



International
Labour
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Freedom of Association and Collective Bargaining

Indonesian Experience 2003-2008

Working Paper

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International Labour Organization

Preface

Indonesia has undergone a major transition in its labour law regime over the past ten (10) years, with the ratification of all the ILO Core Labour Conventions including ILO Convention No.87 concerning freedom of association and protection of the right to organize and the enactment of three new Labour Acts since 1998; the Trade Union Act, the Manpower Act and the Settlement of Industrial Disputes Act, to complete its labour law reforms and to give effect to its international obligations.

This paper is intended to provide an update on the progress of implementing and realizing freedom of association and collective bargaining in Indonesia over the past five years (2003 – 2008).

Background

Indonesia completed its legislative reform agenda of covering manpower and industrial relations, with the coming into effect in January 2006 of the Settlement of Industrial Disputes Act, the final of major labour legislations.

Indonesia is the world's fourth most populous country with 223 million inhabitants. The key challenges for Indonesia over the past decade have been to continue the agenda of economic rebuilding after the 1997 financial crisis in Asia which had devastating effects on the country, and the introduction of sweeping democratic reforms, which culminated in Indonesia's first direct presidential election in 2004.

The focus of this paper is to provide an update on Indonesia's implementation of freedom of association and collective bargaining, examining the challenges and progress made and the role played by the social partners.

Political Changes

Indonesia's political landscape has been dominated by a transition to increased democracy and economic and social recovery from the Asian financial crisis in 1997.

The financial crisis had devastating impacts on Indonesia, including a collapse of the rupiah, soaring interest rates, widespread closure of vulnerable businesses, rising prices, reduced standards of living and massively increased unemployment.

The financial crisis catalysed political as well as economic and social reforms. The 1998 *reformasi* movement demanded an end to corruption, collusion and nepotism and after 30 years of authoritarian rule, characterized by increasing political abuses, President Suharto resigned in May 1998. The political regime has undergone significant changes since then with the House of Representatives gaining a greater role and more power and a corresponding reduction in the legislative power of the President.

Indonesia held its first democratic elections in 1999 and Indonesia's first direct presidential election was held in 2004. Mr Susilo Bambang Yudhoyono, who stood against corruption, was elected as the 6th President of Indonesia after the 2004 elections.

The Indonesian Government maintains a commitment to work together with the International Labour Organisation. After ratifying all the ILO's core conventions by 2000, the first country in Asia to do so, the Government promulgated three major labour laws to implement its obligations and conclude the labour legislations reforms; a law on Trade Unions, a law on Manpower and a law on the Settlement of Industrial Disputes.

Economic Developments

Indonesia's economic recovery from the financial crisis that struck Asia since 1997 has been relatively slow compared to other affected nations in the region. Prior to 1997, Indonesia had been achieving strong economic growth, with an average annual growth rate of 7.1% between 1985 and 1995. In the immediate aftermath of the economic crisis, inflation rose to over 70%, the banking sector faltered and many Indonesians lost their livelihoods.

Indonesia's economy has been showing signs of economic recovery in the past few years, although it is still lagging behind other affected countries in the region, including Korea and Thailand. By the second quarter 2007, growth had increased to 6.3% compared with 5% growth in early 2006. Growth is anticipated to rise slightly to 6.4% in 2008¹.

Indonesia began participating in the ASEAN Free Trade Area (AFTA) in 2003. The AFTA requires its members to engage in comprehensive tariff reductions. The AFTA is like to require Indonesia to improve its relative productivity and competitiveness. The benefits for AFTA members in removing barriers to trade is to encourage countries to focus on their relative strengths in the region and prosper through producing goods and providing services in which there is a competitive advantage.

In order for Indonesia to capitalise on its competitive advantage, effective deployment of its very large labour force is crucial. However, Indonesia's labour force is poorly educated compared with other countries in the region, with the majority of Indonesian workers not having completed primary schooling and only 2% with a university education. A poorer quality labour force can be expected to impact on the flexibility of Indonesia's labour market as unskilled workers will find it more difficult to move to sectors requiring higher skills or technology than the labour forces in the region. In addition, trade liberalization is likely to have a negative impact on weak enterprises, which face financial collapse once protectionist barriers are removed.

The precise nature of the impacts of AFTA are yet to become clear, however trade liberalization is expected to have a significant impact on the Indonesian economy.

1 World Bank, *Indonesian Economic & Social Update*, November 2007.

Foreign Debt

After the Asian financial crisis in 1997, Indonesia became more heavily involved with World Bank and IMF activities, agreeing to a \$5 billion IMF loan package. In October 2006, Indonesia repaid all outstanding obligations to the IMF and has not sought to initiate a new loan package.

Indonesia has also cut ties with the Consultative Group on Indonesia (CGI), a group of bilateral and multilateral donors led by the World Bank which worked closely with Indonesia until recently, providing US\$2.7 billion in loans in 2003 and pledging \$5.4 billion in new loans and grants in 2006.

In January 2007, President Susilo Bambang Yudhoyono terminated the CGI on the basis that Indonesia no longer needed the assistance of the CGI, but preferred to negotiate bilaterally with its main creditors, the World Bank, Asia Development Bank and Japan.

Regional Autonomy

Regional autonomy, which was instituted in 2001 after regional autonomy laws passed through Parliament, empowered provincial and district governments to make laws and policies after more than 30 years of centralized rule. While the central Government is still responsible for drafting new laws, including laws on industrial relations, provincial and district Governments are responsible for implementing the laws and can create local policy.

Regional autonomy has made a significant impact on employment and labour relations in Indonesia, particularly with regard to minimum wage setting and monitoring of labour-related issues. Initially, the regional autonomy laws received a mixed reaction with some expressing concerns about the preparedness of provincial governments. It was feared that inexperienced and ill-prepared regional authorities could negatively impact on employment and investment. However, others embraced the prospect of provincial rule as a positive step towards tailoring laws and policies to regions facing different challenges.

Regional governments now have responsibility for employment and labour related issues through the Office of Employment. Of key concern is the lack of labour related data or information which the central Ministry of Manpower usually received from with regional governments in the past. After seven (7) years of regional autonomy, many regional governments still fail to send any data to the central government at all. This may be because the officials at the regional level lack the technical skills, experience or capacity to collect and analyse data. Officials may also not understand the importance of compiling and sharing information in the labour relations sector.

