

Critical Legal Studies: The Omnibus Law Method In the Formulation of Local Regulations on Local Taxes and Levies

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Abstract: This article examines the application of the Omnibus Law method in the formation of Regional Regulations on Taxes and Levies in Cianjur Regency through the lens of Critical Legal Studies (CLS). CLS, as a school of critical legal thought, challenges the assumption that law is neutral and objective and critically examines its relationship to political and economic power. This study aims to analyse the mechanism for drafting regional regulations using the Omnibus Law method and to assess the legal implications of its application in the absence of a clear technical framework. The research employs a normative approach, with conceptual and historical analyses of national regulations, particularly Law Number 12 of 2011 and its amendments, as well as case studies in Cianjur Regency. The findings indicate that, although the Omnibus Law has been codified in Law Number 13 of 2022, there are still insufficient technical regulations governing the formation of regional legal products under the Omnibus framework. This creates the risk of formal defects in the establishment of regional rules, potentially undermining their legal validity. Therefore, the application of the Omnibus Law method at the regional level requires careful study, and the principles of CLS can serve as a critical analytical tool for evaluating legislative processes heavily influenced by political and economic interests.

Keywords: critical legal studies, omnibus law, regional taxes and levies.

1. Introduction

Critical Legal Studies (CLS) emerged as a response to the inability of conventional legal theory and practice to address various social issues fairly and substantially.¹ Law, which is normatively constructed as a neutral, objective,

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and rational system, often shows bias toward specific political and economic interests in practice.² This condition gave rise to academic unease among legal scholars, which in turn led to the CLS movement as an effort to dismantle the claim of legal neutrality and to reveal the power relations underlying the formation and enforcement of law. Although often considered outside mainstream legal thought, CLS has made a significant contribution to enriching the treasure trove of modern legal thought. CLS has become the foundation for the emergence of other critical legal schools of thought, including feminist jurisprudence and critical race theory.³

The Critical Legal Studies movement was initially conceived by legal scholars who criticised the dominance of legal positivism, particularly in legal education and legislative practice. This criticism later developed and was adopted by legal practitioners who observed firsthand the law's failure to address social inequality, structural injustice, and political domination.⁴ CLS highlights how the law often fails to fulfil its emancipatory function due to the decisive intervention of political and economic interests in its formation. In addition, CLS criticises the legal education system for placing excessive emphasis on dogmatic aspects and ignoring social realities.⁵ As a result, the law is practised mechanistically, without regard for substantive justice. This condition shows that the law cannot be understood solely as a written norm, but rather as a product of dynamic power relations.⁶

¹ Andrew Altman, *Critical Legal Studies: A Liberal Critique* (New Jersey: Princeton University Press, 1990).

² Frans Reumi et al., *Teori Hukum: Konsep, Aliran, Dan Penerapan* (Jambi: Penerbit Buku Sonpedia, 2025).

³ Qeyla Syahla Adhistianty, Risma Rahmawati, and Mohammad Alvi Pratama, "Kritik Rasisme Dalam Studi Hukum Kritis," *Nusantara: Jurnal Pendidikan, Seni, Sains Dan Sosial Humaniora* 3, no. 1 (2025): 1–25, <https://doi.org/10.11111/nusantara.xxxxxxx>.

⁴ Rahma Almira Dachjar et al., "Analisis Gerakan Hukum Kritis Di Amerika," *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 3, no. 1 (2025): 1–25.

⁵ Abyan Zhorif et al., "Studi Filsafat Dalam Gerakan Hukum Kritis: Analisis Filsafat Hukum Kritis Roberto Unger Dalam Konteks Amerika," *Praxis: Jurnal Filsafat Terapan* 2, no. 1 (2025).

⁶ Munir Fuadi, *Aliran Hukum Kritis Paradigma Ketidakberdayaan Hukum* (Bandung: Citra Aditya Bahkti, 2003), 6.

Conceptually, the birth of the Critical Legal Movement stemmed from its founders' concerns about various concrete issues in legal practice.⁷ These issues include the study and analysis of legal doctrines often presented as absolute truths, as well as a critical evaluation of the past and future directions of legal education. In addition, attention is directed to the role of supporting legal institutions that reproduce oppressive and unequal relationships in society. This movement questions how law operates as an instrument that promotes specific power structures. Law is understood to have a central role in shaping political, economic, and social relations⁸. Through this critical approach, the Critical Legal Movement seeks to promote the realisation of complete human emancipation.⁹

Based on the above considerations, the existence of laws in a country has significant strategic implications, as evidenced by the theory of state law, the hierarchy of legal norms, and the general function of law. The objectives of the law will not be achieved if there is no correlation and harmony between laws and regulations, and if there are overlaps and contradictions between laws and regulations and other regulations.¹⁰

To address these issues, the Omnibus Law method is considered an alternative to overlapping regulatory conflicts that lead to regulatory disharmony and inconsistency. To overcome these regulatory issues, in 2020 the government issued the *-undang Cipta Kerja* (Job Creation Law) using the Omnibus Law method, one of whose provisions regulates Local Taxes and Levies in Chapter VI on Ease of Doing Business in Section 7 on Taxation, as stipulated in Article 114 on Local Taxes and Levies in Law Number 11 of 2020 on Job Creation.

