Omnibus Law and the Challenges of the Indonesian Agricultural Sector: an Islamic Perspective

Tengku Harunur Rasyid1*, Yeni Kusumawaty2

1Regional Planning, Research and Development Agency of Riau Province, Pekanbaru, Indonesia
2Agribusiness Department, Faculty of Agriculture, University of Riau, Pekanbaru, Indonesia

ARTICLE INFO

At the end of 2020, the Indonesian Parliament approved the Job Creation Law, commonly known as the "Omnibus Law", which introduces key amendments to several sectors, including the agriculture sector. Through this legislation, the Indonesian government plans to increase food trade and open up opportunities for the private sector to be more involved in increasing Indonesia's agricultural productivity. However, many observers consider that the Omnibus Law is unfavourable for farmers and the agricultural sector because it no longer requires the government to prioritize local agriculture products, and only imposes an obligation on the government to increase the productivity of local agriculture. Imports become one of the main sources of domestic food supply, apart from domestic production and national food reserves. The law will also remove the restriction for foreign investment in the horticulture sector and introduce a land bank to collect vacant land which will be redistributed by the government. Based on this background, this article aims to provide an overview of the impact of the Omnibus law on the current agricultural sector in Indonesia. A descriptive analysis method is used to compare the Omnibus Law with the original laws relating to the agriculture sector. Finally, by taking on an Islamic perspective, it will discuss the substance of the Omnibus law, the essence of the Indonesian agriculture sector in relation to relevant regulations in terms of challenges and upcoming prospects, as well as policy implications as a conclusion.

1. INTRODUCTION

At the end of 2020, during the COVID-19 pandemic and after numerous public dialogues, the Indonesian Parliament passed into law, namely Law Number 11/2020 on Job Creation, and commonly known as the Omnibus Law. Omnibus Law is defined as a (new) law that contains or regulates various subjects for the simplification of several applicable laws (Black, 1990). Although the concept of “Omnibus Law” is not a new concept in the world, but this concept is more often used in Common Law countries such as the United States, Canada and Ireland than in countries with a Civil Law legal system such as Indonesia (Sodikin, 2020). Omnibus Law is considered as an answer to the problem of overlapping laws and regulations in Indonesia. According to the government perception, the application of this concept has 3 (three) benefits, eliminating overlapping rules, the efficiency of the process of change or revocation of legislation and eliminating the egos by sector contained in various laws and regulations (Rafani & Sudaryanto, 2020a).

Considered as the single largest set of policy reforms since Indonesian democracy began two decades ago (Sihombing & Hamid, 2020), the basic principles of the omnibus law are to create jobs through facilitating, protecting, and empowering cooperatives and micro, small and medium enterprises, improving the investment ecosystem and facilitating business, central government investment and accelerating national strategic projects (Article 1 of the omnibus law).

The omnibus law is present as a government breakthrough to break the deadlock and stagnation in increasing the competitiveness of the national economy. While controversial, the law also promises comprehensive reform that would invite investments and help create jobs across various sectors, including in agriculture (Karim, 2020). Through
this legislation, the Indonesian government plans to increase food trade and open up opportunities to involve the private sector more in increasing Indonesia’s agricultural productivity.

However, many observers consider that the Omnibus Law is dangerous for farmers and the agricultural sector because it no longer requires the government to prioritize local agriculture products (Musyaffa, 2020), and only imposes an obligation on the government to increase the productivity of local agriculture (Astuti, 2020; Kamil, 2020). Imports become one of the main sources of domestic food supply, apart from domestic production and national food reserves. The law will also removed restriction for foreign investment in horticulture sector and introduced the land bank to collects vacant land which will be redistributed by the government (Akhlas, Ghaliya, & Artonang, 2020).

Based on this background, and seeing the importance of the agricultural sector for all Indonesian people and also its current condition, it is very important to know the potential impact of the enactment of the omnibus law on this sector. Therefore, this study aims to understand the changes that have occurred as a result of the omnibus law on laws relating to the agricultural sector. In addition, this article will also analyze the potential challenges that will arise for the Indonesian agricultural world in the future due to the implementation of the omnibus law. Finally, this study also aims to introduce alternative management of the agricultural sector based on an Islamic perspective.

Apart from a few articles in the newspaper providing comments and criticism on the impact of omnibus law towards the Indonesian economy, no wide ranging or in-depth research on agriculture sector has been conducted. Nor has any studies been undertaken using Islamic perspective as a basis of analysis, most of them are using secular pragmatic approach, such as Anggraeni & Rachman (2020) and Sihombing & Hamid (2020). This study proses to fill that gap by using an Islamic viewpoint to describe and analyse the potential challenges arise from the omnibus law and proposing alternatives for Indonesian agriculture sector.

2. RESEARCH METHODS

This study is a desk research or secondary research which involves using information that others have gathered through primary research. The secondary research process consists of four steps that can be repeated if needed: (1) identifying the subject domain and related information sources; (2) collecting data; (3) comparing data from various sources if possible; and (4) analysing the data. Materials used in this research are external secondary data which includes sources from newspaper, policy brief, academic journals and other publications related to the topic. A descriptive analysis method will be carried out by comparing the the Omnibus law with the original laws relating to agriculture sector. Then, by using Islamic perspective, it will discusses the substance of Omnibus law, the essence of Indonesian agriculture sector in the respected regulation in terms of challenges and upcoming prospect, as well as policy implications as a conclusion.

Data analysis applied was content analysis, which is "a research method that provides a systematic and objective means to make valid inferences from verbal, visual, or written data in order to describe and quantify specific phenomena" (Downe-Wambolt, 1992 cited in Bengtsson, 2016). Content analysis can be used on all types of written texts no matter where the material comes from Bengtsson (2016), and in this case, the material is the text of Omnibus Law and the original law. In this study, the material of the Law was divided into categories (categorisation stage) on the basis of main issues related to Indonesian agriculture sector and then compiled to draw conclusion (comments and criticism).

