

**Undang-undang
Serikat Buruh/Serikat Pekerja
Indonesia
(UU No. 21/2000)**

BUKU PANDUAN

**Workers/Labor
Union Act
of Indonesia
(Act No. 21 of 2000)**

USER GUIDE



International labour Office Jakarta



Ministry of Manpower and Transmigration

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Foreword

With the ratification of ILO Convention No. 87 concerning the Freedom of Association through Presidential Decree Number 83 of 1998, a new chapter has been opened for organizations related to workers/laborers in Indonesia. The ratification has laid down a solid foundation for the democratization of the workers/laborers movement, in line with the demands of reformasi in all fields of endeavor by the Indonesian nation.

As one of the steps of reform in the area of industrial relations, and in accordance also with the ratification of the aforementioned ILO Convention, the Indonesian government enacted Act No. 21 of 2000 concerning Workers Unions/Labour Unions, on 4 August 2000.

During the period leading to its enactment, it was realized that there were several difficulties and problems in the execution of Act No. 21 of 2000. Obviously these difficulties need not undermine the general determination to continuously uphold and encourage the spirit of democracy among the workers/laborers through the Act, as an instrument to improve the welfare of the workers/laborers within Indonesian society in general.

By paying due attention to those principles, through cooperation together with the ILO Office in Jakarta, a book titled User's Guide to The Workers/Labour Union Law of Indonesia (Act No. 21 of 2000) has been published as part of the efforts to facilitate the implementation of Act No. 21 of 2000.

This guidebook is not meant to be an interpretation of or an ex-

pansion of the stipulations contained in the previous of Act No. 21 of 2000. It was meant more to assist in solving the problems which may emerge in the execution of Act No. 21 of 2000, so that the Act may function in an optimal manner as an instrument to uphold and gain respect for democracy among the workers/laborers.

Finally, we would like to convey our appreciation and gratitude to the ILO Director in Jakarta and the ILO/USA Declaration Project on Industrial Relations in Indonesia for making the publication of this guidebook possible. May the good cooperation between ILO (specifically ILO Jakarta) and the Government of the Republic of Indonesia (namely the Department of Manpower and Transmigration) to promote sound industrial relations in Indonesia be further nurtured and enhanced.

I hope this guidebook will be beneficial to all parties in Indonesia, especially among the actors in industrial relations.

Jakarta, 7 June 2002

**The Director General
Promotion of Industrial Relations
and Labour Inspection Division**

dr. Muzni Tambusai



Preface

The ILO Declaration on Fundamental Principles and Rights at Work is a solemn commitment by the ILO and its member states to respect, promote, and realize, the fundamental principles and rights set out in the eight core Conventions of the ILO. These rights include the freedom of association of employers and workers and their right to bargain collectively.

Indonesia has already ratified the eight core Conventions of the ILO and is committed to meeting these standards in its laws and practices. With this aim, it has embarked upon a labour law and policy reform program.

The ILO/USA Project on Promoting and Realizing Freedom of Association and Collective Bargaining specifically aims to: –

- Help Government, workers, and employers, to understand and exercise their new legal rights and obligations.
- Strengthen the ability of labor institutions and systems so they can fulfill their role in promoting sound and harmonious industrial relations.
- Encourage and strengthen dialogue and tripartism, particularly between Government, employers' organizations, and trade unions.

During the period of the project, a number of expert papers will be published. They will cover different aspects of labour law, industrial relations, and labour administration. It is hoped that these papers will

be a useful resource and reference for all involved or interested in labour law and labour relations in Indonesia.

This User Guide summarises the main provisions of The Workers/Labor Union Act (Act No. 21 of 2000). It also contains some suggestions of ways in which the ILO/USA Project might assist social partners in awareness building and other activities relating to the legislation.

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Introduction

The Workers Union/Labour Union Act (Act No. 21 of 2000) was passed by the Parliament in July 2000 and came into force on 4 August 2000. The Act gives effect to Indonesia's obligations following ratification of ILO Convention No. 87 on Freedom of Association and the Protection of the Right to Organize, and replaces various Government Regulations on the registration of workers' organizations.