Following the enactment of Law No. 11 of 2020 on Job Creation, a lawsuit was filed with the Constitutional Court under No. 91/PUU-XVIII/2020, in

⁷ Ifdhal Kasim, *Gerakan Studi Hukum Kritis* (Yogyakarta: INSISTPress, 1999).

⁸ Kaharuddin Muhammad, Sunny Ummul Firdaus, and Muhammad Hasrul La Aci, "Kebijakan Publik Dan Politik Hukum: Membangun Demokrasi Berkelanjutan Untuk Masyarakat," *Sovereignty: Jurnal Demokrasi Dan Ketahanan Nasional* 2, no. 4 (2023): 354–68.

⁹ Muhammad, Firdaus, and Aci, 8.

¹⁰ Zaenal Arifin and Adhi Putra Satria, "Disharmonisasi Peraturan Perundang-Undangan Di Indonesia: Antara Bentuk, Penyebab Dan Solusi," *Jurnal Pro Hukum* 9, no. 1 (2020).

which the Constitutional Court (MK) held the Job Creation Law unconstitutional. However, to avoid legal uncertainty and potential adverse effects, the Constitutional Court (MK) held that the Job Creation Law remains in force on a conditional basis. This is stated in the ruling of the Constitutional Court (MK) on the Job Creation Law in point 3 (three), which states:

“Menyatakan pembentukan Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja (Lembaran Negara Republik Indonesia Tahun 2020 Nomor 245, Tambahan Lembaran Negara Republik Indonesia Nomor 6573) bertentangan dengan UUD 1945 dan tidak mempunyai kekuatan hukum mengikat sepanjang “tidak dilakukan perbaikan dalam waktu 2 (dua) tahun sejak putusan ini diucapkan”¹¹

Based on the Constitutional Court (MK) ruling, this Constitutional Court (MK) ruling is interpreted as a conditional unconstitutional ruling, which means that within two (2) years from the date the ruling was issued on November 25, 2021, to November 25, 2023, the Job Creation Law remains in effect on the condition that the House of Representatives (DPR) and the Government must make changes in accordance with the provisions of Constitutional Court (MK) Decision Number: 91/PUU-XVIII/2020, which include: Reorganizing the Job Creation Law in accordance with Appendix II of Law Number 12 of 2011, which forms the basis of legislation; Providing opportunities for the public to participate as much as possible in providing input and criticism on the amendments to the Job Creation Law; and Preventing ‘sudden’ changes to the content between the President and the DPR in the process of joint approval and ratification between the President and the DPR.

Based on the verdict, if the Job Creation Law is not amended in accordance with the Constitutional Court (MK) ruling, it will become permanently unconstitutional (invalid). Thus, the old law or substance of the law that has been revoked or amended by the Job Creation Law will be reinstated. To avoid the Job Creation Law becoming permanently unconstitutional (invalid), in 2022, the government issued Government Regulation (PERPU)

¹¹ Putusan Mahkamah Konstitusi (MK) Nomor 91/PUU-XVIII/2020, hlm. 416

Number 2 of 2022 concerning Job Creation, as mandated by the Constitutional Court (MK) Decision Number 91/PUU-XVIII/2020.

Therefore, with the implementation of the Omnibus Law in Indonesia, which will also be applied in the issuance of regional legal products, particularly in Regional Regulations on Regional Taxes and Levies, the question arises as to whether it will be in line with or compatible with the legal system in Indonesia, which adheres to the Civil Law System in the formation of legislation in Indonesia and/or the issuance of regional legal products, considering that the Omnibus Law concept is more commonly applied in countries that adhere to the Common Law System. However, in practice, our country already has legal instruments that use the Omnibus Law system, both in the form of legislation (the Job Creation Law) and other instruments. To address this issue, in 2022, the government reissued Law Number 13 of 2022, which concerns the Second Amendment to Law Number 12 of 2011, concerning the Formation of Legislation.

Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 expressly regulates the drafting of legislation using the omnibus law method, as stipulated in Article 42. Law Number 13 of 2022 states that "The use of the omnibus method in the drafting of a Draft Regulation However, Law Number 13 of 2022 and Law Number 11 of 2020 concerning Job Creation do not yet contain provisions on implementing regulations, such as Government Regulations and Ministerial Regulations, which technically regulate the mechanism for forming legislation and issuing regional legal products, particularly in the formation of Regional Regulations using the Omnibus Law method.

