
2. Article 88 C paragraph 3 of Perppu No.2/2022, the determination of the district/city minimum wage as referred to in paragraph (2) is carried out if the calculation result of the district/city minimum wage is higher than the provincial minimum wage.
3. Article 88D of Perppu No.2/2022 regulates the minimum wage, which is calculated using a minimum wage calculation formula, considering economic growth variables, inflation and certain indices.
4. Article 88 F of Perppu No.2/2022, This article shows how the whole formula for setting wages only applies when the central government declares certain circumstances.

Therefore, from the perspective of labor law, these two articles are critical issues, for workers it is Article 64 paragraph 1 of Perppu No.2/2022, and for employers it is Article 88D of Perppu No.2/2022. For workers, the government requires outsourcing companies to recruit outsourced workers through one of two work contracts, namely the Certain Time Work Agreement (PKWT) or Indefinite Time Work Agreement (PKWTT) as stipulated in Article 64 paragraph 1 of Perppu No.2/2022. According to the Secretary General of the All Indonesia Workers Organization (OPSI) Timboel Siregar in Idris (2023) stated that the authority to determine the types of work that can be outsourced through the issuance of government regulations (PP) means opening space for the government to revise previous regulations on outsourcing work.

On the other hand, Article 88D of Perppu No.2/2022 regulates the minimum wage for employers. According to the Chairman of Apindo, Hariyadi B. Sukamdani in Putra (2023) stated that the minimum wage (UM) calculation formula that considers economic growth, inflation and certain indices will burden the business world, considering that UUCK No.11/2020 only covers one variable, namely economic growth or inflation. Therefore, the minimum wage formula in the Perppu will cause a shrinkage in employment. Indonesia's minimum wage can become the highest in ASEAN in the next five years (Hariyadi B. Sukamdani in Putra (2023).

Furthermore, the research methodology used in this study is normative legal research, and qualitative descriptive approach emphasizing scientific logic (Bachtiar, 2018), and analyzed in detail (Creswell, 2007) so that these new ideas become the study's findings. The data collection technique uses literature study techniques in the form of notes, books, newspapers, magazines, transcripts, and others derived from secondary data sources from published sources (Kabir, 2018).

Based on various previous descriptions, the focus of this article study, and the subject matter is as follows: "What and how does the Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation (Perppu No 12/2022) mean for Workers and Entrepreneurs in Indonesia? In line with the main problem, this article is entitled: "Criticizing the Meaning of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation for Workers and Entrepreneurs in Indonesia: Labor Law Perspectives". The author's reference in criticizing Perppu No.2/2022 is the Constitutional Court's decision that the UUCK No. 11/2020 issue is more about the formation of laws and regulations (PPP), not on the substance or material of the Law.

Thus, this article sequentially discusses an overview of the global economy and geopolitical tensions, the government considers issuing Perppu No.2/2022, and criticizes the meaning of Perppu No.2/2022. This article concludes with a conclusion.



### 1. Overview of the Global Economy and Geopolitical Tensions

In the last two years, global economic growth has tended to slow to such an extent. The global economy is close to falling into recession - defined as a contraction in annual global per capita income - after emerging from a pandemic-induced recession in 2020 (International Bank for Reconstruction and Development (The World Bank, 2023). In general, per capita income is interpreted as a measure of the amount of money earned by each person in a country or geographical area, and this figure is used to calculate the average income per person for an area to evaluate the standard of living and quality of life of the population (Isnanto, 2022).

According to García-Herrero (2022), the root cause of the global economic slowdown is triggered by several factors as follows:

- a. China has pushed for self-reliance since President Xi Jinping came to power with its landmark Made in China 2025 industrial strategy and, more recently, with its dual-circulation strategy. China's import growth has been disappointing for several years, especially since the start of the Covid-19 pandemic. This is particularly true of imports of manufactured goods now produced in-house by China; this is particularly detrimental to exporters of high-end middle/ manufactured goods, including Japan, South Korea, and Germany.
- b. China is pushing ahead with its standards to hedge against technology separation. Lastly, China also encourages using the renminbi as an international currency, especially among like-minded countries looking for alternatives to the dollar - particularly Russia.
- c. China as a responsible stakeholder in the global order. China is doubling down on its state-driven economic model, with many sectors still closed to foreign competition and a need for reciprocity. This has further weakened Western confidence in China, such as a lack of cooperation during the pandemic, with major disruptions to China-centric supply chains, increasing inflationary pressures. China's tough zero-Covid-19 policy has had negative consequences for a world trying to control inflation; China remains the world's factory but with increasing difficulties due to the restrictions.
- d. China's ambiguous role in Russia's invasion of Ukraine, and growing hostility over Taiwan, with military exercises around the island. It seems highly unlikely - if not impossible - that China-West relations will return towards the previously increased mutual dependence.