Another problem which may be related to a lack of technical capacity and experience of regional governments is the paucity of labour monitoring being undertaken at the regional level. A recent joint study by the ILO and ASEAN noted that almost 60% of registered labour inspectors have been transferred to other positions since decentralization and 89 regencies are operating without labour inspectors². The central labour inspectorate agency claims to have not received reports

2 Tirta Hidayat & Diah Widarti, ILO/ ASEAN Joint Study on: Social Implications of ASEAN Free Trade Agreement (AFTA) on Labour and Employment: the case of Indonesia, Jakarta, December 2005, p.34

since regional autonomy. This can be a disturbing outcome of regional autonomy as a lack of labour inspectors may lead to widespread labour abuses which remain undetected.

Business groups have also complained about multiple taxes levied by regional governments, increasing the cost of doing business and discouraging much needed investment. Despite the shortcomings in data collection and labour monitoring, the ILO noted in 2004 that "the agenda of decentralization has... proceeded without undue disruption to service delivery"³.

Employment

The improvements in Indonesia's economic climate have only partially affected the employment situation, prompting concerns that the country is currently experiencing 'jobless growth'.

Official data from the Department of Manpower and Transmigration suggests that by February 2006 there were 106 million people in the Indonesian labour force with a total employed labour force of 95.2 million and 25 million unemployed workers.

Unemployment rates have declined in the latest figures. The unemployment rate dropped from 10.4% in February 2006 to 9.8% in February 2007⁴.

High youth unemployment continues to pose a significant problem in Indonesia and in 2006, youth unemployment reached almost 28% for males and 35% for females. The most recent data from the World Bank suggests that youth unemployment has dropped between 2006 and 2007 from 30.6% to 25.4%. However, this encouraging progress must be viewed in the light of data from previous years in which youth unemployment increased between 2004-2005 and also between 2005-2006.

The formal sector remains the source of employment for only the minority of Indonesian workers. Official statistics suggest that the formal sector supports 34.4 million employees, while the informal sector accounts for the remaining 60.7 million. Current data indicates that job creation in the informal sector is increasing at a higher rate than the formal sector, meaning that most of the new jobs created in Indonesia are being created in the informal sector. This has a significant impact on the welfare of Indonesian workers as the informal sector tends to offer workers less job security and lower wages. Informal workers are also outside of the labour regulations and can expect little protection from the labour law regime and the social security system.

Underemployment, the phenomenon where people are involuntarily working fewer hours than they would prefer, continues to pose a significant challenge in Indonesia. In 2006 there were 14.2 million involuntarily underemployed people, representing 47.5% of employed people still looking for additional work, up from 10.7 million people in 1997⁵.

There have been a rising number of discouraged job seekers since 2001, although Bappenas statistics suggest that the number of discouraged workers decreased from 3% to 1.21% in 2007.

3 Working out of poverty: ILO Contribution to Indonesia's Poverty Reduction Strategy, ILO: ILO Jakarta, October 2004.

4 The World Bank, Indonesia: Economic & Social Update, November 2007.

5 Diah Widarti, 'Indonesia', in Sangheon Lee & Jai-Joon Hur (eds), *Globalisation and Changes in Employment Conditions in Asia and the Pacific*, Korea Labor Institute, December 2007, p.360.

The economic growth of between 5-6% over the past few years is deemed not sufficient to provide jobs to all new job-seekers in the Indonesian labour market, let alone address the vast unemployment and underemployment problems in the Indonesian labour market.

A World Bank report has observed that the relationship between growth and productivity has changed in recent years, and economic growth is now more likely to be a reflection of increased productivity rather than job creation. If this trend continues, the report estimates that Indonesia would need to sustain a 7% economic growth rate between 2005 and 2010 to provide employment for 2 million workers annually⁶. While economic growth has increased to 6.3% in 2007, it remains to be seen whether this translates into sufficiently higher employment figures to absorb new labour market entrants and those currently unemployed or underemployed.

Issues influencing the current labour market include the end of the Multi-Fibre Arrangement (MFA) in December 2004, which removes quotas on textiles. The cessation of this agreement has the potential to benefit Indonesia as a textile exporter, but has sparked some concerns that subjecting Indonesia to increased competition could lead to a further reduction in jobs in the sector. The growing trend for employers to introduce flexibility into their enterprises by outsourcing work has caused concern amongst permanent workers who fear for their job security.

A report by the International Trade Union Confederation (ITUC) in 2007 claims that the end of the MFA led to factory closures in West and Central Java, and an increase in contract workers in other factories⁷. The report observes that three factory closures involving 18,000 Indonesian workers have occurred since the end of 2006.

Contract Work and Outsourcing

Contract work and outsourcing of work has been increasing in recent years. The Manpower Act together with the Decree of the Minister of Manpower and Transmigration (KEP.220/MEN/X/2004) permits the outsourcing of work under a written agreement of contract of work under certain conditions including that the work can be undertaken separately from the main activity and is undertaken under either a direct or indirect order from the party commissioning the work. The protection and working conditions provided to the outsourced workers must be at least equal to those provided to other workers at the enterprise, or in accordance with the laws and regulations.

Contracts can be made for up to two (2) years, with an option for a one year renewal. After a maximum of three (3) years, the contract worker must either be terminated or offered a permanent position.

Workers and trade unions have expressed concerns about the impact of outsourcing and contract work on the job security of permanent employees. In particular, trade unions have complained that in some cases employers have retrenched their entire workforce, declared bankruptcy to avoid payment of severance and subsequently relocated the business, and rehired the workers as contract labour, minus union leaders and activists.⁸ Unions have claimed that employers are flouting

6 The World Bank Brief for the Consultative Group on Indonesia, *Investing for Growth and Recovery*, 14 June 2006, p.10.

7 International Trade Union Confederation (ITUC), *Internationally Recognised Core Labour Standards in Indonesia*, Report for the WTO General Council Review of the Trade Policies of Indonesia, Geneva, 27 & 29 June 2007.

8 International Confederation of Free Trade Unions (ICFTU), *Annual Survey of Trade Union Rights*, 2007.

the requirement that contract labour is restricted to work that is “temporary in nature” and employing contract workers in permanent positions. In a similar vein, unions have also expressed concerns that outsourced workers, who are only permitted to perform non-core work of a business, are being routinely employed to carry out core work in place of permanent employees.

Contract and outsourced employees may provide an attractive proposition to employers as there is no need to pay the relatively high costs of termination, such as severance pay mandated by the Manpower Act. However, employers must conduct more frequent recruitment to maintain a workforce of contract employees and there are restrictions on the length of time and the number of renewals of a contract for such a worker.

