

Working Paper

Freedom of Association and Collective Bargaining

A study of Indonesian experience 1998-2003

Patrick Quinn

**International Labour Office
Geneva**

September 2003

Copyright © International Labour Organization 2003

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 the Publications Bureau (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered in the United Kingdom with the Copyright Licensing Agency, 90 Tottenham Court Road, London W1T 4LP [Fax: (+44) (0)20 7631 5500; email: cla@cla.co.uk], in the United States with the Copyright Clearance Center, 222 Rosewood Drive, Danvers, MA 01923 [Fax: (+1) (978) 750 4470; email: info@copyright.com] or in other countries with associated Reproduction Rights Organizations, may make photocopies in accordance with the licences issued to them for this purpose.

ISBN 92-2-1.....-

First published 2003

Cover:

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 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 website: www.ilo.org/publns

Printed by the International Labour Office, Geneva, Switzerland

Foreword

In June 1998, the International Labour Conference adopted the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up. The Declaration obligates all member States of the International Labour Organization to respect, promote and realize freedom of association and effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation.¹ The InFocus Programme on Promoting the Declaration is responsible for the reporting processes and technical cooperation activities associated with the Declaration Follow-up; and it carries out awareness-raising, advocacy and knowledge functions – of which this Working Paper is an example. Working Papers are intended to stimulate discussion of the issues covered by the Declaration. They express the views of the authors, which are not necessarily those of the ILO.

Patrick Quinn served as the Chief Technical Adviser of an ILO project in Indonesia that sought to help trade unionists, inter alia, how to organize and administer workers' organizations and how to negotiate with employers – starting in the late 1990s when the Suharto regime first began to wobble and then fell in mid-1998, and continuing up to early 2003. He was therefore a privileged observer of the changes that occurred, well placed to report on developments.

For that reason, I asked him to put black on white what he had seen and heard for the preparation of the ILO's forthcoming second global report on freedom of association and collective bargaining, which is due to be discussed at next June's International Labour Conference.

Patrick Quinn has now returned to the United Kingdom. He can be contacted by e-mail under quinn.prince@btopenworld.com.

September 2003

W.R. Böhning,
Director,
InFocus Programme on the Promotion of the Declaration

Table of Contents

Foreword	i
Table of Contents	iii
Preface.....	vii
Chapter 1 - The political and economic background.....	1
Background	1
Political Change	1
Economic developments	2
Employment	3
Bretton Woods Institutions	4
Regional Autonomy	4
Chapter 2 – The social partners.....	5
Ministry of Manpower and Transmigration.....	5
The role of the Ministry in industrial relations	5
Impact of regional autonomy	6
The labour administration system.....	6
Labour statistics	7
Trade unions.....	7
Background.....	7
Konfederasi Serikat Pekerja Seluruh Indonesia (KSPSI formerly FSPSI)	9
Konfederasi Serikat Pekerja Indonesia (KSPI).....	9
Serikat Buruh Sejahtera Indonesia (SBSI).....	10
Other organizations.....	10
Trade unions and political parties.....	10
Union campaigns related to government policies	10
Trade union Finance	11
Representation of unorganized workers.....	11
Employers organizations.....	11
The Employers Association of Indonesia (APINDO)	11
The Indonesian Chamber of Commerce (KADIN).....	13
Sectoral employers’ organizations.....	13
International Business Chambers.....	13
Chapter 3 - the changing industrial relations context and labour law reform process	13
The situation pre-1998	13
A turning point.....	15
Developing a new legal framework for industrial relations.....	16
Trade Union/Labour Union Act 21/2000	17
Comment.....	18
Manpower Act 13/2003	19

Industrial Relations Disputes Settlement Bill	21
Background to disputes settlement in Indonesia.....	21
Proposed Industrial Relations Disputes Settlement Bill	22
Industrial Disputes Courts	22
The process of dialogue and the pace of legal reform.....	23
Chapter 4 – Freedom of Association	24
Impact of the Trade Union/Labour Union Act 21/2000.....	24
Trade union membership	25
Representativity of trade unions.....	26
Multi-unionism and its impact on bipartite industrial relations	27
Barriers to freedom of association	28
Obstacles to trade union development at the workplace.....	28
Trade union registration/notification	28
Deduction of union dues	29
Restrictions limiting areas of union organization	29
Military and police involvement in industrial relations	29
Physical attacks on workers.....	31
Use of criminal charges against union activists.....	31
Other legal actions	31
Freedom of association in the civil service and public sector.....	32
Freedom of association and employers’ organizations	33
Chapter 5 – Collective Bargaining	33
Background	33
Enterprise regulations and collective agreements	34
The Manpower Act 13/2003 - provisions concerning collective bargaining.....	34
Extent of collective bargaining	35
The process of forming a collective agreement	36
Content of collective agreements	36
Gender dimensions of collective bargaining.....	38
Collective bargaining in the public sector.....	38
Agricultural sector.....	39
The changing environment and need for technical support	39
Chapter 6 – Major Industrial Relations Issues	40
Introduction.....	40
Some factors which influence industrial relations	40
Normative and non-normative issues.....	41
Minimum wages.....	43
Severance procedures and Severance pay	45
Severance procedures	45
Severance pay	46

Contract working.....	47
Workers’ social security.....	47
Non-normative issues.....	48
Frequency of strikes.....	49
Corporate social responsibility and Codes of conduct.....	52
Academic interest in Industrial Relations and promoting expertise.....	52
Chapter 7 – The Labour Environment and Investment.....	53
Recent debate.....	53
Productivity and competitiveness issues.....	54
Chapter 8 – Bipartite and Tripartite Structures for Consultation and Negotiation.....	55
Bipartite structures.....	55
Tripartite Structures.....	57
National Tripartite Council.....	57
Regional tripartite committees.....	58
Representation of unions in tripartite bodies.....	58
Chapter 9 – ILO Technical Assistance.....	59
Summary of Assistance.....	59
Advisory Assistance on the Implementation of Labour Law Reform and Realising the Fundamental Principles and Rights at Work in Indonesia (Netherlands funded project).....	60
Change and reforms in labour law and policy and in realising the Fundamental Principles and Rights at Work (French funded project).....	60
ILO/US Declaration project - Promoting freedom of association and collective bargaining.....	60
ACTRAV workers education project (supported by UK government's DFID).....	60
Improving industrial relations (supported by Government of Japan).....	61
Restructuring of the Social Security Scheme in Indonesia (supported by Netherlands).....	61
Impact of ILO activities.....	61
Chapter 10 – Conclusions.....	61
Context and progress.....	61
Progress since ILO Direct Contacts Mission.....	62
Labour law reform.....	62
Freedom of association.....	63
Collective Bargaining.....	64
Building tripartism.....	64
ILO Technical support.....	65
Summary.....	65
List of Working Papers of the InFocus Programme on Promoting the Declaration.....	66

Preface

In year 2000, the International Labour Conference considered the first Global Report under the Follow - up to the ILO Declaration on Fundamental Principles and Rights at Work, entitled *your voice at work* (ILO Geneva). The report concerned freedom of association and the effective recognition of the right to collective bargaining and commented on positive changes taking place in Indonesia. At that time, Indonesia was in the relatively early stages of seeking to give effect to its obligations following ratification of Convention No. 87 on Freedom of Association and Protection of the Right to Organize, and was in the process of planning a new framework of trade union and employment law.

