



Indonesia

ACT OF THE REPUBLIC OF INDONESIA CONCERNING TRADE UNION/ LABOR UNION, 2000.

(Act No. 21 of 2000)

(As amended up to 1996)

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Considering

1. That freedom of association and the right to organize, to express one's thoughts either orally or in writing, to have a job and to earn a living that is proper from the viewpoint of humanity, and to have equal position in the eyes of the law are the rights of every citizen;

2. That in order to realize the freedom to organize, workers/ laborers have the right to establish and develop a trade union/ labor union that is free, open, independent, democratic and responsible;
3. That the trade union/ labor union is a vehicle to further, protect and defend the interests and welfare of workers/ laborers and their families, and to realize industrial relations that are harmonious, dynamic and uphold justice;
4. That, based on considerations as referred to under points a, b, and c, it is necessary to establish Act concerning Trade Union/ Labor Union;

Recalling:

1. Article 5 Subsection (1), Article 20 Subsection (2), Article 27, and Article 28 of the 1945 Constitution as amended by the First Amendment of the Year 1999;
2. Act Number 18 Year 1956 concerning the Ratification of the International Labor Organization Convention Number 98 concerning the Coming into Effect of the Fundamentals of the Right to Organize and Collective Bargaining (State Gazette Year 1956 Number 42, Supplement to State Gazette Number 1050);
3. Act Number 39 Year 1999 concerning Human Rights (State Gazette Year 1999 Number 165, Supplement to State Gazette Number 3886).

With the Approval of
THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA DECIDES
To establish:
ACT CONCERNING TRADE UNION/ LABOR UNION

CHAPTER I: GENERAL DEFINITION

Article 1

Under this act, the following definitions shall apply:

1. A trade union/ labor union is an organization that comes from, is established by and for either enterprise-bound or enterprise-free workers/ laborers, which is free, open, independent, democratic and responsible to fight for, defend and protect the rights and interests of workers/ laborers and improve the welfare of workers/ laborers and their families.
2. An enterprise-bound trade union/ labor union is a trade union/ labor union that is established by the workers/ laborers of one enterprise or several enterprises.
3. An enterprise-free trade union/ labor union is a trade union/ labor union that is established by workers/ laborers who do not work at an enterprise.
4. A federation of trade unions/ labor unions is a grouping of trade unions/ labor unions.

5. A confederation of trade unions/ labor unions is a grouping of trade union/ labor union federations.
6. A worker/ laborer is any person who works for a wage or other forms of remunerative exchange.
7. An employer is
 - a. An individual, a partnership, or a legal body running an enterprise of his, her or its own.
 - b. An individual, a partnership, or a legal body running an enterprise self-reliantly on his, her or its own although he, she or it does not own the enterprise.
 - c. An individual, a partnership, or a legal body residing in Indonesia representing an enterprise of the type referred to under either point a or point b which is based outside of the Indonesian territory;
8. An enterprise is any form of business undertaking, which operates either as a legal body or not, which is owned by an individual or a business partnership or a legal body, which is either privately-owned or state-owned, which employs workers/ laborers and pays them a wage or other forms of exchange for their work and or service;
9. An inter-trade/ labor union, inter-trade/ labor union federation, and inter-trade/ labor union confederation dispute is a dispute between a trade/ labor union, trade/ labor union federation, trade/ labor union confederation and another trade/ labor union, trade/ labor union federation, trade/ labor union confederation over membership and the exercise of union rights and responsibilities.
10. Minister is the minister responsible for manpower affairs.

CHAPTER II: STATUTORY BASES, CHARACTERS AND OBJECTIVES

Article 2

(1) Trade unions/ labor unions, federations and confederations of trade unions/ labor unions accept the Pancasila as the state ideology and the 1945 Constitution as the constitution of the Unitary State of the Republic of Indonesia.

(2) Trade unions/ labor unions, federations and confederations of trade unions/ labor unions have statutory bases that do not run against the Pancasila and the 1945 Constitution.

Article 3

Trade unions/ labor unions, federations and confederations of trade

unions/ labor unions shall be free, open, independent, democratic and responsible.

Article 4

(1) Trade unions/ labor unions, federations and confederations of trade unions/ labor unions aim to protect, defend the rights and interests of, and improve the welfare of workers/ laborers and their family, as is proper.