3. RESULTS AND DISCUSSIONS

3.1. Key Changes by Omnibus Law in Indonesian Agriculture Sector

In a broad sense, agriculture is a sector that produces food sources for all mankind. Agriculture is the activity of managing biological natural resources with the help of technology, capital, labor, and management to produce agricultural commodities which include food crops, horticulture, plantations, and/or livestock in an agro-ecosystem (IPB University, 2020).

The omnibus law includes agriculture as a sector where business licensing needs to be simplified and investment facilities need to be provided. In the context of agro-maritime, this omnibus law also regulates the marine and fisheries sector. There are ten origin laws that have been amended by the omnibus law in order to facilitate business licensing and investment requirements in the agricultural sector, namely: (1) Law 39/2014 on Plantations; (2) Law 29/2000 on Protection of Plant Varieties; (3) Law 22/2019 on Sustainable Agriculture Cultivation Systems; (4) Law 19/2013 on Protection and Empowerment of Farmers; (5) Law 13/2010 on Horticulture; (6) Law 18/2009 on Husbandry and Animal Health; (7) Law 31/2004 on Fisheries; (8) Law 41/2009 on Protection of Sustainable Food and Agriculture Land; (9) Law 18/2012 on Food; and (10) Law 17/2019 concerning Water Resources.
The authors have summarized several important issues caused by the Omnibus Law related to Indonesian agriculture sector in Table 1. These issues will be discussed and analyzed deeper in section 3.1.1. until section 3.1.9.

<table>
<thead>
<tr>
<th>Main Issues</th>
<th>Original laws</th>
<th>Omnibus Law</th>
</tr>
</thead>
</table>
| **Import of agricultural commodities** | • Import is intensely restricted, granted only if domestic production is insufficient.  
• Import restriction acts as an instrument to protect farmers.  
• Penalize actors who import agricultural commodities when the national stocks are still sufficient.  
• Import for horticulture products, livestock and animal products are only allowed when domestic production and supply is insufficient to fulfill the domestic need.  
• Import of feeder cattle is limited to certain weight.  
• The import of horticulture, livestock and animal products, and food require permit from the ministry. | • Import is acknowledged as a legitimate source for food security, 'with consideration of farmers/fishermen/micro and small food actors interests through tariff and non-tariff measures';  
• The government focuses on boosting agricultural growth as a strategy to protect farmers.  
• Remove the article which penalizes actors importing agricultural commodities when national stocks are sufficient.  
• Import of horticulture, livestock and animal products are allowed.  
• Weight limitation on import of feeder cattle is removed.  
• The import of horticulture, livestock and animal products, and food require a business license from the central government. |
| **Export of agricultural commodities** | • The export of livestock seed, breeder, and feeder cattle requires permission and recommendation from the ministry.  
• The export of superior seeds requires permission and is regulated under the ministry.  
• Export of plants, plant seed, animal and animal can only be commenced if domestic stocks are sufficient with permission from the ministry. | • The export of livestock seed and breeder requires business licensing from the central government.  
• The export of superior seeds requires business licenses from the central government.  
• Export of plants, plant seed, animal and animal seeds can only be commenced if domestic stocks are sufficient with permission from the central government. |
| **Foreign investments** | • Foreign investment is limited in plantation and in livestock/animal husbandry, foreign investors must work with domestic partner  
• Foreign investment capped at 30% in horticulture | • No limit of foreign investment for plantation, horticulture, and livestock/animal husbandry. |
| **Access to agricultural input** | • Import licenses needed to import horticultural seeds.  
• Seed importation can be commenced after obtaining licenses from the Minister.  
• Import of livestock seed and/or breed requires compliance to quarantine regulations and other sanitary-phytosanitary measures.  
• The provisioning and development of livestock seed and breed is undertaken by prioritizing domestic production.  
• The provisioning of veterinary drugs prioritizes domestic production. | • Provisions on horticultural seed import licensing is removed.  
• Seed import can be done by private sectors after obtaining business licenses from the central government.  
• Governmental bodies have to obtain importation licenses from the central government before importing seeds.  
• Article 15(2) Law 41/2014 regarding compliance to sanitary-phytosanitary measures on import of livestock seed and/or breeder is removed.  
• Import is allowed to fulfill the need of livestock seed and breeder.  
• Import of veterinary drugs is allowed. |
| **Environmental protection** | • Plantation businesses must submit environmental impact assessment, risk analysis and management for genetically modified commodities, and mechanism to prevent wildfire as requirement for permit; and must comply with said requirements.  
• Land acquisition for public purposes must submit an environmental impact assessment. | • Environmental requirements and its sanctions are removed, will be clarified in Government Regulation.  
• Environmental impact assessment is no longer a requirement for land acquisition. |
| **Agricultural land** | • Middle and large-scale horticultural businesses need to request land utilization rights (HGU) from the government.  
• Prohibition to convert irrigated agricultural land for national strategic projects (Law 22/2019). | • Middle and large-scale horticultural businesses do not have to propose HGU from the government.  
• Irrigated agricultural land can be now be converted for national strategic projects.  
• Creation of Land Bank, at least 30% of the Land Bank asset are allocated for agrarian reform purposes. |
| **Agricultural business registration** | • Micro and small horticulture businesses have to submit their data to the regional government while middle and large-sized businesses have to obtain their licenses from the central government.  
• The production of animal feed for commercial purposes, livestock farming, plantation processing business, horticulture business, require a business permit. | • All horticultural business units have to be recorded and obtain their licenses from the central government.  
• Production of animal feed for commercial purposes, livestock farming, plantation processing business, horticulture business must obtain business licensing from the central government. |
| **Requirement for agricultural business** | • Plantations must provide/facilitate community plantation at least 20% of its area.  
• Plantation processing business must source its raw materials from its own plantation.  
• Foreign horticultural business actors have to provide internship and transfer technology. | • Requirement to provide community plantation of at least 20% of plantation area now only applies to plantations with areas outside the cultivation rights (HGU) and areas that was previously released from forest areas.  
• Requirement to source raw materials from own plantation is removed.  
• All middle and large-sized horticultural business actors have to provide internship and transfer technology opportunity. |