The Act guarantees: –

- workers' rights to establish and become members of unions;
- unions' rights to function in order to protect, defend and improve the welfare of workers and their families; and
- the protection for workers against acts of anti-union discrimination and interference.

The Act provides that requires unions must to be registered with the government agency responsible for manpower affairs and they must meet certain basic requirements in regard to constitution and rules, the rights and obligations of members and officials, financial administration, the holding of property, and dissolution.

CHAPTER ONE

The Act

Breakdown of the Act

The Act is divided into 15 Chapters, which are briefly explained below.

Chapter I General Definitions

A workers' union or labour union is an organisation which is established by and for workers/Labourers. The term "worker/Labourer" is defined as any person who works for a wage or other form of remunerative exchange.

Chapter II Statutory Basis, Characteristics and Objectives

Unions are required to accept, and their statutory basis must not run against, the state ideology of *Pancasila* and the 1945 Constitution (see Art. 2). Article 3 obliges the unions, federations and confederations, to be "free, open, independent, democratic and responsible". Their functions shall include the negotiations and making of collective Labour agreements, the settlement of industrial disputes, representing workers on councils and institutes dealing with Labour issues, and the defence

of the rights and interests of their members within the company (see Art. 4).

Chapter III Formation of Unions

The Act provides for three levels of union organisation: workers' unions/Labour unions; federations of unions; and confederations of unions. Workers have the right to form and become members of a workers' union/Labour union. Each union must have at least 10 workers as members (Art. 5).

Unions may form and be members of a *federation* of unions. A federation must be formed by at least 5 unions (Art. 6). Federations may form and be members of a confederation of unions. A confederation must be formed by at least 3 federations of unions (Art. 7).

The constitutions of unions, federations and confederations must cover various matters including name and symbol; statutory basis and objectives; date of establishment; address; membership and administration; financial sources and accountability; and provisions for the amendment of the constitution (Art. 11). A union which is a member of a federation of unions may adopt the constitution of the federation, and a federation may adopt the constitution of a confederation of unions to which it belongs (see Explanatory Notes to the Act).

Chapter IV Membership

Membership of a union, federation or confederation shall be regulated by its constitution (Art. 13). However a union, federation or confederation must not limit membership or discriminate workers and union-members on the grounds of "political allegiance, religion, ethnicity or sex" (Art. 12).

A worker is not allowed to be a member of more than one union at an enterprise (Art. 14) and workers holding various management positions in an enterprise are not allowed to become union officials (Art. 15). A worker may resign or leave his/her trade union membership in by written notification (Art. 17).

A union is only allowed to be a member of one federation of unions and a federation can only be a member of one confederation (Art. 16).

Chapter V Notification and Recording

After its establishment, a union, federation or confederation must notify the local government agency responsible for manpower affairs.

The notification shall be accompanied by a list of the names of its founding members and its officials and a copy of its constitution (Art. 18). The local government agency must keep a record of the union, federation or confederation which has fulfilled the requirements and must issue a record number to the union, federation and confederation within 21 working days of the receipt of the notification (Art. 20(1)). Where a union, federation, confederation has not met the requirements, the reasons for refusing the recording and issuance of a record number must be given within 14 days of the receipt of the notification (Art. 20(2) and (3)).

The government agency must be advised of changes in the constitutions of unions, federations and confederations, (Art. 21) and must ensure that the union record book is open to inspection and accessible to the general public (Art. 22).

Unions, federations and confederations have a record number are obliged to give written notification of their establishment to the employers (Art. 23).

It is provided that further regulations concerning union record-keeping procedures may be stipulated by means of a Ministerial Decision (Art. 24). The Ministerial Decision concerning *Procedures for the Official Recording of Workers Unions/Labour Unions* (No. KEP.16/MEN/2001) provides procedures and forms to be used in respect of notifications to the government agency responsible for manpower affairs in the kabupaten/district where the union is registered, and the recording and reporting functions of the local government agency. The Ministerial Decision deals with the obligations of organizations regarding notification as to the establishment of a union, federation or confederation; any changes to the constitution/by-laws or in the place of registration of an organization; the receipt of financial assistance from overseas

sources; and the dissolution of an organization.

