



Legal Effects of the Ratification of the Job Creation Law on the Existence of Psychics and Shamans as Medical Personnel

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ABSTRACT

Law Number 11 of 2020 is an Omnibus law, namely by simplifying amendments or even revoking a number of regulations and laws that were previously in force in order to harmonize existing rules, and codified simply in one law, namely the Job Creation Law. In this case, it will be raised regarding the juridical implications of the ratification of the Job Creation Law on the existence of psychics and traditional healers as medical workers. The research method used in this research is the use of a normative juridical approach and the data used as a data source in this research is secondary data through literature study. The inclusion of psychics as medical personnel in the omnibus law has sparked controversy in the community because the recognition of psychics in the law by the state in this context is considered to equalize professional medical personnel such as doctors with psychics. In addition to paranormals, the community also focused on the inclusion of traditional birth attendants as providers of medical health services. In the omnibus law, TBAs are listed along with midwifery, which has drawn cons, especially from midwives themselves.

A. INTRODUCTION

Law Number 11 of 2020 concerning Job Creation is an Omnibus law. The omnibus law itself is intended in order to reorganize the rules that are scattered in a number of laws, in this case a codification is carried out to replace or revoke a regulation in a number of laws at once and the results are contained in one law. Omnibus law is used in an effort to simplify regulations and avoid the risk of conflict between laws and regulations, or in another sense, omnibus law is closely related to efforts to simplify rules with the aim of harmonizing laws and regulations with one another (Permana, 2020). Indonesia itself, the concretization of the omnibus law can be seen in the Job Creation Law where the law contains rearrangements either replacing or revoking a number of rules or regulations in a number of laws and regulations, which then all rearrangements of these regulations are codified into one law in this case the work copyright law. In the legal context, this matter can give meaning to certain political arrangements that have been developed in various



laws and become the legal umbrella for new rules ([Anggraeniko & Afrilies, 2021](#)).

Indonesia itself is a legal state that adheres to the welfare state concept which is responsible and plays an important role in the welfare of its citizens, as stated in the preamble of the 1945 Constitution of the Republic of Indonesia in the 4th paragraph and Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that “Every person has the right to live in physical and mental prosperity, to live in a good and healthy environment and to receive health services.” On the subject of “Health Services” this law explicitly provides legal certainty that the Indonesian government has an obligation to respect, protect, enforce, and fulfill the health services of Indonesian citizens, so in fulfillment of these obligations, the government has the authority to regulate and manage in the field of health services ([Widjiastuti, 2017](#)).

In terms of health services, the Job Creation Law also regulates medical health services. The provision of medical health services is not limited to health workers and assistant health workers, but to a number of types of work for which there are no specific regulations in the health sector. One of the controversial ones is related to the inclusion of psychics and traditional healers as medical health services ([Suriadinata, 2019](#)).

The inclusion of psychics as medical personnel in the Job Creation Law has been controversial in the community. This is because this regulation has attracted public attention because the recognition of psychics in the law by the state in this context is considered to equalize professional medical personnel such as doctors with psychics ([Sjaiful, 2021](#)). This is because professionals such as doctors themselves must undergo years of formal education, and only then can they practice in the field of health services. In addition to paranormals, the community also focused on the inclusion of traditional birth attendants as providers of medical health services. In the Job Creation Law, TBAs are listed together with midwifery, this has drawn cons, especially from midwifery workers themselves, because midwives themselves have to take a long and expensive formal education to be considered and recognized as medical health service providers, while TBAs do not need to take formal education and are only armed with hereditary knowledge, which is also questionable whether their knowledge is feasible or not because it cannot be scientifically proven ([Susetiyo & Ifitah, 2021](#)).

Based on various studies, it was found that there is a strong relationship between the high maternal and child mortality rate in Indonesia and the high number of deliveries assisted by non-health workers, one of which includes TBAs. So it is considered sad that the Job Creation Law itself recognizes TBAs as health service providers because this law indirectly opens up job opportunities for TBAs to legally practice dangerous health services. If there is no adequate control mechanism, this could result in an increased risk of maternal and infant mortality ([Lestari, 2021](#)).

The Job Creation Law contains changes to regulations in the health sector. One of the added regulations is related to medical health services. In this Job Creation Law, psychics and traditional healers are recognized as personnel who provide health services, where this matter is stated in Article 112 number 2 Article 4A paragraph (3) letter a concerning medical health services. It states that there are seven medical health services,

including: 1) Services of general practitioners, specialists, and dentists; 2) Veterinarians; 3) Health experts such as acupuncturists, dental experts, and physiotherapists; 4) Obstetrics and traditional birth attendants; 5) Paramedics and nurses; 6) Hospitals, maternity homes, health clinics, health laboratories, and sanatoriums; 7) Psychologists and psychiatrists; 8) Alternative medicine including psychics.

This article clearly states that medical health services include alternative services such as psychics, which is certainly a new matter after the ratification and enactment of the Job Creation Law. With this, it gives interest in this research to examine the juridical implications of the ratification of the Job Creation Law on the existence of paranormal and traditional healers as medical workers. With reference to this, the following issues will be raised: First, how is the legal regulation of the existence of psychics and traditional healers in Indonesian legislation? Second, what are the juridical implications of the ratification of the Omnibus Law on the existence of psychics as a medical workforce?