Source: (Center for Indonesian Policy Studies, 2020)
3.1.1. Protection of Sustainable Cultivation and Agricultural Land

Spatial planning in rural areas seeks to protect the need for land for food production in the form of perpetual land areas for food agriculture. Law 22/2019 concerning the Sustainable Agriculture Cultivation System mandates a prohibition on everyone not to convert land that has been designated as agricultural cultivation land (DPR-RI, 2019b). However, the law accommodates the conversion of land for agricultural cultivation when the land is in conflict with its use for the public interest. Whereas the spirit built by the Law 41/2009 on Protection of Sustainable Food and Agriculture Land is to protect productive agricultural resources by making them permanent agricultural land in the context of providing national food (DPR-RI, 2009).

According to the explanation of Article 124 Paragraph (2) of the omnibus law, what is meant by public interest is the interest of the majority of the community which includes the interests of constructing public roads, reservoirs, dams, irrigation, drinking water or clean water channels, drainage and sanitation, irrigation buildings, ports, airports, railway stations and roads, terminals, public safety facilities, nature reserves, and power plants and networks (DPR-RI, 2020). Referring to this explanation, food production is not included in the public interest even though food is the basic need of human life. Food is also not included in the National Strategic Project (NSP).

Regrettably, food and people’s agricultural areas are not part of the public interest or national strategic issues. Even though Law No. 41/2009 is presented in order to control the rate of conversion of rice fields, especially rice fields with technical irrigation so that they can support national food security, even agricultural land that has been determined by the Detailed Spatial Plan (RDTR) does not escape the threat of conversion to non-agriculture if it become the object of public interest and/or NSP according to the Omnibus Law.

Mulyani et al. (2016) showed that the rate of change of paddy fields in Indonesia in the decade 1989 - 1999, amounted to 96,512 per year. Meanwhile, the average rate of land conversion from 2000 to 2015 was 12,347 thousand hectares per year or 0.27%. The rate of conversion of paddy fields is so high that it threatens national food security. Conversions of agricultural land to non-agriculture are in the form of private housing (real estate), industrial areas, office areas, toll roads, and conversion to oil palm plantations.

Data from the Ministry of Agriculture also shows that the conversion rate of irrigated agricultural land in 2011-2014 only decreased by 0.76% or equivalent to 250,512 ha. This decrease was more dramatic in the 2015-2018 period, namely 1,892,556.49 hectares or 6.50%. Meanwhile, non-irrigated land in 2011-2014 experienced an increase of 2.28% but in the 2015-2018 period it decreased again by 0.44% (Rondhi, Pratiwi, Handini, Sunartomo, & Budiman, 2018).

It can be said, the omnibus law, that prioritizes land-based economic growth that is intended for large-scale business actors, has the potential to trigger a more dramatic and significant rate of conversion from agriculture to non-agriculture. This, of course, seriously threatens Indonesian national food security.

3.1.2. Siding with Large-Scale Plantations

Article 29 of the omnibus law regulates several provisions in Law 39/2014 on Plantations. There are twenty-six articles of the origin law which have been amended, namely Articles 14, 15, 16, 17, 18, 24, 30, 35, 39, 40, 42, 43, 47, 48, 58, 60, 67, 70, 74, 75, 93, 95, 96, 97, 99, and 103. In addition, omnibus law deletes seven articles of the origin law, namely Articles 31, 45, 49, 50, 68, 105, and 109. Thus, of the 118 articles of the Plantation Law, a total of 33 articles have been amended and/or deleted by the omnibus law.

The abolition of Articles 105 and 109 of the Plantation Law by the omnibus law shows how easy it is for business actors to build plantation companies in Indonesia. Article 105 of the Plantation Law mentions sanctions for companies that do not have a Plantation Business Permit while Article 109 mentions sanctions for business actors who do not implement environmental impact analysis, environmental risk analysis, and environmental monitoring (DPR-RI, 2014).

Article 95 of the Plantation Law stipulates provisions for business development to be prioritized through: (1) domestic investment; (2) the amount of foreign investment must be limited by taking into account the national interest and the Planters; and (3) restrictions on foreign investment are made based on the type of plantation crops, business scale, and conditions of a certain area. However, Article 95 of the Plantation Law has been amended by the omnibus law by removing this provision and replacing it with the phrases ‘investment’ and ‘paying attention to the interests of planters’ (DPR-RI, 2020).

What about the ecosystem or environment for community agricultural lands that are adjacent to plantation companies? Is there a guarantee regarding the absence of pollution and environmental damage caused by plantation companies? The protection of communities around plantation companies and ecosystem protection have been ignored by the omnibus law in the name of facilitating licensing and investment for plantation companies.
As Article 22 of the Law 22/2019 on Sustainable Agriculture Cultivation System takes into account the interests of the environment and the carrying capacity of the region but is removed through Article 31 Number (2) of the omnibus law, similar neglect in the plantation sector also occurs. The abolition of Articles 45, 67 and 68 of the Plantation Law, has confirmed that the omnibus law, in the name of ease of business licensing and investment, has indeed compromising environmental sustainability aspects.