To implement the provisions of attribution as mandated in the above Law, the Cianjur Regency government, particularly the executive and legislative bodies as the legislators at the regional level, in drafting regional legal products concerning Retribution and Regional Taxes using the Omnibus Law method, still uses the provisions as stipulated in Law -Law Number 12 of 2011 concerning the Formation of Legislation, from the planning stage to the enactment stage, consisting of 3 (three) stages, namely: First, the process of

drafting Regional Regulations from the drafting and design process in the Regional People's Representative Council (DPRD) or in the Regional Government, consisting of the preparation of academic papers, draft Regional Regulations, and reviews of draft Regional Regulations. Second, the approval procedure, which is the discussion process conducted by the DPRD with the Regional Government, comprises several specialised committees, followed by facilitation and/or evaluation based on the discussion outcomes. Third, the process of ratification of the Regional Regulation by the Regent and the process of promulgation of the Regional Regulation by the Regional Secretary.

In a study by Donny Dardono¹², “Critical Legal Studies: Theoretical Position and Criticism,” in *Kisi Hukum Majalah Ilmiah Hukum* (Legal Framework Scientific Law Magazine). This study conceptually situates Critical Legal Studies (CLS) theory within the legal thought map and presents CLS critiques of modern legal doctrine, particularly legal positivism. The primary focus is on epistemological criticism of the neutrality and objectivity of law.

The difference is that Dardono's article is more theoretical and does not address positive legal practice in Indonesia, such as the Omnibus Law method or the formulation of local regulations at the regional level. Then there is Rikardo Simarmata's research entitled “Critical Legal Education: Origins, Understanding, New Principles and Methods—A Preliminary Explanation,” in *Jentera: Law Journal*.

This paper examines the influence of CLS on Indonesia's legal education system and emphasises the importance of a transformative and participatory approach to law. The difference is that the focus is on the academic world and legal education, rather than on positive legal analysis related to technical regulations, such as the Omnibus Law, in the formation of regional legal products.

In 2019, the Indonesian Centre for Law and Policy Studies (PSHK) published a study titled “Study of Regulatory Reform in Indonesia: Key

¹² Donny Dardono, “Critical Legal Studies: Posisi Teori Dan Kritik,” *Kisi Hukum Majalah Ilmiah Hukum* 14, no. 1 (2015).

Issues and Strategies for Handling Them.”¹³ This study highlights the complexity of Indonesia's regulations, their overlaps, and proposes the Omnibus Law as a solution. PSHK highlights the deficiencies in vertical and horizontal harmonisation within the national legal system. The difference is that PSHK does not use the CLS approach and does not explicitly address the application of the Omnibus Law method, particularly at the regional (district/city) level, let alone in relation to regional levies and taxes.

The application of the Omnibus Law method in Indonesia's civil law system presents challenges, particularly when used at the regional level to formulate regional regulations (Regional Regulations), particularly those concerning regional levies and taxes.¹⁴ Theoretically, the Omnibus Law method is more developed and recognised in the common law system, which prioritises flexibility and jurisprudential practice. Meanwhile, Indonesia's codified legal system, grounded in the principle of legality, requires clarity and procedural rigidity.¹⁵ The problem becomes even more complex when legal products created using the Omnibus method lack technical implementation guidelines (Government Regulations or Ministerial Regulations), even though such support is crucial to ensure procedural validity and to avoid potential formal defects. This condition can result in regional legal products being declared contrary to higher-level legislation.

The Critical Legal Studies (CLS) approach is employed for criticism and analysis. CLS highlights the dominance of political and economic power in the legislative process and challenges claims of legal neutrality. Thus, CLS highlights how the Omnibus Law method, which appears to be a technocratic solution to hyper-regulation, can raise issues of legal legitimacy and legislative

¹³ Pusat Studi Hukum dan Kebijakan Indonesia (PSHK), *Kajian Reformasi Regulasi Di Indonesia: Pokok Permasalahan Dan Strategi Penanganannya*. (Yayasan Studi Hukum dan Kebijakan Indonesia (YSHK), 2019).

¹⁴ Aji Hartanto and Siska Lestari, “Kontroversi Metode Omnibus Law Dalam Pembentukan Peraturan Perundang-Undangan Di Indonesia,” *Jurnal Legislasi Indonesia* 18, no. 1 (2021): 45–60, <https://doi.org/10.54629/jli.v18i1.236>.

¹⁵ Cahyo Pamungkas, “Omnibus Law Dan Resistensi Masyarakat Sipil: Analisis Hukum Kritis Terhadap Undang-Undang Cipta Kerja,” *Jurnal Hukum Dan Peradilan* 9, no. 3 (2020): 401–19, <https://doi.org/10.25216/JHP.9.3.2020.401-419>.

democratisation. The primary focus of this article is on the mechanisms and legal basis for applying the Omnibus Law method in the formulation of Regional Regulations on Retribution and Regional Taxes, the legal consequences of formulating regional regulations without explicit implementing norms and technical procedures, and CLS in criticising the Omnibus Law legislative method, which risks maintaining elite domination and weakening public participation and substantive justice.