According to the International Bank for Reconstruction and Development/The World Bank (2023), extremely high inflation has unexpectedly triggered rapid and synchronous monetary policy tightening worldwide to contain it, including across major advanced economies and in Indonesia. The impact of global economic consideration, very high inflation also affects Indonesia's Gross Domestic Product (GDP) which is successively listed in table 1 as follows:

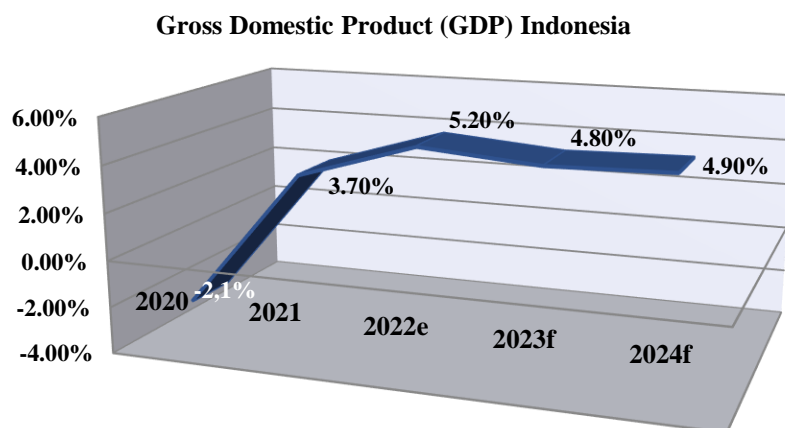
**Tabel 1. Gross Domestic Product (GDP) Indonesia**

Year	2020	2021	2022 e	2023 p	2024 p
Percentage (%)	-2.1	3.7	5.2	4.8	4.9

Source: International Bank for Reconstruction and Development /The World Bank,2023:4

Note: GDP growth rate by fiscal year. The aggregate is calculated using data arranged by calendar year. The column labeled 2022 refers to FY2022/23. GDP growth rate by fiscal year. The aggregate that includes these countries is calculated using data organized by calendar year. The column labeled 2022 refers to FY2021/22, and e = estimate; p = forecast.

In Table 1, it can be interpreted that Indonesia's Gross Domestic Product (GDP) has contracted by - 2.1%. Nudity, in 2021 changed to a positive rate of 3.7%. Meanwhile, Indonesia's GDP is projected to improve at 4.8% in 2023, and at 4.9% in 2024, which can be described in figure 1 as follows:



**Figure 1: Indonesia's Gross Domestic Product (GDP) (processed)**

According to the International Bank for Reconstruction and Development/The World Bank (2023), although this tightening is necessary for price stability, it has contributed to a significant deterioration in global financial conditions, which puts a major drag on activity. These headwinds will deepen given the lag between monetary policy changes and their economic impact, and the fact that real interest rates are expected to continue rising (International Bank for Reconstruction and Development (The World Bank, 2023).

According to Glibin (2013), economic globalization contributes to strong economic growth in some truly developed countries, especially the BRICS (Brazil, Russia, China, India, and South Africa, which Indonesia sometimes adds). Various countries in various parts of the world are trying to recover economically. Over the past two years, since 2021 the Covid-19 pandemic has greatly impacted the global economy (Statista Research Department, 2022) and was exacerbated by energy scarcity, rapid inflation, and geopolitical tensions (Bradley et.al.,2022).

According to the IMF, the global economy is projected to grow by 6.0% in 2021, then moderate to 4.4% in 2022 (Haryono, 2021). Meanwhile, The World Bank Group (2023) stated that the Covid-19 pandemic sent shock waves throughout the world economy and triggered the largest global economic crisis in more than a century. According to Bradley et.al.,(2022), the terrible combination of a global pandemic exacerbated by energy scarcity, rapid inflation, and geopolitical tensions feels like a bunch of earthquakes reshaping our world.