The Ministerial Decision also obliges the local government agency to report every three months to the Minister for Manpower and Transmigration on the record number of unions in the district, any changes in their domicile or constitution/by-laws, and notifications with respect to foreign financial assistance or dissolution (see Art. 10 and Appendix XI of Kep.16/Men/2001).

Chapter VI

Rights and Obligations of Unions, Federations and Confederations

Organizations with a record number have the right to negotiate collective Labour agreements with the management, to represent workers in industrial dispute settlements and in manpower councils and institutions, and generally to conduct Labour-related activities unless they are contrary to national statutory rules and regulations (Art. 21). They are obliged to protect members against violations of their rights, to improve the welfare of members and their families, and to manage their affairs in accordance with their constitutions (Art. 27). They may affiliate and/or cooperate with international trade unions and other international organisations, provided that such affiliation or cooperation does not run against national statutory rules and regulations (Art. 26).

Chapter VII

Protection of the Right to Organize

Persons are prohibited from preventing workers to form a union, joining or leaving a union or carrying out union activities. The prohibited conduct includes; dismissal, suspension, or otherwise prejudicing a worker in his/her employment; withholding or reducing wages; intimidation; campaigning against the establishment of a union (Art. 28).

Employers must allow union officials and members outside of or participate in union activities as provided under a collective Labour agreement or as agreed between the parties (see Art. 29 and Explanatory Notes).

Chapter VIII Finances and Assets

The finances and assets of a union, federation or confederation must be used in accordance with its constitution (Art. 33) and must be kept separate from the finances and assets of the officials and members (Art. 32). Union officials are accountable for the use and management of the finances and assets and are obliged to keep records of it. They also have to submit financial reports to the members (Art. 34).

Union officials must report any unconditional financial assistance from overseas sources to the government agency responsible for manpower affairs, according to national statutory rules and regulations. Such assistance must be used to improve the welfare of union members (Art. 31).

Chapter IX Settlement of Disputes between Unions, Federations and Confederations

The Act covers disputes concerning membership and the exercise of union rights and responsibilities (Arts. 1 and 35) and requires that such disputes have to be settled in accordance with national statutory rules and regulations (Art. 36).

Chapter X Dissolution of Unions, Federations and Confederations

Trade unions, federations and confederations, may be dissolved by a decision of the members in accordance with the constitution; where the enterprise has closed down resulting in the termination of all employment relationships and the employer meets all obligations to those workers; or by a court decision (Art. 37).

The courts may dissolve a union, federation or confederation if its statutory basis is contrary to the Pancasila and the 1945 Constitution or if its administrators and/or members have been convicted of certain crimes against State Security (see Explanatory Notes) and have been sentenced to 5 or more years imprisonment (Art. 38).

Chapter XI Inspection and Investigation

This includes the role of government Labour inspectors in conducting inspections (Art. 40) and the function of certain civil servants as investigators in relation to criminal matters (Art. 41).

Chapter XII Penalties in relation to Offences under the Act

The penalties include the revocation of the union record number where a union has failed to meet certain requirements, (such as the notification of changes to the union constitution or the reporting of international financial assistance (Art. 42); and fines and imprisonment for persons engaged in prohibited conduct under Article 28, namely interference with the right to organize (Art. 43)).

Chapter XIII - Miscellaneous Regulations

Article 44(1) establishes that “*Civil servants have freedom of association and the right to organize.*” However the implementation of these rights is to be regulated by separate legislation.

Chapter XIV - Transitional Arrangements

Chapter XV - Coming into force of the Act

Observations on the Act

It should be noted that there are a range of matters that remain uncertain under the Act. Indeed it has already been recognised that there are many “loop holes” in the legislation which present difficulties in regard to its implementation. For example, there are issues regarding the respective responsibilities of central, provincial and local government agencies, and how certain obligations under the Act are to be

enforced. It has also been observed that discrepancies and inconsistencies in the registration process at different levels.

It is also noted that the legislation does not deal with a range of matters relating to union administration (e.g. the conduct of elections and the audit of accounts) or with matters of representation in collective bargaining negotiations (e.g. where there is more than one union registered at enterprise level). But the Manpower Protection and Development Bill will govern certain aspects of negotiations of Collective Work Agreements like questions of representation. Nevertheless, other issues which are not covered by the Trade Union Act will need further consideration in future years, in the implementation, monitoring and possible revision of the legislation.