(2) In order to achieve the objectives as referred to under Subsection (1), trade unions/ labor unions, federations and confederations of trade unions/ labor unions shall have the following functions:

- a. As a party in the making of a Collective Labour Agreement and the settlement of an industrial dispute;
- b. As workers/ laborers' representative in cooperation institutes in the area of manpower in accordance with the union's hierarchy/ level;
- c. As a structure to create industrial relations that are harmonious, dynamic, and uphold justice according to valid national statutory rules and regulations;
- d. As a structure to channel aspirations in defense of the rights and interests of its members;
- e. As the planner of, the actuator of, and the party that is responsible for a strike in accordance with valid national statutory rules and regulations;
- f. As workers/ laborers' representative in striving for the ownership of shares in the enterprise.

CHAPTER III: UNION FORMATION

Article 5

(1) Every worker/ laborer has the right to form and become a member of a trade union/ labor union.

(2) A trade union/ labor union is formed by no less than 10 (ten) workers/ laborers.

Article 6

(1) Trade unions/ labor unions have the right to form and have membership in a federation of trade unions/ labor unions.

(2) A federation of trade unions/ labor unions is formed by no less than 5 (five) trade unions/ labor unions.

Article 7

(1) Federations of trade unions/ labor unions have the right to form and have membership in a confederation of trade unions/ labor unions.

(2) A confederation of trade unions/ labor unions is formed by no less than 3 (three) federations of trade unions/ labor unions.

Article 8

The hierarchical arrangements of the organization of trade unions/ labor unions, federations and confederations of trade unions/ labor unions are regulated in their union constitutions and or bylaws.

Article 9

Trade unions/ labor unions, federations and confederations of trade unions/ labor unions shall be formed of the free will of workers/ laborers without pressure or intervention from the employer, the government, any political party and or any other parties.

Article 10

Trade unions/ labor unions, federations and confederations of trade unions/ labor unions may be established according to business sector, type of work (trade), or other categories according to the will of the worker/ laborer.

Article 11

(1) Every trade union/ labor union, federation and confederation of trade unions/ labor unions must have a constitution and a bylaw.

(2) The constitution as referred to under subsection (1) must at least contain the following:

- a. The union's name and emblem/ symbol;
- b. The state ideology, the union statutory basis, and objectives;
- c. The date the union was established;
- d. The domicile/ seat of the union;
- e. Union membership and administration;
- f. The union's financial sources and accountability; and
- g. Provisions concerning changes in the union's constitution and or bylaw.

CHAPTER IV: MEMBERSHIP

Article 12

Trade unions/ labor unions, federations, and confederations of trade

unions/ labor unions must be open to accept members without discriminating them on grounds of political allegiance, religion, ethnicity and sex.

Article 13

Membership in a trade union/ labor union, a federation of trade unions/ labor unions, and a confederation of trade unions/ labor unions shall be regulated in the constitution and bylaw of the union, federation of trade unions/ labor unions, and confederation of trade unions/ labor unions in question.

Article 14

(1) A worker/ laborer is not allowed to have membership in more than one trade union/ labor union at one enterprise.

(2) In case a worker/ laborer at an enterprise turns out to have been registered as a member in more than one trade union/ labor union, he or she must make a written declaration stating the trade union/ labor union in which he chooses to retain his membership.

Article 15

A worker/ laborer whose position in the enterprise creates conflict of interests between the management and the enterprise's workers/ laborers shall not be allowed to become trade/ labor union official in the enterprise in question.

Article 16

(1) Every trade union/ labor union can only have membership in one federation of trade unions/ labor unions.

(2) Every federation of trade unions/ labor unions can only have membership in one confederation of trade unions/ labor unions.

Article 17

(1) A worker/ laborer may quit his union membership by submitting a written notification to this effect.

(2) A worker/ laborer may be dismissed from his/her trade union/ labor union membership according to the stipulations of the constitution and or bylaw of his trade union/ labor union.

(3) A worker/ laborer, in his/her capacity as either an official or as a member of a trade union/ labor union, who quits or is dismissed from his/her union membership as referred to under subsection (1) and subsection (2), shall remain accountable for any unfulfilled obligations to the trade union/ labor union.

Article 18

(1) Upon its establishment, a trade union/ labor union, a federation or a confederation of trade unions/ labor unions shall give a written notification to the local government agency responsible for manpower affairs for the sake of record keeping.

(2) The notification as referred to under subsection (1) shall be supplemented with:

- a. A list containing the names of founding members;
- b. The union's constitution and bylaw;
- c. Its officials' lineup and names.

Article 19

A trade union/ labor union, a federation and a confederation of trade unions/ labor unions whose establishment is to be notified to the local government agency responsible for manpower affairs is not allowed to have a name and emblem that is the same as the name and emblem of any trade union/ labor union, federation and confederation of trade unions/ labor unions that have been previously recorded.