The present article's objective is twofold: first, to demonstrate the necessity of employing a critical legal approach in evaluating national legislative policies that exert influence at the regional level; and second, to provide theoretical and normative reflections on legal processes that have been predominantly top-down and elitist.

2. Methods

This research employs a normative legal-theory approach, with conceptual and historical methods as its research methodology. It is hoped that, with these two approaches, the main issues examined in this article can be identified, including the Omnibus Law method and the concept of Critical Legal Studies (CLS) in relation to the Omnibus Law. Finally, the author attempts to relate these views to the law and the location of the research object, and then draw a conclusion.

3. Results and Discussion

3.1. The Essence and Substance of Critical Legal Studies (CLS)

CLS rejects the notion that law is separate from political, economic, social, and cultural elements, as conceptualised by Hans Kelsen in his pure theory of law, which posits that law should be free from non-legal elements such as politics, economics, and social issues.¹⁶ Instead, CLS considers that law is always influenced by interests outside the law, so that law is never neutral and objective. This means that law cannot be separated from politics, as it is not formed in a value-free vacuum. CLS's thinking rests on the premise that law

¹⁶ Iskandar et al., "Analisis Kritis Terhadap Teori Hukum Murni Dalam Perkembangan Hukum Kontemporer," *Teraju: Jurnal Syariah Dan Hukum* 7, no. 1 (2025).

is politics; accordingly, CLS rejects positivist assumptions in legal science.¹⁷ CLS criticises the current law for being politically biased and never neutral. The established legal doctrine favours those with power, leading to the conclusion that the law is flawed from the outset because it was formed through political “battles” that are biased and subjective in favour of certain groups' interests.

CLS illustrates how the law is always “disturbed” by the political and economic interests of legislators drafting it. According to CLS, in every lawmaking process, two interests are at play: power relations and market relations (financial). As a result, laws made by the state often obey the will of those who are geopolitically close to power, so that the provisions in the law being drafted may be tailored to their tastes. Mahfud MD revealed that there is indeed a relationship between law and politics.¹⁸ Law is a variable that depends on political variables. So the “colour” of the law will depend on the political regime in power. If the political system is authoritarian, then the legal products will be repressive. Conversely, if the political system is democratic, then the legal products will be responsive.

Meanwhile, economic relations are such that every process of lawmaking is always enticed by material gains from capitalists who “sponsor” the laws being drafted. There are financial, material, and profit motives that make them interested in these laws, ignoring the interests of the general public. People with economic advantages are indeed very concerned about legislation affecting their businesses, as businesses require appropriate regulations.

CLS seeks to prove that behind the laws and social order that appear on the surface as neutral, there are actually particular interests that are biased towards culture, race, gender, and even economic interests.¹⁹ The legal doctrines that

¹⁷ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2000), 34.

¹⁸ Mohammad Haris Taufiqur Rahman and Fawaid, “Pandangan Mahfud MD Tentang Hubungan Islam Dan Negara Di Indonesia,” *Al YAZIDIY: Ilmu Sosial, Humaniora, Dan Pendidikan* 4, no. 1 (2022): 47–62.

¹⁹ Nadir, “Filsafat Hukum Dan Dekonstruksi Critical Legal Studies: Sebuah Paradigma Pembaruan Hukum Dalam Menggugat Eksistensi Dominasi Asumsi Kemapanan Hukum,” *Yustitia* 2, no. 2019 (20AD).

have been formed to date favour those with power, whether financial, political, or military.²⁰ Therefore, in understanding legal issues, power relations must always be taken into account.²¹ Furthermore, CLS does not believe in the neutrality of judges' decisions. Judges touted by the legal realism school of thought have also been unable to deliver justice because their decisions may be subjective, influenced by their personal backgrounds.

