

Working Paper No. 43



International
Labour
Office
Geneva

**Non-standard work,
social dialogue
and collective bargaining
in Indonesia**

**Ratih Pratiwi Anwar
Agustinus Supriyanto**

December 2012

Industrial
and Employment
Relations
Department
(DIALOGUE)

ILO Regional
Office for Asia
and the Pacific

**Non-standard work, social dialogue
and collective bargaining in Indonesia**

**Ratih Pratiwi Anwar
Agustinus Supriyanto**

**Industrial and Employment
Relations Department
International Labour Office, Geneva
ILO Regional Office for Asia and the Pacific
December 2012**

Copyright © International Labour Organization 2012
First published 2012

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit www.ifro.org to find the reproduction rights organization in your country.

ILO Cataloguing in Publication Data

Anwar, Ratih Pratiwi; Supriyanto, Agustinus

Non-standard work, social dialogue and collective bargaining in Indonesia / Ratih Pratiwi Anwar, Agustinus Supriyanto ; International Labour Office, Industrial and Employment Relations Department. - Geneva: ILO, 2012

DIALOGUE working paper , No.43 ; ISSN 2226-7433 (print) ; 2226-7840 (web pdf)

International Labour Office; Industrial and Employment Relations Dept

social dialogue / collective bargaining / workers rights / outsourcing / contract labour / informal economy / economic recession / Indonesia

13.06.1

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org

Visit our web site: www.ilo.org/publns

Foreword

This paper is one of a series of national studies on collective bargaining, social dialogue and non-standard work, conducted as a pilot under the Global Product on ‘Supporting collective bargaining and sound industrial and employment relations’ in collaboration with the ILO Decent Work Team for South Asia. The national studies aim at identifying current and emerging non-standard forms of work arrangements within which workers are in need of protection; examining good practices in which those in non-standard forms of work are organized; and analysing the role that collective bargaining and other forms of social dialogue play in improving the terms and conditions as well as the status of non-standard workers, and identifying good practices in this regard.

The paper provides an overview of the situations facing informal, contract and outsourced workers, and how labour law regulates their terms and conditions of work. It analyses both legal and practical constraints in organizing such workers and the challenges to promoting effective social dialogue and collective bargaining. It also examines how the financial crisis has affected these workers negatively. Interestingly, the number of collective agreements increased in Indonesia during the early years of the crisis, but the trade unions’ priority was to secure the jobs of permanent workers.

Some innovative practices to improve the situation and status of informal, contract and outsourced workers are identified in the paper. Some trade union confederations have been active in organizing informal workers, including those outside employment relationships, casual workers, domestic workers and migrant workers, based on the sectors they belong to. These confederations adopted a strategy that offer such workers direct membership, settle disputes on their behalf, raise their bargaining position, and provide training opportunities and more protection in terms of both income and job security. In Batam’s export processing zones (EPZs), trade unions in the metal, machine and electronics sectors have also been successful in organizing contract and outsourced workers, which resulted in a number of such workers being shifted to permanent status. The key to success in these cases was building solidarity between permanent workers and contract and outsourced workers.

The paper concludes with a number of policy recommendations addressing issues regarding informal, contract and outsourced workers. It identifies a need for various kinds of action, such as improved compliance with labour law and regulations, strengthened labour inspection services, increased capacity of both workers’ and employers’ organizations, and strengthened solidarity among trade unions.

DIALOGUE working papers are intended to encourage an exchange of ideas and are not final documents. The views expressed are the responsibility of the author and do not necessarily represent those of the ILO. We are grateful to Ratih Pratiwi Anwar and Augustinus Supriyanto for undertaking the study, and commend it to all interested readers.

Yoshiteru Uramoto
Regional Director,
ILO Regional Office for Asia
and the Pacific

Moussa Oumarou
Director,
Industrial and Employment
Relations Department

Contents

Foreword.....	iii
Abbreviations.....	vii
Introduction.....	1
1. The labour market, non-standard workers and the impact of the global financial crisis.....	3
1.1 The Indonesian labour market.....	3
1.2 Concepts of non-standard workers in Indonesia.....	4
1.2.1 Stakeholders' perception of non-standard work and non-standard workers in Indonesia.....	5
1.2.2 Informal workers and fixed-term contract workers in labour statistics.....	5
1.2.3 Legal framework concerning informal, contract, and outsourced workers.....	7
1.3 Employment terms and conditions of informal workers, contract workers and outsourced workers in Indonesia.....	9
1.3.1 Informal workers in Indonesia.....	9
1.3.2 Contract and outsourced workers in Indonesia.....	13
1.3.3 Wages and working conditions of informal, contract, and outsourced workers.....	14
1.4 The impact of the global financial crisis on Indonesia's economy and manufacturing industry.....	16
1.5 Effects of the global financial crisis on employment in Indonesia.....	17
1.6 Recent economic and political developments.....	18
2. Overview of labour law reform and legal rights with respect to non-standard workers.....	19
2.1 Overview of labour law reform in Indonesia.....	19
2.2 Employment terms and conditions of informal, contract and outsourced workers.....	22
3. Innovations in organizing informal, contract and outsourced workers and collective bargaining and social dialogue.....	24
3.1 Challenges to freedom of association and the right to collective bargaining.....	24
3.1.1 Employers' reluctance to respect freedom of association.....	24
3.1.2 Restrictions in labour laws.....	25
3.1.3 Lack of enforcement of labour laws.....	25
3.2 Constraints in organizing informal, contract and outsourced workers.....	26
3.3 Innovations in organizing informal, contract and outsourced workers.....	27
3.3.1 Organizing informal workers.....	27
3.3.2 Organizing contract and outsourced workers in Batam's EPZs.....	28
3.3.3 Organizing contract and outsourced workers in the sports apparel industry.....	28

3.4	Collective bargaining during the global financial crisis	29
3.5	Social dialogue and the impact of the global crisis.....	31
3.5.1	National-level social dialogue.....	31
3.5.2	Enterprise-level social dialogue	32
3.6	Government response to social partners' measures during the global crisis	32
	Conclusions and policy recommendations.....	34
	References.....	37

Abbreviations

APINDO	Indonesian Employers' Association
BPS	Statistics Indonesia
CLA	collective labour agreement
EPZs	export processing zones
FDI	foreign direct investment
FGD	focus group discussion
FKUI	Federasi Konstruksi, Umum dan Informal (union for informal workers, workers in the construction sector and general sector)
FOA	Freedom of Association Protocol
FBSI	Federasi Buruh Seluruh Indonesia (trade union)
Federasi GARTEKS	Federasi Garment, Kerajinan, Tekstil, Kulit, dan Sentra Industri (Federation Garment, Craft, Textile, Leather and Centra Industry)
FSPMI	Federation of Indonesian Metal Workers' Union
GSBI	Gabungan Serikat Buruh Independent Indonesia (Federation of Independent Trade Unions)
IFLS	Indonesian family life survey
KASBI	Kongres Aliansi Serikat Buruh Indonesia
KEN	Committee on National Economy
KSBSI	Konfederasi Serikat Buruh Sejahtera Indonesia (Confederation of Labour)
KSPI	Konfederasi Serikat Pekerja Indonesia (trade union confederation)
KSPSI	Konfederasi Serikat Pekerja Seluruh Indonesia (trade union confederation)
Lomenik	Federation of Metal Machine and Electronics
MOMT	Indonesian Ministry of Manpower and Transmigration
PKLI	Pakta Lapangan Kerja Indonesia 2011-14 (Indonesia Jobs Pact)
PKWT	Perjanjian Kerja Waktu Tertentu (fixed-term contract)
PKWTT	Perjanjian Kerja Waktu Tidak Tertentu (indefinite-term contract)
RPJMN	Indonesia's Medium Term Development Plan 2010–14
Sakernas	National Labour Force Survey
SARBUMUSI	Sarikat Buruh Muslimin Indonesia
SPBPU	Serikat Pekerja Bangunan dan Pekerjaan Umum (Construction and Public Works Labour Union)
SPN	Serikat Pekerja Nasional (Textile and Garment Trade Union)
SPSI	Serikat Pekerja Seluruh Indonesia
SPTI	Serikat Pekerja Transportasi Indonesia (Indonesian Transportation Labour Union)
TUPE	Transfer of Undertakings (Protection of Employment)

Introduction

The integration of national economies with the global market has intensified competition and pressure for enterprise efficiency and flexibility. This economic integration brings about three kinds of impacts to enterprises relating to employment: first, the need to deal with the already tight international competition; second, the introduction of new forms of work organization; and third, changes in employment practices. These resulted in more flexible working time arrangements and in the rise of non-standard employment arrangements (e.g. fixed-term, casual, and temporary employment) that are often associated with low-quality employment. While the individualization of employment arrangements has weakened workers' bargaining power, many governments have introduced more pro-investor and pro-employer deregulations in order to enhance their competitiveness. These changes have had a negative impact on women in particular, as more of them are now pushed into non-standard work.¹

Along with the process of globalization, in the past two decades the labour markets in the United States, Europe, and Asian countries have changed and experienced transition from the domination of the manufacturing industry to the domination of service sector, from the domination of male workers to the domination of female workers, and from the stable employment structures to flexible ones. In this changing scenario, it is important that attention be paid to finding ways to improve the quality of work and at the same time promote collective bargaining with respect to non-standard workers.

The concept of non-standard work varies. In some countries non-standard work is defined by its features – whether or not it is full-time, permanent, and standard work with direct employment relationships, while others look at the *consequences* of these features, such as benefits, social security, promotions and training.² Non-standard work, contingent work and informal work are alternative and related concepts of precarious work.³ The International Labour Organization (ILO) defines 'precarious' worker as either: a 'worker whose contract of employment leads to the classification of the incumbent as belonging to the groups of "casual workers"; "short-term workers" or "seasonal workers"; or worker whose contract of employment will allow the employing enterprise or person to terminate the contract at short notice and/or at will, the specific circumstances to be determined by national legislation and custom'.⁴ The Organization for Economic Co-operation and Development (OECD) refers to 'temporary' employment as 'an umbrella term for all "dependent employment of limited duration", which includes fixed-term contracts, temporary agency work contracts, seasonal work, on-call work and trainees. All other jobs are referred to as "permanent" jobs'.⁵

As the labour market changes, the traditional membership base of trade unions in many countries has eroded. The increasing number of contract and outsourced workers has replaced a large number of permanent workers who were members of trade unions, and this has undermined the bargaining power of the trade unions. In addition, economic changes resulting from so-called de-industrialization have also raised the number of workers in the informal sector. Workers in this category are mostly without legal protection and are often neglected in collective bargaining.

¹ Desarollo, 2000: 7-9.

² Tucker, 2002: 14-15.

³ Fudge, 2009: 8.

⁴ ILO, 1993, *Resolution concerning the International Classification of Status in Employment (ICSE)*, adopted by the Fifteenth International Conference of Labour Statisticians:

http://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/normativeinstrument/wcms_087562.pdf

⁵ Tucker, 2002: 15.

Recent developments, however, show that the social partners in many countries have used collective bargaining and collective agreement as instruments to improve the terms and conditions of non-standard workers. These collective agreements include one or a combination of the approaches that seek to change the contract status of non-standard workers and those that seek to remove disparities with regard to employment terms and conditions that exist based on contract status.⁶ In addition, collective bargaining can also play an important role as part of a broader crisis response. In the context of the global financial crisis in 2008–09, there were efforts by the social partners in many countries to use collective bargaining to arrive at agreements in order to save jobs, maintain income and ensure the short-term survival of enterprises, while also looking for ways to secure longer-term employability and enterprise sustainability. The ILO has been supporting collective bargaining as a mechanism to discuss the interests and concerns of the parties in times of crises, as highlighted in its High-level Tripartite Meeting on Collective Bargaining in Geneva in November 2009.⁷

In Indonesia, a shared understanding of the concept of non-standard work is yet to be achieved. Such a concept is not only less explicitly stated in labour regulation and labour statistics, but is not even being used in labour relations practices. It is somewhat ironic in view of the large number of non-standard workers in Indonesia, including fixed-term contract workers, outsourced workers and those who work in the informal sector. In recent years, however, workers in the informal sector and workers with fixed-term contracts (those who are either directly employed by the employers or outsourced through labour agency) have become the priority concern of the government, trade unions and employers, indicating their significance in Indonesia's economy. The government acknowledges that policy intervention is required. On the other hand, trade unions argue that fixed-term contract workers are less protected by labour regulation and deserve to be prioritized in policy intervention.⁸ Although some initiatives have been taken to improve the employment terms and conditions of informal, contract, and outsourced workers in Indonesia, more efforts need to be taken by the government and the social partners.

During the global financial crisis of 2008–09, the country experienced an employment crisis as exports of manufactured goods dipped. The manufacturing industry has been one of the main contributors to Indonesia's employment. The government and its social partners responded to the crisis through collective agreements and social dialogue at the national and enterprise levels in order to prevent worker lay-offs, decline in wages, and corporate bankruptcy.

Although the Indonesian government has ratified the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) and has enacted laws and regulations on workers' right to associate, to bargain collectively, and to get protection on employment terms and conditions, efforts to improve the situation of informal workers, contract workers, and outsourced workers in Indonesia are hindered by many difficulties.

This study aims to: (i) provide an overview of the recent developments in the Indonesian labour market and the current and emerging non-standard forms of work arrangements; (ii) examine situations facing those who are in such forms of work and labour law reforms including the legal rights of non-standard workers; (iii) analyse the impact of the global financial crisis on Indonesia's economy and employment while acknowledging the efforts made by the government and social partners in promoting social dialogue and collective bargaining to improve the status of the non-standard workers; and (iv) identify the challenges and the best practices with regard to freedom of association and the right to bargain collectively for non-standard workers.

⁶ ILO, 2010a: 44-45.

⁷ Kochan, 2009.

⁸ Sirait, 2008: 15.

Data and information for this study was gathered from literature review and field studies carried out in DKI Jakarta Province and in Central Java Province. Questionnaires were given out and interviews and discussions held with the national and local government agencies responsible for manpower affairs, enterprise trade unions, federations and confederations of trade unions and the DKI Jakarta-based Employers' Association (APINDO). Researchers also interviewed trade union leaders of a company in DKI Jakarta province that was impacted by the financial crisis. This study describes the situation of non-standard workers in Indonesia including their freedom of association and their rights to bargain collectively. It also provides an overview of the roles that social dialogue and collective bargaining played during the global financial crisis.

The first section of the report deals with the recent developments in labour market and the increase in the number of non-standard workers, and gives an overview of the impact of the financial crisis on Indonesia's economy and employment. The next discusses labour law reforms and the legal rights of non-standard workers in Indonesia. The third section looks at attempts to organize informal, contract, and outsourced workers and the processes of collective bargaining and social dialogue in time of crisis. Conclusions and policy recommendations form the last section of the report.

1. The labour market, non-standard workers and the impact of the global financial crisis

1.1 The Indonesian labour market

According to Statistics Indonesia (BPS) Indonesia's total labour force numbered 119.39 million persons as of February 2011, of which 111.28 million persons were at work while 8.11 million persons were unemployed. Open unemployment rate was 6.8 per cent and national labour force participation rate was 69.96 per cent (table 1). It can be seen that the labour force increased in the five-year period between February 2006 and February 2011. The number of people looking for jobs declined and the open unemployment rate fell substantially while the labour force participation rate continued to increase. During that period, Indonesia's employment growth was heavily influenced by the business upturn and downturn. Even though the macroeconomic conditions in 2007 and in the first half of 2008 were conducive to employment growth, the global financial crisis adversely affected national employment growth, causing a substantial decline from 4.58 per cent in February 2008 to 2.39 per cent in February 2009. After the economy began to recover in the second half of 2009, Indonesia's employment growth increased slightly to 2.79 per cent in February 2010 and continued to increase to 3.61 per cent in February 2011.

Table 1.
Key indicators of the labour market in Indonesia
(2006–2011, in millions)

Main activities	2006		2007		2008		2009		2010		2011
	Feb.	Aug.	Feb.	Aug.	Feb.	Aug.	Feb.	Aug.	Feb.	Aug.	Feb.
Working age population	159.25	160.81	162.4	164.1	165.6	166.6	168.26	169.3	171.0	172.07	170.65
Labour force	106.28	106.38	108.1	109.9	111.5	112.0	113.74	113.8	116.0	116.53	119.39
Employed	95.17	95.45	97.58	99.93	102.1	102.6	104.49	104.9	107.4	108.21	111.28
Unemployed	11.10	10.93	10.55	10.01	9.43	9.39	9.26	8.96	8.59	8.32	8.12
Below working age	52.97	54.42	54.22	54.18	54.09	54.69	54.52	55.49	55.02	55.54	51.25

Main activities	2006		2007		2008		2009		2010		2011
	Feb.	Aug.	Feb.	Aug.	Feb.	Aug.	Feb.	Aug.	Feb.	Aug.	Feb.
Labour force participation rate (%)	66.74	66.15	66.6	66.99	67.33	67.18	67.6	67.22	67.83	67.72	69.96
Open unemployment rate (%)	10.40	10.30	9.80	9.10	8.50	8.40	8.10	7.90	7.40	7.14	6.80

Sources: BPS; Pusdatinaker MOMT; calculation of the authors.