The purpose of this study is to provide a picture of progress made in implementing freedom of association and collective bargaining within Indonesia. It considers the positive steps that have been taken since 1998, the difficulties and practical issues that the Government and social partners have faced, and the issues that require further attention. The study also considers the contribution which ILO technical assistance has been able to make to the process of change.

The study has been prepared in the style of a working paper at the request of the ILO's InFocus Programme on Promoting the Declaration. Such working papers are elicited for the purpose of stimulating debate. The views and opinions expressed in the study are strictly those of the author.

May 2003

Patrick Quinn
Jakarta

Chapter 1 - The political and economic background

Background

Indonesia, the world's fourth most populous country, has in recent years been in the midst of a complex transition process. The financial crisis which hit Asia in 1997 triggered major changes in the country's political life and its economy. Since then, the Government has been seeking to introduce democratic reforms whilst at the same time working to achieve economic stability and recovery.

Part of the transition process has involved an attempt to develop a new approach to industrial relations. Prior to 1998, the country's system of industrial relations had been under tight control of the central Government. However, in the period since, there has been an effort to develop a new approach. Steps taken have included ratification of the ILO's Freedom of Association and Protection of the Right to Organise Convention No. 87, the introduction of a new Trade Union/Labour Union Act, a new Manpower Act, and plans for a new law on Industrial Relations Disputes Settlement.

The primary purpose of this report is to examine Indonesia's recent experience of seeking to implement freedom of association and collective bargaining, looking at the progress, problems, and issues which Government and social partners have had to face. The report also examines the role which ILO technical support has been able to play.

Political Change

Indonesia, with a population of more than 213 million people, is the fourth most populous country in the world and the most populous Muslim nation. Around 60% of the population lives on the island of Java, with a further 21% on the island of Sumatra. The remainder of the population is spread amongst some 6,000 inhabited islands with other major population centres in Kalimantan, Sulawesi, and the tourist island of Bali.

Since independence in 1945 the Indonesian constitution has been based on the state ideology, *Pancasila*. The five principles of *Pancasila* are monotheism, humanitarianism, national unity, representative democracy by consensus and social justice.

In 1967, the Army General Suharto became Acting President and subsequently President of Indonesia, a position he was to hold for more than 30 years. During what was known as the "New Order" period, the state maintained a strong grip on the political process and the institutions of civil society. Under President Suharto, the Armed Forces played a key role in government and increased their importance through the doctrine of *dwifungsi*, or dual role. The military built up considerable commercial interests and also appointed representatives to participate in the work of many civil society organizations.

The New Order period was increasingly characterized by abuses of political power. Well connected business interests were able to generate large profits through banks which they themselves owned or controlled, to raise substantial loans which were then used to finance risky investments. At the same

time, the Government was insufficiently responsive to the needs of poorer people. Labour rights and other human rights were widely disregarded, drawing growing international criticism.

The Asian financial crisis had a dramatic impact on the economic and political landscape of Indonesia. When the crisis hit Indonesia in mid-1997, a currency crisis slashed the value of the Indonesian rupiah by 85% in six months. As the central bank raised interest rates, domestic demand slumped and heavily indebted companies began to collapse. Unemployment increased rapidly and living standards fell dramatically as the cost of basic commodities soared. The economic collapse led to serious social tensions and soon evolved into a major political crisis.

As Indonesia reeled from the impact of the crisis, a popular movement for *reformasi* developed, calling for an end to the practices popularly termed “KKN” - corruption, collusion and nepotism. Pressure grew for democratization and major political reform. Street protests called for a major overhaul of governance and for greater transparency, accountability, and respect for human rights. Following a year of political turmoil, President Suharto resigned in May 1998.

In 1999, Indonesia held its first democratic elections since 1955. The election removed from office the Golkar party, which had dominated government during the New Order period. It brought to power a government with a majority of seats held by the Indonesian Party of Struggle (PDI P). In subsequent presidential elections, opposition forces combined to elect as President Abdurrahman Wahid, leader of a smaller party. However, his time in office was marked by a period of continuing political instability. In 2001, President Wahid was impeached for alleged involvement in a financial scandal. He was succeeded by Megawati Soekarnoputri, leader of the PDI P.

Since the collapse of the New Order administration, there have been major changes in the country's political climate. Under constitutional changes, the President's legislative power was reduced and the role and power of the House of Representatives was significantly increased. The influence of the military in central government has been reduced, although it remains a powerful force in the country. Indonesia's next parliamentary and presidential elections will be in 2004. For the first time, the President will be elected by direct election. Following the changes of 1998, the media have enjoyed new freedoms and there has been a rapid growth in the number of non-governmental organizations.

Since 1998, the Government has consistently indicated its wish to cooperate with the ILO. With the ratification of ILO Convention No. 87 in 1998, and the ratification of Convention Nos. 111 and 182 in 2000, Indonesia became the first country in Asia to ratify all of the ILO's core Conventions.

Economic developments

During the period from 1967 to 1997, Indonesia achieved strong economic growth, ranking it among the best performing East-Asian economies. The average annual growth between 1985 and 1995 was 7.1%. Figures suggest that poverty was reduced from 60% of the population to 11% and adult literacy increased from 56% to 90%. However, the weaknesses in the Indonesian system were exposed by the crisis that hit Asia in 1997. As inflation rose to above 70% and foreign and domestic capital fled the country, large parts of the banking sector were rendered insolvent. Output fell by 13% and many companies collapsed, leading to widespread redundancies.

Following the sharp contraction and high inflation of 1998, the economy began to stabilize in 1999. A tight monetary policy reduced inflation from 70% in 1998 to single figures in 1999. Many manufacturing establishments that had closed in 1997-98 resumed activity in 1999-2000. However, continuing problems in the domestic economic and political environment and in the global economy

have resulted in a slow and uncertain recovery in the period since. The impact of bomb attacks in Bali during October 2002 threatened to further damage the outlook for the Indonesian economy, cutting growth and deterring investment.

Indonesia's economy also now faces the challenges posed by its participation in the ASEAN Free Trade Area, or AFTA, which lays out a comprehensive programme of regional tariff reduction. It is hoped that the integrated markets of ASEAN, with a population exceeding half a billion people, will be much more attractive to large-scale direct investment than it would as a collection of smaller, segmented markets. 2003 is the deadline for implementation of many of the new arrangements established under AFTA. However, some local producers in a number of sectors have been calling for a delay in implementation, fearing the immediate impact of the free trade arrangements on Indonesian companies.

Employment

Data from the Central Bureau of Statistics suggested that in the year 2001 there were 98.1 million people in the Indonesian labour force. Of this number, 8 million were classed as unemployed, leaving a total employed labour force of 90.1 million. Official statistics suggest that 27.3 million are employed in the formal sector, with the remainder in the informal economy. Many of these are in agriculture or working within the economies of the country's huge industrial conurbations.

Although official figures suggest a level of unemployment of around 8.2% of the workforce, in 1999 an ILO report suggested that around 10 million unemployed were missing from the official unemployment figures. There is massive underemployment, and if workers have only a small amount of work, they are not classed as unemployed. Figures for the level of unemployment now vary widely between the official figure of 8 million, and estimates which include the underemployed, and which go as high as 40 million.

It is considered that at present 6% economic growth is required just to absorb new entrants to the labour force. However, growth in 2002 was only 3.4%. For 2003, the Government is predicting growth of 4%, but this is at the high end of most forecasts. There is a major problem of unemployment among young people. 61% of the total unemployed are young men between the ages of 15-24.