CLS also challenges theories, doctrines, or principles such as legal neutrality, legal autonomy, and the separation of law and politics. For example, CLS criticises the principle of equality before the law. This principle is grounded in the ideal of a state governed by the rule of law. However, CLS views this principle with suspicion because the law-making process is so elitist that it often benefits only the elite and disadvantages the lower classes. In this situation, equality before the law becomes utopian.²²

In addition, CLS also criticises the objectivity of law. According to the liberal legal tradition, law is objective and neutral, as Ronald Dworkin expresses: "law is based on objective decisions of principle, while politics depends on subjective decisions of policy." However, according to CLS, law is neither objective nor neutral because it arises from underlying socio-political processes and is therefore socially reconstructed. As a social construct, law involves processes of interaction and negotiation among various interests. Hence, the law is laden with multiple interests.²³

To do all of that, CLS uses the methods of trashing, deconstruction, and genealogy. Trashing is a technique for challenging or rejecting established legal reasoning. The trashing technique is used to reveal contradictions and one-sided conclusions based on questionable assumptions. Deconstruction

²⁰ Bernard Arief Sidharta, *Refleksi Tentang Struktur Ilmu Hukum: Sebuah Penelitian Tentang Fundasi Kefilsafatan Dan Sifat Keilmuan Ilmu Hukum Sebagai Landasan Pengembangan Ilmu Hukum Nasional Indonesia* (Bandung: Mandar Maju, 2000), 45.

²¹ I Dewa Gede. Atmadja, *Filsafat Hukum: Dimensi Tematis Dan Historis* (Malang: Setara Press, 2013), 184.

²² Rikardo Simarmata, "Pendidikan Hukum Kritis: Asal-Usul, Faham, Prinsip Baru Dan Metode-Sebuah Penjelasan Awal," *Jentera: Jurnal Hukum, Edisi Khusus*, 2003, 32.

²³ Kasim, *Gerakan Studi Hukum Kritis*, 18.

is a technique for dismantling established legal thinking. By doing so, a reconstruction of legal thinking can be carried out. Meanwhile, genealogy is the use of historical evidence to present arguments. Genealogy is used because those in power often dominate interpretations of history. This technique is used to strengthen the legal construction to be created.²⁴

3.2. Actualisation of Critical Legal Studies in Indonesian Law

Critical Legal Studies (CLS) has gained relevance in the development of legal thinking in Indonesia, particularly amid political dynamics that often reveal the acrobatic manoeuvres of a small elite to advance their pragmatic interests.²⁵ This reality demonstrates that the law does not operate neutrally, but is usually shaped by prevailing power structures. On the other hand, developments in international law have placed Indonesia in a dilemma between protecting national interests and fulfilling global demands.²⁶ The agendas and interests of developed countries with greater political and economic leverage often drive these demands. This condition reinforces the importance of CLS as an analytical tool for uncovering the power relations hidden behind the formation and application of law. From a critical perspective, law can be understood as an arena of contested interests that must be continually tested to achieve substantive justice.

To anticipate this reality, CLS can be another option in developing the legal system in Indonesia, both in terms of substance and law enforcement. CLS must be able to serve as a filter for all legislative processes suspected of being influenced by the interests of certain groups. All laws and regulations should be interpreted from a CLS perspective to ensure that their provisions remain consistent with the Constitution of the Republic

²⁴ Hikmahanto Juwana, "Hukum Internasional Dalam Konflik Kepentingan Ekonomi Negara Berkembang Dan Negara Maju". Pidato Upacara Pengukuhan Guru Besar Tetap Dalam Ilmu Hukum Internasional Fakultas Hukum Universitas Indonesia, 10 Nopember 2021," 2021, 8.

²⁵ Dudang Gojali, "FILSAFAT HUKUM: Aktualisasi Critical Legal Studies Di Indonesia," *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam* 4, no. 2 (2022): 735–40, <https://doi.org/10.37680/almanhaj.v4i2.3508>.

²⁶ Arry Bainus and Junita Budi Rachman, "Kepentingan Nasional Dalam Hubungan Internasional," *Intermestic: Journal of International Studies* 2, no. 2 (2018): 109–15, <https://doi.org/10.24198/intermestic.v2n2.1>.

of Indonesia. There should be no state-legal products with hidden intentions that are detrimental to the public interest.

State legal products are not sacred texts that are “forbidden” to be criticised with clear thinking. In fact, they must always be open to criticism to gain constructive insights. In addition to being a requirement for all state-legal products, CLS can serve as a means of public control over the state, ensuring that the system of checks and balances functions correctly.²⁷ This role is typically undertaken by civil society institutions, NGOs, and independent national and international state institutions to supervise, monitor, and evaluate state legal policies that are deemed to deviate from the objectives of the nation and state. There must be diverse opinions or perspectives on the state's actions, so that the state can consider them from an external perspective and identify any remaining shortcomings that require improvement.

Especially state policies related to the economy. There are many interests, profit-and-loss estimates, interests of developed countries that cannot be avoided, and investment negotiations. Unfortunately, we are constantly faced with a dilemma: on the one hand, we need liberal and capitalist investment to sustain our economy's growth. However, we must also prioritise the protection of the national economy, which must not deviate from the principles of economic democracy as mandated by Article 33 of the 1945 Constitution of the Republic of Indonesia. Therefore, CLS has the critical task of providing criticism to ensure that every legal instrument that regulates people's livelihoods remains within the framework of the Pancasila economic philosophy of the Indonesian nation.²⁸

3.3. The Critical Legal Studies (CLS) Perspective on the Omnibus Law

²⁷ M Widhi Dhatu Wicaksono, “Gerakan Studi Hukum Kritis Di Indonesia,” *Jurnal Bevinding* 2, no. 2 (2024): 56–60.