Sectoral changes in employment indicate a shift in the labour market in the country. Applying the concept of Esping-Anderson's de-industrialization (1993),⁹ no indication was seen of any de-industrialization processes in Indonesia's labour market between February 2005 and February 2011. This view is reinforced by the relatively constant share of manufacturing employees – about 12 per cent – to overall employment during the period studied. Yet, it was later found that the share of employees in the agricultural sector (in a broad sense) dropped substantially from 44.04 per cent in February 2005 to 38.17 per cent in February 2011. That “de-agriculturalization” process had set in was also indicated by the lack of investment in agricultural infrastructure.¹⁰ This resulted in an increase in the total share of employment outside the agricultural sector and the manufacturing industry to a significant 49.52 per cent in February 2011 from about 43.69 per cent in February 2005. The relatively higher gross domestic product (GDP) growth in the trade and finance sector compared to the manufacturing industry and agricultural sector since 2005 is a likely contributing factor to the decreasing role of the manufacturing industry and the agricultural sector in creating jobs in Indonesia.¹¹ If this trend continues, the domination of manufacturing and agriculture in Indonesia's employment share can be predicted to decline in the near future.

Besides the changes in the labour market, any discussion about the labour market in Indonesia should also take note of its segmentation regarding gender, sector, occupation, employment status, as well as the contract status of the workers. However, the globalized concept of non-standard work and non-standard workers makes it relevant to observe the current situation of Indonesia's labour market within these new categories of segmentation which emphasize employment quality more. The following parts of this chapter will analyse the trends and the terms and conditions of non-standard workers in Indonesia.

1.2 Concepts of non-standard workers in Indonesia

Labour laws and regulations and labour statistics in Indonesia do not use the term non-standard work and non-standard workers. Those concepts are relatively new to the government and the social partners. To obtain the concept and an initial picture of non-standard workers in Indonesia, this study follows several definitions and approaches in the labour laws and regulations, and refers to the labour statistics published by Statistics Indonesia (BPS) and the Ministry of Manpower and Transmigration (MOMT). The BPS and the MOMT provide data on the labour force collected by BPS through the National Labour Force Survey (Sakernas) in February and August every year. We also look at labour force data collected through the Indonesian Family Life Survey (IFLS) conducted by the World Bank, although the data is rarely used in official government publications as it is a non-governmental survey.

⁹ Esping-Anderson, 1993, cited in Lee, 2010: 1.

¹⁰ Bank Indonesia, 2008: 14.

¹¹ Bank Indonesia, 2010: 173. Trade sector includes wholesale, retails, restaurants, hotels; while financial sector includes finance, insurance, housing rental, land rental, and other company services.

A Focus Group Discussion (FGD) was conducted by researchers of this report with national and local governmental officials, the Employers' Association (APINDO), enterprises, trade unions and trade union federations and confederations to collect their views on non-standard workers Indonesia.¹²

1.2.1 Stakeholders' perception of non-standard work and non-standard workers in Indonesia

The perception of non-standard work and non-standard workers is quite diverse due to the different approaches used to define them. For instance, the MOMT representative was of the view that in seeking the definition of non-standard workers in Indonesia, one should refer to the employment relationship concept in the labour laws. According to Act No. 13 of 2003 concerning Manpower, an employment relationship occurs when there is a written or verbal work agreement between workers and employers.¹³ Based on the presence or absence of a work agreement, there are two types of workers, informal and formal. The informal worker is a person who is self-employed or who is not in an employment relationship as an employee or employer. The formal worker, on the other hand, has a work agreement. A formal worker is also defined as one who works at a business unit with legal status. The informal worker is one who works at a business unit with no legal status. Also, work which pays less than the minimum wage and does not provide basic social security is considered non-standard work. However, the perception of a representative of the MOMT on non-standard work was contested by another representative from a local government agency responsible for manpower affairs who said that if the terms and conditions of work did not fulfill the requirements stipulated in the labour laws, it could not be considered non-standard work. The mere absence of a work agreement should not make it non-standard work, it was felt.

Representatives from the Federasi Garteks (trade union federation of garment and textile workers) and the Konfederasi Serikat Pekerja Seluruh Indonesia (KSPSI) agreed that the term non-standard workers in Indonesia applied to informal workers and temporary workers. A local employers' association representative at the FGD proposed that the terms and conditions of employment and the worker's competency and productivity should define non-standard work and standard worker. Another view from the local employers' association was that most Indonesian workers are engaged in the informal sector or in micro- and small-sized business units which are not regulated by labour laws.

1.2.2 Informal workers and fixed-term contract workers in labour statistics

Based on labour statistics collected through the IFLS, the World Bank (2010) reported that the labour market in Indonesia was segmented by jobs, contractual status and employment status. Job-related status could be employer, permanent contract employee, fixed-term contract employee, employee with no formal contract, or informal worker in agriculture and non-agriculture. In the formal sector, workers are segmented largely by contractual status. Under this, there are three types of employment arrangements found in the formal sector:¹⁴

- indefinite-term contracts where a worker is employed on a permanent basis.
- fixed-term contracts (FTCs) or temporary contracts, where a worker is directly hired for a specified period of time by the principal company, or a worker provides services or work under a work agreement of outsourcing some parts of work (or services) to other companies.

¹² Focus Group Discussion on non-standard worker, collective bargaining and social dialog in Indonesia, held by the Center for Asia and Pacific Studies of Universitas Gadjah Mada in association with the ILO on July 19, 2011 in Jakarta.

¹³ Act No. 13 of 2003 on Manpower, Article 50 and 51.

¹⁴ World Bank, 2010: 58.

- no formal work contract to define the employment relationship.

Meanwhile in attempt to provide consistent data to measure the trend of informality in employment, Statistics Indonesia (BPS) divides the types of workers according to their employment status. Employment status is the status of a person at the place where she/he works. There are seven types of workers based on that, namely: (1) own account worker; (2) self-employed assisted by temporary helper/family member; (3) employer; (4) regular employee; (5) casual employee in agriculture; (6) casual employee not in agriculture; and (7) unpaid worker.¹⁵ Workers with status of employer (3) and regular employee (4) are classified as formal sector workers. The rest are informal sector workers. This simplified definition of formal and informal sector workers in Indonesia was adopted by BPS since 2001 (table 2).

Table 2.
BPS simplified definition of formal and informal sectors
based on employment status and main occupation

Employment status	Activity/sector
1) Own account worker	Informal
2) Self-employed worker assisted by temporary helper/family member	Informal
3) Employer	Formal
4) Regular employee	Formal
5) Casual employee in agriculture	Informal
6) Casual employee not in agriculture	Informal
7) Unpaid worker	Informal

Source: Sinaga, 2010.

Using a combination of employment status and types of main occupation, the BPS in 2001 also adopted broadened definitions of informal and formal sectors (table 3). However, a simplified definition of formal and informal sectors can be used to deal with any data relating to formal and informal sector workers that lacks information about the types of main occupation.¹⁶ The BPS and the MOMT adopted this simplified definition in their publication.¹⁷ This paper will use simplified definition of formal and informal sector workers as approach for formal and informal workers that refers to the BPS and the MOMT.

Table 3.
BPS broadened definition of formal and informal sectors based
on employment status and main occupation

Employment status	Main occupation				
	Professional, director, manager, clerical	Sales	Agricultural worker	Production, transport, labourer	Other
Own account worker	Formal	Informal	Informal	Informal	Informal
Self-employed assisted by temporary helper/family member	Formal	Formal	Informal	Formal	Informal
Employers	Formal	Formal	Formal	Formal	Formal

¹⁵ The terminology of employment status refers to BPS. *See* BPS, 2006: xxvi.

¹⁶ Two definitions match one another and both of them can be used with no serious problem in terms of accuracy or reliability. *See* World Bank, 2010: 70.

¹⁷ For BPS's definition *see* BPS, 2010b: 3. For MOMT's definition *see* Sinaga, 2010.

Employment status	Main occupation				
	Professional, director, manager, clerical	Sales	Agricultural worker	Production, transport, labourer	Other
Regular employee	Formal	Formal	Formal	Formal	Formal
Casual employee in agriculture	Formal	Formal	Informal	Informal	Informal
Casual employee not in agriculture	Formal	Formal	Informal	Informal	Informal
Unpaid workers	Formal	Informal	Informal	Informal	Informal

Source: BPS, 2006, p. xxv

Given that in February 2011 around 66 per cent of Indonesian workers were employed in the informal sector, it is important to look at the characteristics of the informal sector in Indonesia in empirical studies. An earlier study described the characteristics of the business/economy activities in the informal sector as follows: both the pattern of activity and that of economic activity are irregular in nature, either in terms of time, working capital, or income. The working capital, equipment and revenues of the informal sector in Indonesia are generally meagre and managed on a daily basis. Many businesses in the informal sector do not have a permanent place and are mostly separated from the residence of the workers. Businesses in the informal sector generally do not have linkages with other large businesses and mainly serve low-income segments of the society. Businesses in the informal sector do not require any special skills and they are not yet familiar with banking and accounting systems.¹⁸

Work in the informal sector is characterised as follows: (1) working hours are more than eight hours a day, (2) work hours are can be extended to midnight, (3) the employment relationship can be independent such as under a partnership or trading cooperation with suppliers; an employer-worker relationship; or subcontracting as in contracting out work that the workers can do from home, (4) there is no restriction on the age of workers as long as the workers are able and willing to work; does not require any particular skill or education; and is not gender specific, (5) income is varied; for instance, where the work is contracted out to workers who work from home, the wages are generally lower than the minimum wages and can vary depending on the employer's decision; (6) working capital is small. In addition, many workers in the informal sector are vulnerable due to the vulnerability of the business itself in terms of working capital, safety, the limited occupational health and safety facilities, and the lack of formal social security such as pension, work accident compensation, health insurance, and legal protection.¹⁹

1.2.3 Legal framework concerning informal, contract, and outsourced workers

Labour law and regulations in Indonesia provide a legal framework for regulating informal, contract, and outsourced workers. Despite the investors' claim that the labour market in Indonesia was inflexible and therefore unattractive for investment and employment, labour law and regulations contain provisions that legalize fixed-term contracts and outsourcing. Act No. 13 of 2003 concerning Manpower (Article 56) stipulates that a work agreement can be made for an indefinite-term contract (Perjanjian Kerja Waktu Tidak Tertentu or PKWTT) and a fixed-term contract (Perjanjian Kerja Waktu Tertentu or PKWT). However, a fixed-term contract, according to the Act (Article 59) can be only made for: (a) work to be performed and completed at one go or work which is temporary by nature; (b) work whose completion is estimated at a period of time which is not too long and no longer than three years; (c) seasonal work; or (d) work

¹⁸ Keppi, 2003: 38-39.

¹⁹ Keppi, 2003: 40-43.

that is related to a new product, a new (type of) activity or an additional product that is still in the experimental stage or try-out phase. A fixed-term contract is prohibited for jobs that are permanent by nature (Article 59 (2)). The Government regulates the implementation of fixed-term contracts through the Ministry of Manpower and Transmigration Decree No. 100 of 2004 concerning Guidelines on the Implementation of Fixed-Term Contract. According to the Decree, workers under a fixed-term contract can be hired directly by a company or recruited through a labour agency. Such a worker is called a contract worker (*pekerja kontrak*).

The Manpower Act No. 13 of 2003 also outlines the legal framework of the outsourcing system in Indonesia. Article 64 of the Act states that an enterprise may hand over part of its work to another enterprise under a written contract of work or a written agreement for the provision of labour. In addition, the Act (Article 65) regulates the categories of work/services that can be outsourced: (a) work that can be kept separate from the main (business) activity (of the enterprise that contracts the work to the other enterprise); (b) the work that is to be undertaken under either a direct order or an indirect order from the (original) party commissioning the work; (c) the work that is an entirely auxiliary activity of the enterprise (that contracts the work to the other enterprise); and (d) work (when pending completion while being contracted out to the other enterprise) that does not directly inhibit (the) production process (of the enterprise that subcontracts the work to the other enterprise) . The application for outsourced workers in a company is regulated in the same Act (Article 66) which states that outsourcing is only allowed for activities outside of the core business of the enterprise, such as those associated with cleaning service, catering service, security service, etc.

The Government passed the Ministry of Manpower and Transmigration Decree No. 220 of 2004 concerning Guidelines on the Implementation of Outsourcing Some Parts of Work to Other Companies. The Government, however, does not make a clear description on what activities are classified as core or non-core, hence creating different interpretations among workers and employers. Apart from the latter Decree, there is the Ministry of Manpower and Transmigration Decree No. 101 of 2004 concerning Guidelines on the Permit/Establishment of Labour Agencies that provides workers/services. A worker who works under a work agreement to outsource some parts of work or service to other companies is known as an outsourced worker (*pekerja outsourcing*).

With regard to informal workers, the Ministry of Manpower and Transmigration has issued the Ministry of Manpower and Transmigration Regulation No. 24 of 2006 concerning the Guideline on the Implementation Social Security Program for Informal Workers. In this regulation (appendix), the MOMT defines an informal worker as a worker outside an employment relationship. The worker outside employment relationship refers to a person working without assistance from other people. This regulation explains that informal workers are commonly involved in economic activities in the informal sectors/activities with the following characteristics:

- micro and small-sized scale of activity
- low technology
- low quality products/services
- non-permanent workplace
- high mobility of workers
- unpredictable activities
- irregular working hours
- low productivity
- low income

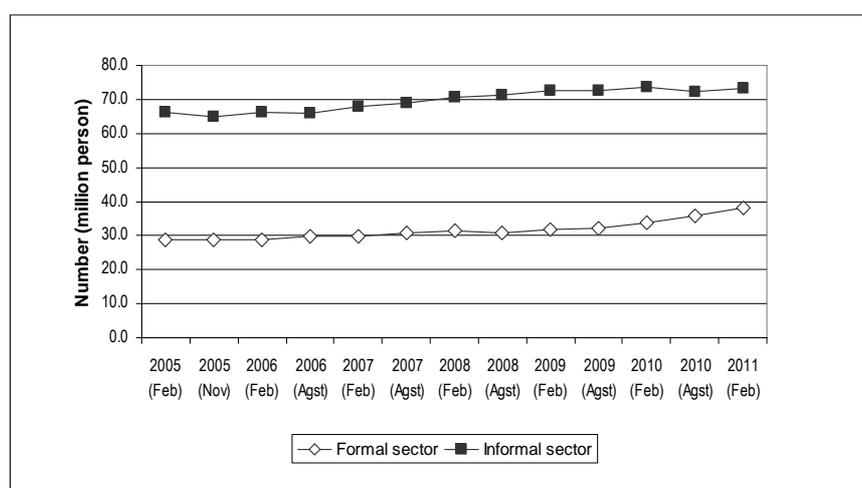
The current study finds that the informal worker, contract worker, and outsourced worker make up the profile of the non-standard worker in Indonesia. Their emerging trends and working conditions are highlighted in the next parts of this chapter.

1.3 Employment terms and conditions of informal workers, contract workers and outsourced workers in Indonesia

1.3.1 Informal workers in Indonesia

Figure 1 shows that Indonesia's labour market, like those of other developing countries, was dominated by informal workers from 2005 to 2011.

Figure 1.
Number of workers in the formal and informal sectors (2005–2011)



Source: BPS. Based on National Labour Force Survey 2004-2011.

By adopting the BPS simplified definition of formal and informal sectors, it is estimated that the number of workers in informal sector continued to increase during the period, from 66.29 million in February 2005 to 73.17 million in February 2011. The share of workers in the informal sector to total employment dropped significantly from 69.83 per cent to 65.75 per cent. In the formal sector, the number of workers increased from 28.64 million in February 2005 to 38.10 million in February 2011 and its share in overall employment also increased from 30.17 per cent to 34.24 per cent (table 4).

Table 4.
Number and share of workers in the formal and informal sectors (2005–2011)

Month	No. of workers		Share in total employment (%)	
	Formal sector	Informal sector	Formal sector	Informal sector
Feb. 2005	28 649 815	66 298 303	30.17	69.83
Nov. 2005	28 877 029	65 081 358	30.73	69.27
Feb. 2006	28 786 714	66 390 388	30.25	69.75
Aug. 2006	29 672 337	65 784 598	31.08	68.92
Feb. 2007	29 716 743	67 866 398	30.45	69.55

Month	No. of workers		Share in total employment (%)	
	Formal sector	Informal sector	Formal sector	Informal sector
Aug. 2007	30 926 222	69 003 995	30.95	69.05
Feb. 2008	31 494 764	70 555 093	30.86	69.14
Aug. 2008	30 786 803	71 163 881	30.20	69.80
Feb. 2009	31 881 599	72 603 845	30.51	69.49
Aug. 2009	32 147 261	72 723 402	30.65	69.35
Feb. 2010	33 740 315	73 665 257	31.41	68.59
Aug. 2010	35 783 381	72 424 386	33.07	66.93
Feb. 2011	38 108 192	73 173 552	34.24	65.76

Source: BPS; Pusdatinaker MOMT; calculation of the authors.