Against a background of high unemployment and relatively low wages in Indonesia, it is not surprising that there has been a growth in the number of workers choosing to seek work abroad. Official figures suggest that the number of workers migrating to work overseas rose from less than 90,000 in 1990 to an average of 375,000 per year between 1996 and 2000. However, much migration is "irregular" and does not show up in the official figures. There are frequent reports of problems faced by migrant workers before departure, whilst abroad and on their return. Such problems have prompted the Parliament to prepare new legislation on migrant workers.

Other issues of concern within the labour market include the relative importance of certain industries which face long term structural problems. The Indonesian textile industry has faced serious erosion of its position in recent years. Another important sector, wood processing, paper and pulp, has serious problems of excess capacity. The depletion of Indonesia's forests due to over exploitation, including rampant illegal logging, has reduced the availability of raw materials. There is a government plan agreed with international donors to substantially reduce the industry's capacity.

A relatively low proportion of the Indonesian workforce uses information and communication technology and this is an increasingly obvious difference with the workforce of some neighbouring countries.

Bretton Woods Institutions

The 1997 financial crisis led to increased involvement of the International Monetary Fund and the World Bank in a range of matters relating to the recovery of the Indonesian economy. The IMF and Indonesia agreed a US\$ 5 billion loan package, which required the Indonesian government to take a number of measures including reducing subsidies, privatising a range of publicly owned companies and tackling corruption within government and the judiciary. Implementation of the programme has raised some controversy, with some recent calls for Government not to extend the IMF programme.

The World Bank leads a grouping of Indonesia's bilateral and multilateral donors, the Consultative Group on Indonesia (CGI). At the CGI meeting in January 2003, the group agreed to provide US\$2.7 billion in fresh loans, to help finance the 2003 state budget deficit. During the meeting, the World Bank suggested that the investment climate is the most significant obstacle to accelerating economic growth and thus for reducing poverty and vulnerability. They suggested that top of the list of things the Government needed to do to improve the investment climate were improving security, strengthening the justice sector, reducing bureaucracy and red tape, maintaining labour market flexibility, reducing uncertainties caused by regional autonomy and avoiding a severe power crisis.¹

Since the mid-1990s, international financial institutions have stressed the need for Indonesia to make progress with human rights and democratic processes including improvements in labour rights.

Indonesia has recently produced an Interim Poverty Reduction Strategy paper, and is now working towards a full PRSP. The ILO has commented on the draft PRSP suggesting a greater emphasis on employment policy issues and calling for the social partners to be involved in the dialogue on PRSP.

Regional Autonomy

One of the most significant recent decisions taken by the Government was the enactment in January 2001 of a new law on Regional Autonomy. In response to growing resentment concerning the share of resources allocated to the provinces, the new law provided significantly greater authority for the provinces and in particular for the district governments. Under the new structure, the central Government is supposed to focus on certain key areas, while most other issues are to be dealt with by local governments. Provincial governments have received added power to administer laws and enact policies. The central Government also maintains responsibility for drafting new laws, although it is for the regional governments to determine how the laws will be implemented.

The regional autonomy process has generated much debate. Some commentators see it as a welcome attempt to decentralize authority from Jakarta, and as a measure which can help maintain the cohesion of Indonesia, by accommodating pressures which exist in certain provinces for greater autonomy or even independence. Others say the policy and its implementation have been poorly thought through,

¹ World Bank brief for the Consultative Group on Indonesia, "*Indonesia-Maintaining stability, Deepening Reforms*" January 2003

and that the practical consequences will have a negative impact on investment and employment. Many business groups claim local administrations have been using their new authority to introduce extra levies and taxes on businesses, thereby increasing overall costs. Some local administrations have sought to renegotiate contracts with companies, creating a climate of uncertainty.

Chapter 2 – The social partners

Ministry of Manpower and Transmigration

In August 2000, the Ministry of Manpower was combined with the State Ministry of Transmigration and became the Ministry of Manpower and Transmigration. Since 1998, there have been four Ministers of Manpower/Transmigration, the present Minister having assumed his position in 2001.

The Ministry consists of six Directorate-Generals, being:

- Directorate-General of Industrial Relations;
- Directorate-General of Labour Standards and Labour Inspection;
- Directorate-General of Training Development and Domestic Placement;
- Directorate-General of Overseas Employment;
- Directorate-General of Empowerment of Local Transmigration resources;
- Directorate-General of Population Mobility.

The role of the Ministry in industrial relations

Indonesia's system of industrial relations has in the past been heavily centralised.² This has tended to give the Ministry of Manpower and Minister a very direct involvement in a range of industrial relations matters which in many countries might be left to employers and trade unions. Whilst the current reform programme is moving towards a more decentralised system of industrial relations, many aspects are still influenced by central government.

Whilst some see the role of Government as being too interventionist, there is also criticism that despite having a broad regulatory framework, many employment laws are routinely ignored, and that the Ministry often seems unable or unwilling to enforce legal provisions. For example, there is widespread concern on the part of trade unions that little is done to ensure compliance with minimum legal standards, such as those relating to the social security scheme, *Jamsostek*. At the same time however, employers complain about visits to their companies by junior Ministry officials who they allege make arbitrary decisions concerning compliance with regulations.

The way in which the regulatory framework and the role of the Ministry have developed partly reflects the political background. During the New Order period, the Government restricted freedom of association and used the law and military apparatus to coerce workers. As criticism mounted of the lack of workers' rights, a paternalistic approach to workers' welfare developed. The minimum wage legislation, a tight regulatory framework on dismissals, and a large number of protective regulations

² SMERU Research Institute, *Industrial Relations in Jabotabek, Bandung and Surabaya during the Freedom to Organise Era*, p. iii, Alexandra Cox Edwards, *Labour regulations and industrial relations in Indonesia*, (The World Bank)1996

were all developed during this period and the Ministry of Manpower had a direct role in management and enforcement of regulations. However the manner of or lack of enforcement raised many issues.

There may now be questions as to the appropriateness or value of some current forms of government intervention in industrial relations. Redefining the role of government against a background of regional autonomy, the new legal framework and freedom of association presents a major challenge.

The need for an efficient, professional and properly resourced Ministry of Manpower and Transmigration is very evident. There is also a need to address many practical consequences for labour policy, administration and statistics, resulting from regional autonomy.

Impact of regional autonomy

Since January 2001, many powers have been passed from Jakarta to the regions. Whilst general industrial relations policy continues to be determined by central government, in many cases, local governments are reported to have extended their independence from not only implementing but also to determining policy. They also at times reduce or reallocate the budget for manpower affairs.

Districts have also have started restructuring their administration according to their priorities. Manpower affairs have sometimes been separated from transmigration affairs or have been put together with various other portfolios. Provincial Governors and Regents (District heads) have also in many instances changed personnel within the local offices of the Ministry of Manpower and Transmigration. It is frequently reported that this has resulted in a weakening of traditional functions as new people appointed often have little or no experience in labour affairs.

A recent study suggested that "...the regional manpower offices have lost most of their relevance on the political agenda of the Governors and Regents. ...The longer this unclear situation and loss of status drags on, the bigger the risk will be that labour administration at regional level will crumble and lose out on what it has achieved over the past decades."³

Another major impact of the decentralization process was the transfer to Provincial and District levels of authority for determining minimum wage levels, which is dealt with later in this study.