CHAPTER TWO

Salient Features of the Act

Workers’/Labour Union Defined

Chapter I of the Act defines general terms used in the Bill. A Labour/trade union is an organization established by, of and for, workers within or outside a company, which can be state or privately owned. It must be unbound, open, independent, democratic, and accountable, and aims to fight for, defend and protect, the rights and interests of workers, as well as to improve the welfare of workers and their families.

The term “worker/Labourer” refers to a person who works for a wage or other form of remunerative exchange.

Where to Establish a Workers’ Union

Within and outside a company

Union Within a Company and Outside a Company

- A union within a company is a workers’ union established by workers in one or more companies;
- A union outside the company is a workers’ union established by workers not employed within the company;
- “Not employed within the company” refers to independent workers, such as minibuses or motorcycle taxi drivers.

Federation and Confederation of Unions

- A federation of labour unions is a group of workers' unions established by at least 5 (five) workers'/Labourers' unions;
- A confederation of Labour unions is a group of workers' federations established by at least three (3) federations.

In line with the principle of freedom of association, which enables workers/Labourers to establish or join an organization of their own choice, the basis of a federation's or confederation's headquarters may be located in a district/city, province, or the capital city.

Philosophy for Establishment of Unions

The establishment of a workers'/Labour union must be based on the principle of Pancasila and the 1945 Constitution.

Characteristics of a Union

A workers'/Labour union must be unbound, open, independent, democratic and accountable in character: –

Unbound – In carrying out its rights and obligations the union may not be under the influence or control of “other parties”. For example, a union must be free to determine its work plan. However, in the case of a union that becomes a member of a federation or confederation, the union is bound by the organizational regulations of the federation or confederation. Thus, it is reasonable to expect that the federation or confederation, which falls under the category of “other parties”, will have an influence over the development of the workers'/labour union work plan.

Open – In pursuing their functions the trade union, shall not discriminate any workers on political, religious, ethnic or gender reasons.

Independent – Operations and development of the organization shall be based on self-reliance with no form of control by other parties outside the organization. As explained earlier, “other parties” do not include federations and confederations in relation to their workers'/Labour union affiliates.

Democratic – Democratic principles need to be applied in the establishment, election of officers, and in defending and exercising the rights and obligations of the organization.

As the establishment of workers’/Labour unions is a manifestation of democratization within a society enjoying the freedom of association and freedom of speech, it is inherent that democratic principles must be considered in the management or operation of unions.

Accountable – Being accountable to its members, the public and the state while achieving its objectives and exercising its’ rights and responsibilities.

Accountability to the public also includes being responsible to ensure continuity of service and production supply, whether in goods or services, for the benefit of consumers/society in general.

The Purpose of a Union

The purpose of the formation of a workers’/Labour union is to provide protection of its members rights and interests, as well as to improve the welfare of workers/Labourers and their families to a reasonable level.

This cannot be attained if the company where workers are employed is not productive. Thus workers wishing to raise their personal and family welfare are also expected to contribute for the enhancement of the company performance.

Membership Restriction

The purpose of a workers’/Labour union is to improve the welfare of its members or of workers in general. Thus, the union must be open in accepting members, and not discriminate on the basis of political orientation, religion, ethnicity, or gender.

Functions of a Union

The main functions of a workers’/Labour union include: –

- Drawing up of a collective Labour agreement or dispute settlement document;

- Representing workers/Labourers in the manpower cooperation forum;
- Acting as facilitator for harmonious, dynamic and just industrial relations;
- Channelling aspirations for protection of the rights and interests of its members;
- Planning, executing and being responsible during workers' strikes, in accordance with the law;
- Representing worker/Labourers in defending the right to purchase and hold shares of the company.

The Rights of Civil Servants

Civil servants have the right to establish unions. Since civil servants hold a special function as public employees, the requirements shall be stipulated in a separate law.

Protection of the Right to Organize

Protective measures are provided where: –

- A workers'/Labour union is established or not established;
- A worker becomes part of the management or not part of the management of a workers'/Labour union;
- The worker is or is not a member of the workers'/Labour union;
- The worker carries out, or does not carry out, the activities of a union during working hours.