3.1.3 Farmers Protection Towards Food Liberalization

Article 32 of the omnibus law regulates several provisions in Law 19/2013 concerning the Protection and Empowerment of Farmers. The articles of the origin Law were amended as many as two articles, namely Articles 15 and 30, and deleted one article of the Origin Law (Article 101). The farmers protection strategy in Article 7 Paragraph (2) of the Law 19/2013 referred to in Article 32 Number (1) of the omnibus law reads as follows: “Farmer protection strategies are carried out through: (a) Agricultural production infrastructure and facilities; (b) business certainty; (c) Prices of Agricultural Commodities; (d) elimination of high cost economic practices; (e) compensation for crop failure due to extraordinary events; (f) early warning system and response to climate change impacts; and (g) Agricultural Insurance”.

Article 32 of the omnibus law relating to the protection and empowerment of farmers actually has nuances that are far from the intention to protect itself. The omnibus law loses its meaning when the rate of food imports floods the domestic food market which will have a domino effect on the sluggishness of farmers in the agricultural business, structural poverty of farmers, and impartiality to national agriculture. Moreover, there are no sanctions for food import business actors in the midst of domestic food sufficiency. This food liberalization leaves the choice of local or imported food to the consumer’s decision. On the other hand, access to the market network of local farmers is often unable to compete with importers who have more network capabilities and capital in controlling all modes of market segments. Thus, article 32 Number (1) of the omnibus law shows the impartiality of the omnibus law towards Indonesian farmers.

This significant change from Article 22 of the Origin Law does not only show how ignorant the omnibus law is to environmental aspects and the carrying capacity of the region for the benefit of business actors, even in the name of strong alignments with business actors, the omnibus law through amendments to Article 22 of the Origin Law explicitly ignores protection to indigenous peoples as agriculture subjects. Business actors who violate are only given administrative sanctions based on Government Regulations (DPR-RI, 2013).

3.1.4 Plants and Horticultural Variety Protection

Article 30 of the omnibus law regulates several provisions in Law 29/2000 on Plant Variety Protection (PVP Law). The articles of the Origin Law that have been amended are five (5) articles, namely Articles 11, 29, 40, 43, and 63 (DPR-RI, 2000). Through the omnibus law, the potential for biological and environmental pollution from the invasion of transgenic plants or genetically modified plants is unavoidable, as is the amendment of Article 11 of the PVP Law to Article 30 Number (1) of the omnibus law.

The change in the substance of Article 11 of the PVP Law in Article 30 of the omnibus law shows that agricultural liberalization requires state income through Non-Tax State Revenue. Even the provision regarding information on transgenic varieties (Paragraph 2 Article 11 of the PVP Law) has also been removed through the omnibus law. This not only contradicts efforts to protect germplasm, biodiversity, and local wisdom, but also the rights of consumers to information on correct and traceable foodstuffs, resulting in a loss of track record.

The emphasis on increasing the economic coffers from the aspect of Non-Tax State Revenue is emphasized by the omnibus law in all articles of the PVP Law (Articles 11, 29, 40, 43, and 63). It is clear that the article-by-article changes of the Origin Law are not in the context of an equal change, but rather lead to the substance of emphasis that the omnibus law wants to pursue. The motive to enlarge the field of non-tax state revenue is very vulgar as stated by the omnibus law.

The state's alignment with agriculture and the nation's food sovereignty can be seen from how the state protects germplasm, local plant breeders, and protects small farmers. Through Article 33 of the omnibus law, which makes adjustments to the Horticulture Law (DPR-RI, 2020), it shows that the state is very much in favor of agricultural liberalization and to big company.

The breadth of agricultural liberalization and siding with large-scale horticulture export-import actors is also reflected in the abolition of Article 63 of the Horticulture Law by the omnibus law and the amendment of Article 88 of the Horticulture Law.
Efforts to build Indonesia's food and seed sovereignty are also increasingly lost with various changes to the Articles of the Horticulture Law in the omnibus law. Various facilities for importing horticultural products are widely opened by the omnibus law. Even protection for horticultural farmers and the products they produce is becoming increasingly marginalized.

Foreign investment-based investment is also no longer limited by the omnibus law. Partisanship and prioritizing domestic investors are no longer protected. Amendment to Article 100 of the Horticulture Law emphasizes the government's efforts to encourage investment in horticulture businesses or foreign investment-based agricultural businesses.

The abolition of Article 126 and Article 131 of the Horticulture Law shows how the omnibus law provides a large red carpet and almost unlimited discretion to foreign investors. It can be seen in Article 126 which was deleted that the regulation was related to criminal sanctions and fines, which allowed violations in the horticulture sector not to be legally processed (DPR-RI, 2010). Meanwhile, the abolition of Article 131 of the Horticulture Law will make it easier for foreign investors to invest and crush local horticultural farmers with small capital and without regulatory protection.

With the reduction in the authority of the Ministry of Agriculture, it is possible for "legal corruption" to occur due to policies that protect corrupt practices. This omnibus law ultimately ensures the centralization of power and the reign of the economic oligarchy and the cartel system.

3.1.5. Water Resources Protection for Agriculture

Article 53 of the omnibus law regulates several provisions in Law 17/2019 concerning Water Resources. Law 17/2019 has been relatively recently issued and the public still responds negatively because of its alleged impartiality to the community. However, the articles in origin law that are affected by adjustments by the omnibus law are quite high. A total of sixteen articles, namely Articles 8, 9, 12, 17, 19, 40, 43, 44, 45, 49, 50, 51, 52, 56, 70, and 73 of the total 79 articles of the Water Resources Law that have been amended via omnibus law (DPR-RI, 2019a). However, there are no articles that have been deleted or added by the omnibus law related to water resources.