The labour administration system

Prior to the coming into force of the laws on Regional Autonomy on 1 January 2001, the Ministry of Manpower (DEPNAKER) had power centralized in Jakarta. The Ministry also had an office in each of the provinces, and one in each of the then approximately 350 districts. There was a clear hierarchical "command" structure, with the Ministry giving instructions to the Regional Offices, and the Regional Offices to the District Offices.

In 2000, there were 1,305 labour inspectors employed in 26 provinces. However, as a result of the regional autonomy process, the headquarters of the Ministry of Manpower and Transmigration no longer has direct links with the labour inspectors in the field. (There are now 30 provinces).

³ Rainer Pritzer, *Baseline survey of Indonesia's Labour Administration System*, (ILO/USA Declaration project) p.9

The main functions of labour inspectors have been:

- to ensure compliance with labour laws and regulations;
- to provide technical information and advice to workers and employers concerning labour laws and regulations;
- to collect and analyse data on accidents.

Labour statistics

Credible and reliable data is needed to assist government, employers and trade unions at both national and local levels in policy development. It is also required to help the government meet its obligations to report on the implementation of ratified ILO Conventions. In the past, local Ministry of Manpower and Transmigration offices had a role in collection of data on a range of issues including minimum wages, strikes, collective bargaining agreements, trade union registrations, occupational safety and health, and *Jamsostek* compliance. Whilst this data may not have been entirely accurate, there was a regular process of statistics being gathered and passed to the central level, which enabled some analysis of trends to be made. It appears, however, that this flow of information is now much less regular and that some local offices have ceased collection of data.

Some action would seem necessary to deal with this situation. One option might be to try to find some way to restore data gathering functions within the local Ministry offices and to ensure that information is passed to the national level, enabling analysis to take place. If that is not feasible, another option could be to consider developing some form of annual workplace survey, designed to obtain information on key issues.

Trade unions

Background

Trade unions became increasingly active in post-independence Indonesia. However, the major political divisions and civil conflicts which beset Indonesia in the early 1960's had a major impact on the trade union movement. When the New Order government came to power, unions were effectively prohibited for a number of years.

In the mid-1970s, the Government began to allow the development of new union structures, but with a clear understanding that they would be controlled and would be used to support the Government's efforts to develop the economy. The All Indonesia Workers' Federation (FBSI) was established in 1975. In 1985, this organization changed its name to Serikat Pekerja Seluruh Indonesia (SPSI), which later became Federasi Serikat Pekerja Seluruh Indonesia (FSPSI). FSPSI was the only permitted trade union and was heavily influenced by the state both at national and local levels.

At the same time, the Government sought to prevent the emergence of independent trade unions. A range of anti-labour policies was pursued, focused particularly on controlling workers' freedom to organize and negotiate, and on legitimizing military intervention in disputes. A number of high profile labour activists were also imprisoned and harsh repression of worker protests was routine.

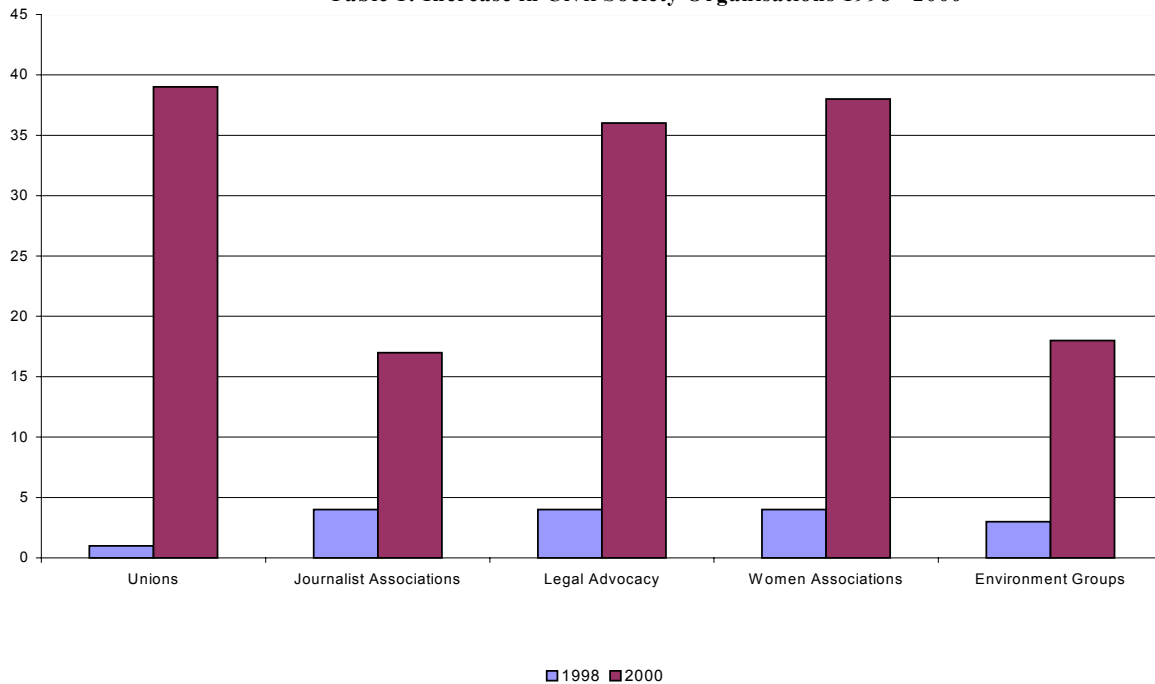
Despite the efforts to suppress trade union activity, during the early 1990s the level of industrial disputes rose significantly. Up to the start of the economic crisis in 1997, Indonesia enjoyed high economic growth rates, buoyed by large scale Foreign Direct Investment. Workers could see the

success of the economy and the companies for which they worked, but many felt excluded from the benefits of this economic success. As workers looked for ways to process their grievances, new trade unions began to emerge, with NGOs often supporting the emerging workers' movement.

The political changes in Indonesia since 1998 have brought about major developments in the trade union landscape. Following the ratification in June 1998 of Convention No. 87 on Freedom of Association and Protection of the Right to Organize, change was further encouraged by enactment of the Trade Union/Labour Union Act 21/2000 which permitted any group of 10 workers to form a trade union. By February 2003, some 66 trade union federations were registered nationally and there are more than 11,000 enterprise level unions registered at local level.

The rapid expansion of the number of trade union organizations was part of a wider growth in a range of civil society organizations which occurred in the *Reformasi* era. (see table 1). The greater freedom from government supervision stimulated a new diversity in many sectors.

Table 1: Increase in Civil Society Organisations 1998 - 2000



Data from "Consolidating Democracy in Indonesia: Contributions of Civil Society and State", Frank Feulner, UNSFIR, 2001

The impact of the new freedom of association environment on the development of trade unions is considered in more detail later in this study. However, it is clear that trade unions are facing a transition from the experience of repression to face the very different challenges of operating in a more open industrial relations environment. With a continuing difficult economic situation in the economy and individual companies, the tasks for unions include such basic activities as:

- how to build solid and effective union organization at the workplace, capable of securing effective bargaining rights and developing positive long term relationships with employers;
- how to ensure labour laws are implemented;
- how to develop effective collective bargaining with employers and support local workplace unions efforts to achieve effective collective labour agreements;

- how to improve coordination of union structures at local, district, regional and national levels and to develop the correct relationship between these structures in the era of regional autonomy;
- how to democratize the union movement, removing the influence which government and employers exerted on the union movement during the New Order period, and ensure that unions are responsive to the needs of members;
- how to build a new unity within the union movement, so that workers' interests can be effectively represented with government and employers.