Impeding the Exercise of the Right to Organize

This includes: –

- Layoffs, temporary suspensions, demotions, or transfers;
- Non-payment or reduction of workers'/Labourers' wages;
- Acts of intimidation in any form;
- Campaigning against the establishment of a workers'/Labour union

Information to the Company Management

Based on the provisions of Act (National Law) No. 21 of 2000, the obligation of the union to inform the management becomes mandatory only after the workers' union has been established. However, if the establishment of a workers' union is a requirement to promote a harmonious industrial relationship, workers/Labourers may also inform management beforehand about the plan to establish their organization. This aims, for instance, to allow the workers/Labourers to take time off to organize the workers' union.

Statutes of the Organization

As the official Statutes of an organization form the basis for the program and direction of the organization, the Statutes should be formulated as comprehensive as possible including the following aspects: –

- Name and logo of the workers'/Labour union, federation and confederation of workers' unions;
- Philosophy, principles and objectives which must be in compliance with the principle of Pancasila and the 1945 Constitution;
- Date of establishment;
- Location;
- Requirements for membership and termination of membership;
- Rights and obligations of members;
- Requirements for management positions;
- Rights and obligations of management;
- Financial sources, rules for utilization of funds, accountability, and stipulations for changes in the Statutes and/or By-Laws

Requirements for Registration

The following must be provided: –

- A list of the names of founding members
- A Copy of the Statutes and By-Laws
- A list of management board members and board's structure

Being a Member of Two Unions within One Company

Such a possibility is not allowed, and if the double membership is discovered the person must announce in writing which workers'/Labour union is his first choice. This prohibition on multiple memberships wants to prevent difficulties in determining the number of members. The membership numbers and the names of the union's representatives must be known, so that they may negotiate and sign a collective work agreement with the management, if there is more than one workers' union within the company.

Representing the Interests of Entrepreneurs

Workers/Labourers from the management level of the company representing the interests of the company cannot hold a position in the management of a union as there would be a conflict of interest. The positions of both the union and the entrepreneurs, in negotiating a collective work agreement, are different. An example of a person who represents entrepreneurs is a director or manager responsible for human resources or accounting.

Resignation from a Union

As the basis for establishment of a union is the free will of workers, a worker may resign at any time in accordance with the Statutes and By-Laws of the organization concerned. Members who terminate their membership must still fulfil their obligations according to the Statutes and By-Laws.

Application for Union Registration

The submission must be sent to the body responsible for manpower matters within the location of the workers'/Labour union, or federation/confederation of unions.

Time Frame of Registration Process

The government body receiving the registration submission must provide a registration number, at the latest, twenty-one (21) working days after receipt of the submission in its prescribed form provided that the application meets all the requirements.

Union Legitimacy

The legitimacy of an organization is determined by its' members. Thus, there is no need for a document of legitimisation from the registration body. The registration number is provided as the basis for the exercise, by the union, of its' legal rights.

Denial of Applications for Registration

Applications for registration will not be accepted in the case of failures to provide: –

- The names of establishing members;
- Statutes and By-Laws;
- Management structure and the names of members.

In such cases, the body in charge of registrations shall defer the provision of a registration number within fourteen (14) days of receiving the application.

Changes in Statutes and By-Laws

Changes in the Statutes and/or By-Laws must be conveyed to the agency responsible for registration, at the latest, thirty (30) days from the date of those changes.

Failure to Report Changes in Statutes or By-Laws

The registration number of the unions involved will be revoked and the unions shall not have the right to: –

- Make agreements with entrepreneurs;

- Represent workers and settle industrial disputes;
- Represent workers in manpower agencies;
- Establish institutions or carry out activities, for the purpose of improving the welfare of workers;
- Carry out other activities in the manpower sector that do not contravene regulations.

The rights to make agreements with entrepreneurs, and to represent workers in manpower agencies, are not automatic in nature and must be in accordance with existing legal regulations. This means that if the union is to make agreements, it must follow stipulations regulating the negotiations of those agreements. Therefore, when the unions represent workers in the settlement of industrial disputes, they must comply with the regulations covering the settlement of industrial disputes.