The contract worker and outsourced worker provisions provide some flexibility in an otherwise comparatively rigid labour market and may provide a selling point for the government to attract foreign investment. However, contract work and outsourcing of labour also excludes union activity, creating a more vulnerable class of worker and increasing the potential for labour abuses. The increasing prevalence of contract and outsourced workers also reduces the scope for collective bargaining to materialize at the enterprise level, which is a mechanism with the potential to provide increased flexibility in terms and conditions of employment, benefiting both employer and workers.

It is likely that the rise in contract and outsourced workers in Indonesia is a reflection of a global trend towards introducing increased flexibility in the labour market at the cost of security of employment. Indonesia’s interventionist approach to industrial relations and relatively inflexible labour market combined with a low level of collective bargaining can be expected to entice employers to shift to more contract and outsourced employees in the future. Generally, the benefits of a more flexible labour market accrue to both employers and workers, such as increases in foreign investment and growth and greater choice and freedom for contract employees. However, the advantages of increased flexibility must be balanced against Indonesia’s relatively poorly educated and unskilled labour force. Permanent positions are attractive in Indonesia as they may provide more incentive to employers to provide training and skill enhancement programs to long-term employees. In addition, Indonesia’s labour force may not have the necessary skills to easily shift between contract positions, leaving the contract workforce highly vulnerable and without the protections offered to permanent employees.

Casual Workers

The proportion of casual workers has increased between 2000 – 2006, partly due to an increase of casual workers in the agriculture sector⁹. Casual workers have been a focal point of trade union concerns in recent years. Permanent workers have expressed concerns that their job security is threatened by an increase in casual labour. Meanwhile, casual workers do not have access to many of the protections under the Labour Acts and are vulnerable to receiving lower wages and conditions than permanent employees. A recent study found that casual workers in the agriculture sector earned about one-third of an equivalent regular worker¹⁰.

9 Diah Widarti, *op cit*, p.360.

10 Diah Widarti, *op cit*.

Migrant Workers

The numbers of Indonesian workers seeking employment abroad continues to grow. There were 380,000 Indonesians working overseas in 2004, which represents a 216% increase from 1995¹¹. However, these figures are likely an underestimation of the true number of Indonesian working abroad as irregular migration is common and not reflected in official statistics. It is not surprising given the high unemployment and underemployment in Indonesia that workers would seek employment abroad. We can anticipate increasing rates of migrant workers in future as trade liberalization spreads throughout the region.

Minimum wages

Minimum wages continue to be an important and heavily debated issue in industrial relations in Indonesia. Minimum wages have been part of the industrial relations landscape in Indonesia since 1956, and have become increasingly important in recent years due to factors including a lack of rigorous collective bargaining and minimum wages setting the benchmark wage, rather than acting as a social safety net measure.

The Ministry of Manpower and Transmigration set minimum wages centrally until 2001. With the introduction of regional autonomy, responsibility for setting minimum wages was transferred to regional governments with provincial governments setting a wage floor and districts setting the minimum wages level. Minimum wages vary widely between different provinces and districts with some provinces' minimum wage level rising to almost double the level of other provinces across Indonesia.

11 Diah Widarti, op cit.

Provincial Minimum Wages

Province Year	Minimum Wages (in Rupiah) per month				
	2003	2004	2005	2006	2007
Nanggroe Aceh Darussalam	425,000	425,000	425,000	425,000	425,000
North Sumatra	505,000	505,000	505,000	505,000	505,000
West Sumatra	435,000	435,000	435,000	435,000	435,000
Riau	437,500	437,500	437,500	437,500	437,500
Riau Island	-	-	-	-	-
Jambi	390,000	390,000	390,000	390,000	390,000
South Sumatra	403,500	403,500	403,500	403,500	403,500
Bangka Belitung	379,500	379,500	379,500	379,500	379,500
Bengkulu	330,000	330,000	330,000	330,000	330,000
Lampung	350,000	350,000	350,000	350,000	350,000
Banten	475,000	475,000	475,000	475,000	475,000
DKI Jakarta	631,554	631,554	631,554	631,554	631,554
West Java	320,000	320,000	320,000	320,000	320,000
Central Java	340,400	340,400	340,400	340,400	340,400
Yogyakarta	360,000	360,000	360,000	360,000	360,000
East Java	281,750	281,750	281,750	281,750	281,750
Bali	341,000	341,000	341,000	341,000	341,000
East Nusa Tenggara	350,000	350,000	350,000	350,000	350,000
West Nusa Tenggara	375,000	375,000	375,000	375,000	375,000
West Kalimantan	400,000	400,000	400,000	400,000	400,000
Central Kalimantan	425,000	425,000	425,000	425,000	425,000
East Kalimantan	540,000	540,000	540,000	540,000	540,000
South Kalimantan	425,000	425,000	425,000	425,000	425,000
North Sulawesi	495,000	495,000	495,000	495,000	495,000
South Sulawesi	415,000	415,000	415,000	415,000	415,000
Central Sulawesi	410,000	410,000	410,000	410,000	410,000
South East Sulawesi	390,000	390,000	390,000	390,000	390,000
Gorontalo	410,000	410,000	410,000	410,000	410,000
Maluku	370,000	370,000	370,000	370,000	370,000
North Maluku	322,000	322,000	322,000	322,000	322,000
Papua/West Papua	600,000	600,000	600,000	600,000	600,000

Source: Department of Manpower and Transmigration, February 2007

The Manpower Act requires that minimum wages be based on decent living needs, but workers have argued that the current minimum wages are insufficient to meet even the most rudimentary requirements. Meanwhile, an increase in food prices, particularly rice and a sharp increase in the price of petrol in recent years has meant that workers must spend a larger proportion of their wages on these items.

Substantial increases in the minimum wage in 2001 and 2002, of almost 50% in some cases, were criticized by employer groups who claimed that minimum wage increases should be linked to productivity and employers could not afford to pay the increased wages. Employers' representatives have recently complained that minimum wage setting has become a political exercise at the provincial and district level with some candidates campaigning on a platform of increased minimum wages without regard to the minimum wage setting criteria or business' ability to pay.

In other countries, minimum wages operate as a floor for wage levels, with the majority of workers earning in excess of the prescribed minimum. However, some observers have noted that the Indonesian minimum wage is more likely to set the benchmark for wages and therefore an increase in the minimum wage translates into a wage increase for a large number of workers¹².

The minimum wage level only applies to workers in the minority formal sector. Even where an informal sector worker has an employer, as opposed to being self-employed, most informal sector workers do not receive the minimum wage.