According to Flood (2022), labor market conditions in 2023 will likely bring job losses and a decrease in job openings as monetary tightening by the Federal Reserve further slows economic growth. Furthermore, referring to the release published by Credendo Monthly Overview (2022) that the economic slowdown in many countries is caused by, among others, increasing debt burdens, high inflation, the impact of geopolitical tensions, namely:

- a. The Russia-Ukraine war, in which fighting and sanctions have severely affected the region as well as Europe and the global economy; and
- b. In Asia, there are military tensions around Taiwan, and ongoing trade tensions between China and the U.S. over imposing sanctions on semiconductors to halt Chinese technological development. The impact of the global economy and geopolitical tensions directly on the national economy (Haspramudilla, 2022) so that economic and business policy strategies are needed for the national economic recovery program in 2023.

Based on various previous descriptions, it can be interpreted that the global economy and geopolitical tensions impact the global economic slowdown, including national economic growth. This condition aligns with the view of Cerdeiro et.al., (2022) who stated that geopolitical tensions have increased the prospect that strategic competition and national security concerns can outweigh the shared economic benefits of global trade.



Thus, the potential effects of global and persistent geopolitical conflicts on trade, technological innovation, and economic growth strongly color global economic conditions. Credendo Monthly Overview (2022) released that the global economy is still experiencing financial difficulties, and it is not over which caused an economic slowdown. In this context, the Minister of Finance of the Republic of Indonesia, Sri Mulyani Indrawati in Sopiah (2022) revealed that economic growth in the country in 2023 is expected to be lower than Indonesia's economic growth this year, which is estimated to reach 5.1% to 5.3% (year on year or yoy). Whereas the labor market will continue to tighten while slightly cooling where recessions occur, with slowing wage growth will be limited (Flood, 2022). This condition is a consideration for the government to issue Perppu No.2/2022.

## **2. Government Considerations Issue Perppu No.2/2022**

Observing the dynamics of the global economy and current geopolitical tensions, the Indonesian government considers it necessary to issue a Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation (Perppu No.2/2022) on December 30, 2022. Referring to legal considerations related to matters that are considered or weighing factors for the issuance of Perppu No.2/2022 are as follows:

- a. To realize the objectives of the establishment of the Government of the State of Indonesia and realize a prosperous, just, and prosperous Indonesian society based on Pancasila and Constitution of the Republic of Indonesia Year 1945 (Consideration of Perppu No.2/2022 letter a)
- b. To support job creation, adjustments to various regulatory aspects related to the convenience, protection, and empowerment of cooperatives and micro, small and medium enterprises, improvement of the investment ecosystem, and acceleration of national strategic projects are needed, including increasing worker protection and welfare (Consideration of Perppu No.2/2022 letter c).
- c. To implement the Constitutional Court Decision Number 9 I/PUU-XVIII{ 2020, it is necessary to make improvements through replacement of Law Number 11 of 2020 concerning Job Creation (Consideration of Perppu No.2/2022 letter f)
- d. Global dynamics caused by rising energy and food prices, climate change, and supply chain disruptions have caused a decline in world economic growth and an increase in inflation that will have a significant impact on the national economy which policy mix standards must respond to to increase competitiveness and national attractiveness for investment through economic transformation contained in Law on Job Creation (Consideration of Perppu No.2/2022 letter g).
- e. The conditions referred to, the factor Weighing Perppu No.2/2022 in letter a, letter b, letter c, letter d, letter e, letter f, and letter g has fulfilled the parameters as a compelling emergency that gives authority to the President to enact Government Regulations in Lieu of Law as stipulated in Article 22 paragraph (1) of the Constitution of the Republic of Indonesia Year 1945 (Consideration of Perppu No.2/2022 letter h)

The consideration of Perppu No.2/2022 letters a, b, c, and d is the government's consideration for issuing Perppu No.2/2022. Therefore, Perppu No.2/2022 was issued to avoid a legal vacuum (rechts vacuum), replacing Law Number 11 of 2020 concerning Job Creation (UU No 11/2020). According to Constitutional Court Decision (MK) No.91/PUU-XVII/2020. That UUCK No.11/2020 is formally flawed. This is because the procedures for forming UU No.11/2020 are based on something other than definite, standard, and standard ways and methods, as well as the systematics of law formation. Referring to the Results of the Judges' Consultative Meeting in the Plenary Session of the Constitutional Court open to the public on Thursday (November 25, 2021) as stated in a copy of Decision Number 91/PUU-XVIII/2020 (2020:1-448) decided as follows:

- a. To anticipate the emergence of various other omnibus bills, both similar and multi-cluster clusters, the framer of the law must immediately make changes to the PPP Law by containing the omnibus method within a period of no later than 2 (two) years from the time this decision is read; and
- b. After that the framer of the law can follow up with changes to the law a quo by using the omnibus method.