Affiliation with International Unions

Registered workers'/Labour unions may be affiliated with international unions. 'Affiliated' in this case means that the unions may receive cooperation assistance for organizational development in the form of training, or financial assistance. Any financial assistance must be reported to the agency in charge of registrations.

Trade Union Activities during Working Hours

When organizational activities are to be carried out during working hours, there must be a collective work agreement to conduct such activities. It aims to avoid different interpretations from the workers or entrepreneurs on legitimate activities during working hours, which may lead to industrial disputes.

Contents of Collective Work Agreements

- Collective Work agreements generally cover the following: -
- Types of activities allowed by the entrepreneurs, for example, training sessions or attending meetings held by a parent orga-

nization;

- Procedures requirements for those activities, for example, how many days beforehand permission is given. This ensures continuity in the production process;
- Stipulations concerning paid and unpaid activities of union members.

Financial Sources

The main financial sources of workers'/Labour unions are: –

- Membership dues as provided by the Statutes and By-Laws;
- Legal business activities; or
- Non-binding assistance from members or other parties.

Management of Finances and Assets

The management of the finances and assets of the organization shall take the following into account: –

- Accountability to the members over utilization of the union's finances and assets, in accordance with the Statutes and By-Laws;
- Bookkeeping;
- Reporting periodically to members, i.e. once every three (3) months.

Conversion or Transfer of Finances and Assets

Such activities may be carried out only if allowed, and if they are in strict compliance with provisions of the union's Statutes and By-Laws.

Financial Assistance and other Facilities provided by Entrepreneurs

Such assistance and facilities may be accepted by a workers'/Labour union considering the danger of outside interference and influence.

Caution is necessary in order to maintain unions independence. For the purpose of promoting the principle of independence, the union should place emphasis on optimising the collection of membership dues.

Utilization of International Assistance

Assistance from overseas must be utilized only for improving the quality and welfare of union members.

Disputes between Unions

During the first stage, disputes must be settled through bipartite negotiation process. If the negotiation fails, procedures based on existing legal regulations shall be followed. In the absence of specific regulations governing disputes between workers' unions, procedures as stipulated in the Code Book (KUH) for civil cases can be used for seeking a settlement.

The Dissolution of Unions

Dissolution can be carried out in three circumstances: –

- The decision of the members of a workers'/Labour union, in accordance with the Statutes and By-Laws;
- Bankruptcy or termination of operation of the employing company;
- A declaration by Court Order, that the company is dissolved.

Dissolution by the Courts

The court order dissolving a workers'/Labour union, federation or confederation may be based on the following grounds: –

- Principles that run counter to Pancasila and the 1945 Constitution;
- Violations of existing legal regulations;
- Non-registration of the workers'/Labour union;
- Sentencing to prison of the management and/or members for

at least five (5) years, where the sentence has legal validity based on a criminal offence against national security undertaken in the name of the union, federation or confederation;

- Changes in the principles or union name after registration, which results in dissolution.

Sentencing by the Courts

In ordering the dissolution of a union, the court can utilize the sentence that fulfils the requirement, which is five (5) years or more.

Petition to Dissolve Unions

A government body can file a Petition to dissolve a union, federation or confederation, in a court in the area where the organisation to be dissolved is headquartered.

Right to Organize after Sentence to prison, and Union dissolution

The management or members of a union can establish a new workers' union or become its board members after a period of three years has passed after the court decision to dissolve, and that decision was upheld.

Authority to Oversee Union Activities

Officials of Manpower Supervision oversee union activities.

Authority to Conduct Investigation of Criminal Violations

Manpower Supervision and police officials conduct investigations into criminal violations.

Penal Sanctions

The sanctions provided for criminal violations are a prison sentence of at least one (1) year and/or fines of between Rp. 100,000,000 (one hundred million rupiah) and Rp. 500,000,000 (five hundred million rupiah).

CHAPTER THREE

Areas of Technical Cooperation

There is limited scope for project activities specifically in relation to the *Workers Union/Labour Union Act*. Some necessary action in relation to the Act might be best pursued in conjunction with activities dealing with the package of labour law reforms.