The shift in the ratio from 70:30 in February 2005 to 66:34 in February 2011 of informal and formal workers is substantial. This is explained by looking at the data on classification of workers in the informal sector according to their employment status in 2005–2011 in the Labour Force Survey of the BPS. Table 5 shows that the share in overall employment of casual employees not in agriculture is constant at about 4 per cent. On the other hand, the share of self-employed assisted by a temporary helper/family member dropped from 22.37 per cent in February 2005 to 19.15 per cent in February 2011. Meanwhile, the share of unpaid workers declined from 19.52 per cent to 17.96 per cent. The declining share of the self-employed assisted by a temporary helper/family member and that of the unpaid workers could therefore have caused the decrease in the share of informal workers during the studied period and those two categories of workers are likely to have moved their work into the formal sector.

Table 5.
Proportion of workers according to employment status
and workers in informal sector/activity to total employment (2005–2011, %)

Type of worker based on employment status	Feb. 2005	Feb. 2006	Feb. 2007	Feb. 2008	Feb. 2009	Feb. 2010	Feb. 2011
Own account worker	18.41	18.41	19.13	19.68	19.92	19.05	19.01
Unpaid worker	19.52	19.52	18.25	17.58	17.86	18.32	17.96
Self-employed assisted by temporary helper/family member	22.37	22.37	21.36	21.17	20.71	20.41	19.15
Casual employee in agriculture	5.21	5.21	6.43	6.01	6.07	5.89	5.01
Casual employee not in agriculture	4.31	4.31	4.37	4.70	4.93	4.92	4.64
Workers in informal sector	69.83	69.83	69.55	69.14	69.49	68.59	65.76

Source: Calculated by the authors based on the data of Pusdatinaker MOMT.

In terms of gender, male workers dominate the formal and informal sectors. This feature of the labour market remained unchanged during the August 2008–February 2011 period. However, in the same period the share of women workers both in the formal and informal sectors tended to increase; also, the share of women in the informal sector was higher than in the formal sector. From August 2008 to February 2011, women workers comprised around 39 to 41 per cent of total informal employment, whereas their share in formal employment was lower at 31 to 34 per cent (table 6). These data may suggest that jobs for women grew faster in the informal sector than in the formal sector. This could be

due to slow job-creation for women in the formal sector and women's lack of access to formal employment. In general, Indonesian women's labour participation constrained by discriminatory practices that are largely shaped by ideas and perceptions of men and women's positions, status, capacities, and responsibilities in the family, workplace and society.²⁰

Table 6.
Number and proportion of workers in the formal and informal sectors
according to gender (2008–2011)

Month	No. of workers, formal sector		No. of workers, informal sector		Share of male and female workers, formal sector (%)		Share of male and female workers, informal sector (%)	
	Male	Female	Male	Female	Male	Female	Male	Female
Aug. 2008	20 970 726	10 228 373	42 928 552	28 425 099	67.22	32.78	60.16	39.84
Feb. 2009	21 820 443	10 061 156	42 718 674	29 885,171	68.44	31.56	58.84	41.16
August 2009	21,154,462	10,992,799	43,968,064	28,755,338	65.80	34.20	60.46	39.54
Aug. 2010	23 728 370	12,055,011	43,733,853	28,690,533	66.31	33.69	60.39	39.61
Feb. 2011	25,139,328	12,968,864	42,483,877	30,689,675	65.97	34.03	58.06	41.94

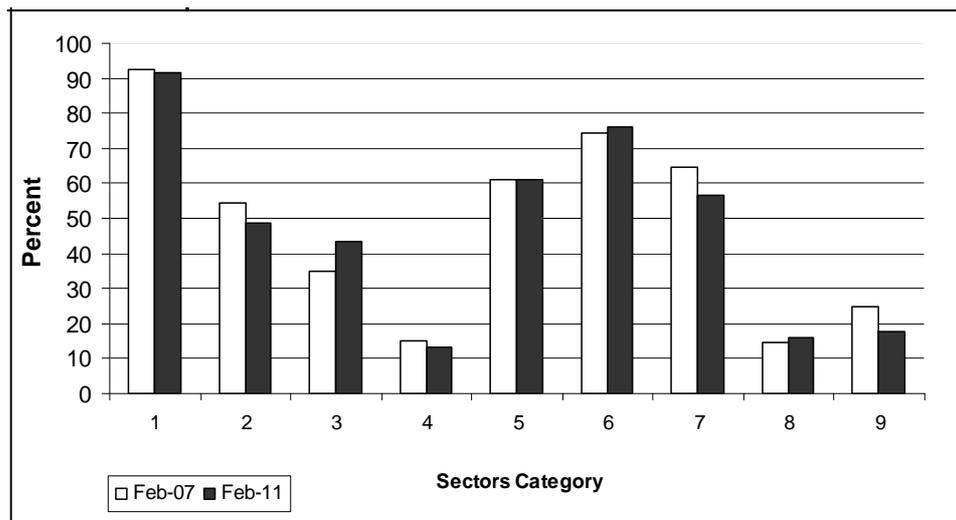
Sources: Pusdatinaker MOMT; calculation by authors

Using data from the BPS and the MOMT, and applying the simplified definition of the informal sector, in February 2007–09, in four out of nine economic sectors in Indonesia, the proportion of informal workers exceeded half of the total workers.²¹ These sectors are: agriculture (in a broad sense); construction; wholesale trade, retail trade, restaurant and hotel; and transportation, storage and communications. Figure 2 shows that the share of informal workers in total employment in the manufacturing sector increased in February 2011 compared to February 2007. In the same period the share of informal workers in mining, transportation, storage and communications, and public services tended to decline. Figure 3 shows that in February 2011 informal workers were mostly concentrated in agriculture, trade and the restaurant and hotel sectors, accounting for 54 per cent and 24 per cent, respectively, of the total number of 73.17 million informal workers.

²⁰ ILO. 2011: 44.

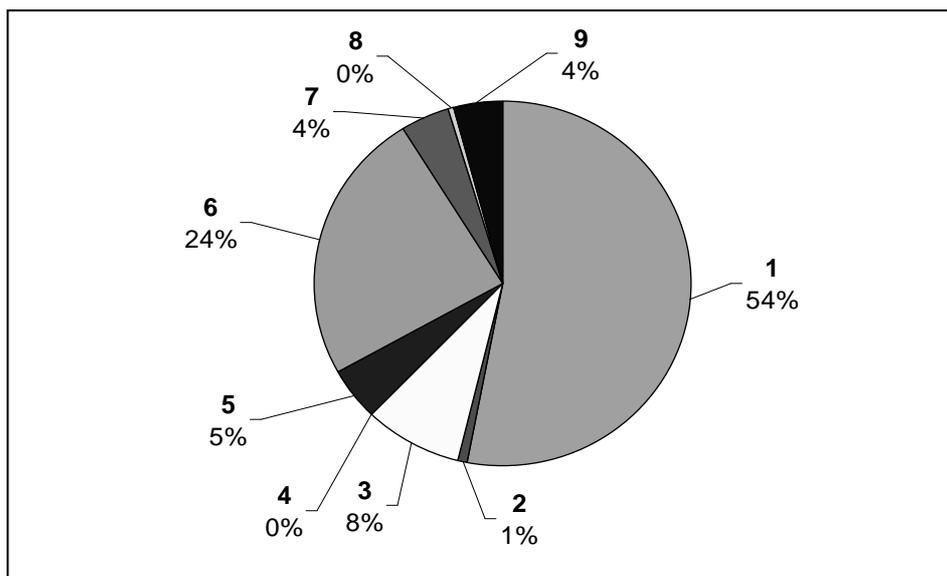
²¹ The classification of economic sectors according to the BPS: (1) agriculture, forestry, hunting, and fishery, (2) mining, (3) manufacturing industry, (4) electricity, gas and water, (5) construction, (6) wholesale trade, retail trade, restaurant and hotel, (7) transportation, storage and communication, (8) financing, insurance, real estate, and business services, (9) public services.

Figure 2.
Proportion of informal workers to total number of workers in sectors



Sources: Pusdatinaker MOMT; calculations of the authors.

Figure 3.
Distribution of informal workers by sector (Feb. 2011)



Source: Pusdatinaker MOMT, February 2011; calculations of the authors.

According to a study carried out in the early 2000s, informal work could be found in several sectors, particularly in manufacturing, trade, service, agriculture, construction and transportation. In manufacturing, the informal workers were self-employed or engaged in small or home-based industries. In trade, they were represented by the owners of small kiosks and street hawkers. In the service sector, informal activities included bicycle or motorcycle maintenance work as well as trading of machinery and household electric appliances. The common forms of informal activities in agriculture were peasant and farm labour, and in transportation sector, they were represented by motorcycle taxi drivers and illegal taxi drivers.²²

²² Firnandy, n.d: 8.

Gender plays an important role as the probability of a woman working as an informal worker is 24 per cent higher. But women and men with informal jobs are both concentrated in the agricultural sector. In addition, informally employed men mostly worked in the transportation sector, while 60 per cent of the informal non-agricultural women worked in household retail or worked as grocery traders.²³

1.3.2 Contract and outsourced workers in Indonesia

Statistical data from the BPS and the MOMT with regard to contract and outsourced workers in Indonesia is limited. The following data was gathered from secondary sources. Although the exact number of contract and outsourced workers is unknown, the trends in recent years can be noted from the existing data. Trade unions estimate that in the past five years the number of contract and outsourced workers in Indonesia has increased. Quoting from studies by the World Bank and the ILO, the Chairman of the Konfederasi Serikat Buruh Sejahtera Indonesia (KSBSI) stated that of the 33 million workers in the formal sector in February 2010, 65 per cent were temporary workers (contract workers and outsourced workers) compared to 30 per cent in 2005.²⁴ Temporary employment arrangements were common in industries exploit workers and to increase profits at the expense of the workers reward. The Gabungan Serikat Buruh Independent (GSBI) (Federation of Independent Trade Unions) estimates that the proportion of contract and outsourced workers in the service industry was approximately 85 per cent; 65 per cent in the garment, textile, and footwear industries; 60.7 per cent in metal and electronic industries; and 55 per cent in basic and mining industries.²⁵ It is because of this prevalence of informalization in the formal sector that trade unions have been demanding the elimination from labour law of provisions related to fixed-term contracts.

The World Bank used data from the IFLS to classify employment in the formal sector according to the workers' contract status. Only approximately 8.7 per cent of workers in the formal sector hold permanent contracts, and 10.2 per cent of formal workers have fixed-term contracts (direct hiring and outsourced). Nationwide, around 81 per cent of formal workers have no formal/written contracts.

There are four disadvantages to being an employee in the formal sector without a formal/written contract: first, a higher degree of income insecurity than permanent and fixed-term contract employees; second, employees with no formal/written contract are in the most physically demanding and injury-prone jobs but they are the least likely to receive medical benefits from their employers; third, they are the least likely to receive training; fourth, employees without contracts are disadvantaged when accessing the formal justice institutions such as industrial relations courts, because they lack job documentation to use as evidence.²⁶

According to a study conducted by Tjandraningsih, Herawati and Suhadmadi in 2010 on labour contracts and labour outsourcing in several metal industry companies, such employment arrangements are made regardless of the occupation and skills of a worker. Thus it is a regular practice for companies to outsource work through labour agencies or hire employees on contract in non-core activities. According to one labour agency, employees outsourced to client companies included IT programmers, secretaries, salespersons, human resources and administrative staff, call-centre staff, accountants, law experts, site engineers, funding officers, medical representatives, graphic designers, and web designers. At the same time, this agency could also provide managers or general managers to be hired directly as contract workers. Another labour agency provided telephone operators, computer operators, junior secretaries, tellers/cashiers, administrative

²³ World Bank, 2010: 63.

²⁴ Novela, 2010.

²⁵ GSBI, 2011.

²⁶ World Bank, 2010: 60.

staff and sales/promotion staff. Other agencies provide cleaners, gardeners, security workers, office staff, as well as some types of technicians.²⁷

The study of Tjandraningsih, Herawati and Suhadmadi (2010) revealed that the types of occupations and skills affected how the contract and outsourced workers were employed. For instance, a manager was most likely to be hired directly by the client company as a contract worker, whereas technical and support staff were outsourced through labour agencies. However, the difference was that the latter signed a work contract with the labour agency that recruited them. The labour agency administered the wages, social security benefits and allowances based on the work agreement. Many companies intentionally terminated the contracts of their permanent employees and then re-hired them as contract workers or outsourced them through labour agency.²⁸ As in the case of the Batam Export Processing Zone, many outsourced workers were hired through a labour agency with which they signed a contract. The agency made them legally responsible if they could not do their work. If they were ill, pregnant or hurt on the job, the user company would immediately retrench them. These outsourced workers were likely to be fined by the labour agency for breach of work agreement for the provision of labour.²⁹ The growing number of labour agencies and a declining proportion of permanent contract work in the formal sector are likely adversely affecting the quality of jobs in the formal sector.

1.3.3 Wages and working conditions of informal, contract, and outsourced workers

The difference between permanent workers and contract and outsourced workers in Indonesia is apparent in wages, benefits and work security. Many permanent workers occupy staff positions and are at management levels and earn more money through annual raises and have better benefits.³⁰ Many outsourced workers are paid far less than permanent workers.³¹

The field work for this paper in metal industry enterprises in Jakarta revealed that contract workers earn only the basic wage, without meal, transport or family allowances – the three types of allowances enjoyed by permanent workers.³² An earlier survey in the same industry points out that although contract, outsourced and permanent workers do the same jobs and have the same working hours, discrepancies exist with regard to basic wages, wage components, allowances, and social security. The average difference in basic wages between outsourced and permanent workers is 17.45 per cent while that between contract and permanent workers is 14 per cent.³³

There was a wide gap in earnings between formal and informal workers, more so in the non-agricultural sector and in rural areas, a 2010 World Bank report states.³⁴ A study conducted by Widarti in 2006 for the ILO further revealed that many informal workers in Indonesia were paid less than the minimum wages.³⁵ In certain districts or provinces many employers did not apply minimum wage standards to determine workers' wages in the informal sector. The lack of enforcement through inspection and monitoring on the compliance with minimum wages in the informal sector, the lack of understanding of the

²⁷ Tjandraningsih, Herawati, and Suhadmadi, 2010: 25-26

²⁸ Ibid, p. 25-26.

²⁹ Peter, n.d. see Organizing precarious workers in Indonesia. *Metal World*. Ifmetal.org [web]. Available at: <http://www.imfmetal.org/files/,,,/feature.pdf>

³⁰ Peter, n.d., p. 15.

³¹ Bataviase, 2010.

³² Interview: officials of enterprise trade union in metal industry on August 10, 2011 in Jakarta.

³³ Tjandraningsih, Herawati, and Suhadmadi, 2010: 43.

³⁴ World Bank, 2010: 63.

³⁵ Widarti, 2006: 28.

minimum wages regulation, the small size of businesses with relatively less income security are several factors behind the current wage situation in the informal sector.³⁶

The World Bank's Indonesia Jobs Report 2010 reported that outsourced and contract workers in Indonesia's formal sector were facing poorer working conditions than those employed under permanent contract. The former worked fewer weeks per year than the latter and received fewer social security benefits like health care, pension, and severance pay.³⁷ An ILO publication on Indonesia's Global Jobs Country Scan stated that the majority of informal workers did not participate in the workers' national social security programme (Jaminan Sosial Tenaga Kerja or Jamsostek).³⁸ To improve informal workers' access to this program, the Government provided subsidies to reduce informal workers' contributions in ten regions in 2010-11. It was, however, still insignificant as only 595,861 informal workers came under the Jamsostek programme as of April 2011.³⁹

Since informal workers face unhealthy working environments and are less protected by occupational health and safety (OHS) facilities, a social security programme is even more important. Victims of workplace accidents were merely sent to the local community health service (*Puskesmas*) and in case of illness, the funding for treatment was very limited. The reasons behind low participation of most informal workers in social security programmes are their limited knowledge of OHS, the lack of awareness of health matters, and low incomes that prevent them from paying the social security dues.⁴⁰

Relating to employment security, long tenure in one company was not a guarantee for change in the status of contract and outsourced workers. As in the case of temporary workers in Kendal district of Central Java province, many employers refused to regularize long-serving contract and outsourced workers.⁴¹ Casual workers in the informal sector usually face work insecurity since they are employed on a daily basis. According to Indonesia's labour regulation, casual workers should not be employed more than 21 days per month and their volume and working hours are unspecified.⁴²

Discussions with Government and trade union representatives during the current study revealed that the contract worker and the informal worker were seen as the most vulnerable workers in Indonesia, because of wages below the minimum wage level; difficulty in obtaining social security, allowances, training, and promotion; low education/skills, weak legal protection, work insecurity, and no pension.