Minimum wages are likely to continue to be a controversial industrial relations issue in Indonesia with a lack of consensus between unions and employer groups. At this stage, most formal workers do not have access to effective collective bargaining, elevating the importance of minimum wages as a safeguard to providing a living wage for formal Indonesian workers. In order to decrease reliance on minimum wages as determined by regional governments, employer groups and trade unions could increase their focus on effective collective bargaining as a mechanism for setting enterprise-based wages.

Severance Pay

Severance pay has been a controversial issue in industrial relations over the past few years and a key point of contention between employer and employee groups. The Manpower Act requires that the employer, worker or union and government must make all efforts to prevent termination of employment. If a termination of employment is inevitable, a negotiation between the employer and trade union or worker must take place. If negotiation does not resolve the matter, the parties must make a request for a decision from the Industrial Relations Court to approve a termination of employment without which a termination is null and void. Since the commencement of the Industrial Relations Court, there has been a sharp spike in the number of termination of employment cases recorded.

¹² Patrick Quinn, *Freedom of Association and Collective Bargaining: A Study of the Indonesian Experience 1998-2003*, Jakarta: ILO Jakarta, September 2003.

Employment Termination Cases

Year	Employment Termination Cases
2001	2,160 (85,989 workers)
2002	2,445 (114,933 workers)
2003	2,394 (128,191 workers)
2004	2,386 (123,929 workers)
2005*	1,784 (66,604 workers)
2006	5,615 (67,782 workers)

Source: Department of Manpower and Transmigration, February 2007

When a termination occurs, the Manpower Act provides that an employer must pay a minimum rate of severance pay, service pay and compensation pay for permanent employees where employment is terminated under certain circumstances. The amount of severance and service pay payable to a terminated employee depends upon the employee's length of service. The maximum entitlement to service, severance and compensation pay for long-term employees can reach 19 months salary¹³.

Employer groups have complained that the severance provisions in the Manpower Act are overly generous to terminated employees. During 2006, the Indonesian Government planned to make revisions to the Manpower Act to attract foreign investors and boost productivity by taking measures including reducing severance pay. The proposed amendments were met with protests from many workers and trade unions and the Government abandoned the proposed revisions to the Manpower Act.

Trade unions claim that severance pay at the current levels is necessary in the absence of other social services which provide a social safety net. While it is the case that severance pay in Indonesia is one of the most generous schemes in the region, it is necessary to consider the rate of severance pay in the context of the lack of social security, such as the absence of unemployment benefits.

Employer groups regularly cite the high levels of mandated severance pay as a key reason to employ casual workers and contract workers rather than permanent employees. Given that trade unions are concerned about the impact of the trend towards increased contract, casual and outsourced labour on permanent employees, the time may be ripe for tripartite discussions on the future of severance pay in Indonesia.

¹³ Article 156, Manpower Act 13/2003.

Frequency of Strikes

The number of strikes has generally decreased over the last few years according to government records, from 220 strikes in 2002 involving over 97,300 workers to 96 strikes involving 56,000 workers in 2005. A major increase in strike action was reported in 2006 with 282 strikes involving almost 600,000 workers. The Ministry of Manpower has attributed the 2006 increase in strike action to protests against proposed changes to the Manpower Act which were ultimately abandoned.

Strike Action from 2001 – 2006

Year	Number of Cases	Number of Workers involved	Working Hours Lost
2001	174	109,845	1,165,032
2002	220	97,325	769,142
2003	161	68,114	648,253
2004	125	53,326	591,646
2005	96	56,082	766,463
2006	282	595,783	4,665,685

Source: Department of Manpower and Transmigration, February 2007

The right to strike is enshrined in Indonesian law as a fundamental right of workers. However, the 2007 Annual Survey of Trade Unions notes that the administrative hurdles required to undertake strike action, such as the requirements to give written notice prior to a strike and participate in mediation with the employer constitutes “restrictions on the right to strike”. This report also observes that in practice “strikes have been prohibited in the public sector, in essential services, and at enterprises which serve the public interest”¹⁴. This is outside the acceptable prohibitions on the right to strike set out by ILO Committee on Freedom of Association, which requires a “clear and imminent threat to the life, personal safety or health of the whole or part of the population”¹⁵.

Strike action has been occurring mostly in the manufacturing and services sector to a lesser extent, with more than two-thirds of strikes between 2001-2005 taking place in the manufacturing sector¹⁶.

The decline in strike action generally may be a reflection of the increasing number of collective agreements and company regulations operating in Indonesia and successful use of bipartite bodies at enterprise level to resolve disputes. However, the recent spike in strike action in 2006 demonstrates that workers are prepared to express their dissatisfaction with the labour situation by taking collective action.

¹⁴ International Confederation of Free Trade Unions (ICFTU), *Annual Survey of Trade Union Rights*, 2007.

¹⁵ International Confederation of Free Trade Unions (ICFTU), *Annual Survey of Trade Union Rights*, 2007.

¹⁶ Diah Widarti, *op cit*, p.387

Collective Bargaining

The Manpower Act 13/2003 provides for the conclusion of collective labour agreements in Indonesia's industrial relations system. The Act describes collective agreements as a product of agreement between a trade union and employer which must contain at least the rights and obligations of the employer, the trade union and the worker. Only one (1) collective agreement may operate at any an enterprise and will apply to all workers. Where there are multiple unions at an enterprise, the union whose membership totals more than 50% of the workforce can negotiate the collective agreement.

On 8 April 2004, the Ministry of Manpower and Transmigration issued Regulation number 48 of 2004 on the Procedure for the Making and Legalisation of Company Regulations and Procedure for the Making and Registration of Collective Labour Agreements.

According to the Ministry of Manpower, there were a total of 9,168 Collective Labour Agreements between trade unions and private enterprises in 2006. There were a further 36,710 companies, which had company regulations substituting for collective agreements. The number of Collective Labour Agreements and company regulations have been displaying an upward trend, but not a significant increase over the last 5 years.

Number of Company Regulations and Collective Labour Agreements

Year	Company Regulations	Collective Labour Agreement
2001	36,030	8,997
2002	36,152	9,081
2003	36,174	9,102
2004	36,339	9,131
2005	36,483	9,154
2006	36.710	9.168

Source: Ministry of Manpower and Transmigration, February 2007

In December 2005, there were 176,822 registered companies, and 51,505 of these had more than 25 employees. As all companies with more than 10 employees are required to adopt company regulations, a large number of companies have failed to comply with the requirement to make company regulations.