Thus, changes to the water resources law in the omnibus law have given power to the private sector or business actors in managing Water Resources. Meanwhile, the rights of the community have actually been weakened as stated in Article 53 Number (2) that "...Control of Water Resources as referred to in paragraph (1) is carried out by the Central Government and/or Regional Government in accordance with norms, standards, procedures and the criteria set by the Central Government while still recognizing the customary rights of local Indigenous Peoples and similar rights as long as they do not conflict with national interests and the provisions of laws and regulations" (DPR-RI, 2019a). This means that this article guarantees the certainty of the rights and comfort of doing business from the water sector business actors rather than the rights of indigenous communities.

3.1.6. Investment in Marine and Fisheries Sector

Article 27 of the omnibus law regulates several provisions in Law 45/2009 concerning Amendments to Law 31/2004 concerning Fisheries. A total of thirty-six (36) articles out of a total of 111 articles in the Fisheries Law 45/2009 have been affected by the omnibus law. A total of 32 articles have been amended by the omnibus law, namely Articles 1, 7, 25A, 26, 27, 28, 28A, 30, 31, 32, 33, 35, 35A, 36, 38, 40, 41, 42, 43, 44, 45, 49, 89, 92, 93, 94, 94A, 97, 98, 100B, 100C, and 101. There are two articles in the Fisheries Law that were abolished by the omnibus law (Articles 95 and 96) and two new articles which added by the omnibus law, namely Articles 20A and 27A.

The provisions of Article 27 Number (1) of the omnibus law have amended Article 1 of the Fisheries Law in Numbers (11), (24), (25), and (26) (DPR-RI, 2004). Then eliminate three numbers in the Fisheries Law, namely Number (16) concerning Fishery Business Permits (SIUP), Number (17) concerning Fishing Permits (SIPI), and (18) regarding Fish Transport Vessel Permits (SIKPI). The abolition of these three figures has implications for the loss of all powers that were previously handled by the minister.

One of the considerations for drafting and ratifying the omnibus law is to improve the investment ecosystem in Indonesia, including the fisheries sector. This is explicitly stated in the initial narrative for Article 27 of the omnibus law regarding the purpose of making it easier for investors, even though it is wrapped in the sentence "...convenience for the public, especially business actors in obtaining business permits and ease of investment requirements..." The term for "convenience for the community" is actually a biased meaning, because the people in question are not small fishermen and small fish cultivators. The two 'small' groups are certain to be eroded by entrepreneurs who have large capital power. These large investors are referred to as fishermen and fish raisers. In the end, many small fishermen will be pushed back by large capital fishing vessels, both foreign and domestic, so that they lose access to the sea (IPB
University, 2020). This is because fishery resources are dominated by large corporations with foreign and domestic capital, whereas Indonesian fishermen and Indonesian residents should be a priority in obtaining benefits from fishery resources in the Indonesian EEZ, in accordance with the mandate of Article 33 Paragraph (3) of the 1945 Constitution.

In most sectors of the economy, an increase in capital (i.e., investment) is often considered a good thing, as it can promote the expected economic growth. However, in the capture fisheries sector, investment is often dangerous, because it can lead to an unwanted increase in fishing vessel capacity, given the status of most fish resource stocks having been overexploited (Carvalho, Casey, Guillen, & Rodgers, 2020). Therefore, it is necessary to have accuracy in encouraging investment in the fishery sector. The government needs to be very careful in encouraging investment in the capture fisheries sector. Do not let increased investment be the cause of the depletion of fish resources in Indonesian waters.

World fisheries economists have warned that the possibility of increasing capture fisheries profits by increasing inputs beyond the level required to achieve maximum economic returns will only lead to overcapacity in management, poor fisheries management and the consequences of over-modalization is the depletion of fish resource stocks (Kelleher & Willmann, 2009).

In the omnibus law, the existence of an authorized institution as a control in the management and utilization of fish resources is abolished, namely the National Commission for the Assessment of National Fish Stocks (Komnas Kajiskan). Whereas this National Commission is an independent non-structural institution consisting of experts with the task of providing recommendations to the Minister regarding fish resource stocks from various sources, including best scientific evidence available.

The existence of this commission encourages the role of science in the management of fishery resources. The important role of science in realizing sustainable development has been recognized and included in the Report of the United Nations Conference on Environment and Development in Rio de Janeiro in 1992 (Agenda 21). This document explains that scientific knowledge must be used to support the fulfillment of sustainable development targets. One of them is through scientific assessment which can examine current conditions and future projections to be used as considerations for policy formulation.

Regarding fishery investment, the government should be able to take lessons from the development of fishery sector investment that has occurred so far. In the period 1990-2019 fishery sector investment peaked in the 2014-2019 period. This means that the firmness and consistency of government policies, especially in cracking down on illegal fishing crimes are highly appreciated by foreign and domestic investors. Even in the 2014-2019 period, the number of countries of origin of fishery sector investors was much higher than the previous period. Foreign Investment (PMA) that developed in the 2014-2019 period is the fish processing industry and aquaculture (Asian Development Bank, 2019).

However, the spirit of foreign investment in the omnibus law will again open up investment opportunities in the capture fisheries sector. This means that all sectors in the fisheries sector can be re-entered by foreign investment (Syah, 2021). The capture fisheries sector as the only one that is free from foreign interests in the 2014-2019 period will again disappear in line with the enactment of the omnibus law.

3.1.7. Land Bank and Agrarian Reform

Omnibus law arrange land acquisition which is divided into three regulatory areas, namely: (1) land acquisition for development in the public interest; (2) protection of sustainable food agricultural land; and (3) land. Points (1) and (2) are the result of amendments to Law 2/2012 concerning Land Acquisition for Development in the Public Interest and Law 41/2009 concerning Protection of Agricultural Land for Sustainable Food (Law LP2B). Whereas Point (3) related to land is a new norm or new regulation which consists of four things, namely: (a) Land Bank; (b) Strengthening of Management Rights; (c) Flats for Foreigners; and (d) Granting of Land Rights/Management Rights in the Upper Land and Underground Space (DPR-RI, 2020).