The World Bank opined that casual workers are considered the most dissatisfied of all informal workers in Indonesia. Even though casual workers earned 42 per cent more than those self-employed in agriculture and almost the same as the self-employed in non-agricultural sectors, in Indonesia, low job security, few or no benefits, and low social status were the characteristic features of casual work. In addition, casual workers possess neither land nor working capital as those employed in agriculture or non-agricultural sectors.⁴³

³⁶ Ibid, p. 28.

³⁷ World Bank, 2010: 59-60.

³⁸ ILO, 2010b: 12.

³⁹ Poskota, 2011a.

⁴⁰ Fahria, 2008.

⁴¹ Interview: official of SPSI in Kendal district of Central Java Province in December 2011 (by phone).

⁴² Ministry of Manpower and Transmigration Decree No. 100 of 2004 concerning The Guidelines of the Implementation of Fixed-Time Contract, Article 10.

⁴³ World Bank, 2010: 66.

1.4 The impact of the global financial crisis on Indonesia's economy and manufacturing industry

Indonesia was one of many countries affected adversely by the recent global economic crisis. Its economic growth declined from 6.34 per cent in 2007 to 6.01 per cent in 2008 and further fell to 4.58 per cent in 2009. There were, however, signs of recovery in 2010 when economic growth moved back up to 6.10 per cent.⁴⁴

The Indonesian economy was hit by a decrease in demand for non-oil exports from its major trading partners, the United States and European countries. Even though exports comprised only 28 per cent of Indonesia's gross domestic product in 2007,⁴⁵ its economy did not escape the impact of global volatility. Data obtained from Bank Indonesia shows that the overall non-oil exports of Indonesia to the United States dropped from US\$12.37 billion in 2008 to US\$ 10.4 billion in 2009. Exports to European countries also declined to US\$ 14.52 from US\$ 16.73 billion in 2008. In 2008, 27 per cent of all Indonesia's non-oil and gas exports were made to these two destinations. Falling demand in exports also affected the manufacturing sector as it contributed to 82.6 per cent of the total non-oil and gas exports in 2008. As a consequence, the growth of Indonesia's non-oil and gas exports dropped as much as -8.13 per cent in 2009.⁴⁶ The largest decline in international demand was in commodities such as non-precious metals, plantation-based industries especially rubber products and palm oil, textiles and textile products. Data from Bank Indonesia reveals that almost all export values of manufacturing commodities declined in 2009 (table 7). This led to a decline in investment and production in the manufacturing sector.

Table 7.
Change in exports of commodities in the manufacturing industry
(2008–2009, in US\$ million)

Commodities	2008	2009	Change (2008-2009)
Textiles and textile products	10 269	9 326	-943
Garment	6 110	5 732	-378
Plywood	1 517	1,187	-330
Palm oil	11 889	10 279	-1 610
Chemicals	2 772	2 284	-488
Non-precious metals	9 946	7 191	-2 755
Electrical equipment, etc.	8 816	8 590	-226
Cement	155	158	3
Paper	3 889	3 437	-452
Rubber products	7 483	4 693	-2 790
Others	31 046	26 139	-4 907
Industries	89 061	74 330	-14 731

Sources: Bank Indonesia, 2010; calculations of the authors.

Already facing problems such as lack of infrastructure, low foreign investments, and competition from imported products, the manufacturing sector suffered a further setback with decline in exports. The manufacturing sector in Indonesia has long been one of the

⁴⁴ Bank Indonesia, 2010: 173.

⁴⁵ Ibid, p. 171-178.

⁴⁶ Calculated by the authors from the data of non – oil and gas exports according destination countries based on the data of Bank Indonesia, 2010, p. 180 and 184.

major contributors to employment. It was ranked third in 2007 and fourth in 2009 as the largest provider of employment out of nine sectors in Indonesia.⁴⁷ In February 2011, the number of workers in the manufacturing sector was estimated at 13.7 million or 12.3 per cent of total employment, or fourth as job supplier after agriculture, the public sector, and trade, hotel, restaurant sectors. As mentioned earlier, even though the number of workers in the manufacturing sector continued to increase, its share in overall employment was constant at about 12 per cent during 2005–11. During the global financial crisis, growth in employment in the manufacturing sector fell from 4.46 per cent in February 2007 to 2.86 per cent in February 2008 and to 1.41 per cent in February 2009.

1.5 Effects of the global financial crisis on employment in Indonesia

The financial crisis caused a sharp decline in employment growth, loss of jobs and incomes, and an increase in informal employment, reduction in working hours and temporary lay-offs.⁴⁸ The overall employment growth in February 2009 dropped to 2.39 per cent from 4.58 per cent in February 2008. Employment growth contracted sharply to 1.23 per cent in the formal sector and 2.9 per cent in the informal sector. As the country emerged from the global financial crisis, a substantial part of the employment growth took place in the formal sector due to an increase in exports, investments, and domestic consumption.⁴⁹

Table 8.
Total employment and employment growth in Indonesia
(2005–2011)

	Feb. 2005	Feb. 2006	Feb. 2007	Feb. 2008	Feb. 2009	Feb. 2010	Feb. 2011
Total employment	94,948,118	95,177,102	97,583,141	102,049,857	104,485,444	107,405,572	111,281,744
Total employment growth (%)	1.31	0.24	2.53	4.58	2.39	2.79	3.61
Formal sector employment growth (%)	12.53	0.48	3.23	5.98	1.23	5.83	12.95
Informal sector employment growth (%)	1.53	0.14	2.22	3.96	2.90	1.46	-0.67

Source: BPS, 2012; calculations of the authors.

The financial crisis resulted in the retrenchment of 25,818 workers in 2007, 52,277 in 2008 and 30,181 in 2009.⁵⁰ A leading national newspaper reported that the total number of employment terminations as of March 2009 was 200,000 persons, consisting of 180,000 contract workers while the rest were workers with permanent status. During the financial crisis, contract workers were first to be laid off and the companies terminated their employment contracts without consent from the local government agency responsible for manpower affairs.⁵¹

The financial crisis also resulted in a sharp increase in the number of workers in the informal sector. According to the BPS, there was an increase of 1,439,964 employees in informal sector from August 2008 to February 2009, while from February to August 2008

⁴⁷ Number of Indonesia's working population according economic sectors, based on the data of Pusdatinaker MOMT, 2011a.

⁴⁸ ILO, 2009, p. 7-11.

⁴⁹ Bank Indonesia, 2010, p. 21.

⁵⁰ Pusdatinaker MOMT, 2011b.

⁵¹ KOMPAS, 2009.

it was only 608,788. Workers in the formal sector who were laid off or terminated were those who had changed their status to informal workers. This was the case in the electronics and automotive industries in Bekasi district in West Java province⁵² as well as in the textile and garment industries. Many contract workers whose contracts in the textile and garment industries were not extended found lower quality jobs in medium and small-sized textile and garment enterprises. Some contract workers from the same industry also took up employment as casual workers.⁵³ Until they found new jobs, these erstwhile contract workers were unemployed and counted as such in government data.⁵⁴

Loss of income also resulted as companies cut back on allowances such transport and food allowance and health care costs that were previously given to workers. Many companies eliminated overtime work and reduced the number of working shifts. The abolition of overtime decreased the wages considerably as it contributed a significant portion to total wages.⁵⁵ Some companies also changed the overtime wage calculation system to one based on the basic wage instead of gross wage. In February 2009, many companies stopped hiring new employees. Companies in need of new employees preferred to employ single, unmarried person to avoid paying the family allowance. Thus, many prospective employees who were married declared themselves single when applying jobs even though they were being hired on lower wages.⁵⁶

1.6 Recent economic and political developments

Indonesia managed to overcome the global financial crisis and economic growth is now expected to be higher than six per cent. However, as manufacturing continues to contribute significantly to the GDP and is still an important sector for employment creation, there are a few challenges that need to be addressed. The sector is still challenged by low competitiveness and low foreign investment and depends a lot on exports, making it vulnerable to external markets. According to the World Bank/IFC (2009) the investment climate in Indonesia is still relatively less attractive to foreign investors.⁵⁷ The ratio of foreign direct investment (FDI) to GDP in Indonesia is among the lowest in the world.⁵⁸ According to the World Economic Forum 2011-2012 report, quality infrastructure is lacking. Its ports are ranked at 103 among 142 countries; the power supply is ranked at 98, and infrastructure at 76. Other challenges still faced by manufacturing industry include overlapping inter-sectoral policies, problems in the implementation of regional autonomy, excessive taxes and non-taxes, and the lack of financial support from the banking sector.⁵⁹ As noted in a World Economic Forum report, bribery and corruption are among the major barriers to doing business in Indonesia.⁶⁰

To support Government efforts to accelerate economic development, the government established the Committee on National Economy (KEN). The KEN is responsible for formulating recommendations in eight areas, namely: designing the state budget; making a grand design for economic connectivity at the national level; achieving seven per cent economic growth that is inclusive, balanced and environmentally friendly; drawing up more effective poverty reduction programmes; speeding up job creation and unemployment reduction; maintaining food security; maintaining energy security; and

⁵² ILO, 2009, p. 8.

⁵³ SMERU, 2010, p. 2.

⁵⁴ SMERU, 2009, p. 6.

⁵⁵ SMERU, 2010, p. 2.

⁵⁶ SMERU, 2009, p. 6.

⁵⁷ Wie and Negara, 2010, p. 304-304.

⁵⁸ Kadin Indonesia, 2009, p. 19.

⁵⁹ Bank Indonesia, 2008, p. 16-17.

⁶⁰ Wie and Negara, 2010.

strengthening domestic financial resources. KEN's recommendations to the Government are however yet to be implemented.⁶¹

In the effort to improve the investment climate in the country, the government is considering tax holidays in at least five industries (metals, oil refining, petrochemicals, renewable energy, and telecommunications equipment); it also plans to reduce the income tax for certain industries and draw up disincentives for importers who do not invest in the country⁶² such as imposing luxury taxes for imported goods.⁶³

2. Overview of labour law reform and legal rights with respect to non-standard workers

2.1 Overview of labour law reform in Indonesia

The labour law reform in Indonesia was intended to accommodate the ILO core Conventions through ratification of the conventions.⁶⁴ It included a number of important policies to improve the investment climate.⁶⁵ The labour law reform had two consequences: changes in the nature of the labour market and in the industrial relations paradigm in Indonesia.⁶⁶

The Government argued that a sound framework of labour relations is central to generating employment, enhancing workers' welfare and skills as well as promoting a stable business environment. It attempted to ensure that the labour laws reform struck a balance between protecting the rights of workers, including freedom of association and preserving labour market flexibility.⁶⁷ In order to manage relatively cheap labour, it was also deemed necessary to regulate provisions related to employment relationships in outsourcing and fixed-term contract systems. As a result, Indonesia legalized fixed-term employment contracts and outsourcing work in the new labour law (Manpower Act No. 13 of 2003) and in its relevant regulations (MOMT Decree No. 100 of 2004 on Implementation Guidelines of Fixed-Term Work Agreement, MOMT Decree No. 101 of 2004 on Labour Agency's Permit, and MOMT Decree No. 220 of 2004 on Requirements to Outsource a Part of Works to Other Companies).

However, the trade unions were of the opinion that flexibility in the labour market was introduced to accommodate the interests of employers, especially when it came to new recruitments, layoffs, and applying fixed-term employment contracts and work agreements to outsource parts of work to other companies.⁶⁸ The employers, on the other hand, were dissatisfied as the new labour law regulates minimum severance pay, service pay, and compensation to a permanent employee.

The first labour law promulgated during labour laws reform after 1998 is Act No. 21 of 2000 concerning Trade Union/Labour Union that guarantees every worker, either within or outside an employment relationship, the right to freely form and become a member of a trade union. According to the Act 'a trade union/labour union is an organization that comes from, is established by and for either enterprise-bound or enterprise-free workers/labourers,

⁶¹ Ibid, p. 281-282.

⁶² Samboh, 2011b, p. 13.

⁶³ Investor Daily Indonesia. 2011.

⁶⁴ Uwiyono, 2007, p. 17.

⁶⁵ See Indonesia-Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding, March 18, 2003. Available at: <<http://www.imf.org/external/np/loi/2003/idn/01/index.htm>>

⁶⁶ Nurjaya, 2010. p. 3.

⁶⁷ Indonesia-Letter of Intent, March 18, 2003.

⁶⁸ Tjandraningsih, Herawati and Suhadjadi, 2010, p. 13-14; *see* Silaban (KSBSI), 2011.

which is free, open, independent, democratic and responsible to fight for, defend and protect the rights and interests of workers/labourers and improve the welfare of workers/labourers and their families'. This General Provision functions as the legal foundation for every worker in Indonesia, regardless of their employment relationship, to exercise their rights to associate and form a trade union.

The Act brought in the multiples union system. It is required a minimum of ten workers to form a trade union. The implication is that a company can have multiple trade unions. Before 2000, no trade union could be legally established except the Serikat Pekerja Seluruh Indonesia (All Indonesia Worker Union (SPSI)), and before that, the Federasi Buruh Seluruh Indonesia (All Indonesia Labour Federation (FBSI)). Both were under the sponsorship of and strictly controlled by the Government.⁶⁹ The Act also prohibits discrimination by employers against union members (Article 28).

In 2003, the Government also enacted Act No. 13 of 2003 concerning Manpower. This Manpower Act gives the right to collective bargaining and allows registered trade unions to conclude legally binding collective labour agreements (CLAs) with employers.⁷⁰

The reforms of 1998 brought in the contractual model of industrial relations in Indonesia. In the contractual model, employment terms and working conditions are negotiated by the employer and union representatives. However, there have been no real changes in the practical application of industrial relations concepts and principles in Indonesia as the Government was still able to intervene in matters related to determination of employment terms and conditions through enactment of regulations.⁷¹ Some observers claim employment terms and conditions in the existing law constrained collective bargaining, particularly at the workplace level that could benefit both employers and workers, and other observers argue that many collective agreements in Indonesia still rarely went beyond the minimum terms and conditions regulated by the Government.⁷²

The Manpower Act No. 13 of 2004 integrates the employment terms and conditions in the earlier regulations and includes the following:⁷³

- 1) Prohibition against employing child labour
- 2) Obligation to provide rest breaks and annual leave of at least twelve days
- 3) Working hours
- 4) Rights and obligations of female workers
- 5) Rights of any prospective employee to gain employment without discrimination
- 6) Equal rights or opportunities to choose or move to another job
- 7) Rights of any worker to form or to become a member of a trade union
- 8) Rights to strike or lock-out
- 9) Rights of employees to acquire, to improve, or to develop job competencies through a job training
- 10) Exception of "no work, no pay"
- 11) Minimum wage
- 12) Obligation of the employer who employs more than ten workers to create a Company Regulations, the content of Company Regulations, and obligation to legalize the Company Regulations.

⁶⁹ Nurjaya, 2010, p. 4.

⁷⁰ ITUC-AP, 2010, p. 8

⁷¹ Uwiyono, 2007, p. 17.

⁷² Palmer, 2008, p. 14.

⁷³ Uwiyono, 2007, p. 197.

-
- 13) Requirement of a Fixed-Time Contract, the duration of a Fixed-Time Contract, and the ending of Fixed-Time Contract.
 - 14) Termination of employment and severance payments; the calculation of severance payment; and wage component used to calculate severance payment
 - 15) Rights of the resigned worker
 - 16) Validity of the Collective Labour Agreement, the extension of the validity of a Collective Labour Agreement, and the negotiation requirement of a Collective Labour Agreement.

In the aftermath of the global crisis of 2008-2009, the discourses on labour law in Indonesia were more focused on economic interests instead of addressing workers' rights and welfare. In 2008, the Congress of Indonesian Chambers of Commerce (Kadin Indonesia) recommended the need for harmonization of labour laws in order to improve the country's economic competitiveness. Revisions were recommended to the Manpower Act (No.13) of 2003, the Industrial Relations Disputes Settlement Act (No.2) of 2004, the Trade Union/Labour Union Act (No.21) of 2000 and the Workers' Social Security Act (No. 3) of 1992, as these contained provisions that did not provide a climate conducive for promoting employment and economic development. For instance, the Trade Union/Labour Union Act contains provision that allow more than one union in a company. The Kadin Indonesia was of the opinion that the employers may have difficulty in determining which union to conduct collective bargaining with. This situation made the establishment of harmonious industrial relations at the workplace a challenge.