The rapid change from an effective single union structure which was closely associated with the government, to a situation in which there are dozens of trade union federations and thousands of local enterprise level unions has raised a number of issues for the practical conduct of industrial relations and the effectiveness of trade unions. At the national level, some of the confederations have been cooperating on particular issues, including preparing responses to government proposals on new labour legislation. Unions are also happy to work alongside each other in ILO activities and other events. However, at present, there is no national trade union forum which brings together all the main union confederations.

At local level, union coordinating committees have emerged in a number of cities and industrial zones. These bodies often bring together organizations from a number of different confederations. For example in Semarang, a major industrial city in central Java, the local coordinating group includes trade unions associated with KSPSI, KSPI, SBSI and independent organizations. The same is the case in Sidoarjo, a large industrial area on the outskirts of Surabaya. Such organizations are essentially “unofficial” from the perspective of national organizations, but seem to be increasingly relevant, particularly in the light of the decentralization taking place in Indonesia. As the responsibility for many decisions on labour affairs now rests at the local level, it is likely to be the case that unions will seek to organize at that level in order to ensure their interests are represented.

The major national trade unions and confederations have structures which correspond to the administrative units of Government, with provincial offices (DPD) and District offices (DPC). However, some newer organizations registered at national level have little presence outside Jakarta.

A brief summary of some of the major trade union groupings in Indonesia is below.

Konfederasi Serikat Pekerja Seluruh Indonesia (KSPSI formerly FSPSI)

Following a split in 1998, the former FSPSI restructured itself in 2002. It is now a Confederation known as KSPSI (Konfederasi Serikat Pekerja Seluruh Indonesia). Some commentators still regard this organization as the single largest union grouping in Indonesia. The Ministry of Manpower takes this view and presently allocates 50% of the seats on any tripartite structures to KSPSI.

Although KSPSI has undoubtedly lost some influence in the post-1998 period, it remains a significant player in the industrial relations scene, through the membership base which it has retained in many sectors. It also retains a presence on many official bodies and committees. The present Minister of Manpower is also Chairman of KSPSI.

Konfederasi Serikat Pekerja Indonesia (KSPI)

A number of unions broke away from FSPSI in 1998 to form a *Reformasi* group. Since then, most of the unions in the Reformasi group have become associated with a new grouping, Konfederasi Serikat Pekerja Indonesia (KSPI) which had its founding congress early in 2003. Most of the 12 unions in

this grouping are industry/sector based unions, many of which cooperate with the Global Union Federations. KSPI has a working relationship with the International Confederation of Free Trade Unions (ICFTU), although not yet a member.

The Confederation's founding congress met under a banner proclaiming KSPI as "Building a free, independent and democratic union movement". In the period ahead, the new organization will be seeking to develop its organizational and administrative structures and to develop a work programme aimed at supporting the development of the Confederation and its affiliated unions.

Serikat Buruh Sejahtera Indonesia (SBSI)

SBSI was outlawed during the New Order period and its leader, Muchtar Pakpahan, was imprisoned. Muchtar Pakpahan was released in 1998. The organization now operates openly, but complaint of continuing harassment in its activities. SBSI is a member of the World Confederation of Labour. It has received significant international support, most recently securing assistance from a European Union backed project for the building of a training centre on the outskirts of Jakarta.

Other organizations

There are a wide range of other trade union organizations. Some have a long history and were in existence before the New Order period. Others are new organizations which have emerged out of the labour/NGO networks that developed during the New Order period. Perhaps the best known of these has been FNPBI, whose leader Dita Sari emerged from prison as an articulate spokesperson who attracts significant media interest at home and abroad. Another new union which has attracted attention is ASPEK, a small but growing union originally based in the finance sector, but which now has membership in a range of industries. However, there are thousands of small trade unions, often based in a single company or with membership in a narrow geographical area.

Trade unions and political parties

Indonesia is already preparing for the elections scheduled to be held in 2004 and there are increasing reports of political parties seeking to secure the support of particular trade unions. The two main trade union federations, however, encompass individuals with quite different political interests, so for example within KSPSI, there are high profile individuals connected to the three major political parties, PDI P, Golkar and PPP. It may be that the largest Confederations will not support any particular party, but that individual sector unions will do so.

In April 2003, Muchtar Pakpahan stepped down from his position as Chairman of SBSI to concentrate on his role as Chairman of the new Social Democratic Party.

Union campaigns related to government policies

Unions have become increasingly active in taking protest action on a range of issues related to government policies. The issues concerned have included labour laws, reductions in subsidies for fuel and power, and privatisation. Actions on the minimum wage policy have been widespread. Sometimes such actions have involved strikes, on other occasions workers organize other forms of protests. Employers generally oppose acts of unions which they see to be aimed at securing political

objectives. However, in February 2003, trade union and employers joined forces in protest actions which led the Government to reduce a planned increase in the price of energy.

There has also been a campaign initiated by some of the newer trade unions for May Day to be declared a public holiday.

Trade union Finance

Trade unions have reasonably effective systems for collection of union dues, with many companies having check off arrangements. However, average monthly contributions are only around 1,000 rupiah (11 cents). Usually, the workplace union retains 40-50% of the dues and the remainder is divided between the union at national, provincial and district level. Some trade unions also receive financial support from international sources, including Global Union Federations, and international NGOs. A recent Ministerial Decree required unions to report the funds that they receive from international sources.

Many local unions have stopped sending money to the higher levels of the union resulting in poorly resourced union structures at higher levels. Whilst many unions at national level have financial problems, at local level unions are often reasonably well resourced, using union contributions to run a range of activities for members.

Representation of unorganized workers

Trade union membership represents only a small proportion of the total workforce. Both in the formal economy and in Indonesia's large informal economy, there are substantial numbers of workers, many of whom are women, who lack any form of representation or voice at work. When unions are busy dealing with the many day-to-day problems of existing members, it is sometimes possible to lose sight of the "big picture" of a mainly unorganized workforce often lacking any form of employment protection. There is an urgent need for unions to be able to extend their activities so that they become more meaningful to such workers.

Employers organizations

The Employers Association of Indonesia (APINDO)

The Employers Association of Indonesia, APINDO, was established in 1952 under the name All-Indonesia Employers Assembly for Social Economic Affairs. It was renamed APINDO in 1985 and is regarded as the primary employers' organization on issues concerning industrial relations.

APINDO is also a member of a broader employers' network, KADIN, the Indonesian Chamber of Commerce. APINDO has recently created an advisory board with senior KADIN members to boost cooperation between the two organizations. Following a memorandum of understanding between KADIN and APINDO, it was determined that APINDO would deal with labour relations and industrial relations, and this understanding was reaffirmed in mid-2002. In reality there are situations in which both APINDO and KADIN represent employers' interests, for example on a number of provincial tripartite committees.

APINDO has a national structure which mirrors that of government and trade unions, with regional administrative councils (DPD) at the provincial level, as well as branch councils (DPC) in industrial cities and districts.

A recent baseline study of APINDO conducted under the auspices of the ILO/US Declaration project examined APINDO activity in six major provinces.⁴ It found that only 2.9% of companies were members of APINDO. Other estimates have put the figure at around 6%. This low membership base results in serious resource problems and presents difficulty to APINDO in developing effective services to members. Larger Indonesian employers tend to be members of APINDO, and the association provides them with some limited help in dealing with labour issues. However, medium and small enterprises are less likely to be members of APINDO.