According to Hamid (2021a), UU No.11/2020, especially in the field of labor, is considered likely to ignore labor rights. This law should be formed and depart from the will of the people who adhere to democratic principles, where the people are the source of sovereignty owned by the state in exercising their power, and the involvement of the wider community should be optimal during the drafting process (Hamid, 2021b).

Ironically, UUCK No.11/2020 has deleted, amended, and inserted several articles contained in UUKK No.13/2003 so that it has an impact on weakening the position of workers when compared to employers (Hamid, 2021b). For example, in the case of termination of employment (PHK), employers are easier to lay off and also related to other workers' rights.

Furthermore, Hamid (2021c) assessed that UUCK No.11/2020 is as follows:

- a. Provide flexibility to be utilized by employers because some matters related to layoffs and others tend to be amputated and reduced and deleted whose purpose is to simplify laws and regulations by this law (Hamid, 2020b; Hamid,2020c) ; and
- b. Deleting, amputating, reducing, and deleting several articles in UU No.11/2020 starkly contrasts workers' rights regulated in Law No. 13 of 2003 concerning Employment (UU No.13/2003). This is completely unjustified because it ignores the provisions stipulated in the 1945 Constitution and the ILO which Indonesia has ratified.

UU No. 11/2020 was declared conditionally constitutional by Constitutional Court Decision No. 91/PUU-XVIII/2020 dated November 25, 2021 (Wikanto, 2022). In this case, Viktor Santoso Tandiasa in Kamil (2022) stated that UUCK No. 11/2020 will be permanently unconstitutional as the Constitutional Court Decision if within two years or until November 25, 2023 is not corrected.

Coordinating Minister for Economic Affairs of the Republic of Indonesia, Airlangga Hartarto with Coordinating Minister for Political, Legal and Security Affairs Mahfud MD and Deputy Minister of Law and Human Rights Edward Omar Sharif Hiariej, at the Presidential Office, Jakarta conveyed in a press statement (Cabinet Secretariat of the Republic of Indonesia, 2023; Wikanto,2022) as follows:

- a. Perppu No.2/2022 is to consider urgent needs, and anticipate global conditions, both economic and geopolitical, to face global recession, rising inflation, and then the threat of stagflation; and
- b. Perppu No. 2/2022 is a legal certainty, including for business actors which is expected to be filled and become an implementation of the Constitutional Court Decision

Based on various previous descriptions, it can be interpreted that Perppu 2/2022 is not relevant in resolving juridical issues as the Constitutional Court No.91/PUU-XVII/2020 decision. This began with the establishment of UUCK No.11/2020, and there were also changes in the writing of some substances after the joint approval of the legislatif (House of Representatives of the Republic of Indonesia - DPR RI) and the President. According to the Deputy Chairman of Commission IX of the House of Representatives, Kurniasih Mufidayati in Putra (2023) that Perppu No.2/2022 in addition to having problems in terms of substance, is also problematic in the process of forming UU No.11/2020 due to the difficulty of the draft of the Job Creation Bill being accessed by the public and often changing.

Thus, Perppu No.2/2022 is considered to have eliminated Constitutional Court Decision No. 91/2020, and the government tends to contradict the law openly. In this context, the government tends to ignore the moral principles of Pancasila, the 1945 Constitution, democratic life, and the principles of Good Corporate Governance (GCG). The House of Representatives of the Republic of Indonesia must first approve the legal standing of Perppu No.2/2022 issued by the president. If the House of Representatives of the Republic of Indonesia agrees, then Perppu No.2/2022 becomes law. Conversely, if the House of Representatives of the Republic of Indonesia does not agree/reject, the Perppu is revoked and declared invalid. The repeal of Perppu is determined through a law submitted by the president/DPR. This is regulated in Law Number 12 of 2011 concerning the Establishment of Laws and Regulations or Law 12/2011 Amended by: Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Establishment of Laws and Regulations, and Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the



Establishment of Laws and Regulations. Therefore, it is necessary to criticize the meaning of Perppu No.2/2022 because this perppu has caused polemics in the wider community at this time.