The Manpower Act No. 13 of 2003 has been criticized by the employers for laying down a long layoff procedure and excessive severance pay that burden employers, and apparently creates problems in outsourcing and fixed-term employment contracts. In the Industrial Relations Disputes Settlement Act, the Industrial Relations Court has limited authority over civil disputes and has no authority to take up criminal cases; it is unclear on the status of industrial relations ad-hoc judges in the Industrial Relations Court and the Supreme Court; the resolution of disputes in the Industrial Relations Court and in the Supreme Court is time-consuming both for employers and workers.⁷⁴

The Government's intention to revise the current Manpower Act No. 13 of 2003 is supported by the Indonesian Employers' Association (APINDO). The APINDO is of the view that the current regulatory framework is not investor friendly. The Government and APINDO are therefore proposing amendments that would deal directly with conditions of fixed-time contracts, termination procedures, and severance payment calculations.⁷⁵ The Government gave assurance that the revision of the Manpower Act would be given high priority in order to support the Major Plan of Accelerating and Expanding of Indonesian Economic Development.⁷⁶

The trade unions regarded Manpower Act No. 13 of 2003 as anti-worker and pro-employer. They argued that the Act legalized "outsourcing" which would have the effect of reducing job security for workers. It also legalized "fixed-time contracts" which could jeopardize the job security of permanent employees, and restricted the right to strike in specified labour disputes.⁷⁷

In 2010, major trade union confederations urged the Government to specify the types of work that could be contracted and outsourced. They recommended that a work agreement be signed between outsourced workers and the user company. They also demanded that the Manpower Act state a time limit for employers to reply to trade unions' request for negotiation, and that sanctions or fines be imposed for any delay. They

⁷⁴ Kadin Indonesia, 2009, p. 24-25.

⁷⁵ Uwiyono. 2007. pp. 196.

⁷⁶ The explanation of General Secretary of Ministry of Manpower and Transmigration, cited in KOMPAS, 2011a.

⁷⁷ Uwiyono, 2007, p. 196.

emphasized the need for the Manpower Act to allow the federations and the confederations to be part of the union's negotiation team. Finally, they strongly urged the Government to issue the Ministerial Decree on Sectoral Collective Labour Agreement.⁷⁸

Trade unions confederations have also made recommendations on issues regarding the implementation of the Trade Union/Labour Union Act No. 21 of 2000 and the Industrial Relations Dispute Settlement Act No. 2 of 2004. They recommended that the team of labour inspectors be composed of worker, employer and government representatives. They demanded that the Government formulate and implement a law on industrial disputes separate from the civil law system.⁷⁹ In fact, not all trade unions agreed with the Government's plan to revise the Manpower Act. The Federation of Metal Workers Trade Unions (FSPMI) rejected the amendment on grounds that it favoured employers' and investors' interests over workers' rights. Their refusal of the Manpower Act review was backed by two political parties in the Parliament.⁸⁰

2.2 Employment terms and conditions of informal, contract and outsourced workers

The legal rights on employment terms and conditions of contract and outsourced workers are regulated mainly by labour laws and regulations. The collective labour agreement between a trade union and the employer rarely negotiate the employment terms and conditions of contract and outsourced workers. At the end of 2011 the Constitutional Court made the important decision in order to improve employment terms and conditions of outsourced workers. Compared with the contract and outsourced workers, informal workers are even less regulated and less protected. The following are the labour laws and regulations on employment terms and conditions of contract, outsourced, and informal workers in Indonesia.

Contract workers

- Act No. 13 of 2003 stipulates the terms and conditions of fixed-term contracts. Article 57 of the Act regulates that the work agreement for fixed-term employment can be written in the Indonesian language and in other foreign languages, but if differences in interpretation arise, the Indonesian version shall be regarded as the authoritative one. Article 59 states that contract work shall be work to be performed and completed at one go or work which is temporary by nature, work whose completion is estimated at a period of time which is no longer than three years, seasonal, or work that is related to a new product, a new (type of) activity or an additional product that is still in the experimental stage or try-out phase.
- The Ministry of Manpower and Transmigration Decree No. 100 of 2004 concerning the guidelines on the Implementation of Fixed-term Contract stipulates that the working conditions of fixed-term contract employees should not be lower than the working conditions as stated in the provisions of the existing law and regulation (Article 2).

Outsourced workers

- Manpower Act No. 13 of 2003, Article 65 states that the protection and working conditions of outsourced workers shall at least be the same as those provided at the enterprise that commissions the contract or shall accord with valid laws and regulations. The employment relationship in undertaking the outsourcing/contracting work shall be determined and specified with a written employment agreement between the other enterprise and the worker/labourer it employs (Article 65).

⁷⁸ ITUC-AP, 2010, p. 4-5.

⁷⁹ Ibid., p. 10.

⁸⁰ KOMPAS, 2011, p. 34.

-
- Ministry of Manpower and Transmigration Decree No. 220 of 2004 concerning The Requirements of Outsourcing Some Parts of Work to Other Companies stipulates that every work agreement to outsource some parts of work to other companies shall contain provisions that protect the rights of workers in the employment relationship (Article 5). Article 4 stipulates that in case the subcontractor engaged in outsourcing work has no legal status, the subcontractor will be obliged to fulfil the rights of employed workers instead of the user/vendor companies which outsourced the work.
 - Ministry of Manpower and Transmigration Decree No. 101 of 2004 concerning Guidelines on the Permit to Establishing a Labour Agency underlines the provisions in Manpower Act No. 13 of 2003 regarding wages and work conditions and the employment relationship between the outsourced worker and the labour agency.
 - Based on the decision of Constitutional Court No. 27 of 2011 to review Articles 59, 64, 65, and 66 of Manpower Act No. 13 of 2003 as to whether they comply with the Indonesia's Constitution of 1945, the Directorate General for Industrial Relations and Workers' Social Security in the Ministry of Manpower and Transmigration issued an official letter to implement the Constitutional Court decision regarding employment terms and conditions of work of outsourced workers. According to the letter, if the employment terms and conditions between the labour agency or subcontractor and outsourced workers do not include the clause of Transfer OF Undertaking Protection of Employment (TUPE) to other labour agencies or subcontractors, the employment relationship between them shall be in the form of *Perjanjian Kerja Waktu Tidak Tertentu* or indefinite time contract (PKWTT). Otherwise, if the employment terms and conditions contained the TUPE clause, the employment relationship between outsourced workers and the labour agency or subcontractor is called *Perjanjian Kerja Waktu Tertentu* or fixed-time contract (PKWT). The Constitutional Court's decision to regulate the TUPE is to protect the rights of outsourced workers when they face changes in labour agency or subcontractor in the same job.⁸¹

Informal workers

- The Ministry of Manpower and Transmigration Decree No. 4 of 2006 on Guidelines on the Implementation of Social Security for Workers outside Employment Relationship stipulates that workers outside an employment relationship (such as informal workers) can apply for workers' social security (Jamsostek) to PT Jamsostek (the State-owned workers' social security agency) according to their need and financial capability. The social security provides work accident, death, old age and health care benefits.

Contract, outsourced and informal workers

- Act No. 40 of 2004 concerning National Social Security (Article 13) stipulates that employers shall be required, in stages, to register themselves and their employees as participants of the Social Security Administering Bodies which administers the social security program in which they are participating. The benefits of social security programmes for them include health care benefit, work accident benefit, old age benefit, pension benefit, and death benefit. However, the implementation of Act No. 40 of 2004 on the National Social Security System to realize universal health insurance must wait until the Social Security Administering Agency is established.
- Manpower Act No. 13 of 2003 in Article 88 states that every worker has a right to earnings that meet their decent living needs. The Government stipulates the minimum wages based on the decent living needs and economic productivity and growth.

⁸¹ Letter of Director General for Industrial Relations and Workers' Social Security of the Ministry of Manpower and Transmigration No. B.31/PHIJSK/1/2012 concerning The Implementation of Constitutional Court Decision No. 27/PUU-IX/2011; Constitutional Court Decision No. 27 of 2011 on the review the Article 59, 64, 65, and 66 of Manpower Act No. 13 of 2003

3. Innovations in organizing informal, contract and outsourced workers and collective bargaining and social dialogue

3.1 Challenges to freedom of association and the right to collective bargaining

Indonesia had ratified the ILO Convention No. 98 concerning the Right to Organize and to Bargain Collectively prior to 1998. Later it ratified ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize. Indonesia also enacted the Manpower Act in 2003 recognizing the right to collective bargaining, and the Trade Union/Labour Union Act recognizing the right to form and join a union. However, the implementation of those rights has remained a challenge.

3.1.1 Employers' reluctance to respect freedom of association

There are now thousands of enterprise level unions, 86 federations, and government-recognized confederations such as the *Konfederasi Serikat Pekerja Indonesia* (KSPI), the *Konfederasi Serikat Buruh Sejahtera Indonesia* (KSBSI), and the *Konfederasi Serikat Pekerja Seluruh Indonesia* (KSPSI).⁸² Of the 33 provinces in Indonesia, the highest union membership is in DKI Jakarta (1,398,829), East Java (634,804) and West Java (489,362).⁸³ During 2007–10, however, trade unions could not catch up with the growing number of companies in Indonesia. Union representatives allege that employers both in public and private enterprises were trying to weaken the unions through intimidation, union officials were forced to resign, and layoffs of union officials.⁸⁴ There were instances where companies laid off workers who had tried to set up a union. Trade union activists were often physically assaulted, it was alleged. In some cases, employers established “yellow unions” so as to undermine the role of trade unions. Contrary to the law on contract work, employers hired workers on contract even when the job was not temporary, so they could not join the union.⁸⁵

Table 9.
The number of trade unions and unions' members in Indonesia (2005-2010)

	2005	2006	2007	2008	2009	2010
Number of trade unions at company level	18 352	18 352	11 467	11 786	11 852	11 852
Number of members of trade unions	3 388 587	3 388 587	3 388 587	3 405 615	3 414 455	3 414 455
Number of companies that should report the employment at their companies	n.a.	n.a.	186 910	207 518	208 737	219 721*

Note: *) Based on MOMT data as of March 2011; n.a. = data is not available.

Source: Pusdatinaker MOMT, 2011, based on data of Directorate General on Industrial Relations Settlement and Social Security.

⁸² MOMT, 2011, p. 19.

⁸³ Data on trade/labour union in Indonesia according the province based on the data of Pusdatinaker MOMT, 2011.

⁸⁴ Statement from the representative of the *Konfederasi Konggres Aliansi Serikat Buruh Indonesia* (KASBI) -in a public discussion on labour issues held by Aliansi Jurnalis Independen (AJI), on December 11, 2009.

⁸⁵ ITUC-AP, 2010, p. 10.

3.1.2 Restrictions in labour laws

Article 44 of the Trade Union/Labour Union Act of 2000 states that civil servants have freedom of association and right to organize; however, the same Article stipulates that it should be regulated in a separate law. However, as of now the law to regulate freedom of association of civil servants has not been enacted. As for the private sector, Article 15 of the Act stipulates states that any worker whose position in the enterprise may cause a conflict of interest between workers and employers should not be made union officials. This is interpreted by employers as those workers who have jobs related to accounting, security, and human resources. Thus these workers are prohibited from joining a trade union. This is a condition that is often set out in collective agreements.⁸⁶

3.1.3 Lack of enforcement of labour laws

Although there are provisions that impose prison sentence or fines for violations of freedom of association, these are not enforced, particularly when there is a case of discrimination against unions,⁸⁷ or when the company delays or fails in implementing the collective labour agreements (CLAs). Lack of enforcement of labour laws is not only due to the limited number of labour inspectors but also to lack of understanding of labour laws and regulations, and to the constraints in the implementation labour laws and regulations in the local government under the decentralized administration system.⁸⁸

Under the decentralized system in Indonesia, labour inspections are carried out by the local government. However, there is a lack of coordination between the local and national levels of labour supervision.⁸⁹

Collective bargaining in Indonesia also faces a number of constraints.

- 1) Many Indonesian employers refuse to negotiate employment terms and conditions through collective agreement. The number of companies with CLAs during 2007-10 was low, less than 6 per cent of the total number of companies that submitted reports to the government agency responsible for manpower affairs.
- 2) Informal workers and contract and outsourced workers do not have a common bargaining platform.
- 3) Intervention from the Government in form of regulating employment terms and conditions make it difficult for unions to demand their rights beyond the norms of labour protection standard during the collective bargaining. On the other hand, the employers use the regulations as a means for giving not more than what is regulated by the Government.
- 4) The business units in Indonesia are dominated by small and medium-sized businesses that belong to the informal sector. Many workers in this sector do not feel the need for CLAs at their work place.⁹⁰
- 5) Clauses in the Manpower Act No. 13 of 2003 have been interpreted in several ways with regard to extending an existing CLA and the legal requirement of a union to be a bargaining agent. With regard to extending an existing CLA, the Manpower Act does not mention a time limit for employers to reply to the unions' request for negotiation. Thus, it enables employers to frequently avoid negotiations.⁹¹ Regarding the requirement to be a bargaining agent, the Act

⁸⁶ ITUC-AP, 2010, p. 14-15.

⁸⁷ Information from the secretary general of Organisasi Serikat Pekerja Indonesia on January 22, 2010, available at <http://hukumonline.org>.

⁸⁸ MOMT Regulation No. 12 of 2012, p. 45.

⁸⁹ ITUC-AP, 2010, p. 9.

⁹⁰ Interview: Syukur Sarto (Chairman of KSPSI) on August 10, 2011 in Jakarta.

⁹¹ ITUC-AP, 2010, p. 4.

stipulates that in case of multiple unions at an enterprise, the union whose members exceed 50 per cent of the total number of workers in the enterprise will have the right to represent workers in negotiating a collective labour agreement. If a trade union does not meet this condition, the Act provides that a trade unions' coalition is formed but it too must have the support of more than 50 per cent workers in the enterprise. If these are not possible then the trade union shall establish a negotiating team whose members shall be determined in proportion to the membership of each trade union. Membership cards are a must. Although union representatives feel that this restricts the right of minority unions, there is a judicial order on Article 120 of the Manpower Act which states that, in order to protect the right to bargain collectively of minority unions, unions may form a coalition to create a negotiation team whose members are determined through *proportional representativeness*.⁹²

3.2 Constraints in organizing informal, contract and outsourced workers

The majority of union members in Indonesia are workers in the formal sector. Trade union density (the percentage of union members to total formal workers) was 10 per cent in 2005-06,⁹³ 11 per cent in 2009, and declining to 9 per cent in 2010.⁹⁴

Workers in the informal sector and those under contract find it difficult to join trade unions. For instance, the union of a state-owned bank excludes outsourced workers from membership.⁹⁵ According to a survey conducted by the KSBSI and the KSPI, many trade unions are less interested to organize outsourced and contract workers since their contracts are very short. In addition, their permanent membership in trade unions is uncertain due to the nature of their work as contract or outsourced workers in user companies.⁹⁶ At one state-owned regional company, contract and outsourced workers were afraid to form a union or associate with any outside union for fear of losing their jobs.⁹⁷ Outsourced workers have a contract with labour agency instead of the company where they work which puts a further constraint on them especially when the company prohibits such workers from joining a union.⁹⁸

Informal workers are also difficult to organize as their employment relationship is relatively short, and the workplace and work hours are not fixed. They are, in most cases, not aware of the benefits of joining a union. The government does not seem to have much interest in implementing freedom of association in the informal sector.⁹⁹ Finally, the requirement of minimum membership prevents workers in small establishments that have less than ten workers from forming a union.

⁹² Decree of Constitution Court No. 115/PUU-VII/2009 on Judicial Review of Article 120 of Act No. 13 of 2003 concerning Manpower.

⁹³ Palmer, 2008, p. 16.

⁹⁴ See Table 11 for the number of trade/labour unions and the number of trade/labour union members in Indonesia.

⁹⁵ For example in one of state owned large banks which employing outsourced workers.

⁹⁶ ITUC-AP, 2010, p. 3.

⁹⁷ In a regional government owned business entity in Kendal district, Central Java Province. Based on the interview with an official of SPSI in the district on December 23, 2011.

⁹⁸ The case of companies in metal industry. For the detail see Tjandraningsih, Herawati and Suhadmadi, 2010, p. 52-53.

⁹⁹ Interview: Elly Rosita Silaban (President of Federasi Garteks-KSBSI) on July 19, 2011 in Jakarta.