²⁸ Zainal Arifin Mochtar and Eddy O.S Hiariej, *Dasar-Dasar Ilmu Hukum: Memahami Kaidah, Teori, Asas Dan Filsafat Hukum* (Jakarta: Perpustakaan Nasional: Katalog Dalam Terbitan (KDT), 2021).

The Critical Legal Studies approach to analysing law in Indonesia is most easily applied to legal development during the New Order era. During this period, law formation was dominated by the economic and political interests of those in power. The law was often used to legitimise power rather than to achieve substantive justice. The state's primary focus on economic growth resulted in policies that prioritised ease of doing business. These policies were implemented through the provision of widespread credit and supported by deregulation across various sectors.

Meanwhile, in the post-New Order era, the political situation has changed and is slowly moving toward greater transparency, as government administration has become more practical and orderly.²⁹ However, the targets of criticism from the Critical Legal Studies Movement in the current context remain relevant, particularly with respect to the Omnibus Law, because the Omnibus Law was enacted amid significant turmoil and strong public rejection, as seen with the Job Creation Law. This is because the law is considered to have been born with procedural flaws and does not comply with the provisions for the formation of legislation as stipulated in Law Number 12 of 2011.³⁰

As mentioned above, although several improvements have been made to the Omnibus Law on Job Creation, as stipulated in the issuance of Government Regulation instead of Law (PERPU) Number 2 of 2022 concerning Job Creation as mandated by Constitutional Court (MK) Decision Number: 91/PUU-XVIII/2020, there is still a lot of discrimination in the content of the PERPU, especially in relation to local levies and taxes. Upon closer examination of Law 12 of 2011, we find that the Omnibus Law on Job Creation is formally flawed because it was drafted and passed without complying with the provisions governing the procedure for enacting laws. In addition, if we consider the urgency of Government Regulation rather than Law Number 2 of 2022, the situation in Indonesia is not one of compelling urgency. The author observes that the Government Regulation, rather than a

²⁹ International IDEA, *Penilaian Demokratisasi Di Indonesia*, 2000.

³⁰ Ifdhal Kasim, *Berkenalan Dengan Critical Legal Studies*, "Pengantar Dalam Roberto M. Unger, *Gerakan Studi Hukum Kritis*", Terj. Ifdhal Kasim (Jakarta: ELSAM, 1999), 17.

law, was issued as an anticipatory policy to strengthen the domestic economy through structural reform.³¹ As a result, the public continues to express intense criticism, urging that the law be revised in accordance with the applicable provisions.

Critical Legal Studies has several characteristics, including the following: this school of thought criticises laws that clearly favour political interests and groups, and is not neutral.³² This movement also criticises laws that are laden with and dominated by ideologies deemed beneficial or detrimental to society as a whole. Thus, it can be concluded that Critical Legal Studies is an appropriate school of legal thought for criticising the omnibus law on job creation, which prioritises political interests and is saturated with a particular ideology that is no longer neutral and does not serve the general interest. Moreover, the omnibus law method must be applied at the local government level in issuing local legal instruments, particularly those concerning Local Regulations on local levies and taxes.

In the view of the Critical Legal Studies movement, it has been proven correct in its assessment of the Omnibus Law on Job Creation, following the issuance of Decision No. 91/PUU XVIII/2020 by the Constitutional Court, which ruled and declared that the Omnibus Law on Job Creation was formally or procedurally flawed. Therefore, in its decision, the Constitutional Court ordered that the law be revised and amended. In response to the Constitutional Court's ruling, the government has issued Government Regulation in place of Law (PERPU) No. 2 of 2022 concerning Job Creation.³³

Although the Government has issued Government Regulation instead of Law (PERPU) No. 2 of 2022 concerning Job Creation as a legal consequence of the Constitutional Court's decision, the author still sees that the policies and considerations taken by the government still leave several issues,

³¹ Wahyu Widiana, "Keadilan Dalam Perspektif Hukum Progresif," *Jurnal Hukum IUS* 4, no. 1 (2016): 213–228.

³² Agus Gunawan, "Studi Hukum Kritis: Konsep Dan Implikasi Dalam Pembentukan Hukum Otonomi Daerah," *ADIL: Jurnal Hukum* 2 (15AD).

³³ Muhammad Fadli, "Politik Hukum Dalam Pembentukan Undang-Undang Cipta Kerja," *Jurnal Rechts Vinding* 10, no. 2 (2021): 187–204.

including: first, the Job Creation Law was not formulated based on the Law on the Formation of Legislation.³⁴ Second, the principle of Law Formation was not fulfilled. Third, there was no public participation, and fourth, the House of Representatives made changes in conjunction with the Government.