### 3. Criticizing the Meaning of Perppu No.2/2022

In various labor literature, rules related to workers and employers become important issues. The constitution of the International Labour Organization establishes the principle that workers should be protected (ILO, 1995-2023)). Employment Protection Legislation (EPL), the rules governing the recruitment and dismissal of workers, are usually designed to protect individual workers and society to improve job stability because there is a tendency that employers may overreact to workers (OECD, 2013).

In this case, EPL can be interpreted as a state effort to protect workers in the form of laws and regulations through labor law. Labor law serves as a mediator between governments, organizations and employers, workers, and unions (Eastern Kentucky University Online, 2020). According to Eastern Kentucky University Online (2020), labor law establishes employee rights and responsibilities in various work settings. It can mandate everything from workplace safety and health to workers' compensation.

Lucio and MacKenzie (2017) stated that there is a tendency for the concept of labor law to combine regulation by viewing the state as a coherent unitary actor as well as legislative roles and rule enforcement through various state institutions. Therefore, organizations, companies, and businesses that do not follow regulations related to mandatory labor laws can be subject to penalties and lawsuits (Eastern Kentucky University Online, 2020) in the form of legal actions in the context of Civil Rights Laws (Callister, 2022).

According to Callister (2020), there are five EPL-related categories in employment law as follows:

- a. Civil Rights Laws - Employers may not promote, demote, hire, fire, support, or select employees based on any of several reserved characteristics where employers may not discriminate against employees based on protected classes including: Race, Religion, Gender and gender expression, Age, Ability (disability, or medical condition), Sexual orientation, National origin, and Whistleblowing activity.
- b. Compensation Laws - employers must ensure that employees are compensated in accordance with the law. Several laws surrounding compensation may vary slightly depending on the industry, all of which exist to protect workers' wages. Compensation law covers several areas, including: (a). Minimum wage requirements, (b). Pay and working hours for minors, (c). Overtime pay requirements, (d). Workers' compensation after an accident or injury, and (e). Child labor laws.
- c. Family and Medical Leave Laws - Employers must allow employees to return to work when they are able, if they meet the following criteria: (a). The employee must have worked at least 12 months before the family or medical leave period; (b). The employee must have worked more than 1250 hours in the 12 months before family or medical leave.; and (c). Although employers do not have to pay employees during family or medical leave. Family and Medical Leave Laws allow workers to take time off work for their own medical reasons or to care for family members with medical needs. This includes the needs of pregnancy. Under the law, employees can take 12 weeks off for family and medical leave within 12 months. This time it is not paid, but you cannot fire it or replace it permanently. There are some caveats to this law
- d. Workplace Safety Laws (Occupational Safety and Health Administration or OSHA) - It is important to remember that these standards apply to employees and employers. If the employer does not follow these guidelines and an employee is injured, the employer is liable to pay significant damages. Therefore, employers must create a safe workplace for employees such as: (a). Provide appropriate safety equipment, (b). Train employees properly to perform their jobs and operate machinery appropriately, (c). Only allow certified individuals to work with heavy equipment, (d). Ensure that employees are not under the influence of drugs or alcohol, (e). Warn employees of their rights under OSHA standards, (f). They are not asking employees to violate OSHA standards for any reason.
- e. Work Eligibility Laws - Employers must verify an employee's immigration status before hiring a new worker, and check the age and employment status of prospective employees. Since there are



restrictions in various industries on how old an employee should be, some individuals have limits on their ability to work under the law. In this context, several laws describe who can work and what work they can do. These standards are in place to protect workers, taxpayers, and customers and ensure that every workplace remains fair under the law.

Rawls (1971) states that human rights principles include: (a). The general principles of justice underlie various moral decisions; (b). The ideal of justice lies in social structures (society), such as: social, political, legal, and economic institutions. The structure of society, including the constitution, private ownership of production facilities/infrastructure, competitive markets that require the cooperation of all parties; and (c). The principle of equal freedom for all people (freedom in fighting for legal rights and interests), in which there are aspects of difference and equality, namely the principle of social and economic differences must be regulated to provide the greatest benefit to those most disadvantaged such as welfare, income and authority, while the principle of equality, namely justice for an opportunity.