Some observers claimed that collective agreements still rarely go beyond the minimum terms and conditions prescribed by law, and rather than producing an agreement which has been the subject of negotiation, employers habitually submit agreements to workers' representatives for signature

The lack of a rigorous collective bargaining system in Indonesia limits the ability of individual enterprises to inject more flexibility into industrial relations and tailor terms and conditions to a particular workplace which could provide benefits to both employers and workers. However, the Government's interventionist approach to industrial relations in Indonesia, may pose as a continuing

barrier to collective bargaining. Generally, heavy-handed central regulation of the terms and conditions of employment weaken the trade unions' bargaining power in negotiating collective agreements. Unions have limited flexibility to offer attractive trade-offs to employers in negotiations and a resulting collective agreement is generally weak in substance.

The Social Partners

Ministry of Manpower and Transmigration

The Ministry consists of six (6) Directorate-Generals, being:

- ♦ Directorate-General of Training and Productivity Development
- ♦ Directorate-General of Employment Placement Development
- ♦ Directorate-General of Industrial Relations Development and Workers Social Security
- ♦ Directorate-General of Labour Inspection Development
- ♦ Directorate-General of Settlement Preparation and Transmigration Placement Development
- ♦ Directorate-General of Transmigration Community and Regional Development

The Government maintains an interventionist role in industrial relations in Indonesia through regulation of key terms and conditions of the employment relationship including minimum wages, severance pay and occupational safety and health. As a consequence of regional autonomy, the role of monitoring the implementation of labour regulations and standard were delegated from the central Ministry of Manpower to regional authorities.

The central Ministry of Manpower has commented that regional governments have not been provides labour statistics. Data on industrial relations plays an important role in the formulation of policy and a wide variety of data is required including data on collective bargaining agreements, occupational safety and health, trade union membership, wages, strikes, and social security compliance. One possible solution to this gap in information might be to introduce capacity building for labour officials at the regional level, or to survey businesses and workers in each region as well as strengthen national labour administration.

Trade unions

There have been major changes to trade unions in Indonesia since the political transition to democratization, beginning in 1998. From 1975, the All Indonesia Workers' Federation (FBSI), later changed to FSPSI, was the only trade union permitted in Indonesia and was significantly shaped by the government.

Workers protests grew in the 1990s and workers attempted to establish their own organized movements outside the SPSI. However, attempts by workers to organize outside of the FSPSI were met with heavy repression, with several union activists imprisoned and protests quashed by the government. The brutal rape and murder of a young female activist, Marsinah, believed to be in retaliation for leading a strike action at her factory attracted condemnation for Indonesia both at the domestic and international levels.

Following a complaint by the International Confederation of Free Trade Unions (ICFTU) lodged with the ILO in 1994, the Government permitted the establishment of unions at the enterprise level. Although over 1000 of these unions were formed by 1997, they were considered weak and encouraged to join with FSPSI¹⁷.

In 1998, weeks into the Habibie government, ILO Convention No 87 on Freedom of Association and Protection of the Right to Organise was ratified. Following this ratification an ILO contact mission visited Indonesia with a mandate to assist the Government to comply with its obligations under the Convention.

After the ratification of Convention No. 87 on Freedom of Association and Protection of the Right to Organise in June 1998, the issuance of a government regulation on union registration and the passage of Trade Union/ Labour Union Act No 21/2000, which allowed a group of ten or more workers to form a trade union, there has been an increasing number of new trade unions registering in Indonesia.

By 2006, 87 trade union federations were registered nationally and there are more than 11,000 enterprise level unions registered at local level. Three main confederations have been formed: (KSPSI) Konfederasi Serikat Pekerja Seluruh Indonesia, Konfederasi Serikat Pekerja Indonesia (KSPI) and Konfederasi Serikat Buruh Sejahtera Indonesia (KSBSI). According to official data, there were almost 3.4 million trade union members in 2005-2006, representing about 10% of formal sector employees.

In the 2005-6 membership verification, Unions were asked to "self-verify" their membership. The figures produced were as follows:

Unions	Number of Members
KSPSI Unions	1,657,244
KSPI Unions	793,874
KSBSI	227,806
National Federations of Trade Union	269,509
Non-confederation affiliated Trade Union Federations	403,714
Non-federation affiliated Trade Union	305,959

Source: Ministry of Manpower and Transmigration, February 2007

The rapid increase in the number of trade unions, from a single union to the thousands has had a profound impact on the realization of freedom of association in Indonesia, but has also raised a number of hurdles in principles for the effective operation of unions in the labour market. Multi-unionism within one enterprise, makes co-operation between different unions essential to the effective negotiation with management. On a national level, a strong unified union movement would be an advantage in international labour policy debates and even in political lobbying.

17 Patrick Quinn, *Freedom of Association and Collective Bargaining: A Study of the Indonesian Experience 1998-2003*, Jakarta: ILO Jakarta, September 2003.

Trade unions represent workers in the formal sector, leaving informal sector workers who make up 70% of Indonesia's workforce without a representative voice to protect their rights at work. Currently, the informal sector is growing at a faster rate than the formal sector, placing even more workers outside potential protection by unions. In addition, official statistics indicate that trade unions do not represent the vast majority of workers in the formal sector. In order for trade unions to increase their strength and influence, they must strategise to ensure their activities benefit workers in both the formal and informal spheres of employment. This is particularly important in light of increasing income disparities between workers in the formal and informal sectors.

The ILO has been assisting trade unions to build their capacity in recent years. For example, in 2007, the ILO/ACTRAV (funded by the Norwegian government) developed a capacity-building programme for the three (3) trade union confederations. Training covered topics such as industrial relations, collective bargaining, youth employment, negotiation skills and trade union action plans.

Strengthening trade unions' institutional capacity on influencing national policies relevant to labour conditions standards and addressing industrial disputes is a positive step towards trade unions being able to attract new members and offer improved services to existing members.

APINDO

APINDO is the employers association of Indonesia focusing on representing employers on industrial relations issues. APINDO has faced similar challenges similar to trade unions in recent years in attracting broad-based membership and currently has a very low density membership. As illustrated in the figure below, APINDO had a total membership of 9,537 companies in February 2007. There were 176,822 registered companies in December 2005, putting APINDO's membership density at around 5% of employers.

APINDO Membership at February 2007

National Level	1
Provincial Level	26
Regency/ City Level	194
Total Membership	9,537

Source: Ministry of Manpower and Transmigration, February 2007

A study conducted by the ILO/USA Declaration project several years ago found the "small number of members creates great problems for APINDO". This study found that APINDO membership covered only 2.9% of employers, although other estimates suggested 6% membership¹⁸.