The baseline study found that "the small amount of members creates great problems for APINDO, starting from the matter of representation up to financial and human resources affairs that are needed to carry out organizational functions in a qualitative manner. As a result of this, several stipulations in the Statutes and By-Laws cannot be fulfilled, almost all DPC offices are located at corporations or at the chairman's residence, the number of support staff is quite minimal and ... there is deficiency in service funds meant for members".

APINDO's services to members include consultation, advocacy, education, information, and representation in various tripartite structures. However, there is a widely held view that the quality of its services needs to be improved. It was against this background that the ILO assisted APINDO in a strategic planning exercise which sought to identify ways of strengthening and developing the organization's role. APINDO has recognized the need for training and capacity building among employers, particularly staff skills upgrading, improved facilities, and educating member and non-member employers on how to deal with freedom of association and collective bargaining. Following the strategic planning exercise, plans are underway to establish an *APINDO Service Centre* aimed at boosting services to members. The ILO/USA Declaration project is also assisting with training on collective bargaining, and helping to build an APINDO labour market information service.

Since 1998, APINDO has become increasingly active in ILO activities and programmes, carrying out studies and initiating projects to reach out to employers in small- and medium-sized enterprises. It has also been closely involved in discussion of ILO initiatives on youth employment, Decent Work and the Global Compact. APINDO also cooperates with the Indonesian Business Women Association (IWAPI), which describes itself as a non-profit organization providing support needed by business women throughout Indonesia. IWAPI was formed in 1975 and claims 15,000 members. IWAPI's objective is to empower and strengthen small-scale and medium-scale employers through capability enhancement in the field of business management and to enlarge opportunities for networking in the field of technology, marketing and finance.

APINDO appears to be financially autonomous, being supported by membership dues money rather than government funds. APINDO has links with the International Organization of Employers, the ASEAN Confederation of Employers and the Confederation of Asia Pacific Employers.

⁴ Indonesia Industrial Relations Association, *Baseline survey of APINDO*, (ILO/USA Declaration Project), p.8

The Indonesian Chamber of Commerce (KADIN)

The Indonesian Chamber of Commerce, KADIN, is a broader based organization than APINDO, and concerns itself more with broad commercial issues than industrial relations. Nonetheless, on issues of wage policy, KADIN is frequently involved in discussions both at the national and provincial levels, often alongside APINDO.

Sectoral employers' organizations

Some sectoral employers' organizations which are associated with APINDO in the textile, shoe, garment, and toy industries, have had an increasingly high profile on issues relating to their sectors.

International Business Chambers

A number of Business Chambers operate in Indonesia, representing the interests of foreign investors from many countries. An umbrella International Business Chamber brings together representatives of the various Chambers. These organizations have been very active in representing the views of foreign investors, including making representations on some labour law issues.

Chapter 3 - the changing industrial relations context and labour law reform process

The situation pre-1998

The New Order administration based its industrial relations policy on *Pancasila*, the state ideology. *Pancasila* industrial relations emphasized partnership between employers, employees and government with the objectives of creating a harmonious work environment, productivity improvements, better income and welfare for workers, and continuous and smooth operations for business. In practice, however, for many years the concept was used to restrict workers' rights, undermine equitable labour dispute resolution, and to prevent the development of independent and effective trade unions. This approach was part of an economic development agenda which placed emphasis on attracting foreign investment, often at the expense of labour rights and social protection.

At the workplace level, there were only limited attempts to develop partnership based on trust and confidence between the social partners. All too often, workers who had grievances found that employers used the military and police to suppress any worker protests.

The establishment of the All Indonesia Workers' Union (SPSI) as the sole trade union gave the union a dominant role in the industrial relations process. However, SPSI was widely regarded as being controlled by the Government.⁵ Retired civil servants, military officers and politicians often secured positions in the structures of SPSI.

⁵ SMERU, op cit, page 24

As the level of worker protests grew during the early 1990s, workers began to organize outside of the SPSP, although they faced continuing difficulties and often harsh repression when doing so. The brutal murder in May 1993 of 25-year-old Marsinah, a female worker activist in East Java, drew condemnation from within Indonesia and from the international trade union and human rights community. It was widely believed that her death was related to her leadership role among the workers participating in strike action at the factory. The imprisonment and harassment of activists who led new unions continued to put Indonesia under the international spotlight. Muchtar Pakpahan, leader of the SBSI and Dita Indah Sari, leader of the FNPBI, both spent lengthy periods in prison.

In 1994, the International Confederation of Free Trade Unions (ICFTU) had lodged a formal complaint against Indonesia with the ILO, accusing the Government of denying workers the right to set up unions of their own choice, harassing independent workers' organizations, and taking other actions contrary to ILO principles on freedom of association and the right to collective bargaining. The ILO's Committee on Freedom of Association then urged the Indonesian Government to eliminate impediments to the registration of unions and to resolve several cases related to detained - and possibly murdered - trade union leaders.

In response to the complaint lodged by the ICFTU, a Government regulation was passed (PER01/MEN/1994) which allowed the establishment of company unions (SBTPs). Workers could establish enterprise level unions outside the structure of FSPSP, but the Government encouraged these unions to join FSPSP within two years of their formation. The clear intention was to limit unionism in such a way that workers would not group together as an effective national force. By the end of 1997, more than 1,200 such enterprise unions had been established, but they were largely seen as weak and ineffective. There were reports that many had been formed by management because SBTPs were seen as even weaker than the FSPSP.

The New Order approach to industrial relations became increasingly untenable. In addition to the protests inside Indonesia, international organizations including the ILO and international financial institutions were calling for a new approach to industrial relations. There had been a number of cases relating to Indonesia considered by the ILO's Governing Body and Committee of Experts. The decisions and recommendations on many of these cases were important in helping to maintain a clear focus on the need for reform in Indonesia's system of labour law and in the practice of industrial relations.

Although Indonesia had many years earlier ratified ILO Convention No. 98, the Right to Organise and Collective Bargaining Convention, the June 1997 report of the ILO's Committee of Experts on the Application of Conventions and Recommendations "observed with deep concern that the discrepancies between the Convention on the one hand, and legislation and national practice on the other, have continued for many years." The Committee also noted "the government had not given sufficient proof of a willingness to comply" with the provisions, and "had not requested technical assistance in this respect."

The combination of pressure from the ILO and the broader international community, increased union activity, the potential for industrial disputes and protests to turn violent, and concerns about the impact of disputes on investment, brought home to many in Indonesia the need for a more effective approach to industrial relations.

The economic and political crisis that swept the country in 1997 acted as the catalyst for new plans to reform industrial relations.

A turning point

Following the resignation of President Suharto in May 1998, Vice-President B. J. Habibie became President. During the short period of the Habibie administration, in the face of popular pressure, the Government introduced a series of democratic reforms. A turning point in the Government's approach to industrial relations came about with the ratification in June 1998 of ILO Convention No. 87, the Freedom of Association and Protection of the Right to Organise Convention. This ratification opened the door to discussion on possible labour law reforms.

An ILO direct contacts mission visited Indonesia in August 1998. The mission had been suggested by the ILO's Conference Committee on the Application of Standards in June 1998. The purpose of the mission was to assist the Government in ensuring that its legislation fully complied with the requirements of the Right to Organise and Collective Bargaining Convention, 1949 (Convention No. 98). The mission was also intended to provide advice to the Government on the necessary measures to be taken to ensure full compliance of labour legislation with Convention No. 87.