Article 20

(1) The government agency as referred to under Article 18 subsection (1) is obliged to keep a record of, and issue a record number to, the trade union/ labor union, federation and confederation of trade unions/ labor unions that have fulfilled the requirements as referred to under Article 2, Article 5 subsection (2), Article 6 subsection (2), Article 7 subsection (2), Article 11, Article 18 subsection (2), and Article 19, within a period of no longer than 21 (twenty one) workdays since the date it received the union notification.

(2) The government agency as referred to under Article 18 subsection (1) may postpone the recording and the issuance of record number in case the trade union/ labor union, federation and confederation of trade unions/ labor unions in question have not fulfilled the requirements as referred to under Article 2, Article 5 subsection (2), Article 6 subsection (2), Article 7 subsection (2), Article 11, Article 18 subsection (2), and Article 19.

(3) The postponement as referred to under subsection (2) and the reasons for the postponement shall be communicated in writing to the trade union/ labor union, federation and confederation of trade unions/ labor unions in question within a period of no less than 14 (fourteen) workdays since the date the union notification is received.

Article 21

Should changes in union constitution and or bylaw occur, the officials of the trade union/ labor union, federation and confederation of trade unions/ labor unions concerned shall inform the government agency as

referred to under Article 18 subsection (1) within a period of no later than 30 (thirty) days since the date the changes in the constitution and or the bylaw of the union were made.

Article 22

(1) The government agency as referred to under Article 18 subsection (1) must record trade unions/ labor unions, federations and confederations that have met the requirements as referred to under Article 2, Article 5 subsection (2), Article 6 subsection (2), Article 7 subsection (2), Article 11, Article 18 subsection (2) and Article 19 in the union record book and take good care of the book.

(2) The union record book as referred to under subsection (1) must be open to inspection at all times and must be accessible to the general public.

Article 23

The officials of trade unions/ labor unions, federations and confederations of trade unions/ labor unions that already have a record number must give a written notification of their existence to their working partners according to their hierarchical levels.

Article 24

Regulations concerning trade/ labor union record-keeping procedures shall be stipulated further by means of a ministerial decision.

CHAPTER VI: RIGHTS AND OBLIGATIONS

Article 25

(1) A trade union/ labor union, federation and confederation of trade unions/ labor unions that has a record number has the right to

- a. Negotiate a collective labour agreement with the management;
- b. Represent workers/ laborers in industrial dispute settlements;
- c. Represent workers/ laborers in manpower institutions;
- d. Establish an institution or carry out activities related to efforts to improve workers/ laborers' welfare.
- e. Carry out other manpower or employment-related activities that do not run against valid national statutory rules and regulations.

(2) The exercise of the rights as referred to under subsection (1) shall be carried out in accordance with valid national statutory rules and regulations.

Article 26

Trade unions/ labor unions, federations and confederations of trade unions/ labor unions may affiliate to and or cooperate with international trade unions/ labor unions and or other international organizations on the condition that the affiliation or the cooperation does not run against valid national statutory rules and regulations.

Article 27

A trade union/ labor union, a federation or a confederation of trade unions/ labor unions that has already a record number is obliged to:

- a. Protect and defend its members from any violations of their rights and further their interests;
- b. Improve the welfare of its members and their families;
- c. Present its accountability on organizational activities to its members in accordance with its constitution and bylaw.

CHAPTER VII: PROTECTION OF THE RIGHT TO ORGANIZE

Article 28

Everybody is prohibited from preventing or forcing a worker/ laborer from forming or not forming a trade union/ labor union, becoming union official or not becoming union official, becoming union member or not becoming union member and or carrying out or not carrying out trade/ labor union activities by:

- a. Terminating his employment, temporarily suspending his employment, demoting him, or transferring him to another post, another division or another place in order to discourage or prevent him from carrying out union activities or make such activities virtually impossible;
- b. Not paying or reducing the amount of the worker/ laborer's wage;
- c. Intimidating him or subjecting him to any other forms of intimidation;
- d. Campaigning against the establishment of trade unions/ labor unions.

Article 29

(1) The employer must provide opportunity to the officials and members of a trade/ labor union to carry out trade/labor union activities during working hours that are agreed upon by both parties and or arranged in the collective labour agreement.

(2) The agreement by both parties and or the arrangement in the

collective labour agreement as referred to under subsection (1) must regulate:

- a. Types of union activities for which the opportunity is provided;
- b. Procedures for the provision of the opportunity;
- c. Which provisions of opportunity shall be entitled to pay and which ones shall not be entitled to pay.