However, with several issues remaining as described above, some concerns about applying the omnibus law concept at the local government level in issuing local laws, particularly those concerning local regulations on levies and taxes, will create new legal problems for local governments in relation to their statutory provisions. Considering that regional regulations on local levies and taxes will significantly affect the local revenue of a regency/city.

Based on the above description of the omnibus law concept implemented by the Central Government, local governments must apply the same pattern when forming their regional legal products using the omnibus law method. This is particularly true when issuing regional regulations governing regional retribution and taxation. However, the Job Creation Law is considered legally or procedurally flawed. This concern also arises for local governments if regional regulations related to regional levies and taxes are formulated using the omnibus law method, as these regional legal products could later be declared to be formally or procedurally flawed, because even though Law Number 13 of 2022 concerning the Second Amendment to Law -Law Number 12 of 2011, which regulates the Omnibus Law, has been issued, the implementing guidelines on the mechanism for forming regional legal products using the Omnibus Law method have not been clearly regulated in the provisions of the legislation.

3.4. Legal Consequences of the Implementation of the Omnibus Law in Local Regulations on Retribution and Local Taxes in Cianjur Regency

The legal consequences of applying the Omnibus Law method in the Regional Regulation on Retribution and Regional Taxes in Cianjur

³⁴ Philip Nonet and Philip Selznick, *Law and Society in Transition: Toward Responsive Law* (New York: Harper & Row, 1978).

Regency, when examined based on the Critical Legal Studies (CLS) school of thought, which uses the methods of trashing, deconstruction, and genealogy. Trashing is a technique for challenging or rejecting established legal reasoning.³⁵ Trashing is a technique used to expose contradictions and one-sided conclusions grounded in questionable assumptions. Deconstruction is a technique for dismantling established legal thinking. By doing so, a reconstruction of legal thinking can be carried out. Meanwhile, genealogy is the use of historical evidence to present arguments. Genealogy is a valuable tool in understanding history, which is often influenced by those in positions of power. This technique strengthens the legal basis for the construction project.

Based on the three aforementioned methods, the term "omnibus law" is not recognised in Law No. 12 of 2011 on the Formation of Regulatory Legislation. However, since the omnibus law is a law, the provisions for the formation of the omnibus law can refer to the provisions for the formation of the law in Law No. 12 of 2011 on the Formation of Regulatory Legislation and its amendments, i.e., Law No. 13 of 2020 on the Formation of Regulatory Legislation. Its implementation is subject to a process of identifying and harmonising the material to be regulated with other vertical and horizontal legislation. If the omnibus law method is adopted, examination and harmonisation must be conducted simultaneously to identify and amend provisions in other local regulations.

Therefore, in relation to the Cianjur Regency Government which is currently implementing the omnibus law method in the formation of its Regional Regulations, namely regarding Regional Retributions and Taxes, which have been spread across several regional legal products, both Regional Regulations and Regent Regulations, then based on the data available in the Legal Documentation and Information Network (JDIH) in the Legal Section of Cianjur Regency Regional Secretariat, all regional

³⁵ Roberto Mangabeira Unger, *The Critical Legal Studies Movement* (Cambridge, Massachusetts: Harvard University Press, 1986), 34.

legal products can be collected, both in the form of Regional Regulations and Regent Regulations, as follows:

Table. 1.1 Number of Regional Regulations and District Regulations on Local Taxes

No.	Number of Regional Regulations on Local Taxes	Number of District Regulations on Local Taxes
1.	52	34

Source: author, 2024

Table 1.2 Number of Regional Regulations and District Regulations about Local Taxes that are Still in Effect

No.	Number of Regional Regulations on Local Taxes that are Still in Effect	Number of District Regulations on Local Taxes that are Still in Effect
1.	22	18

Source: author, 2024

Table 1.3. Number of Regional Regulations and District Regulations about Local Levies

No.	Number of Regional Regulations on Local Levies	Number of District Regulations on Local Levies
1.	104	33

Source: author, 2024

Table 1.4. Number of Regional Regulations and District Regulations about Local Levies that are Still in Effect

No	Number of Regional Regulations about Local Levies that are Still in Effect	Number of District Regulations about Local Levies that are Still in Effect
1.	33	21

Source: author, 2024

Based on the data in the table above, there are 52 local regulations on local taxes and 34 regent regulations; there are 104 local regulations on local levies and 33 regent regulations. Of the two numbers of Regional Regulations and District Regulations on Local Taxes and Fees, 22 Regional Regulations and 18 District Regulations remain in effect. In contrast, the number of Regional Regulations on Local Fees that remain in effect is 33, and the number of District Regulations is 21.