Apart from converting agricultural land, the omnibus law facilitates land acquisition for public interest through the Land Bank institution. Regulations related to Land Banks in the omnibus law are contained in Articles 125 to 135. The Land Bank Agency to be established by the Central Government is a special agency that manages land where the assets of the Land Bank Agency are separated state assets. The function of the Land Bank Agency is to carry out planning, acquisition, procurement, management, utilization, and distribution of land.

The Land Bank Agency, as stated in Article 126 Number (1) of the omnibus law, will guarantee the availability of land in the framework of a just economy for: (a) public interest; (b) social interests; (c) the interests of national development; (d) economic equity; (e) land consolidation; and (f) agrarian reform (DPR-RI, 2020).
Furthermore, Article 126 Number (2) of the omnibus law explains that the availability of land for agrarian reform as referred to in Number (1) Point (f), is at least 30% (thirty percent) of the state land managed by the Land Bank Agency.

The omnibus law has narrowed the meaning of agrarian to just land, ignoring the relation between agro-maritime objects, and even the omnibus law has the potential to increase agrarian inequality and trigger chronic and acute agrarian conflicts.

The urgency of agrarian reform is to reorganize the inequality of agrarian structure to make it more equitable, with the aim of: (1) Reducing inequality in land tenure, ownership, use and utilization; (2) Handling and resolving agrarian conflicts; (3) Creating job opportunities to reduce poverty; (4) Improving public access to economic resources; (5) Improving food security and sovereignty; (6) Improving and maintaining the quality of the environment; and (7) Agrarian Reform to create prosperity and welfare for the community (Center for Indonesian Policy Studies, 2020).

The aspect of public interest in land acquisition and the Land Bank Agency in the omnibus law is very biased towards the interests of infrastructure development and the investment interests of large-scale business actors. It also shows that the omnibus law do not favor agricultural subjects whose livelihood systems depend heavily on land (Maman, 2021). Moreover, the production system of these agriculture actors functions in meeting domestic food needs which have great potential in an effort to realize Indonesia as a food sovereignty in the future.

Food is a basic human need, so it should be called the public interest and become the spirit of national strategic policy, especially for Indonesia, which has an agricultural context and has a large population. Village industrialization is to realize the management of agrarian resources in the village in a fair, inclusive, local wisdom, and sustainable manner. The potential for an agrarian-environmental crisis due to the implementation of the omnibus law does not only threaten the occurrence of a socio-cultural and economic crisis, it is also a counter to sustainable development which further threatens the integrity of the nation and state.

3.1.8. Reduced Public Property Rights through Market Capitalism

The formulation of the omnibus law is basically an effort by the Indonesian government to encourage economic growth in the basic perspective of improving the investment ecosystem by simplifying the rules and business licensing process nationally (Rafani & Sudaryanto, 2020b). This effort is based on the problems of complexity, slowness and corruption which have become the main obstacles in the investment climate for the modern sector and corporations that have occurred so far (Lipsey & Sjöholm, 2011).

The government has a major role in the context of the state to ensure market economy interventions, employment policies and social welfare services. However, the omnibus law has reduced the role of the government in ensuring the welfare of the community and has limited the role of SMEs in doing business. This can be seen from the increasing role of the modern sector and corporations towards resources through the risk-based business licensing process, simplification of basic business licensing requirements, simplification of sector business licensing and simplification of investment requirements (Amanta, 2021). This increased role allows a shift in the control of resource management from state/government control to corporate control or personal authority. Furthermore, the omnibus law has the potential to shift public property rights into private property rights through the process of market capitalization (market capitalism) in creating an investment climate.

In this case, job creation through a business investment climate does not include the principles of common resources and externalities. In the long term, the problem of distribution of property rights will lead to conflicts between stakeholders (Pasaribu, Murwani, & Setiawan, 2021). In particular, this potential shift in resource management control shows that omnibus law uses a resource based view approach compared to the value chain or value added approach in the national economy.

3.1.9. Job Creation in the Agricultural Sector

In principle, job creation is not only the result of the ease, protection and empowerment of businesses and investments that are facilitated by the ease of the licensing process in the formal sector. Job creation can occur from an inclusive process, namely the increasing capacity of human beings and the opening of public access to the use of resources (Patunru & Surianta, 2020). This is relevant if it is related to the Indonesian people, especially human beings in rural areas, farmers (especially farmers without land or narrow land), breeders, fishermen, salt farmers, farmers around the forest, indigenous/local communities and others. This community group generally works without being bound by a formal business license. Thus, the limited employment opportunities for the community are not due to business permits but the lack of access or the uncertainty of access to land and basic resources. This is in accordance

www.islamicresearch.id
with the principle of common resources and externalities. For example, the closed access of local and rural communities in utilizing agrarian resources is often the result of not being used properly (abandoned, unproductive) state lands in both forest and non-forest areas. This is due to policies based on access/concession policy regimes that are not in favor of local and rural communities.

In the context of job creation, resource management is often unable to open wider and proportionate business opportunities for various groups and types of people who work informally. There is no guarantee that giving a bigger role to the modern sector and corporations will be able to utilize natural resources better than the management by the government even by local communities in small business/household scales (Amanta, 2021). The principle of business in the modern and corporate sector is based on private profit and not welfare. Thus, business policies will be based on property rights, but post-ownership resource management will be based on economies of scale and profit orientation. Past experience has shown that the corporate sector, which often has easy access to land with licensed status or in concession rights, is found to be delaying management, abandoning land or managing low land rents. So that the absorption of labor in the corporate sector is at a much lower level than if the resources were in the people’s management system (Hadi et al., 2010).