3.3 Innovations in organizing informal, contract and outsourced workers

3.3.1 Organizing informal workers

Several trade union confederations and national trade unions such as the Konfederasi Serikat Pekerja Seluruh Indonesia (KSPSI), the Konfederasi Serikat Buruh Sejahtera Indonesia (KSBSI), and the Sarikat Buruh Muslimin Indonesia (SARBUMUSI) have been engaged in organizing informal workers in Indonesia.¹⁰⁰ There are also specific unions for workers in the informal sector such as the Persatuan Pekerja Informal Seluruh Indonesia (PERPISI), the Unity of Informal Workers of Indonesia,¹⁰¹ and the Serikat Pekerja Sektor Informal (SPIN) Informal Workers Union.¹⁰²

The KSPSI has set up sector-based trade unions. In the construction sector, the KSPSI formed the Serikat Pekerja Bangunan dan Pekerjaan Umum (Construction and Public Works Labour Union) (SPBPU); in 2001 in the transportation sector it established the Serikat Pekerja Transportasi Indonesia (Indonesian Transportation Labour Union (SPTI) whose major members are the informal workers of these sectors.¹⁰³ The KSBSI also has a Federasi Konstruksi, Umum dan Informal (FKUI) for informal workers in the construction sector and the general sector; as well, it has members who are workers outside employment relationships who produce goods or services, those working on businesses with no legal status, casual workers, owners of informal economic activities, domestic workers and migrant workers. In addition to informal workers, the FKUI organizes workers whose occupations are different but find jobs through a labour agency in the construction sector.¹⁰⁴ Street vendors, cellular top-up voucher sellers, taxi drivers, motorcycle taxi drivers, and workers employed in home-based factories are among the informal workers who are members of the KSBSI in DKI Jakarta.¹⁰⁵

For outsourced workers and those whose companies have no unions, the KSPSI offers direct membership in its branch within the sector. Currently, some outsourced workers in the manufacturing industry are direct members of the KSPSI. The union also has membership of informal workers engaged at the ports. Direct membership increases the bargaining power of the worker. When workers face problems with their employer, the union representatives can settle disputes with the employer on behalf of them. There are other advantages for an informal worker in joining a trade union. For example, informal workers in the construction sector who have taken membership in the SPBPU automatically become members of its cooperative and professional associations. As a member of the cooperative, the informal worker gets economic protection and as a member of professional association they can receive occupation protection, such as trainings to get professional certificates. Currently, the KSPSI is working with the Public Works Ministry in a certification programme that is expected to benefit one million construction workers. The SPBPU's cooperative acts as sub-contractors to negotiate work tariffs with the employers. By becoming a member of the cooperative, informal workers can get the jobs directly from the cooperatives and earn higher incomes than when they get the jobs through foremen at construction sites. The common practice is that construction workers outside SPBPU get jobs through foremen who would cut their wages that eventually causes the workers get lower wages. KSPSI also organizes informal workers who work at the sea

¹⁰⁰ SARBUMUSI, 2008, Anggaran Dasar SARBUMUSI (SARBUMUSI Constitution). October 29, 2008.

¹⁰¹ PERPISI (The Unity of Informal Workers of Indonesia), 2008, p. 2.

¹⁰² Antaranews. 2011.

¹⁰³ Interview: Syukur Sarto (Chairman of KSPSI) on August 10, 2011 in Jakarta

¹⁰⁴ FKUI, 2010. Anggaran Dasar FKUI (FKUI Constitution). March 13, 2010.

¹⁰⁵ Interview: Elly Rosita Silaban (President of Federasi Garteks-KSBSI) on July 19, 2011 in Jakarta.

port. By becoming the members of union, their labour union provides them work security.¹⁰⁶

3.3.2 Organizing contract and outsourced workers in Batam's EPZs

The Federation of Indonesian Metal Workers' Union (FSPMI) – affiliated to the KSPI and Lomenik (Federation of Metal, Machine and Electronics) – affiliated to the KSBSI, have successfully organized contract and outsourced employees at the export processing zones in Batam in Kepulauan Riau Province. Established in 2001, the FSPMI has 25,000 EPZ workers in Batam as members, while Lomenik has 24,000 workers as members. According to the FSPMI, around 98 per cent of all workers in Batam's EPZs are hired through labour agencies. Batam's EPZs employs permanent workers, outsourced and contract workers. Lomenik and the FSPMI have taken legal action to secure permanent employee status for workers who had been in contract for three years. It has been successful in negotiation to end the contracts for outsourced employees and changed their status as permanent workers.¹⁰⁷

For an EPZ contract worker, securing a decent wage and permanent work are two main priorities. In addressing the needs of EPZ workers, the FSPMI and Lomenik independently set out strategies to change the status of contract workers to become permanent, increase political influence in the decision-making bodies that regulate minimum wages and labour policy, and negotiate collective agreements that decrease the number of contract workers. The FSPMI are also engaged in organizing women workers by increasing women's participation in the union, changing the union's constitution to ensure 30 per cent seats for women at all levels of the union. In the political arena, both unions are actively engaged in supporting candidates for parliament that represent workers' interests. The FSPMI is pressing for a seat in the highly influential EPZ Council in Batam, which at the moment comprises only businessmen and members of parliament. The FSPMI has also been demanding that ILO Conventions ratified by the country be observed in all industrial zones. Much of the work of the FSPMI and Lomenik has received support from the International Metal Workers' Federation (IMWF) and the Swedish affiliated IF Metal and SIF through the EPZ Organizing Project that started in 2006.¹⁰⁸

3.3.3 Organizing contract and outsourced workers in the sports apparel industry

In the garment, textile and footwear industries around 65 per cent of the total workers are on contract or outsourced.¹⁰⁹ To encourage collective bargaining and freedom of association in this sector, a Freedom of Association (FOA) Protocol was signed on June 2011 by five trade unions (Federasi Garteks, GSBI, KASBI, KSBSI, SPN) and five companies who are brand holders and suppliers of sports apparel (including Adidas, Nike, Puma and Pentland).

This agreement binds the signing parties and its provisions regulates that: 1) all holders of the company brand and/or services in the sports apparel industry supply chain in Indonesia must respect and implement the rights to freedom of association; and 2) suppliers are required to disseminate the contents of this protocol and encourage its implementation to their subcontractors (Article 2).

The FOA Protocol is applicable in all companies that are signatories to the protocol irrespective of whether a collective labour agreement is in place or not. Article 3 of the Protocol states that if the provisions of the CLA in the companies bound by this Protocol are lower than the provisions in the protocol, then the provisions of the FOA Protocol will

¹⁰⁷ Peter, n.d., pp. 14-15.

¹⁰⁸ Ibid., pp. 16-18.

¹⁰⁹ GSBI, 2011.

be used (Article 3). The FOA Protocol does not set wages and working conditions, however it requires companies to conduct collective bargaining to conclude an agreement within six months of the formation of a labour union.¹¹⁰

According to the Protocol, the company must: (1) give workers the freedom to form unions in the workplace; (2) recognize all unions in the company and not discriminate; (3) not interfere in trade union activities; (4) give time to members and officials of trade unions to conduct union activity; (5) not resort to any form of intimidation, including demotion, transfer, reduction of wages, criminalization, assigning tasks beyond the ability of workers, suspend members/officials of the trade union who conduct union activities; (6) provide adequate space for the union's secretariat; and (7) refrain from intimidating the union's CLA negotiating team (Article 4, 5, 6).¹¹¹

To monitor the implementation of freedom of association, as stipulated in the FOA Protocol, the FOA Protocol Supervision and Dispute Settlement Committee shall be established at the enterprise and national levels. The Committee has been formally established in the national level in November 2012.¹¹² At the enterprise level, the Commission is composed of union and company management, while at the national level the Commission consists of the supplier and producer companies, trade unions and NGOs at the national level (Article 8). Any deviations from the Protocol are to be resolved through bipartite negotiations, or in accordance with employment regulations (Article 9) that are applicable. Indonesia is the first country to have an FOA Protocol. It applies to all companies whether or not they have already established trade unions and collective agreements.¹¹³

3.4 Collective bargaining during the global financial crisis

Collective bargaining has been used to respond to social and economic changes and as a way to reconcile the interests of employers and workers in several countries affected by the global crisis of 2008-2009.¹¹⁴ One indicator of collective bargaining practice during the crisis is the number of CLAs. At the time of the financial crisis in 2008, there was an addition of 745 CLAs compared to an addition of 465 CLAs in 2007 (table 10). Although the statistics do not indicate the number of new CLAs created due to the crisis, it does show that collective bargaining increased when the country was impacted by the global financial crisis.

¹¹⁰ Freedom of Association Protocol, 2011; Interview: Elly Rosita Silaban (President of Federasi Garteks-KSBSI) on July 19, 2011 in Jakarta. Suppliers are companies that provide product/services to brand holder.

¹¹¹ Freedom of Association Protocol, 2011.

¹¹² Information from Elly Rosita Silaban (President of Federasi Garteks-KSBSI) on January 25, 2013.

¹¹³ Interview: Elly Rosita Silaban (President of Federasi Garteks-KSBSI) on July 19, 2011 in Jakarta.

¹¹⁴ ILO, 2010, p. 25.

Table 10.
Number of collective labour agreements and company regulations
(2005–2010)

	2005	2006	2007	2008	2009	2010
Number of company regulations	36 543	37 228	38 654	41 252	42 266	44 149
Number of collective labour agreements	9168	9 291	9 756	10 501	10 683	10 959
Number of companies that according to regulations have to submit labour report to government	n.a.	n.a.	186 910	207 518	208 737	219 721*
Percentage of CLAs to number of companies that have to submit labour report to government	n.a.	n.a.	5.22	5.06	5.12	4.99

Note: *) Based on MOMT data as of March 2011; n.a. = data is not available.

Source: Pusdatinaker MOMT, 2011 based on data of Directorate General of Industrial Relations Settlement and Social Security.

At the time of global crisis, collective bargaining was conducted to create, extend or renew a CLA. Generally, workers initiated the process of collective bargaining for creating a new CLA, while the initiative to extend an existing CLA came from the employers. The initiative to use collective bargaining to renew the existing CLA came both from employers and the trade unions. Collective bargaining to create a new CLA occurred more frequently in companies severely affected by the global crisis, particularly in labour-intensive industries such as textiles and electronics. During the recent financial crisis many new CLAs were initiated in the banking sector. On the other hand, employers whose companies were affected by the crisis did not start negotiation to create new CLAs.¹¹⁵

Several CLAs were renewed during the time of the financial crisis. In the Bakrie group, one of the largest business houses in Indonesia, several months before the lapse of the existing CLAs, the unions in the business group's enterprises held consultations with the KSPSI to work out collective bargaining strategies to renew the CLAs. The unions and the KSPSI also discussed the slowdown which the Indonesian economy was beginning to experience and the impact it might have on the employees. Negotiation strategies for collective agreement were outlined by the KSPSI and unions.

During the collective bargaining, the unions and the employers succeeded in coming to an agreement on the use of contracts and outsourced workers in the Bakrie group. Under the new CLAs the enterprises could not change the employment status of permanent workers in case of a financial crisis and contract and outsourced workers could be employed only on a temporary basis and only if there was increase in production.

According to the Chairman of the KSPSI, many collective agreements to protect permanent workers were worked out in Indonesia during the global financial crisis.¹¹⁶ The KSPSI also conducted several negotiations with employers and the government in order to eliminate the use of contract and outsourced workers. The KSPSI representatives were of the opinion that enterprises could not demand loyalty from contract or outsourced workers.¹¹⁷

Some negotiations to regularize the fixed-term contract succeed in enterprises where KSPSI-affiliated unions exist, such as in Batam EPZs. However, there have not been successful in fighting for the regularization of contract and outsourced workers through collective bargaining.¹¹⁸ Some labour unions representatives indicated that although several CLAs were concluded during the financial crisis, some companies were reluctant to implement them.

¹¹⁵ Interview: Syukur Sarto (Chairman of KSPSI) on August 10, 2011 in Jakarta.

¹¹⁶ Interview: Syukur Sarto (Chairman of KSPSI) on December 28, 2011 (by phone).

¹¹⁷ Interview: Syukur Sarto (Chairman of KSPSI) on August 10, 2011 in Jakarta.

¹¹⁸ Interview: Syukur Sarto (Chairman of KSPSI) on December 28, 2011 (by phone).

3.5 Social dialogue and the impact of the global crisis

3.5.1 National-level social dialogue

In February 2008, the Indonesian Employers' Association (APINDO) and the three main confederations (KSBSI, KSPSI, and KSPI) established a National Bipartite Forum aimed at finding solutions for industrial disputes and providing inputs to the ongoing discussion on labour laws reforms. The laws that were being discussed included the National Social Security System Act (No. 40 of 2004), the Trade Union/Labour Union Act (No. 21 of 2000), the Manpower Act (No. 3 of 2003), and the Industrial Relations Dispute Settlement Act (No. 2 of 2004). This National Bipartite Forum also supported the efforts made by the government to overcome the impact of global crisis in Indonesia.¹¹⁹

In the latter half of 2008 when the impact of the crisis on Indonesia's employment situation became more evident, the Government and the social partners involved in social dialogue on employment and wage-related measures.¹²⁰ The advice of the National Tripartite Cooperation Institution on wage capping during the crisis was incorporated in the 2008 Joint Ministerial Decree on Maintaining Momentum of National Economic Development.¹²¹ However, trade unions in some regions opposed the joint decree, especially the clause that allowed for minimum wage to be fixed through bipartite negotiations. Trade unions were concerned that the clause violated the 2003 Manpower Act and supported business interests at the expense of workers. The clause was finally modified to take account of inflation in settling wages and wage increases, reflecting further advice of the LKS Tripartite.¹²²

In the aftermath of the global crisis, the Indonesia Jobs Pact (Pakta Lapangan Kerja Indonesia (PKLI)) 2011-14 was drafted through tripartite social dialogue.¹²³ The Pact stated the commitment of the Government, trade unions, and employers to create decent and productive employment while improving business competitiveness and efficiency. Confederations of trade unions involved in the preparation of the Jobs Pact proposed three priority issues that needed to be addressed: (1) the slowing of job creation; (2) the increasing number of informal workers; and (3) the lack of social protection. These three issues are closely related to workers with no permanent contract and informal workers as well. The slow economic recovery led the business units in the formal sector to not being able to hire more contract workers. As a result, many workers are turning to the informal sector with limited social protection. Through tripartite social dialogue, the Government, trade unions confederations, and employers' organizations agreed and put together recommendations on employment, industrial relations, increased productivity, and social protection that became part of the Indonesia Jobs Pact 2011-2014.¹²⁴

The employers' association representatives expressed dissatisfaction over the numerous unions. The sheer numbers made it difficult to choose representatives for purposes of social dialogue, they said. In fact, during the discussions on the Jobs Pact, trade union confederations filed a complaint that not all confederations were invited by the government to participate in tripartite social dialogue.

¹¹⁹ ILO, 2010b, p. 40-41.

¹²⁰ Rychly, 2009 cited in ILO, 2010b, p. 36-37.

¹²¹ Peraturan Bersama 4 Menteri (Joint Ministerial Decree) No. PER.16/MEN/X/2008, 49/2008, 922.1/M-IND/10/2008 and 39/M-DAG/PER/10/2008 and launched on 22 October 2008.

¹²² ILO, 2010b, p. 40.

¹²³ Indonesia is one of the first countries to adopt the Global Job Pacts initiated at the International Labour Conference in 2009.

¹²⁴ ILO, 2010b, p. 40-41.

3.5.2 Enterprise-level social dialogue

Two of the largest trade union confederations in Indonesia, the KSBSI and the KSPSI stated that they conducted social dialogue at the provincial, district, industry, and company level at the time of crisis. Statistical data from the MOMT indicates that the climate of social dialogue at company level improve since the global crisis, particularly since 2008. This was apparent from the number of LKS Bipartite which rose from 11,687 in 2008 to 12,115 in 2009 and 12,400 in 2010. These numbers are higher compared to the period before the crisis (table 11).

Table 11.
Number of social dialogue institutions in Indonesia
(2005–2010)

Social dialogue institutions	Number of institutions					
	2005	2006	2007	2008	2009	2010
LKS Tripartite						
National	1	1	1	1	1	1
Provincial	30	30	30	31	31	31
District/city	268	268	268	210	221	233
Sectoral	5	5	5	5	5	5
LKS Bipartite	7 866	10 431	10 822	11 687	12 115	12 400

Source: Pusdatinaker MOMT, 2011. Data of Directorate General of Industrial Relations and Social Protection for Workers.

One of the outcomes of social dialogue during the global financial crisis was that in some employers and unions agreed to reduce working hours, or invested in human resources to prevent job losses, the ILO publication on the Indonesia Jobs Pact states.¹²⁵ Decisions to not raise wages, eliminate overtime, reduce benefits and continue social protection were also made through the process of bipartite social dialogue.¹²⁶ For example: Seriously affected by low demand during the financial crisis, a Jakarta-based domestic company engaged in the production of nails, zinc plate, and metal wire held consultations with the company trade union to relocate some of its permanent workers to another facility (though the demand for zinc plates went down by 25 per cent, there was a spurt in the demand for metal wire). The union asked that such relocation be carried out with the workers' consent and without a reduction in wages. Permanent workers in the production unit affected by low demand were thus not only able to save their jobs but benefitted from the new work experience; as well, the company was able to survive the crisis.