Therefore, everyone has the same rights and opportunities to obtain freedom in accordance with the principle of human rights. Then, the applicable legal regulations must be able to realize general welfare and order, which has juridical consequences. Juridical consequences can be interpreted as all legal acts committed by every citizen and state official, where all actions must be based on naka law considered valid. In this case, law is a necessary rule and plays a strategic role in almost every aspect of life (Hamid, 2022).

According to Hamid (2021c), legal protection for workers is absolute and important in the context of labor law in Indonesia. They are referring to the legal system in force in Indonesia that the Government Regulation in Lieu of Law, (Perppu) is regulated in Article 22 paragraph (1) of the Constitution of the Republic of Indonesia of 1945 (1945 Constitution) which stipulates that in the event of a compelling emergency. In this context, the President has the right to enact government regulations in lieu of laws as also stipulated in Law Number 15 of 2019 (Law N015/2019) concerning Amendments to Law Number 12 of 2011 concerning the Establishment of Laws and Regulations.

Article 1 point 4 of Law N015/2019 states that Government Regulations in Lieu of Law are laws and regulations stipulated by the President in case of a compelling emergency. However, the issuance of Perppu No.2/2022 elicited a counter reaction from legal practitioners, academics and others. According to the Coordinator of the Legal Counsel Team for Job Creation Law Claimants, Viktor Santoso Tandiasa in Kamil (2022) considered that the issuance of Perppu No.2/2022 was an act against the law and a defiance of the constitution.

Chairman of the Indonesian Legal Aid Foundation (YLBHI), Muhammad Isnur in Fury (2022 ) has the same view as the Editor of Belasting (2023), considering the issuance of Perppu No.2/2022 is a form of betrayal or coup against the Constitution of the Republic of Indonesia. UU No. 11/2020 was declared conditionally unconstitutional by the Constitutional Court (MK) on November 25, 2021 through Decision Number 91/PUU-XVIII/2020.

This view is in line with the opinion of Constitutional Law Expert from Andalas Padang University, Feri Amsari in the CNN Indonesia Team (2022) who considered that the act of issuing Perppu No.2/2022 was unconstitutional because UU No. 11/2020 had been declared conditionally unconstitutional by the Constitutional Court and the Constitutional Court mandated improvements within a period of two years until November 25, 2023.

Meanwhile, a lecturer from the Indonesian College of Law (STH), Jentera Bivitri Susanti in the CNN Indonesia Team (2022) believes that Perppu No.2/2022 is a cunning step in democracy, the government takes shortcuts. Furthermore, Lecturer of Constitutional Law, Faculty of Law, Universitas Islam Indonesia (FH UII), Anang Zubaidy in Hidayat (2022) believes that issuing Perppu 2/2022 is inappropriate. Therefore, Perppu 2/2022 does not resolve the formal issues in UU No. 11/2020 as stated in Constitutional Court Decision No. 91/PUU-XVII/2020. The Constitutional Court in its decision considered that UU No. 11/2020 was problematic from the aspect of the process of forming the Law, so the Constitutional Court asked the government to make improvements within 2 years since the Constitutional Court Decision No. 91/PUU-XVII/2020 was read on Thursday (25/11/2021).





From the labor aspect, the contents of Perppu No.2/2022 for workers elicited strong responses and caused criticism from the wider community. The President of the Confederation of Indonesian Trade Unions (KSPI), Said Iqbal, and also the Secretary General of the All-Indonesia Workers Organization (OPSI), Timboel Siregar in Akhmad (2023), firmly reject the issuance of Perppu No.2/2022, and this Perppu only makes the rules more unclear and forces that UU No. 11/2020 is not contested.

Said Iqbal in Akhmad (2023) stated that the contents of Perppu No.2/2022 are not much different from the Omnibus Law, UU No. 11/2020, and should be adjustable, especially related to 9 (nine) points as follows:

- a. The determination of the minimum wage, the rules for determining the minimum wage (UM), the determination of the minimum wage for districts/cities (UMK) mentioned can be decided by the governor, and the determination of UM is based on inflation coupled with economic growth. The existence of sectoral minimum wage rules is also not found in the Perppu, even though workers/workers want the existence of these wages. The rules for determining UM in article 88 of Perppu No.2/2022 which reads, "Further provisions regarding wage policies are regulated in Government Regulations". In certain circumstances the government may establish a new formulation, meaning that the Minister of Manpower can change the formula. All industrial sectors can be changed, right, not all sectors can't afford it, some can afford it. Don't change the formula.
- b. Outsourced labor, outsourcing is still allowed with an explanation of the types of work
- c. Severance payments, the unchanged severance provisions of Law No. 11/2020, should return to Law No. 13/2003
- d. Provisions of a Certain Time Work Agreement (PKWT), there is a period for PKWT in accordance with Law No.13/2003.
- e. Regarding Termination of Employment (PHK), layoffs must have permission from the Directorate General of Industrial Relations and Employment Security of the Ministry of Manpower
- f. The existence of foreign workers (TKA), unskilled foreign workers or manual laborers are prohibited from working in Indonesia.
- g. Regarding criminal sanctions, returning the provisions of criminal sanctions to Law No.13/2003
- h. Regarding working hours, the regulation of working hours returns to the same law with criminal sanctions.
- i. Related to sabbatical. want sabbatical rules to remain

Then, from the employment aspect of Perppu No.2/2022 for entrepreneurs that this perpu until issued is not involved at all.protection to export-oriented labor-intensive companies (Deputy Chairman of the Provincial Leadership Council (DPP) Apindo DKI Jakarta, Nurjaman in Akhmad, 2023). According to Nurjaman in Akhmad (2023), labor costs are among the second largest costs after materials in labor-intensive companies. Furthermore, the point that worries employers is the minimum wage formula (UM).

According to the Chairman of Apindo, Hariyadi B Sukamdani in Akhmad (2023), the minimum wage formula in which inflation is added economic growth multiplied by a certain index will shrink the workforce because Indonesia's minimum wage has the potential to become the highest in ASEAN in the next 5 years, and also results in declining job creation conditions.

Based on the views of legal practitioners and academics, trade union leaders and employers as business actors, it can be interpreted that Perppu No. 2 of 2022 does not solve juridical problems as mandated by the Constitutional Court (MK) Decision. This resulted in a variety of reactions from the wider community. Perppu No.2 of 2022 differs from Constitutional Court Decision No.91/PUU-XVII/2020, which requires improvements to the formation of UUCK NO.11/2020 to be carried out immediately with a law-forming mechanism. The issuance of Perppu No.2 of 2022 is a step by the government to meet improvements within 2 years. Otherwise, overall, UU NO.11/2020 will be declared unconstitutional. On the other hand, from the employment aspect, Perppu No.2 of 2022 is also considered very detrimental to workers and employers. Therefore, Perppu No.2 of 2022 must be adjusted to the Employment Protection Legislation or EPLm and human rights and constitutions related to the right to decent work and livelihood for workers and employers.

Thus, referring to the five categories related to EPL in the perspective of labor law, it can be interpreted that the Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation (Perppu No.2/2022) for Workers and Employers is considered not in accordance with the 1945 Constitution, and also does not reflect the principle of human rights. According to Article 27 paragraph 2 of the 1945 Constitution (1945 Constitution), every citizen has the right to work and a decent living for humanity. While Article 28 D paragraph (2) of the 1945 UUC, states that everyone has the right to work and to receive fair and decent remuneration and treatment in employment relations.


### CONCLUSION

The views and legal interpretations of the issuance of Perppu No. 2 of 2022 related to the stipulation of Perppu No. 2/2022 concerning Job Creation by the president, triggered polemics, and mixed responses from the wider community in Indonesia on this, both pro and con. From the pro side, the government stated that Perppu No.2 of 2022 is very urgent and very important to be issued. This is due to the compelling urgency regarding global economic implications, geopolitical tensions, and legal vacuums related to the labor sector after the Constitutional Court (MK) Decision. On the countryside, workers, employers, practitioners and legal experts who are concerned about the labor sector and the wider community are of the view that the government should be able to comply and follow up on Constitutional Court Decision No.91/PUU-XVII/2020, requiring immediate improvement in the formation related to UU NO.11/2020 through a law-forming mechanism within a period of 2 years. Therefore, from the labor law perspective, Perppu No.2 of 2022 is expected to contain rules related to the Employment Protection Legislation or EPL elements. EPL has elements including Civil Rights Laws, Compensation Laws, Family and Medical Leave Laws, and Workplace Safety Laws (Occupational Safety and Health Administration or OSHA). Perppu No.2 of 2022 must meet human rights principles. Thus, Perppu No.2 of 2022 issued by the government is expected to be rejected by the House of Representatives of the Republic of Indonesia as stipulated in the applicable laws and regulations concerning establishing laws and regulations.

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