CHAPTER VIII: FINANCES AND ASSETS

Article 30

Trade unions/ labor unions' finances come from:

- a. Membership fee (union dues) whose amount shall be determined in the union constitution/ bylaw;
- b. Profits earned from the union's legitimate money-making activities;
- c. Unconditional financial assistance from members or other parties.

Article 31

(1) In case the financial assistance from other parties as referred to under Article 30 point (c) comes from overseas sources, the officials of the trade union/ labor union concerned must report it in writing to the government agency responsible for manpower affairs according to valid national statutory rules and regulations.

(2) The assistance as referred to under subsection (1) shall be used to improve the quality and welfare of union members.

Article 32

Finances and assets of a trade union/ labor union, a federation and a confederation of trade unions/ labor unions must be separate from the private finances and assets of their officials and members.

Article 33

The translocation or transfer of union finances and assets to another party, investments of union funds and other legitimate business transactions by the union can only be made in accordance with what is stipulated in the constitution and or bylaw of the trade union/ labor union, the federation and the confederation of trade unions/ labor unions in question.

Article 34

(1) Union officials shall be held accountable for the use and the management of finances and assets of the trade union/ labor union,

the federation and the confederation of trade unions/ labor unions.

(2) Union officials are under an obligation to keep exact records of the money that the union has spent or received, and of the union's assets, and to periodically present financial reports to union members in accordance with the constitution and or bylaw of the trade/ labor union, the federation and the confederation of trade/ labor unions concerned.

CHAPTER IX: DISPUTE SETTLEMENT

Article 35

Every dispute between one trade union/ labor union, federation and confederation of trade unions/ labor unions and another shall be settled through deliberations by the trade/ labor unions, the federations and the confederations of trade/ labor unions that are involved in the conflict.

Article 36

If the deliberations as referred to under Article 35 fail to reach an agreement, the inter-trade/ labor union, trade/ labor union federation, trade/ labor union confederation dispute shall be settled in accordance with valid national statutory rules and regulations.

CHAPTER X: DISSOLUTION

Article 37

A trade union/ labor union, a federation and a confederation of trade unions/ labor unions is dissolved:

- a. If it is so declared by its members in accordance with the constitution and or bylaw of the union.
- b. If the enterprise is closed or stops its activities for good and this results in the termination of all employment relationships with all workers/ laborers in the enterprise after the employer has fulfilled all his obligations to his workers/ laborers in accordance with valid national statutory rules and regulations.
- c. If it is so declared by a court decision.

Article 38

(1) The court as implied under Article 37 point c may dissolve a trade/ labor union, a federation and a confederation of trade/ labor unions in case:

- a. The trade/ labor union, federation and confederation of

trade/ labor unions has a statutory basis that runs against the Pancasila and the 1945 Constitution;

b. Its administrators and or members prove to be guilty of committing a crime - in the name of the trade/ labor union, federation and confederation of trade/ labor unions - that harms the security of the State, as attested by the legally and permanently binding court decisions that have been issued against them and by the jail sentences of no less than 5 (five) years that the decisions impose on them.

(2) In case the court decisions imposed on the perpetrators of the crime as referred to under subsection (1) point b stipulate different jail terms, the decisions carrying the eligible jail terms for legally demanding the dissolution of the trade/labor union, federation and confederation of trade/ labor unions shall be used as the basis for the dissolution.

(3) The lawsuit demanding the dissolution of trade/labor union, federation and confederation of trade/ labor unions as referred to under subsections (1) and (2) shall be filed by government agency to the district court where the affected trade/labor union, federation and confederation of trade/ labor unions domiciles.

Article 39

(1) The dissolution of a trade/labor union, federation and confederation of trade/ labor unions does not free its officials from their responsibilities and obligations to the union's members as well as to other parties.

(2) The officials and or members of a trade/labor union, federation and confederation of trade/ labor unions who prove to be guilty of a wrongdoing according to a court decision and who cause the dissolution of the trade/labor union, federation and confederation of trade/ labor unions are subjected to a 3 (three)-year suspension, during which they are not allowed to establish and become officials of another trade/labor union, federation and confederation of trade/ labor unions. The three-year suspension is effective starting from the point at which the court decision concerning the dissolution of the trade/labor union in question is officially declared to be permanently and legally binding.

CHAPTER XI: INSPECTION AND INVESTIGATION

Article 40

To guarantee workers/ laborers' right to organize and trade unions/ labor unions' right to carry out union activities, government labor inspectors shall carry out inspection in accordance with valid national

statutory rules and regulations.

Article 41

In addition to the special authority of the investigating police officers from the Police of the Republic of Indonesia, special authority to function as investigators according to valid national statutory rules and regulations to carry out investigations of crimes is also given to certain civil servants within the jurisdiction of the government agencies whose jobs and responsibilities concern manpower affairs.