APINDO have recently cited poor funding problems at the regency level due to low density membership and non-payment of fees by some members, resulting in an inability to deliver high-quality services, which in turn affects their ability to attract new members and retain current members. A lack of expertise in lobbying and negotiating at the provincial and district level with

¹⁸ Patrick Quinn, *Freedom of Association and Collective Bargaining: A Study of the Indonesian Experience 1998-2003*, Jakarta: ILO Jakarta, September 2003.

regional governments has also affected APINDO's ability to deliver results for members at the regency level.

The ILO has been continuing its work with APINDO to increase its institutional capacity to deliver more effective services to its members. In early 2008, the ILO and the Dutch Employers Cooperation Program (DECP), assisted APINDO, in providing training on advocacy and lobbying to district branches of APINDO with the aim of enhancing APINDO's institutional capacity to offer and provide improved services to members.

Tripartite & Bipartite Structures

Bipartite Bodies

The Manpower Act 13/2003 requires that a bipartite committee is formed in companies with more than 50 workers. Bipartite structures are intended to serve as a forum for discussion and negotiation between employers and workers within an enterprise. As of June 2006, there were 7866 bipartite bodies registered with the Ministry of Manpower and Transmigration¹⁹, representing approximately 4% of the total companies registered in Indonesia.

Tripartite Structures

The Government promulgated regulation Number 8 of 2005 on Work System and Organisational Structure of Tripartite Cooperation Institution (Tripartite LKS) on 2 March 2005. This regulation established the National Tripartite Institution, a communication, consultation and discussion forum on employment comprising representatives from employers' organizations, trade unions and the government. The tripartite cooperation is established at the national, provincial and regency levels.

The tasks of the Tripartite LKS are to provide recommendations and opinions to assist the President in formulating policies and solving problems related to employment at the national level. The forum provides non-binding advice or recommendations. The ratio of government to employer organizations and trade unions is 2:1:1, the rationale for this being that the government is responsible for enforcing regulations and policy.

In January 2005, the Indonesian Government organized a National Tripartite Summit. This summit concluded with a series of recommendations including:

1. Establish an action program to create job opportunities, increase the welfare of workers and their families and realize a harmonious industrial relations environment.
2. Industrial relations should be based on common interest partnership and mutual respect, with relevant social dialogue between relevant parties and the exclusion of irrelevant parties.
3. The employer, worker and government should all strive to improve their competency, role and function to promote a harmonious relationship between the tripartite actors.
4. Tripartite bodies should be based on a proportional representation from unions and employers.

¹⁹ Diah Widarti, op cit.

5. Fair working conditions should be established through collective agreements at the enterprise level between employer, workers and supported by bipartite bodies.

Legal Framework

Trade Union/Labour Union Act 21/2000

The Trade Union/ Labour Union Act 21/2000 passed through Parliament in July 2000 and became operative in August 2000 following ratification of ILO Convention No. 87 on Freedom of Association and the Protection of the Right to Organise.

The Act confers on workers the right to establish a trade union/ labour union that is free, open, democratic and responsible. A group of at least ten (10) workers may form a union. Workers may only be member of one union at an enterprise. The Act provides for the formation of two other levels of union organizations; federations and confederations. A federation is formed by at least five (5) unions and a confederation must comprise of at least three (3) federations. A union is permitted to be a member of one federation only, and each federation may only belong to one confederation.

The functions of unions are prescribed under the Act as representing workers, making collective labour agreements, settling industrial disputes, creating just, harmonious and dynamic industrial relations and the defending the rights and interests of its members.

Unions are required to have a constitution and by-laws and the statutory basis of trade unions, federations and confederations must be aligned with the principles of Pancasila and the 1945 Constitution. Upon formation, unions must give written notification to the local government agency responsible for manpower together with the names of the founding members, the union officials names and the constitution and by-laws. The local government must keep a record of the union, federation or confederation and issue a record number within 21 days. A union with a record number has the right to negotiate a collective labour agreement with management and represent workers in industrial dispute settlements and manpower institutions. Unions with a record number are also required to protect and defend members from violations of their rights and further their interests, improve the welfare of members and their families and be accountable to its members on organizational activities.

A union, federation or confederation can be dissolved by a court if its statutory basis is inconsistent with Pancasila or the 1945 Constitution, where its administration or members have been convicted of certain crimes and been sentenced to a term of imprisonment of five or more years.

The right to organize is protected under the Act. No person may prevent, or force a worker to form or become a member of a trade union or union official by conduct including; termination or temporary suspension of employment; demotion or transfer; withholding or reducing payment; intimidation of a worker; and campaigning against the establishment of a union. Union officials and union members must be permitted to carry out trade union activities during working hours by the employer as agreed or set out in the collective labour agreement.

Observations

Prior to the enactment of the legislation there were concerns from trade unions that the requirement to register new trade unions with the Ministry of Manpower may result in discrimination against new unions who wished to register. Since the commencement of the Act, unions have continued to cite instances where the Ministry of Manpower recommended that registration of a new union be denied²⁰.

Unions have also complained that despite the protection of the right to organize, in practice the right is threatened by some employers who have terminated the employment of workers attempting to establish a new union.

Employers and employer representatives have expressed concerns that allowing for multi-unionism within one enterprise places can be an undue burden on employers who have to negotiate with different unions who may have different priorities in negotiations.

Manpower Act 13/2003

The Manpower Act 13/2003 enacted by the Parliament in February 2003. Many of the provisions of the Manpower Act consist of revisions or updates or reproduction of regulations which were previously in force.

The Act creates a comprehensive legal framework governing a wide range of employment and industrial relations matters. Areas of labour law covered by the Manpower Act include wages, strike action, contract work and outsourcing, social security, hours of work, occupational safety and health, collective work agreements, enterprise regulations, termination of employment and severance pay, equal opportunity, job training and placement, children, disabled workers, bipartite and tripartite cooperation bodies, labour inspection and industrial relations disputes and criminal regulations.

Observations

Trade unions and employer organizations have criticized certain aspects of the Manpower Act. The key concerns of trade unions relate to the outsourcing of labour, contract work and that the Act imposes restrictions on the right to strike.

Trade unions argue that legalizing the outsourcing of workers reduces the job security of permanent workers and increases the vulnerability of the outsourced worker who are without the benefit of union protection. Contract work is also argued to reduce the job security of permanent employees who may be forced to work under temporary contracts of employment.

After the Manpower Act came into force, employers groups lobbied the Government to amend the Manpower Law 13/2003 to reduce severance benefit, but heavy protests led the government to abandon the planned amendments in 2006.