At a garment factory owned by a foreign company at Serang in Banten district of West Java Province, the enterprise union strongly protested when the company decided to reduce the number of workers. After dialogue, it was decided that while jobs would not be terminated, there would be no overtime work, reduced working hours would be applied, and the company would delay wage increases.¹²⁷

3.6 Government response to social partners' measures during the global crisis

A stimulus package was introduced by the Government in order to overcome the impact of global crisis of 2008. By reducing corporate and income taxes and giving subsidies on energy, the stimulus package indirectly encouraged the enterprises to retain their

¹²⁵ ILO, 2010b, p. 19.

¹²⁶ Interview: Elly Rosita Silaban (President of Federasi Garteks-KSBSI) in August 2011 (by phone).

¹²⁷ Interview: Elly Rosita Selaban (President of Federasi Garteks-KSBSI) in August 2011 (by phone).

workforce. There were exemptions on import duty in order to help companies to reduce operating costs.¹²⁸ Infrastructure development projects formed part of the stimulus package which helped provide temporary jobs to about 1.1 million workers. Investments were made in vocational training, training in labour-intensive sectors, and developing networks of labour.¹²⁹

Indonesia's Medium-Term Development Plan (RPJMN) 2010–14 seeks to address the growing informalization of the country's workforce by protecting existing jobs in the formal sector; improving the working conditions in the informal sector; and encouraging workers in the informal sector to shift to the formal sector. The Government has emphasized the importance of promoting the industrial relations system particularly social dialogue in order to prevent further informalization of the workforce. As part of the eight-point action plan formulated in the National Access to Justice Strategy in 2009, the Government encouraged to use bipartite institution for seeking solutions for industrial relations disputes that had arisen from the financial crisis. This has been integrated into the RPJM 2010-2014.¹³⁰

It became quite evident that constructive dialogue at the enterprise, regional, and national levels was important in order to overcome the adverse impact of the financial crisis on workers. To promote freedom of association and the right to organize and collective bargaining, the government is discussing amendments to Act No. 13 of 2003 concerning Manpower, Act No. 2 of 2004 concerning Industrial Relations Disputes Settlement, and Act No. 21 of 2000 concerning Trade /Labour Unions.¹³¹

Meanwhile, the Ministry of Manpower and Transmigration (MOMT) provided subsidy to help reduce the burden of informal workers' contributions to social security programme (Jamsostek) at the amount of around 70 per cent of the monthly amount of workers' contributions.¹³² This applied to informal workers in ten regions in 2010 and eleven regions of the country (namely Riau, Kepulauan Riau, South Sumatra, Lampung, West Java, Bali, Nusa Tenggara, Southeast Sulawesi, South Kalimantan, South Sulawesi, and Yogyakarta) in 2011. However, there were only 4,166 and 11,292 recipients of the social security subsidy in 2010 and 2011, respectively, indicating very low enrolment in the programme. With the subsidy the government hopes to improve the access of more informal workers to the programme.¹³³

The reluctance of employers to pay social security dues and reveal the salaries of their workers are some factors that have prevented the programme from being a success. Those who do not make the appropriate report account for 40 per cent of the total companies participating in the Jamsostek Programme.¹³⁴ In order to enforce employers' compliance, in 2009 the PT Jamsostek regional office and the Prosecutor's office at the provincial and district level signed a Cooperation Agreement under which PT Jamsostek can request any assistance from the Prosecutor's Office (State Attorney) to settle civil and state administration disputes with the Jamsostek participating companies, including problems arising regarding collection of arrears of membership dues.¹³⁵ Legal opinion and assistance is to be provided by the Prosecutor's Office.¹³⁶

¹²⁸ ILO, 2010b, p. 20.

¹²⁹ ILO, 2009, p. 22.

¹³⁰ Bappenas, 2009; ILO, 2010b, p. 48. The national strategy for access into justice was designed by stakeholders at central and regional governments as well as by national and international NGOs. The launching of the national strategy for access into justice was on October 16, 2010; RPJMN 2010-14, p. 33.

¹³¹ ILO, 2010b, p. 34, 49.

¹³² Poskota, 2011b.

¹³³ Poskota, 2011c.

¹³⁴ Poskota, 2011d.

¹³⁵ Andrian and Andria, 2011.

¹³⁶ Poskota, 2011d.

Conclusions and policy recommendations

With the rapid globalization of economies, enterprises have been required to adopt new employment practices calling for flexible working time and non-standard employment arrangements. To deal with intensified competition in the global markets and to attract foreign investments that had greatly diminished since the Asian financial crisis in 1998, employers demanded greater flexibility in the labour market. Subsequently labour law reforms were initiated and were completed by 2004. The laws have now introduced fixed-term employment contracts and outsourcing parts of work to other companies.

The concepts of non-standard work and non-standard workers were new and not used previously in Indonesia's labour laws, employment practices and labour statistics. Discussions with trade unions, employers and government representatives during the current study helped reveal how the concepts of non-standard work and workers were interpreted by the stakeholders. They agreed that informal and temporary workers could be categorized as non-standard workers. While the former was employed with no work agreement, the latter worked under a fixed-term work agreement (contract). The typical features of non-standard work, according to the stakeholders, was that these did not fulfil the requirements stipulated in the labour laws and were carried out in business units with no legal status. Workers engaged in such work did not even receive a minimum wage and there was no provision for social security.

Own-account workers, the self-employed assisted by a temporary helper/family member, casual employees in agriculture, casual employees not in agriculture, and unpaid workers (family workers) are officially categorized by Statistics Indonesia as informal workers. The formal sector comprises regular employees and employers. Keeping in mind the country's labour laws and regulations, authors of the current study conclude that non-standard workers are those that are in the informal sector and those who are contract workers, and outsourced workers. Further discussion with the relevant stakeholders is recommended to reach an agreed definition of non-standard work and non-standard workers in Indonesia.

Applying a simplified definition of the informal sector and using data from the BPS and the MOMT, the number of informal workers in Indonesia increased from 66.29 million in February 2005 to 73.17 million in February 2011. Dominating Indonesia's overall employment, they accounted for approximately 66-70 per cent of the total workforce. Among informal workers, the self-employed assisted by a temporary helper/family member comprised around 19 to 22 per cent, the largest share of total employment in February 2005-11. Casual employees not in agriculture form about four per cent of the workforce. Viewed by sector, in February 2011 informal workers in Indonesia were largely concentrated in agriculture, and in the trade and restaurant and hotel sectors. Those two sectors contributed, respectively, 54 per cent and 25 per cent to the total number of informal workers in Indonesia.

Although no official data on contract and outsourced workers are available, statistics from other sources suggest that only 8.7 per cent of workers in the formal sector had permanent contracts, 10.2 per cent had fixed-term contracts while 81 per cent had no formal written contract. Trade unions estimate that out of 33 million workers in the formal sector, only 9 million were permanent employees while by another estimate more than 50 per cent of employees in electronics, metal, garment, textile, footwear, and mining industries were contract or outsourced workers.

Labour laws and regulations seek to ensure proper working conditions for fixed-term contract workers and protect the rights of outsourced workers. A constitutional court decision in 2011 to include a clause on the Transfer of Undertaking (Protection of Employment) (TUPE) which came into effect in 2012 is regarded as a big step to this end. The Ministry of Manpower and Transmigration issued a regulation giving informal

workers the right to join the social security programme providing them with work accident benefits, death benefits, old age benefits and health care benefits. However, field surveys reveal violations and discrimination in the implementation of employment terms and conditions. Wage discrimination against contract workers in the metal industry, for instance, persisted. They were paid less than permanent workers (receiving only the minimum wage), with no transportation, meal, and family allowances, although they did the same jobs and kept the same working hours as the permanent workers. It is important that employers participate in the social security programme so the benefits reach the workers.

Unfortunately, almost all workers in the informal sector and in micro-and small-sized business units are yet to be covered by social security benefits because they cannot afford to pay the dues of social security programme. Since informal workers are more likely to be engaged in hazardous work, it is important they get social security benefits. The Government needs to broaden its coverage of social security subsidies and have stricter inspections and monitoring on the compliance of minimum wages in the informal sector.

The Manpower Act of 2003 provides for freedom of association and the right to bargain collectively for workers in Indonesia, either within or outside the employment relationship. Many trade unions at the enterprise level exclude workers on short-term contracts from union membership or exclude them from the unions' struggle. Employers discourage or ban contract and outsourced workers from union membership. Understandably, the workers are then more concerned about keeping their jobs than joining the union.

Some of the trade unions played an active role in organizing informal workers, by opening direct membership to informal workers with no unions in their workplaces; in this way, the latter acquired better bargaining power as in the case of the transportation workers' trade union and the trade union affiliated to the KSPSI. Workers could bargain for improved wages, income stability as well as benefit from the welfare activities carried out by the unions.

The efforts of trade union federations in organizing contract and outsourced workers in Batam EPZs resulted in secure decent, permanent work for contract and outsourced workers in the Batam EPZs. The other successful initiative was the Freedom of Association Protocol in 2011 which binds the signatory companies to respect and implement the rights to freedom of association and use collective bargaining to arrive at any collective labour agreement. Such steps need to be replicated across all industries.

During the global financial crisis, tripartite and bipartite social dialogue was held at the national level to discuss policy formulation for preventing layoffs and protecting income levels; at the enterprise level social dialogue and collective bargaining were held to find solutions to accommodate mutual interests. Tripartite social dialogue was used to formulate the Indonesia Jobs Pact aimed at creating decent work, increasing productivity, and improving economic competitiveness. Meanwhile, social partners contributed to find solutions to industrial disputes and provided inputs for labour law reforms through the National Bipartite Forum. However, a challenge to promote social dialogue in every level of administration is constrained by limited capacity and functioning of the tripartite institutions at the provincial level.

Social dialogue at the enterprise level was instrumental in the survival of companies as seen in two instances in the garment and metal industries. In one garment unit social dialogue not only helped save jobs for a number of workers, the employers were able to negotiate for reduction in overtime and working hours and delayed wage increase. Job losses were reduced at a metal factory through the process of social dialogue as the company was able to relocate the permanent workers in the declining production units to another unit where they could acquire new skills and job experience.

Since the company's trade union had excluded contract workers from membership, no bargaining was carried out on their behalf to extend or renew their contracts. Many similar

agreements during the period of crisis show how enterprise trade unions in Indonesia prioritized securing the jobs of permanent workers first at the expense of contract workers' employment. This provided an insight into the difficulties contract workers faced during the crisis, thus making it imperative to organize them in order to increase their bargaining power to defend their work security and their other legal rights.

The recent financial crisis however did help to raise the awareness of workers about their rights and in many cases encouraged them to ask the company management to negotiate CLAs. Second, the awareness of trade unions that employers could replace the permanent workers with contract workers also made them vigilant. As observed in the enterprises of the Bakrie group, the trade unions prevented this situation by seeking guidance, training, and negotiation strategies from its umbrella union to extend the existing CLAs.

The current study recommends that a government regulation be issued to specify the types of work that can be contracted and outsourced, and impose significant sanctions and penalty on violators. The list of jobs for which a company can use contract or outsourced workers should be decided by a tripartite agreement representing employers, workers, and relevant authorities. There is also a need to specify the employment terms and conditions for fixed-term contract workers and those under a work agreement. This is necessary since unclear terms and conditions of work can engender poor work conditions and impede access for contract and outsourced workers to the right to organize and collective bargaining. The state must set a time limit for employers to reply to trade unions' request for negotiation.

Employment terms and conditions of informal workers must be integrated in the revision of the current Manpower Act. The Manpower Act only stipulates the minimum wages and the rights to join and form a union for informal workers but lacks provisions on other work conditions of informal workers.

The Government must encourage all employers both in formal and informal sectors to comply with the applicable labour law and regulations. Legal sanctions and penalties should be imposed on violators, and, if necessary, barred from government economic incentives.

Labour inspection services and monitoring compliance with labour laws and regulations must be strengthened. The inspectors must put emphasis on the importance of minimum wages, work conditions, social security, freedom of association, and rights to bargain for informal, contract and outsourced workers. Coordination between national and local agencies in inspection and monitoring labour law and regulations needs to be improved.

There is need to increase the capacity of trade unions and employers' organizations in conducting social dialogue at various levels of administration and in other work places. Training and international networking are necessary to improve the capacity of trade unions in organizing informal, contract and outsourced workers as well as in negotiating and exercising their legal rights.

Trade union solidarity with informal, contract and outsourced workers and solidarity, particularly at the enterprise level, is necessary to improve the working conditions of such workers. They must form part of union priorities and agendas. Enterprise-level unions in Indonesia can benefit from the experience of unions in other countries, for instance, India in regard to strategies in protecting the jobs of contract and outsourced workers.

Government agencies responsible for national economic affairs have to take concrete actions to improve the investment climate and economic growth that would generate decent and productive employment for Indonesians.

References

- Andrian dan Andria. 2011. “Kepesertaan Jamsostek 133.000 Perusahaan Tak Laporkan Gaji Karyawannya Secara Utuh” [Participation of Jamsostek: 133,000 companies did not report the structure of wages] in *Suara Karya*, 21 April. Available at: <http://jamsostek.co.id>.
- Antaranews. 2011. “Jamsostek tingkatkan perhatian pada sektor informal” [Jamsostek increases attention to informal sector]. *Antraranews Online*, 27 Sept. Available at: <http://apindo.or.id/index.php/berita-a-artikel/news/634-jamsostek-tingkatkan-perhatian-pada-pekerja-informal>
- Anon. 2010. “Jumlah minimal pendirian SP perlu dikaji ulang?” [Should minimum members of labour union be reviewed?] *Hukumonline.com*, 22 January. Available at: <http://hukumonline.com>
- Bank Indonesia. 2008. “Outlook perekonomian Indonesia 2008-2012” [Indonesia’s Economy Outlook 2008 – 2012] January 2008 edition. Available at: <http://www.bi.go.id>
- . 2010. “Laporan ekonomi tahunan Indonesia” [Indonesia’s economy annual report] Available at: <http://www.bi.go.id>
- Bappenas. 2009. “Peluncuran strategi nasional akses terhadap keadilan” 16 Oct. Available at: <http://www.Bappenas.go.id/node/116/2393/peluncuran-strategi-nasional-akses-terhadap-keadilan--/>
- Bataviase. 2010. “Laporan khusus: buruh Indonesia, perjuangan tiada henti” [Special report: Indonesian labour, a non-stop struggle] *Bataviase Online*, 29 April. Available at: <http://bataviase.co.id/node/190123>
- Beritasore. 2008. “Akibat krisis global diproyeksikan 23.927 pekerja di PHK” [Due to crisis 23,927 employees estimated to be terminated] *Beritasore Online*, 3 Dec. Available at: <http://www.beritasore.com>
- BPS. 2006. “Keadaan angkatan kerja di Indonesia” [Labour force situation in Indonesia] February. Jakarta: BPS.
- . 2008. “Statistik Indonesia” [Statistical Yearbook of Indonesia] Jakarta: BPS.
- . 2010a. “Statistik Indonesia” [Statistical Yearbook of Indonesia] Jakarta: BPS
- . 2010b. “Keadaan ketenagakerjaan Indonesia Februari 2010” [Labour situation in Indonesia February 2010] in *Berita Resmi Statistik* No. 33/05/Th.XIII, 10 Mei. Available at: http://www.bps.go.id.brs_file/tenaker-10mei10.pdf
- Confederation of Labour Union Congress (KASBI). 2009. Statement of KASBI in the public discussion on labour issues in *Hukumonline.org*, 11 Dec. Available at: <http://hukumonline.org>
- Desarollo, M.Y. 2000. Part time work in Chile. Santiago: Women and Development Unit of CEPAL ECLAC. Available at: <http://www.eclac.org/publicaciones/xml/4/4754/lc11301i.pdf>
- Fahria. 2008. “Keadaan dan harapan pekerja terhadap peningkatan upaya kesehatan pekerja” [The conditions and hopes of workers in their health enhancement] paper presented during seminar on ‘Working conditions at informal sectors and their impacts to the workers’ health’, 29 May 2008, Tangerang.
- Federasi Konstruksi, Umum dan Informal (FKUI-KSBSI). 2010. Anggaran Rumah Tangga Federasi Konstruksi, Umum dan Informal (The Constitution of Federation of Construction, General and Informal). Jakarta: FKUI-KSBSI. Available at:

<http://mansyursampe.wordpress.com/2010/03/25/anggaran-dasar-dan-anggaran-rumah-tangga-federasi-konstruksi-umum-dan-informal-serikat-buruh-sejahtera-indonesia/>