B. METHOD

The research method used in this research is the use of a normative juridical approach which looks at the law from a positive legal perspective or based on statutory regulations. The data used as data sources in this research are secondary data through literature studies in the form of laws and regulations, books, journals and other scientific writings or literature related to the discussion to be analyzed.

C. RESULTS AND DISCUSSION

Legal Arrangements for the Existence of Psychics and Shamans in Indonesian Legislation

Specifically, the professions of paranormal and traditional healers are not found in the laws and regulations. However, the government has made arrangements regarding the practice of non-medical health services as traditional medicine. Law No. 36 of 2009 concerning Health states that:

“Traditional health services are treatment and/or care with methods and medicines that refer to empirically derived experiences and skills that can be accounted for and applied in accordance with the prevailing norms in the community.”

In addition, there is also a definition of hereditary knowledge and skills obtained through apprenticeship to senior traditional healers who have experience providing traditional empirical health services safely and beneficially for at least five years, which is contained in Article 3 paragraph (2) Permenkes No. 61 of 2016.

Then, the knowledge and skills obtained from non-formal education are those obtained through training or courses as evidenced by a certificate of competence issued by the Competency Certification Agency (LSK) which is a partner and recognized by the Course and Training Development Agency of the Ministry of Education and Culture in accordance with statutory provisions. This is stated in Article 3 paragraph (3) of Permenkes No. 61 of 2016.

Then the classification of services for psychics can be observed in Article 7 paragraph (1) of Government Regulation Number 103 of 2014 concerning Traditional Health Services, which states that the types of traditional health services include:

- 1) Empirical Traditional Health Services, is the application of traditional health whose benefits and safety are proven empirically;
- 2) Complementary Traditional Health Services, is the application of traditional health that utilizes biomedical and biocultural science in its explanation and its benefits and safety are scientifically proven; and
- 3) Integration Traditional Health Services, is a form of health service that combines conventional health services with Complementary Traditional Health Services, either as a complement or substitute.

Based on the way of service, in Article 13, Permenkes No. 61 of 2016 traditional empirical health is divided into three, namely: skills, potions, and combinations by combining the use of potions and skills.

In Article 14, Permenkes No. 61 of 2016. For traditional empirical health services that use skills, consist of:

- 1) Manual techniques, performed using manipulation and movement of one or more body parts;
- 2) Energy techniques, carried out by using energy both from outside and from within the body itself; and
- 3) The mindfulness technique is done by using treatment techniques that utilize the mind's abilities.

Article 10 paragraph (1), Permenkes No. 61 of 2016. The implementation of empirical traditional health services must fulfill the following conditions:

- 1) It can be empirically accounted for its safety and benefits, and used rationally;
- 2) Not contrary to religious norms and norms prevailing in society; and
- 3) Does not conflict with government programs in an effort to improve the degree of public health.

Then Article 10 paragraphs (2), and (3), Permenkes No. 61 of 2016 states:

“What is meant by not contradicting religious norms means not providing services in the form of clinics/mysticism/using the help of supernatural beings and fortune telling. Meanwhile, what is meant is not contrary to the norms prevailing in society, namely not violating legal values, decency, politeness and culture.”

Juridical Implications of the Ratification of the Omnibus Law on the Existence of Psychics and Shamans as Medical Workers

2020 has become quite a phenomenal year in the world of law, this is none other than related to the ratification of the Job Creation Law or Law No. 11 of 2020 which is an omnibus law as a form of simplification of regulatory amendments in order to harmonize

one regulation with another. The Job Creation Law was made with the aim of creating the widest possible job opportunities for the Indonesian people equally, throughout the territory of the Republic of Indonesia. Although the law was created for the welfare of the people, in reality there are many articles that are considered controversial and deviate from what was intended.

The passing of this law has drawn pros and cons from all levels of society, including laborers, students. Even from among medical and health workers. One of the articles that is considered controversial is related to the addition of regulations in which it is explicitly stated that psychics and traditional healers are one of the professions that provide medical health services. In this case, the Job Creation Law recognizes that psychics and traditional healers are part of the medical workforce. In the Job Creation Law, Article 112 number 1 states that:

“Medical health services are not subject to Value Added Tax (VAT). So that in the provision of health services at first-level health facilities and medical services at advanced referral health facilities, both public and private institutions are not subject to VAT deductions but are subject to income tax deductions.”

Then it continues regarding the provision of medical health services not only to health workers and assistant health workers. It is in this section that psychics and traditional healers are clearly mentioned, namely in Law Number 11 of 2020 concerning Job Creation Article 112 number 2 Article 4A paragraph (3) letter a concerning medical health services. It is stated that there are eight medical health services medical health services are provided to health workers as explained in the introduction.