²⁰ See for example, Country Reports on Human Rights Practices, US Department of State, Bureau of Democracy, Human Rights, and Labor, March 6, 2007 accessed at <http://www.state.gov/g/drl/rls/hrrpt/2006/78774.htm> on 9 April 2008.

Industrial Relations Disputes Settlement Act 2/2004

Prior to the introduction of the Industrial Relations Disputes Settlement Act, the industrial dispute settlement system in Indonesia was seen as not effective or working well to resolve disputes.

The previous system of dispute settlement required parties to initially attempt to resolve a dispute by negotiating a settlement, or by the use of mediation or arbitration. If the case was not resolved, the Regional Committee for Settlement of Labour Disputes (P4D) could attempt to resolve the dispute by mediation, or could issue a recommendation or binding decision where mediation failed. Decisions by the P4D could be appealed to the Central Committee for the Settlement of Labour Disputes (P4P). Decisions could be postponed or cancelled by the Ministry of Manpower for reasons relating to the maintenance of public order or the protection of State interests.

The Committee system was criticized for several factors including a lack of overall fairness and integrity; overload of work; the composition of the Committees; government intervention in the dispute settlement process; and an undermining of legal certainty due to Ministerial interventions.

Against this system, it became increasingly apparent that Indonesia required a new framework for the settlement of industrial relations disputes which could provide timely and appropriate decisions, engender confidence in the fairness of the system and was affordable.

Main Features

The aim of the Industrial Relations Disputes Settlement Act 2/2004 is to establish institutions and mechanisms for the settlement of industrial disputes that provide prompt, appropriate, just, and inexpensive. The Act was passed by Parliament in December 2003 and came into force in January 2006. The commencement of the Act was delayed from an intended commencement date of January 2005 due to a lack of readiness of the facilities, infrastructure and human resources necessary for a new tribunal and to allow for the appointment and training of judges.

The Act provides comprehensive legislation governing the settlement of labour disputes, introducing five (5) mechanisms for dispute resolution; bipartite mechanism, mediation, conciliation, arbitration and Industrial Court.

An industrial relations dispute must first be attempted to be settled through a bipartite mechanism. Where the bipartite mechanism fails to resolve the dispute, parties shall attempt to resolve their dispute through mediation, conciliation or arbitration. The Act provides the procedures for the settlement of disputes through bipartite negotiations and through mediation, conciliation and arbitration.

Disputes are classified into four (4) types under the Act.

1. Rights Dispute - a dispute that arises because of a disagreement about the implementation or interpretation of established laws, regulations, work agreements, company regulations, or a collective labour agreement.
2. Interests dispute - a dispute that arises in the employment relationships because of a lack of agreement in the drafting or changing of work requirements contained in a work agreement, company regulations, or collective labour agreement.

3. Dispute over termination of employment - a dispute arising from a disagreement regarding the termination of employment.
4. Dispute among trade unions – a dispute between trade unions within one company because of a lack of agreement regarding membership, implementation of rights, and obligations to the union.

Industrial Relations Court

The Act established the Industrial Relations Court which is set up as a special labour court within the general court system, established at the District Court and Supreme Court level. Where an attempt to settle an industrial dispute through mediation or conciliation fails, the parties can file a petition to the Industrial Relations Court.

The Industrial Relations Court has jurisdiction over the four (4) types of industrial relations disputes; rights, interests, terminations and trade union, and can make first and final decisions on interests disputes and trade union disputes. Decisions of the Industrial Court on rights disputes and termination of employment dispute can be appealed to the Supreme Court.

The composition of the Industrial Relations Court includes a Judge, an Ad-Hoc Judge and Registrar with Ad-Hoc Judges selected from a list of those nominated by employers and workers unions.

The Act addresses the timeliness and cost of court proceedings requiring the Industrial Court to issue its decision within 50 working days of the first court hearing, and provides that there is no cost to the parties for a trial at the Court where the claim of the suit is less than Rp 150,000,000.

Since the Industrial Relations Court commenced in January 2006, there were 213 labour disputes in 2006 (160 of which were settled) and 584 cases in 2007 (186 settled) at the Supreme Court level.

As at February 2007, there were 228 Ad-Hoc Judges, with 8 of these at the Supreme Court level, 101 career labour judges, 20 of which were at the Supreme Court as well as 1084 mediators; 230 conciliators; and 64 arbiters.

Observations

Prior to the operation of the Act, trade unions expressed a number of concerns about its future operation. Amongst those concerns were that the integration of the labour court to the judicial system would make it more difficult for workers to access justice because of corruption in the Indonesian judicial system; that it would be more difficult for unions to defend their members because of the lack of access to labour lawyers or skills to appear before the court themselves; and the requirement that all labour disputes should be subject to bipartite negotiation before being submitted to the court could weaken the role of the union at the enterprise level.

Employers and trade unions have participated in the new Industrial Relations Courts, nominating candidates to act as Ad-Hoc judges. However, since the Industrial Courts commenced operation, trade unions have voiced concerns that the new Courts have failed to eliminate corruption in the dispute resolution process.

In 2006, the majority of judges earned between 1.8 and 2.3 million rupiah a month (US\$200 - \$256), with an experienced judge earning close to 6 million rupiah a month (US\$660). The salary of a Supreme Court Judge was between 14 and 24 million rupiah a month (US\$1540 - \$2640)²¹.

In 2004, the ILO observed that in order to consider the Industrial Relations Dispute Settlement Act a success, “the government should be able to demonstrate that the new system consisting of conciliation, mediation and arbitration and labour judges will be able to dispense justice quickly, inexpensively and fairly when dealing with labour disputes²²”

Commentators have noted that although the Act changed the framework for the settlement of industrial relations disputes, the new mechanism has not significantly reduced the amount of time a dispute takes to reach resolution, mostly because parties treat the mandatory bipartite mechanism and mediation or conciliation as necessary preliminary hurdles to be crossed before proceeding to court²³.

Workers Rights Violations

In its 2007 Annual Survey of Trade Union Rights, the ICFTU observed that “employers appear to be able to ignore the law and court rulings with impunity.”²⁴ The ICFTU reported a number of cases in which it said trade union rights had been violated:

In a high profile case involving PT Musim Mas plantation, unionized workers dissatisfied with the conditions at the site, complained to management in 2005. The complaint to the Freedom of Association Committee of the Governing Body of the ILO alleges that the employer’s response included: retrenchment of union leaders; dismissing close to 1000 permanent and contract workers after a legal strike; acts of violence against union protests; and intimidation and harassment of union members and officials. It is also alleged that six union leaders were arrested for crimes against public order. A settlement was reached to pay severance to the dismissed workers, but not rehire them. Trade unions claim that the severance pay paid to the workers fell short of the legally mandated levels.