The report of the mission noted the high level of cooperation received and the willingness of the Government to avail itself of ILO technical assistance in revising and drafting relevant labour legislation. The report also made various recommendations directed towards assisting the Government to ensure that its labour legislation fully complied with the requirements of Conventions Nos. 87 and 98. In particular the mission requested that the Government take measures to:

- establish a truly representative tripartite body to promote social dialogue and cooperation in industrial relations (including effective consultation on the preparation and implementation of labour legislation);
- ensure that civil servants and workers in state-owned enterprises have the right to freedom of association;
- establish an appropriate system for the registration and recognition of unions;
- establish an effective and impartial disputes settlement institution;
- provide protection for workers against anti-union discrimination and protection for unions against acts of interference by employers;
- ensure that the security forces refrain from intervening in industrial disputes;
- ensure the immediate release from imprisonment of labour activists, including Dita Sari.

The report provided an analysis of the provisions of Indonesian labour legislation that were incompatible with the requirements of Convention Nos. 87 and 98. It also provided a basis for the early involvement and technical contribution by the ILO into the process of developing the new labour laws. However, the control and outcome of the process and final decisions on content were in the hands of the Indonesian government and in particular the Ministry of Manpower and Transmigration. The contribution of the ILO took the form of:

- suggestions as to the process to be followed (with an emphasis on the need for broad consultations);
- provision of information regarding labour laws and systems in other countries;
- assistance with general policy development work regarding the reforms needed, and the nature and content of different bills to ensure compliance with international labour standards;
- comments on draft legislation.

The situation following the ratification of Convention No. 87 and the direct contacts mission appeared to represent a fundamental change in attitude towards regulation of industrial relations. Commenting on the changing situation, a report of the ILO Jakarta office at the time said: "The basic change is that

Indonesia has become a country which wants to move forward on the basis of the application of international labour standards".⁶

Developing a new legal framework for industrial relations⁷

Labour laws in Indonesia have developed in an *ad hoc* manner. The legislative framework for industrial relations is found in a range of laws, regulations and Ministerial decrees, some of which date back to 1948. Employers in general, and foreign investors in particular, comment on the complexity of the legal framework. To interpret many laws requires an understanding of earlier laws, Ministerial decrees, Ministerial regulations and official letters of guidance.

Despite having this complicated legal framework, the reality is that many employment laws are routinely ignored and the Ministry often seems unable to enforce provisions. A recent paper looking at the process of legislative reform noted that Indonesia already enjoys on paper a system that grants an impressive range of fundamental labour rights, many of which are still in dispute in some developed and most developing countries. However, it noted that: "There is... a huge gulf between the text of the laws governing labour and the reality of policy implementation and practices. The new Indonesian labour market regime is, in fact, very weak... As a result, the benefits of the regulatory framework continue to be available to Indonesian workers only on an occasional and arbitrary basis."⁸

There was a growing recognition of the need to bring together the various strands of labour law in a consolidated form and to provide a modern set of labour laws for Indonesia. The Manpower Act of 1997 was an attempt to enact a comprehensive statute, but the way in which it was developed and its passage through the Parliament was secured brought that legislation into disrepute. Trade unions, womens' groups and NGOs also raised concerns about contents of the law. Against this background, the implementation of the Act was twice postponed and it was finally abandoned in September 2002.

However, the labour law reform process quickly moved beyond the Manpower Act of 1997. The framework for the new laws and the process to be followed in their development were set in 1998, as was an ambitious timetable for the drafting of the laws and their enactment. The framework was to include a new Act on Trade Unions to give effect to the Freedom of Association Convention and to replace a Government Regulation on Trade Unions made in 1998, a new Act on Industrial Relations Dispute Settlement to provide a more effective mechanism for the resolution of labour disputes, and revisions to parts of the Manpower Act of 1997. It was subsequently decided that the Manpower Act of 1997 would be replaced in its entirety, but parts of the 1997 legislation were incorporated into the Manpower Act endorsed in 2003.

⁶ Demystifying the core conventions of the ILO through social dialogue, ILO Jakarta 1999, p.9

⁷ Alan Boulton, *Future Structure of Industrial Relations*, ILO/USA Declaration project, 2001 - This section of the study draws on Alan Boulton's analysis of the background to proposed legislative change

⁸ Fenwick, Lindsey and Arnold, *Labour Disputes Settlement Reform in Indonesia*, ILO/USA Declaration project, p.3

The outcome of the process was the submission to Parliament of three new laws:

- the *Trade Union Act*, which was passed by Parliament in 2000;
- the *Manpower Act* (previously the *Manpower Development and Protection Bill*), which was passed by Parliament in February 2003;
- the *Industrial Relations Disputes Settlement Bill*, which is presently before Parliament and is expected to be enacted later in 2003.

Trade Union/Labour Union Act 21/2000

Following Indonesia's ratification of ILO Convention No. 87 on Freedom of Association and the Protection of the Right to Organize, the Trade Union/Labour Union Act 21/2000 was passed by the Parliament in July 2000 and came into force in August 2000. The Act gave effect to Indonesia's obligations under the Convention and replaced various Government Regulations on the registration of workers' organizations⁹.

The Act provides that unions, federations and confederations shall be "free, open, independent, democratic and responsible". Their functions shall include the making of collective labour agreements, the settlement of industrial disputes, representing workers on councils and institutes dealing with labour issues and the defence of the rights and interests of their members. It provides for three levels of union organization: trade unions, federations of unions and confederations of unions. Workers have the right to form and become members of a trade union. Each union must have at least 10 workers as members, a federation must be formed by at least 5 unions and a confederation must have at least 3 federations of unions.

The constitutions of unions, federations and confederations must deal with various matters including statutory basis and objectives, membership and administration, financial sources and accountability, and provisions for the amendment of the constitution.

A worker is not allowed to be a member of more than one union at an enterprise and workers holding various management positions in an enterprise are not allowed to become union officials. A union is only allowed to be a member of one federation of unions and a federation can only be a member of one confederation.

Upon its establishment a union, federation or confederation must notify the local government agency responsible for manpower affairs. The notification is to include a list of the names of its founding members and its officials and a copy of its constitution. The local government agency must keep a record of the union, federation or confederation which has fulfilled the necessary requirements and must issue a record number within 21 working days of the receipt of the notification. Where a union, federation, or confederation has not fulfilled the necessary requirements, the reasons for postponing the recording and issuance of a record number must be advised within 14 days of the receipt of the notification.

⁹The use of the term Trade Union/Labour Union in the Act reflects differences between workers' organizations as to the appropriate terminology. During the new order period, the use of the term "buruh" meaning labourer, was effectively outlawed by the Government, for having a radical connotation. In the post-1998 era, many new organizations use the term Serikat Buruh whereas more established organizations tend to use the term Serikat Pekerja.

Unions, federations and confederations that have a record number are obliged to give written notification of their existence to relevant employers. A subsequent Ministerial Decision concerning Procedures for the Official Recording of Trade/Labour Unions (No. KEP. 16/MEN/2001) provided procedures and forms to be used with respect to notifications and reporting functions of the local government agency. This Ministerial Decision also requires unions to report on international financial assistance received.