Of the many Regional Regulations and District Regulations on Local Levies and Taxes, indeed, the Regional Regulations and District Regulations on Local Levies and Taxes that have been in effect in Cianjur Regency will be revoked and declared no longer valid, provided that the Cianjur Regency Government has completed the issuance of new Regional Regulations on Local Fees and Taxes by the beginning of 2024, which is the final deadline for Regencies/Cities to use Regional Regulations and District Regulations as per the data provided above. This means that the deadline for the use of the old Regional Regulations and District Regulations on Local Levies and Taxes is the beginning of 2024. At the beginning of 2024, the new Regional Regulations on Local Levies and Taxes, which were formulated using the omnibus law method, must also be completed and promulgated by the Cianjur Regency Government.

Meanwhile, in the process of drafting Regional Regulations on Local Taxes and Levies using the omnibus law method, Cianjur Regency has encountered several problems, including: First, in drafting Regional Regulations on Local Taxes and Levies using the omnibus law method, the rules regarding their implementation, whether in the form of Government Regulations or Ministerial Regulations, have not yet been issued. This means that if the Regional Regulation on Retribution and Regional Taxes is enacted as a legal product. When the implementing regulations on the drafting of Regional Regulations using the omnibus law method are issued, it is certain that any Regional Regulation that does not comply with the above legislation will be considered contradictory due to formal or procedural defects.

Second, for the Local Tax category, the number of objects and the types of taxes must comply with the provisions of Law Number 1 of 2022. The preliminary evaluation indicates that in Cianjur Regency, the number of tax objects has increased while the number of tax types has decreased. Third, for the Local Retribution category, based on preliminary evaluation results, in Cianjur Regency, the number of Local Retribution types decreased from 33 to 18, and then further to 11. Fourth, the evaluation results from the Ministry of Finance of the Republic of Indonesia and those from the Ministry of Home Affairs of the Republic of Indonesia differ. Fifth, the

Cianjur Regency Government, through the relevant SKPD, has encountered difficulties in implementing the harmonisation process for Regional Regulations on Local Retribution and Taxes due to discrepancies in the evaluation results between the Ministry of Finance of the Republic of Indonesia and the Ministry of Home Affairs of the Republic of Indonesia.

These issues make the findings of research conducted by the Indonesian Centre for Law and Policy Studies (PSHK) relevant. The study found that the Indonesian legal system has adopted the omnibus law technique. This research conducted by PSHK has highlighted several fundamental problems in Indonesian legislation, including: First, the lack of synchronization between legislative planning and development planning and policy; Second, the tendency for legislation to deviate from the subject matter that should be regulated, resulting in “hyper-regulation”; Third, the effectiveness of legislation during implementation; Fourth, the absence of procedures for monitoring and evaluating legislation; Fifth, the absence of a special institution to handle all aspects of the legislative system.³⁶

Based on this description, applying the omnibus law method at the local government level raises various legal issues. If this concept is enforced, Local Regulations on Local Taxes and Levies could pose legal challenges for regional governments, particularly with respect to compliance with higher-level laws and regulations. This underscores the importance of implementing Critical Legal Studies (CLS) in developing Indonesia's legal system, particularly with respect to the substance of norms and law enforcement. CLS serves as a filtering instrument for legislation laden with the interests of certain groups. CLS's strength lies in its ability to provide sharp criticism, challenge domination and the status quo, expose structural injustices and inequalities, and encourage participation and social change. Therefore, every piece of legislation must be examined through the lens of CLS to ensure it aligns with the Constitution of the Republic of Indonesia and does not harbour hidden intentions detrimental to the broader community's interests.

³⁶ Pusat Studi Hukum dan Kebijakan (PSHK), *Kajian Reformasi Regulasi di Indonesia: Pokok Permasalahan dan Strategi Penanganannya*, (Yayasan Studi Hukum dan Kebijakan Indonesia (YSHK)), 2019. hlm.2, 05 Januari 2023, 13:20 WIB.

4. Conclusions

The implementation of the mechanism for drafting Regional Regulations using the Omnibus Law method can be effective if it is supported by standard tools and procedures that bind all authorities involved in the formulation of legislation. This method applies not only to laws but also to Regional Regulations at the regency/city level. The essence of Critical Legal Studies (CLS) should be the driving force behind efforts to improve the quality of law, including correcting deviant legal practices and providing evaluative criticism to achieve justice for the community. The main objective of drafting Regional Regulations using the Omnibus Law method is to minimise disharmony between Regional Regulations and legislation, both vertically and horizontally, by revoking old Regional Regulations—especially those governing regional taxes and levies—and consolidating them into a new Regional Regulation. However, there are concerns that legal issues may arise in the future because the technical implementing regulations, both in the form of Government Regulations and Ministerial Regulations, have not yet been issued, particularly those related to the drafting of regional legal products under the Omnibus Law method.

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