CHAPTER XII: SANCTIONS

Article 42

(1) Violation against Article 5 subsection (2), Article 6 subsection (2), Article 7 subsection (2), Article 21 or Article 31 may result in the revocation of the union record number of the violating trade/ labor union, federation and confederation of trade/ labor unions as an administrative sanction.

(2) Trade/ labor unions, federations and confederations of trade/ labor unions whose record number is revoked lose their rights as referred to under Article 25 subsection (1) points a, b, and c until the trade/ labor unions, federations and confederations of trade/ labor unions in question fulfil what is required under Article 5 subsection (2), Article 6 subsection (2), Article 7 subsection (2), Article 21 or Article 31.

Article 43

(1) Everybody who bars or forces workers/laborers as referred to under Article 28 is subjected to a sentence of no less than 1 (one) year and no longer than 5 (five) years in jail and or a fine of no less than Rp100,000,000 (one hundred million rupiahs) and no more than Rp500,000,000 (five hundred million rupiahs).

(2) The criminal act as referred to under subsection (1) is a grave criminal offense.

CHAPTER XIII: MISCELLANEOUS REGULATIONS

Article 44

(1) Civil servants have freedom of association and the right to organize.

(2) The implementation of the freedom of association and the right to organize as referred to under subsection (1) shall be regulated in a separate act.

CHAPTER XIV: TRANSITIONAL REGULATIONS

Article 45

(1) Upon the enactment of this act, any trade union/ labor union, federation and confederation of trade/ labor unions that has been issued a union record number must report in order to be given a new union record number according to what is stipulated under this act within a period of no later than 1 (one) year after the date this act comes into effect.

(2) Within a period of 1 (one) year since this act starts to come into effect, any trade union/ labor union that fails to comply with what is stipulated under this act is assumed to have no union record number.

Article 46

Any notification concerning the establishment of a trade union/ labor union, federation and confederation of trade/ labor unions that has been made but is still being processed at the time this act takes effect must be processed in accordance with what is stipulated under this act.

CHAPTER XV: CLOSING PARAGRAPHS

Article 47

This act starts to come into force upon the date of its promulgation. For the cognizance of the general public, [the president] orders the promulgation of this act by having it placed on the State Gazette of the Republic of Indonesia.

Legalized in Jakarta On August 4, 2000 PRESIDENT OF THE REPUBLIC OF INDONESIA ABDURRAHMAN WAHID	Promulgated in Jakarta On August 4, 2000 STATE SECRETARY OF THE REPUBLIC OF INDONESIA, DJOHAN EFFENDI
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State Gazette of the Republic of Indonesia, No.131, 2000.

This copy agrees with the original
SECRETARIAT OF THE CABINET OF THE REPUBLIC OF INDONESIA
The second chairperson of the Bureau for Statutory Rules and Legislation
Edy Sudibyo

No. 21 of 2000 CONCERNING TRADE UNION/ LABOR UNION

I. Generalities

Workers/ laborers as citizens have rights and status that are equal to those of any other citizens in the eyes of the law. They have the right to have a job and to earn a living that is proper, the right to voice their opinion, the right to group together in one organization, and the right to establish and become members of a trade union/ labor union.

The right to become a trade union/ labor union member is a fundamental right of the worker/ laborer that has been guaranteed under Article 28 of the 1945 Constitution. To exercise the right, to every worker/ laborer, as many opportunities as possible must be given to establish, and to become members of, a trade union/ labor union.

Trade unions/ labor unions function as a structure to fight for, to protect, and to defend the interests of, and to improve the welfare of, workers and their families. In exercising this right, workers/ laborers are demanded that they also be responsible for guaranteeing that the broader interests, that is, the interests of the State and the nation are looked after. Therefore, the exercise of such right shall be carried out within the framework of industrial relations that are harmonious, dynamic and uphold justice.

The worker/ laborer's right to organize - as stipulated under the International Labor Organization (ILO) Convention Number 87 concerning the Freedom of Association and Protection of the Right to Organize and the ILO Convention Number 98 concerning the Right to Organize and Collective Bargaining which have been ratified by Indonesia - becomes part of national statutory rules and regulations. Until recently, however, there have been no regulations that specifically regulate the implementation of the worker/ laborer's right to organize. As a result, trade unions/ labor unions are still unable to carry out their functions maximally.

These above-mentioned ILO Conventions guarantee the civil servant's right to organize. However, due to their functions as servants of the public, this right has to be dealt with separately.