The job creation process in the omnibus law should not only use a resource based view perspective that is based on the utilization of the potential of conventional economic resources (natural resources, infrastructure, financial capital, and so on). So that the division of stakeholder roles in economic growth is not only focused on the modern sector and corporations as the main actors. Job creation must integrate the perspective of job creation as the result of creativity, cultural wealth, innovation, and science and technology.

The potentials of the new generation as a demographic bonus in entrepreneurship no longer prioritize the ease of doing business through institutional access to business entities or corporations, but prioritize the ease of incubation for the growth of start-up businesses.

It should be remembered that the requirement to become a developed country is that the number of entrepreneurs must be more than 14% of the population ratio. Until 2020, the number of entrepreneurs in Indonesia is still below 4% of the population ratio (Asian Development Bank, 2019). The role of the younger generation and other community groups, especially those that cannot be formalized in SMEs, must be strengthened and aligned with the modern and corporate sectors.

Therefore, the spirit of economic growth based on a resource based view needs to be harmonized with the principle of public property rights as the main basis and not merely on private property rights. From a long-term perspective, the principle of public property rights guarantees the sustainability of the environmental and social dimensions that form the basis for economic sustainability for the creation of new jobs. Therefore, efforts to achieve environmental sustainability as the basis for economic development (economic development) should not be sacrificed or marginalized for the purpose of creating jobs in the short term through economic growth.

### 3.2. Developing Indonesian Agriculture Sector from an Islamic Perspective

Based on the discussions from in section 3.1, it is clear that some articles of the omnibus law are not in accordance with the Islamic perspective regarding the agriculture sector. From the explanation provided in subsection 3.1.9., these include article 27, article 29, article 30, article 32, article 53, and article 124 to article 135 of the omnibus law. Next, the author will discuss how to develop the Indonesian agricultural sector based on an Islamic perspective in sections 3.2.1 to section 3.2.3

#### 3.2.1. Optimizing Idle Agricultural Land

Islamic agricultural policy discusses the laws on optimizing agricultural land and efforts to increase the productivity of basic goods. Nowadays it has become a common sight especially in the fertile Muslim-majority countries, the vast land ownership of the people who possess the great wealth which is generally located in urban areas. As a result, many of the land belonging to the “rich people of the city” are left stranded, known as idle land. According to Ministry of Agriculture cited in Republika (2014), neglected land in Indonesia reaches 14 million hectares. The peasants who used to be both land owners and cultivators now only become tenants of land they had previously occupied, consequently the farmers then forced to switch profession and left the village to earn a living in the city.

What happening now is the number of “landlords” who own a very large piece of land while they are not able to manage it themselves. In the meantime, there are also people who can manage it but have no farmland. The consequence for the community is the availability of food to be disrupted, because agricultural land is not optimally utilized. This condition encourages some to argue that the control of agricultural land by individuals should be limited...
so that there is no massive fraud. One of their proposals is the idea of land reform that tries to overcome the problem of uneven land tenure, but this idea is obviously not effective.

According to Islam, the problem of unequal land ownership is not even the main issue of optimizing the use of agricultural land. But the main issue is the existing agricultural lands which is not managed and consequently not productive. Thus, to overcome this productivity it is not enough just to divide the farmland evenly to members of the community. But more important is to guarantee that existing agricultural land is not abandoned (idle). So Islam establishes several laws (syari'ah) that must be applied in order to ensure the achievement of optimization of agricultural land use. These laws are: (1) the law of abolition of agricultural land which has been abandoned for three consecutive years and (2) the law for the prohibition of leasing of agricultural land (An-Nabhani, 2000).

According to Salasal (1998), ihyaa al-mawat literally means the revival of dead land or bringing of uncultivated and dead (mawat) land to life. "Bringing to life" means putting a piece of land to use by an individual and acquiring proprietary rights over it. Ihyaa al-mawat is a principle of Islamic law of property whereby a person can acquire ownership of land from the State by way of rehabilitating or bringing back to life dead (mawat) land. This type of acquisition of land was practised and prevalent during the time of the Prophet PBUH and continued to be so till the period of The Caliphs.

The second law to optimize agricultural land is sharia prohibition of leasing agricultural land. “The Messenger of Allah PBUH prohibited al-Mukhabarah.” Narrated by Muslim from Jaber; and al-Mukhabarah is the lease of agricultural land. Without a ban on the lease of agricultural land, we will find people who own large farms will lease their farms to others. As a result, we see these landlords handing out their farms to farmers who do not own farmland. They take the rent from the people who work on it. Thus the management of the land is delegated to others, while the ownership of the land remains with the landlord (Maman, Kusmana, & Supiandi, 2017). This is an injustice because of the exploitation of human labour and this must be eliminated. To overcome this problem, Islam set a law for the prohibition of leasing of agricultural land so that exploitation does not occur as well as more important in order to achieve the optimization of agricultural land use.

3.2.2. Islamic Policies to Increase Basic Agricultural Production

The steps taken by Islamic law to ensure the fulfillment of basic needs of society is to implement the policy of Islamic agriculture, namely all efforts to increase production of agricultural materials to meet the basic needs of individual of the communities. According to Borhan & Aziz (2009), there is no doubt that food, clothing and shelter are necessary for bare survival of man and his basic needs. The vision of an Islamic law is among others, the guarantee to every individual of the fulfillment of his basic needs including food security. Thus, the strategy for increasing basic agricultural production includes the following: (1) increasing production of food supply; (2) increasing production of basic materials for clothing and (3) increasing production of agricultural commodities with overseas market potential (Kusumawat & Rasyid, 2018).