In another case taken up by union groups worldwide, over 600 workers at PT Securicor/ Group 4 Falk, a newly merged security company, took strike action in Jakarta and Surabaya over terms and conditions of employment in April 2005. The complaint to the Freedom of Association Committee claims that the company refused requests to negotiate and one month later, the company dismissed hundreds of union members who were participating in a legal strike. In June 2006 the Supreme Court ruled a reinstatement of 262 fired workers, but management has yet to comply with the ruling.

There have been a number of cases before the Freedom of Association Committee of the Governing Body of the ILO involving Indonesia which raise issues of ongoing discrimination against union activities, the use of criminal sanctions against labour activists and failure by employers to comply with provisions in collective agreements.

21 *Country Reports on Human Rights Practices*, US Department of State, Bureau of Democracy, Human Rights, and Labor, March 6, 2007 accessed at <http://www.state.gov/g/drl/rls/hrrpt/2006/78774.htm> on 9 April 2008.

22 *Working out of poverty: ILO Contribution to Indonesia’s Poverty Reduction Strategy*, ILO: ILO Jakarta, October 2004, p.31.

23 See for example, Aloysius Uwiyo, ‘*Indonesian Labor Law Reform Since 1998*’.

24 International Confederation of Free Trade Unions (ICFTU), *Annual Survey of Trade Union Rights*, 2007

Military and Police Involvement

The Indonesian police and military regularly intervenes in industrial relations during Soeharto's rule, containing workers protests which arose in the course of a labour dispute. Employers frequently resorted to summoning local security forces known for dealing forcibly with protestors and members of the military and police were employed by companies in security positions and some military were retained as personnel managers. Military staff with a financial interest in companies, also had an interest in avoiding any disruption to production. Consequently, workers have viewed the military as a partisan force for employers.

Since the end of the Suharto era, there has been a significant decrease in military interventions in ongoing labour disputes. However, violent clashes between workers and the military are still reported to be occurring. Interference by the military or police in legitimate trade union activities, such as strikes can undermine and inhibit workers' rights to freedom of association and collective bargaining.

Indonesia adopted a National Plan of Action on Human Rights 1998-2003 to provide education and training on human rights issues and asked the ILO to take steps to introduce the ILO Conventions to police and military personnel. The Indonesian National Police separated from the military and in accordance with Law No. 2 of 2002 on the State Police of the Republic of Indonesia, renewed emphasis on the maintenance of law and order while also protecting and promoting human rights.

Launched in 2004, the ILO developed a training programme over 2 years on labour rights for inclusion in the curriculum of the National Police Academy and police training schools. The training programme provided training for master trainers on workers' rights to establish unions, the experience of police in dealing with demonstrations or other industrial action in foreign jurisdictions and mechanisms for resolving industrial disputes, and socialization training for other police officers.

The project also developed Guidelines on the Conduct of Indonesian National Police in Handling Law and Order in Industrial Disputes, which were signed by the Chief of the Indonesian National Police in March 2005 and are now in force.

ILO Technical Assistance

The ILO is committed to priority technical assistance to the tripartite constituents in Indonesia for the full realization of freedom of association and collective bargaining both in the past and in the future. Using its own resources and those provided by the donor countries and organizations, the ILO workers closely starting in 1998 with the Indonesian constituents. In socializing country-wide the essence provisions of ILO Conventions on freedom of association and collective bargaining and in completing the labour law reform program. A 6-year Declaration project from 2001 focused on realizing freedom of association and build the capacity of the constituents for sound industrial relations. Since then, several projects provided direct assistance to APINDO and trade unions. Based on the mandate and as required by the constituents, the ILO will continue to provide similar assistance as a matter of priority.

Conclusion

Over the past five years, Indonesia has continued to make positive progress towards promoting freedom of association and collective bargaining. This progress has taken place against a backdrop of a major shift towards decentralized regional governance and continuing efforts to recover from the 1997 financial crisis. Despite a relatively slow economic recovery, Indonesia now has much to feel optimistic about in terms of its economic and political climate, particularly in improvements to economic growth and increasing democratic reforms.

The package of industrial relations reforms introduced by the three major labour acts, Trade Union Act, Manpower Act and Industrial Relations Disputes Settlement Act are now being implemented, with the final step, the Industrial Relations Court now operating since January 2006. The labour laws enshrine workers' rights to freedom of association and collective bargaining, including the right to form unions, right to strike and the right to bargain collectively.

A multitude of new trade unions have been formed and continue to be formed at the enterprise level and both trade unions and employer representatives have been involved in increasing their institutional capacity to provide services to members and lobby and advocate at the national and regional level. Unions, employer groups and the government have continued to display enthusiasm for a tripartite approach to industrial relations. The government has made some positive steps towards increased tripartitism in establishing the Tripartite Cooperation Institution.

Industrial disputes and strike action continue in an environment which generally supports freedom of association, and steps have been taken to improve the nature of police involvement in worker protests through the recent publication of National Guidelines.

However, there is still further progress which needs to be made. There are still reports of violations of freedom of association at the workplace level such as employers terminating union officials, arrests of union members at protests on public order grounds, the refusal of companies to honour terms in a collective agreement.

Although there is a positive trend in the making of collective labour agreements, the density of collective agreements remains low. There is a need to strengthen collective bargaining in Indonesia to ensure that fair bargains are struck between workers and employers and to introduce more flexibility into an otherwise relatively rigid labour market. Parties involved in collective bargaining may also need to address challenges posed from a rising trend regarding the use of contract, casual and outsourced labour in the formal sector.

The shift to regional autonomy has also posed challenges for the Ministry of Manpower and Transmigration in labour administration, particularly the collection of labour statistics and labour inspection. It is vital to have an accurate picture of industrial relations matters across Indonesia to ensure that the industrial relations system is appropriately regulated and labour abuses are investigated and sanctioned.

There is a need to continue to work towards promoting effective collective bargaining and freedom of association in Indonesia. Workers stand to benefit from the opportunity to form trade unions and present a collective voice on their working conditions. With a trend towards increased trade

liberalization and global markets, it is imperative that employers invest in good industrial relations and a skilled workforce to compete with neighbouring labour markets.

The last five years of industrial relations in Indonesia has built on the labour law reform process commenced in 1998 and has witnessed an increase in the promotion of the rights to freedom of association and collective bargaining, but more still needs to be achieved to ensure that Indonesia remains on the path of reform for a fuller realization of those rights.

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