Although it is mentioned in the Job Creation Law, that Article 112 number 2 Article 4A paragraph (3) is an explanation related to professions in terms of medical health services that are not subject to VAT. But indirectly, the explicit mention of paranormal and traditional healers has legally recognized that the two professions, both traditional healers and paranormal, are providers of health services and are part of the medical workforce. This matter is certainly a matter of debate and controversy because these two professions include non-health workers (Darmawan, 2020).

The article clearly states that the Job Creation Law explicitly mentions alternative medicine including psychics and also traditional healers as part of the medical health service provider profession or in this case part of the medical workforce. TBAs themselves are positioned the same as midwifery. By generalizing this, it can be assumed that the position of midwives and TBAs here has the same position, even though legitimately, there are no regulations regarding ethics, professional standards, service user rights, service standards, professional standards and standard operating procedures for TBAs (Anggraeniko & Afrilies, 2021).

The alignment of the existence of TBAs with midwifery is controversial because it is clearly stated in Law Number 36 of 2009 concerning Health that “Those authorized to provide health services are health workers.” For health workers themselves, it is explained in Article 1 point 6 that “Health workers are everyone who devotes themselves to the health

sector and has knowledge and/or skills through education in the health sector.” The minimum qualification that a person must have to be recognized as a health worker in Indonesia is a diploma three in health worker education. In fact, in Indonesia, there is no formal education for TBAs ([Dewanto & Sirait, 2023](#)).

Indonesia, especially in areas with remote geographical areas, resulting in difficult access to health advice and facilities, the TBA profession is still widely utilized by our society. However, according to the World Health Organization (WHO) itself, in developing countries, the problem of reproductive health of pregnant women is that there are still many mothers who deliver or give birth at home with the help of TBAs and other non-medical workers ([Dewinagara dkk., 2022](#)).

In addition, supernatural services as alternative medicine services are also not widely recognized by users in the health world. Traditional health services in terms of health are allowed. This means that it is based on the skills and experience gained, which can be considered and applied in accordance with existing laws and social regulations. This traditional medicine service partly uses skills and partly uses drinks ([Manullang, 2022](#)). Traditional therapies also require formal training to be recognized as health professionals. Indonesia itself has yet to provide formal training or courses for services in terms of paranormal phenomena and traditional healers in the health sector.

Looking at various studies, there is a strong correlation between the high maternal and child mortality rate in Indonesia and the high number of births attended by TBAs and other non-health workers ([Asshiddiqie, 2019](#)). Thus, it is considered sad that the Job Creation Law itself recognizes TBAs as health service providers because this law indirectly opens up job opportunities for TBAs to legally practice dangerous health services. In the absence of an adequate control mechanism, this could result in an increased risk of maternal and infant mortality ([Afriani dkk., 2021](#)).

This article on the mention of paranormals and traditional healers is also in controversy with the health worker law. Creating another confusion from the explanation of the article is the use of the nomenclature of medical services. The term “Medical Health Services” is actually used inappropriately because in the Law on Health Workers, only doctors, dentists, specialists, and specialist dentists are included as medical personnel. Likewise, the use of the words paramedic and nurse. Based on the Indonesian Dictionary (KBBI), it is stated that paramedics are people who work in the health environment as assistants to doctors (such as nurses). Therefore, the phrase paramedics should include nurses.

In addition, for other health workers who are not included, the article of the Job Creation Law is also felt to be unfair to them. Based on the Law on Health Workers, there are many types of health workers which are not included in the Job Creation Law, namely pharmaceutical workers (pharmacists and pharmaceutical technical personnel), public health workers (health epidemiologists, health promotion and behavioral science workers, occupational health supervisors, health administration and policy workers, biostatistics and population workers, and reproductive and family health workers).”

Likewise “with environmental health workers (environmental sanitation workers, health entomologists, and health microbiologists), medical engineering personnel (medical

recorders and health information, cardiovascular engineering, blood service technicians, refractionist opticians/optometrists, anesthesiologists, and audiologists), biomedical engineering personnel (radiographers, electromedicine, medical laboratory technologists, medical physicists, radiotherapists, and prosthetic orthotics) who are not accommodated in this law.

D. CONCLUSION

The Job Creation Law is an Omnibus law, namely by simplifying amendments or even revoking a number of regulations and laws that were previously in force in order to harmonize existing rules, and codified simply in one law, namely the Job Creation Law. The creation of the omnibus law is an effort by the government to fix conflicts between regulations in order to overcome the problem of synchronization in Indonesian laws and regulations. In terms of health services, the Job Creation Law also regulates medical health services. The provision of medical health services is not limited to health workers and assistant health workers, but to a number of types of work for which there are no specific regulations in the health sector. One of the controversial ones is related to the inclusion of psychics and traditional healers as medical health services.

The inclusion of psychics as medical personnel in the Job Creation Law has been controversial in the community. This regulation has attracted public attention because the recognition of psychics in the law by the state in this context is considered to equalize professional medical personnel such as doctors with psychics. In addition to the paranormal, the community also focused on the inclusion of traditional birth attendants as providers of medical health services. In the law, the work copyright of traditional birth attendants is listed together with midwifery, this has drawn cons, especially from midwifery personnel themselves.

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