The agricultural policy adopted by the state in primary production is carried out in order to increase agricultural production, which can be done by intensification and extensification. Agricultural intensification is pursued by using better means of agricultural production such as superior seeds, fertilizers and medicines needed in order to increase agricultural productivity. For the intensification approach, subsidy policy for agricultural production is of significant role. Other thing that can be done is by disseminating modern techniques more efficiently among farmers, provides the necessary non-interest capital for those who can not afford by the way of giving the fund (grant). In this way, poor farmers will not be burdened to return the debt, so that their agricultural production can actually be used for the purpose of meeting their basic needs (Maman, 2021).

Agricultural extensification is implemented by increasing the area of cultivated agricultural land. To achieve this, the state will implement policies that can support the creation of expansion of agricultural land that is processed. Some of these policies are that the state will guarantee the ownership of agricultural land acquired by turning on dead land (ihyaa al-mawat). The state will grant land free of charge to anyone who is able and willing to farm but has no land or owns a narrow land for agriculture and the state will force anyone who has farmland to cultivate it. In its implementation, anyone who revives the dead piece of land then he will own the land. This law, in addition to play a role in the distribution of agricultural land, also guarantee the area of cultivation (Zalloom, 1988). With this sharia regulation, no land is abandoned and all the farmland becomes productive. Unlike today in Indonesia, there are millions of hectares of abandoned land, and at the same time there are millions of landless farmers.
3.2.3. Islamic Policies in the Agricultural Trade Sector

In the trade sector, the state must implement a variety of policies that can ensure the creation of market mechanisms in a transparent manner, with no manipulation, no intervention that can cause economic distortions and no hoarding that can cause distress to the community. Some policies that must be implemented by the state for the agricultural industry to prosper, namely: (1) Building agricultural facilities and sales facilities; (2) Ensure a transparent pricing mechanism without manipulation; (3) Ensure a reasonable price based on market mechanisms and (4) Prevent fraudulent practices, speculation and stockpiling of agricultural commodities (An-Nabhani, 2000).

First, the state must provide road infrastructure, markets and transportation facilities to transport agricultural products and agricultural industry products quickly at low cost. Agricultural progress can not be achieved without the support of adequate infrastructure.

Second, the state must ensure that the mechanism of agricultural commodity prices and commodity prices of agricultural products can proceed transparently and without any manipulation. For that the state must make a policy that can guarantee the transparency of agricultural commodity prices. It is narrated that the Messenger of Allah said: "Do not confront the caravans (kafilah) and the people in town not to sell the property of the villagers" (Bukhari-Muslim).

Third, the state should establish a policy to ensure the creation of a reasonable price based on the prevailing market mechanism. The state will oversee the supply and demand mechanisms to achieve a price level willingly accepted by the community. Islam even prohibits the state from using its authority to fix the price of both the maximum price and the base price (Kusumawaty & Rasyid, 2018).

Fourth, the state should be able to prevent the occurrence of various scams, hoarding and speculation. Frauds often occur in trafficking either by sellers or by buyers, such as hiding defective merchandise from buyers. In this case the Messenger of Allah said: "It is unlawful for someone who sells something, except if he explain (defect) that is in the goods" (narrated by Ahmad). The state should also prevent various measures of stockpiling of agricultural products and other basic necessities. In this case the Messenger of Allah said: "Will not hoard (goods) except the sinner" (Muslim). "Bad man is a man who hoard, when he hears a low price he feels disappointed, and when he heard the price rises he is happy" (narrated by Ibnu Majah and Hakim). The state should be able to prevent disputes arising from speculative acts in trade of agricultural products.

4. CONCLUSION

The omnibus law places greater emphasis on regulating the ease and improvement of the investment ecosystem as well as accelerating national development than the goal of creating and increasing employment opportunities for the Indonesian people themselves. The regulatory changes related to business and investment in the Omnibus law provide greater opportunities for capital owners, so it is feared that they will trigger more complex social, economic, political and ecological problems in the future. The approach used in the Omnibus law also reduces the role of local governments, especially the community, in developing the national economy and creating national welfare. Not only that, the goal of economic growth by relying on large investments adopted in the Omnibus law does not pay attention to the sustainability of natural resources and the environment which is the source of life for almost all Indonesian people.

The thinking adopted in the omnibus law is not in line with the current economic approach where the orientation of creating wealth accumulation in the form of national income is no longer the main goal, but should be orientated to welfare and quality of life. Furthermore, the Indonesian economy needs to be built humanely by providing a proper place for both small and traditional business actors to develop and develop creativity that comes from science as well as local wisdom and knowledge that has been embedded from generation to generation.

The essence of a law includes at least three things, namely protecting the interests and wealth of the nation, being able to develop the wealth and capacity of the nation, and using it fairly. In the context of omnibus law, investment has been chosen as the main instrument for the purpose of creating jobs for the community. This linear framework is difficult to implement and actually has the potential to increase environmental problems, inequality and social segregation, weakening food self-sufficiency, and national security issues in a broad sense. Without a comprehensive Islamic view, the omnibus law will actually become a tool for rent-seeking parties and global business actors to extract more of Indonesia’s wealth and make people’s rights more marginalized.

Agricultural products are important commodities that have the potential to be developed due to the increasing demand from the world community. Indonesia should be able to take advantage of these opportunities optimally to increase people’s welfare. Not only that, import control needs to be carried out with the support of appropriate data.
and information regarding the availability of existing products, so that imports do not harm local producers. Increasing competitiveness requires technology transfer to small business actors for: (a) post-harvest strengthening; (b) improvement of seed quality; (c) increase in agricultural inputs; and (d) selection of strategic commodities (Ruslan, 2021). The capacity and competitiveness of food production also requires the provision of sufficient food agricultural land to meet the needs for a minimum national production system that is proportional to the Indonesian population.

REFERENCES