Some of the major implications of the *Workers Union/Labour Union Act* are as follows:

- **For national and provincial government agencies responsible for manpower affairs:** administration of the legislation including - receipt of notifications about the establishment of unions, federations and confederations; ensuring legislative requirements are met; issuing of record numbers; and maintaining and updating records in relation to organizations.
- **For workers and unions:** understanding their rights and obligations under the Act with respect to - notification; the development of union constitutions and bylaws; proper financial administration and reporting; and the role of unions in representing members in agreement-making and industrial disputes.
- **For employers:** understanding their obligations not to interfere with the establishment or operation of unions or to act in a discriminatory way towards union members or officials; and dealing with new unions, federations and confederations on industrial matters and in negotiations.

To assist with the implementation of the laws and with the understanding of the rights and obligations thereunder, **the following matters may be considered**

- Preparation of a *User Guide* to the Act. This will provide a summary of the main provisions of the Act. It may also provide

information regarding:

- procedures and forms for notifications under the Act; and
- examples of union constitutions and bylaws.
- Preparation of an *Information Kit* on the Act. This would include the User Guide together with other material (e.g. copy of Act and relevant Ministerial Regulations or Decisions; copy of relevant ILO Conventions; information regarding the establishment and operation of unions including examples of union constitutions and bylaws and advice regarding financial administration; and information regarding federations and confederations). The Information Kit would be of particular use to: –
 - National and provincial government officials performing functions under the Act;
 - Workers seeking to establish unions;
 - Unions, federations and confederations, in meeting their obligations under the Act.
- Assistance to the Ministry of Manpower and Transmigration (MOMT), and to provincial government agencies, in the establishment of procedures and practices for the performance of administrative functions under the Act. This could include: –
 - the preparation of an administrative manual;
 - training of personnel;
 - advice regarding the establishment and maintenance of records at the provincial and national levels.

The undertaking of such activities by the MOMT would assist in ensuring consistent implementation of the Act throughout the provinces and districts.

- Consideration may also be given by the MOMT to the establishment of an *Advisory Service* (hot line) to provide advice regarding matters arising under the Act to: –
 - Workers and unions;
 - Provincial government officials; and
 - Employers.
- There are a range of possible activities to assist unions, federa-

tions and confederations in relation to their rights and obligations under the Act. Some of these may be addressed under other projects (e.g. training in relation to the management and administration of unions). The provision of basic information and training about the Act would seem to be the most useful activity for the project at this stage.

- Important provisions of the Act deal with the *protection of the right to organize* (Art. 28). These provisions may give rise to criminal prosecutions in the courts against employers and others (see Art. 43). Similar provisions in other countries have led to disputes and prosecutions where it is alleged that union officials or members have been dismissed or victimised in their employment on account of union membership or involvement in union activities. There is a potential for disputes and problems to arise in Indonesia in relation to such matters.
- Consideration should be given to activities which will assist in the following: –
 - making employers aware of their obligations under the Act;
 - allowing government inspectors (Art. 40) to play a meaningful role in preventing prohibited conduct, and resolving any disputes which arise; and
 - ensuring the proper and impartial enforcement of the laws by the courts.

This might include preparation of material on the types of conduct prohibited and the examination of activities to discourage such conduct (e.g. *an education and awareness program*).

- Assistance to the MOMT in relation to: –
 - a) the publication of information/statistics regarding the unions, federations and confederations recorded under the Act;
 - b) the monitoring of the operation of the Act; and
 - c) the identification and rectification of any problems which arise in the implementation of the Act, especially at provincial level.

It might be appropriate for such matters to be considered by *the National Tripartite Forum*.

- The project activities are to be conducted at the central level (Jakarta) and in selected provinces. Efforts should be made to ensure that the wider community is aware of the activities and, more importantly, is advised about the new legislation and the progress with the implementation of the right of freedom of association in Indonesia. To this end, *media statements and briefings* should be part of the planning for major activities and the release of publications.
- Further, consideration may be given to ways of raising public awareness including the conduct of *Information Sessions or Briefings* on various aspects of the new laws (e.g. “current topics”). Although these would be targeted at industrial relations practitioners (employers, unions and workers, government officials, industrial advocates, etc.), the sessions might also be open to NGOs, academics and other interested persons.