- Firnandy, n.d. “Studi profil pekerja di sektor informal dan arah kebijakan ke depan” [A study on informal workers’ profile and future policy direction] Jakarta: Direktorat Ketenagakerjaan dan Analisis Ekonomi BAPPENAS. Available at: <http://www.bappenas.go.id/get-file-server/node/2509/>
- Fudge, J. 2009. Measuring precarious work: the institutional indicators. Paper presented during International research conference on social security. Milan, 5-7 Mar. 2009 Available at: http://www.ilo.org/wcmstp5/groups/public/---ed_protect/---protrav/---travail/documents/meetingdocument/wcms_146096.pdf
- GSBI. 2011. “Sistem kerja kontrak dan outsourcing adalah bentuk perampasan upah yang di legalkan oleh negara.” in [Infogsbi.blogspot.com](http://infogsbi.blogspot.com), 13 April. Available at: <http://infogsbi.blogspot.com/2011/04/sistem-kerja-kontrak-dan-outsourcing.html>
- ILO. 2005. http://www.ilo.org/wcmstp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_120126.pdf
- _____. 2009. “Tren ketenagakerjaan dan sosial di Indonesia tahun 2009” [Employment and social trend in Indonesia in 2009] Available at: http://www.ilo.org/wcmstp5/groups/public/@asia/@ro-bangkok/@ilojakarta/documents/publication/wcms_119137.pdf
- _____. 2010a. Collective bargaining: negotiating for social justice. Paper (?) presented during a high-level tripartite meeting on collective bargaining. Geneva, 19-20 Nov. 2009. Available at: http://www.ilo.org/wcmstp5/groups/public/@ed_dialogue/@dialogue/documents/publication/wcms_172415.pdf
- _____. 2010b. Global jobs pact country scan, Indonesia. Available at: http://www.ilo.org/wcmstp5/groups/public/@asia/@ro-bangkok/@ilo-jakarta/documents/publication/wcms_150116.pdf
- _____. 2011. Labour and social trends in Indonesia 2011: Promoting job-rich growth in provinces. ILO Office for Indonesia. Jakarta.
- IMF. 2003. “Indonesia – Letter of Intent, Memorandum of Economics and Financial Policies, and Technical Memorandum of Understanding, March 18. Available at: <http://www.imf.org/external/np/loi/2003/idn/01/index.htm>
- Investor Daily Indonesia. 2011. “Investasi Vs. Disinsentif” [Investment Vs. Disincentive] in Investor Daily Indonesia Online, 13 Sept. Available at: http://www.investor.co.id/home/investasi-vs-disinsentif/19775#Scene_1
- ITUC-AP. 2010. Labour law reform focusing on freedom of association and the rights to bargain collectively. Available at: <http://ituc-ap.org/ituc/live/bienaries/document/indonesia-report-2010-revised-version.pdf>
- Kadin Indonesia. 2009. “Roadmap pembangunan ekonomi Indonesia 2009-2014” [Roadmap of Indonesian economy development 2009–2014] Available at: http://www.kadin-indonesia.or.id/id/doc/Roadmap_Pembangunan_Ekonomi_Indonesia_2009_2014.pdf
- Keppi, S. 2003. “Upaya memperbaiki kondisi pekerja sektor informal melalui jaminan sosial” [Effort to improve the situation of informal workers through social security] in *Jurnal Analisis Sosial* Vol. 8 No. 3. Dec. Bandung: AKATIGA.
- Kochan, T.A. 2009. Chairperson’s summary at high-level tripartite meeting on collective bargaining, negotiation for social justice. Geneva, 19 – 20 Nov. Available at: http://www.ilo.org/ifpdial/events/conferences/WCMS_168318/lang--en/index.htm

-
- KOMPAS. 2009. "180.000 buruh kontrak di-PHK" [180,000 contract workers loss their works] in KOMPAS Online, 13 Mar. Available at: <http://www.prakarsa-rakyat.org/artikel/artikel.php?aid=33218>
- . 2011a. "Revisi UU No. 13/2003 rugikan pekerja" [Workers loss their rights due to Manpower Act revision] in KOMPAS Online, 16 Dec. Available at: <http://bisniskeuangan.kompas.com/read/2011/12/16/03212634/Revisi.UU.No.13/2003.Rugikan.Pekerja>.
- . 2011b. "Jaminan sosial, transformasi harus terencana" [Social security, transformation should be well planned] in KOMPAS, 21 Sept.
- Krahn, H. 1995. "Non-standard work on the rise." in Perspective. Winter edition. Statistics Canada.
- Lee, S.S. 2010. The shift of labour market risks in deindustrializing Asian economies: Taiwan, Japan, and the Republic of Korea. Department of Social Policy and Social Work, University of Oxford. Available at: http://www.spi.ox.ac.uk/fileadmin/documents/pdf/Barnett_Paper_20102.pdf
- Matanews. 2009. "Jakarta tambah 30 ribu pengangguran" [Jakarta adds 30 thousand unemployments] in Matanews Online, 19 Mar. 2009 Available at: <http://www.matanews.com>
- MOMT. 2011. "Perkembangan ketenagakerjaan di Indonesia" [Development of employment in Indonesia] Available at: http://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/--ilo-jakarta/documents/publication/wcms_157809.pdf
- Nurjaya, I.N. 2010. "Indonesian labour law development and reform" paper (?) presented during International Association of Law Schools (IALS) conference on Labour Law and Labour Markets in the New World Economy. Milan, 20-22 May 2010 Available at: < <http://www.ialsnet.org/meetings/labour/papers/Nurjaya-Indonesia.pdf>>
- Novela, F. 2010. "Jumlah pekerja status tetap turun drastis" [Number of permanent workers dropped significantly] in Fsp2tki.org, 25 Dec. Available at: <<http://fsp2tki.org>>
- OSPI. 2010. Statement of the secretary general of Organisasi Serikat Pekerja Indonesia. Hukumonline.org, 22 Jan. Available at: <<http://hukumonline.org>>
- Palmer, S. 2008. Freedom of association and collective bargaining: Indonesian experience 2003–2008. Working Paper. Jakarta: ILO [online] Available at: http://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-jakarta/documents/publication/wcms_116126.pdf
- Pappada, G. 2007. Labour flexicurity: British and Italian non-standard employment in the audiovisual sector. Geneva: International Social Security Association. Available at: <<http://www.issa.int/Resources/Conference-Reports/Labour-flexicurity>>
- PERPISI (The Unity of Informal Workers of Indonesia). 2008. "Permasalahan dan harapan pekerja informal dalam rangka meningkatkan kesehatan"[Problems and hopes of informal workers in health enhancement]. 21 May.
- Peter, K. n.d. "Organizing precarious workers in Indonesia in Metal World", available at: <http://www.imfmetal.org/files/.../feature.pdf>
- Poskota. 2010. "Pekerja sektor informal 73.67 juta orang" [Number of informal workers is 73.67 million people] in Poskota Online, 23 July. Available at: <http://www.poskota.co.id/berita-terkini/2020/07/23/pekerja-sektor-informal-73,67>
- . 2011a. "Jamsostek sasar pekerja sektor informal" [Jamsostek targets informal workers] in Poskota Online, 9 June. Available at: <http://www.poskota.co.id/berita-terkini/2011/06/09/jamsostek-sasar-pekerja-sektor-informal>

-
- . 2011b. “1,050 pekerja informal dapat bantuan iuran jamsostek” [1,050 informal workers to get Jamsostek due assistance] in Poskota Online 24 Mar. Available at: <http://www.poskota.co.id/berita-terkini/2011/03/24/1050-pekerja-informal-dapat-bantuan-iuran-jamsostek>
- . 2011c. “11,292 pekerja dapat bantuan jamsostek” [11,292 workers to get Jamsostek] in Poskota Online, 6 July. Available at: <http://www.poskota.co.id/berita-terkini/2011/07/06/11292-pekerja-dapat-bantuan-jamsostek>
- . 2011d. “Jamsostek siap seret pengusaha nakal” [Jamsostek is ready to take actions against naughty employers], in Poskota Online, 24 June. Available at: <http://www.poskota.co.id/berita-terkini/2011/06/24/jamsostek-siap-seret-pengusaha-nakal>
- Pusdatinaker MOMT. 2008. “Organisasi pekerja/buruh di Indonesia menurut Propinsi” [Labour/Trade unions in Indonesia in each province]. Available at: <http://pusdatinaker/balitfo.depnakertrans.go.id>
- . 2011a. “Data tenaga kerja menurut lapangan usaha” [Employment based on Economic Sectors]. Available at: <http://pusdatinaker/balitfo.depnakertrans.go.id>
- . 2011b. “Data hubungan industrial dan jamsostek 2005-2010” [Industrial relations and workers’ social security 2005-2010]. Available at: <http://pusdatinaker/balitfo.depnakertrans.go.id>
- . 2011c. “Data Pemutusan Hubungan Kerja Menurut Propinsi Tahun 2008” [Employment Termination in Each Province in 2008]. Jakarta. Available at: <http://pusdatinaker/balitfo.depnakertrans.go.id>
- Samboh, E. 2011a. “RI’s WEF ranks drop as trust in govt declines” in *The Jakarta Post*, 8 Sept.
- . 2011b. “Govt plans disincentives for importers” in *The Jakarta Post*, 8 September.
- SARBUMUSI. 2010. “Anggaran Dasar” [SARBUMUSI Constitution]. 29 Oct. Available at: http://sarbumusi.net/index.php?option=com_content&view=article&id=83&Itemid=64
- Silaban, R. (KSBSI). 2011. “RI does nothing to address precarious work” in *The Jakarta Post*, 12 Aug.
- Sinaga, T. 2010. “Studi hubungan kerja pada usaha-usaha ekonomi informal” [Study on employment relationship in the informal activity]. “Kementrian Tenaga Kerja dan Transmigrasi” [MOMT]. 14 June. Available at: <http://www.depnakertrans.go.id/litbang.html.56.naker>
- Sirait, G.M. 2008. “Informalisasi ketenagakerjaan: antara definisi, segmentasi, dan flexicurity” [Labour force informalization: definition, segmentation, and flexicurity], in *Jurnal Perburuhan*. No.8. Sept 2007-March 2008.
- SMERU. 2009. “Pemantauan dampak sosial-ekonomi krisis keuangan global 2008/09 di Indonesia” [A monitoring on socio-economic impacts of global financial crisis 2008/2009 in Indonesia] July-Oct. Available at: <http://www.smeru.or.id>
- . 2010. “Apakah dampak krisis keuangan global bagi pekerja: catatan kebijakan” [What are the impacts of global economic crisis to workers: a policy note] Available at: <http://www.smeru.go.id>
- Tjandraningsih, I.; Herawati, R.; Suhadmadi. 2010. “Diskriminatif dan eksploitatif: praktek kerja kontrak dan outsourcing buruh di sektor industri metal di Indonesia” [Discriminative and exploitative: the practices of labour contract and labour outsourcing in metal industry sector in Indonesia]. AKATIGA-FSPMI-FES. Available at: <http://library.fes.de/pdf-files/bueros/indonesien/07846>

-
- Tucker, D. 2002. 'Precarious' non-standard employment – a review of the literature' in Wellington: Labour Market Policy Group, Department of Labour. Dec. Available at: <http://www.dol.govt.nz/PDFs/PrecariousNSWorkdLitReview.pdf>
- Uwiyono, A. 2007. Indonesian labour reform since 1998. In: Sakumoto, N. and Juwana, H. (eds). Reforming laws and institutions in Indonesia: an assessment. Jakarta: Faculty of Law University of Indonesia Press. Available at: http://darch.ide.go.jp/idedp/ASE/ASE007400_009.pdf
- Widarti, D. 2006. "Peranan upah minimum dalam penentuan upah di sektor informal di Indonesia" [The role of minimum wages in the wages determination in Indonesia's informal sector]. Jakarta: ILO Mar. Available at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_123203.pdf
- Wie, T.K.; Negara, S.D. 2010. Survey of recent developments. Bulletin of Indonesian Economic Studies. Vol. 46 No. 3. Jakarta: CSIS.
- World Bank. 2009. "Indonesia 2014 and beyond: a selective outlook" in Indonesia Economic Quarterly. Jakarta: World Bank. Dec. Available at: <http://siteresources.worldbank.org/INTINDONESIA/Resources/publication/280016-1235115695188/5847>
- . 2010. "Indonesia Jobs Report: towards better jobs and security for all". Jakarta: World Bank. June Available at: <http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2010/08/31/000333038-20100831003449/Rendered/PDF/563480WPOIndon110Full0version0Final.PDF>

Other sources

- Focus Group Discussion on Non-standard Workers, Collective Bargaining and Social Dialogue in Manufacturing Industry in Indonesia. Held by Center for Asia and Pacific Studies (CAPS) Gadjah Mada University and ILO Jakarta in Jakarta, July 19, 2011.
- Interview: Elly Rosita Silaban (President of Federasi Garteks (Garment and Textile Federation-KSBSI) on July 19, 2011 in Jakarta.
- Interview: Abdullah Sani (Secretary General of KSBSI) on July 19, 2011 in Jakarta.
- Interview: Syukur Sarto (Chairman of KSPSI) on August 10, 2011 in Jakarta and December 28, 2011 (by phone).
- Interview: Officials of an enterprise trade union in metal industry on August 10, 2011 in Jakarta.
- Interview: Official of SPSI in Kendal District of Central Java Province) on December 24, 2011 (by phone)
- Freedom of Association Protocol (English Translation). Play-fair.org, [web]7 July 2011 Available at: <http://www.play-fair.org/media/wp-content/uploads/FOA-Protocol_7-June-2011_English-translation.pdf>
- Act No. 13 of 2003 concerning Manpower. 25 March 2003.
- Act No. 21 of 2000 concerning Labour/Trade Union. 4 August 2000.
- President Regulation No. 5 of 2010 on National Mid-Term Development Plan 2010-2014 (Appendix section)
- MOMT. 2004. Ministry of Manpower and Transmigration Decree No. Kep-100/Men/VI/2004 on Implementation Guidelines of Fixed-Term Work Agreement. 21 June.

-
- . 2004. Ministry of Manpower and Transmigration Decree No. Kep-220/Men/X/2004 on The Requirements To Outsource a Part of Works to Other Companies. 19 October 2004.
- . 2012. Ministry of Manpower and Transmigration Regulation No. 12 of 2012 concerning Long-Term Development Plan of Manpower and Transmigration 2010-2025.
- Peraturan Bersama No. PER.16/MEN/X/2008, 49/2008, 922.1/M-IND/10/2008 dan 39/M-DAG/PER/10/2008 tentang Pemeliharaan momentum pertumbuhan ekonomi nasional dalam mengantisipasi perkembangan perekonomian global ((Joint Ministerial Decree of Minister of Mapower and Transformation, Minister of Industry, Minister of Trade, and Minister of Home Affairs concerning the Maintainance of national economy growth to anticipate the global economy development). [online] 22 October 2008. Available at: <<http://www.bphn.go.id/index.php?action=regpusat&catreg=2010012715423650&cayear=2008>>
- Peraturan Bersama No. PER21/MEN/XI/2008, 53/2008, 97/M-IND/11/2008, 48/M-DAG/PER/11/2008) tentang Perubahan Peraturan Bersama (PER.16/MEN/X/2008, 49/2008, 922.1/M-IND/10/2008 dan 39/M-DAG/PER/10/2008) tentang Pemeliharaan momentum pertumbuhan ekonomi nasional dalam mengantisipasi perkembangan perekonomian global (Joint Ministerial Decree of Minister of Mapower and Transformation, Minister of Industry, Minister of Trade, and Minister of Home Affairs concerning the Change of Joint Ministerial Decress on the Maintainance of national economy growth to anticipate the global economy development). [on line] 27 November 2008. Available at: <<http://www.bphn.go.id/data/documents/08pb021.doc>>
- Constitutional Court of Republic of Indonesia, 2009. The Decision of Constitutional Court No. 115/PUU-VII/2009 on the Review of Article 120 of Act No. 13 of 2004 concerning Manpower. [online] Available at: <http://www.mahkamahkonstitusi.go.id/Risalah/risalah_sidang_Putusan%20Perkara%20115,141.PUU-VII.2009,%2010%20Nov%202010.pdf>
- Constitutional Court of Republic of Indonesia, 2011. The Decision of Constitutional Court No. No. 27/PUU-IX/2011 on the Review of Article 59, 64, 65, and 66 of Manpower Act No. 13 of 2003 to Indonesia's Constitution of 1945. [online] Available at: <http://www.mahkamahkonstitusi.go.id/putusan/putusan_sidang_27%20PUU%202011-TELAH%20BACA.pdf>
- Letter of Directorate General for Industrial Relations and Workers' Social Security in the Ministry of Manpower and Transmigration No. B.31/PHIJSK/I/2012 concerning The Implementation of Constitutional Court Decision No. 27/PUU-IX/2011 on the Review of Article 59, 64, 65, and 66 of Manpower Act No. 13 of 2003 to Indonesia's Constitution of 1945.