Organizations with a record number have the right to negotiate collective labour agreements with management, to represent workers in industrial dispute settlements and in manpower councils and institutions, and generally to conduct labour-related activities. They may affiliate or cooperate with international trade unions and other international organizations provided that such affiliation or cooperation does not run against national statutory rules and regulations.

The law also says that persons are prohibited from engaging in conduct which is directed towards preventing workers from forming a union, becoming or not becoming a union member or official, or carrying out or not carrying out union activities. The prohibited conduct includes dismissal, suspension or otherwise prejudicing a worker in his/her employment, withholding or reducing wages, intimidation, and campaigning against the establishment of a union. Employers must allow union officials and members a period of time away from their main work duties to conduct union activities as provided under a collective labour agreement or as agreed between the parties.

The finances and assets of a union, federation or confederation must be dealt with in accordance with its constitution and must be kept separate from the finances and assets of the officials and members. Union officials are accountable for the use and management of the finances and assets and are obliged to keep records and to present financial reports to the members.

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

The courts may dissolve a union, federation or confederation where its statutory basis is contrary to *Pancasila* and the 1945 Constitution or where its administrators and/or members have been convicted of certain crimes against State Security and have been sentenced to 5 or more years' imprisonment.

Comment

During early discussions concerning the Trade Union Act, trade unions and employers raised a number of concerns. Of particular concern to trade unions was the need for union registration with the Ministry of Manpower. Some newer organizations took the view that local Ministry of Manpower officials favoured the established trade unions and would create difficulties for new unions who wished to register. The wording of the legislation was eventually changed to "notification and recording" in an effort to accommodate union concerns.

Since the introduction of the law, there have indeed been some complaints by unions about difficulties in the notification/recording process, particularly for newer unions, although the scale of complaints appears to be less than originally feared. There has, however, been a recent report that the Ministry of Manpower and Transmigration refused to register a local branch of PGRI, the teachers' trade union, on the grounds that members of the union are civil servants and therefore compulsorily members of the civil service organization Korps Pegawai Negeri Indonesia, (KORPRI) (see chapter 4).

On the part of employers, and indeed of some trade unions, there was concern at the provision that any group of 10 workers could form a trade union, which they feared could lead to a major problem of union multiplicity within a workplace. However, the indications are that this has not caused as much of a problem as originally envisaged (see Chapter 4). Employers also expressed the view that the introduction of the new law emphasized the need for trade unions to act in a responsible manner and the need for proper enforcement of law.

Manpower Act 13/2003

During the ILO direct contacts mission in 1998, the Minister of Manpower announced that the Government had decided to defer the operation of the Manpower Act No 25, 1997. Shortly afterwards, work began on revising the law, but it was subsequently decided to develop a new law on manpower protection. Following extensive discussions, a new Manpower Act was approved by the Parliament in February 2003.

The idea of the new legislation has been to modernize and update legislation covering a range of employment and industrial relations issues. The new Act provides a legal framework in relation to wages, social security, occupational health and safety, hours of work and holidays. It regulates industrial relations and details procedures for how to deal with Collective Work Agreements and Enterprise Regulations. There is a close relationship between the Act and the provisions of the Disputes Settlement Bill, which remains under discussion.

The Manpower Act includes provisions on:

- equal opportunities;
- job training;
- job placement;
- employment of foreign citizens;
- disabled persons;
- children;
- working hours;
- occupational safety and health;
- wages;
- welfare;
- industrial relations;
- bipartite cooperation bodies;
- tripartite cooperation bodies;
- enterprise regulations;
- collective work agreements;
- industrial relations disputes;
- termination of employment;
- labour inspection;
- criminal regulations; and
- administrative sanctions.

In consultations prior to the enactment of the law, concerns raised by trade unions included conditions relating to strikes, temporary contracts, outsourcing and severance pay. Some trade unions continue to have reservations about these aspects of the law. Concerns raised by employers included night working hours, strike pay, long service leave, and service pay for resigning workers.

Some significant changes in wording were made during the consultation process. These changes reflected both comments received from trade unions and employers, and comments by the ILO. As an example, an issue of major concern to trade unions in the public sector concerned provisions of the draft Manpower Bill that defined which workers may or may not strike. The June 2002 draft of the Bill prohibited strikes by workers in water, electricity, telecommunications, oil and gas sectors, hospitals, fire service, railways, and waterways. In addition the draft also contained an open ended proviso, indicating that: "changes concerning the kind of enterprises that operate on behalf of the public interest as referred to ... and the kinds of occupations to which strikes shall be limited ... shall be determined ...with a Government Regulation". In the final version of the law, all this wording was removed. In its place was an Article providing that: "the implementation of strikes staged by the workers/labourers of enterprises that serve the public interest and/or enterprises whose type of activities, when interrupted by a strike, will lead to the endangerment of human lives, shall be arranged in such a way so as not to disrupt public interests and/or endanger the safety of other people".

Apart from the detail of particular elements of the legislation, there were some general issues raised by unions and employers. There was concern at the large number of the provisions of the Bill which required issuance of further regulations or Ministerial Decisions, so that the final detail of the law remains unclear until those Decisions or regulations are made.

There was also concern at the heavy use in the proposed legislation of criminal prosecution and administrative sanctions. A recent World Bank report commented "employers feel the Bills put too much emphasis on criminal procedures for employers in cases where they do violate regulations, leaving them open to extortion by third parties, including by the Labour Bureaus that are in charge of enforcement of the law."¹⁰

Similar concern was expressed in another analysis of the proposed legislation, with the author commenting that "when sanctions are so severe, officials will be more reluctant to enforce them because they feel that they are out of proportion to the crime. Second, corrupt officials will often use very strict rules in illegitimate ways. This might include extracting large bribes from employers to ignore violations of the labour code, or to use sanctions as a threat against workers and union officials whom they wish to suppress"¹¹.

In some ways, the new Act might be seen as having missed an opportunity to modernize the employment law framework, which was one of the aims of the labour law reform process. The reform process has not really addressed the need to rationalize the complicated and often confusing network of laws and regulations. Whilst the Manpower Act has led to the annulment of a number of earlier Acts and regulations, interpretation of 28 Articles of the new Act depends on further Ministerial Decisions, 12 Articles require further Government regulations and 6 Articles require Presidential Decisions. Interpretation of the law will therefore continue to be a complicated business. A positive view of this situation is that the process of developing implementing regulations might provide an opportunity for further dialogue with a view to resolving some of the contentious aspects of the law.

¹⁰ World Bank op cit, p.21

¹¹ Kevin Kolbein, *Labour law reform in Indonesia*, paper for American Center for International Labor Solidarity, 2002

Industrial Relations Disputes Settlement Bill

Background to disputes settlement in Indonesia

The current procedure for the settlement of labour disputes is provided in Act No. 22 of 1957 which provides that:

- disputing parties endeavor to negotiate a settlement;
- where no agreement is reached, both parties may refer the dispute to an arbitrator;
- where a dispute is not so referred, one or both of the parties may advise a conciliator (an official of the Ministry of Manpower and Transmigration);
- where the dispute is not settled by mediation, the conciliator shall refer it to the Regional Committee for Settlement of Labour Disputes (P4D). This is a body chaired by an official of the Ministry of Manpower and Transmigration, who sits together with one employers representative and one trade union representative;
- the Regional Committee will endeavour to resolve the dispute by mediation and, if this fails, may decide either to issue a recommendation or a binding decision.
- a binding decision (award) of the Regional Committee may be executed by a court where it is not honored by the parties within 14 days, unless there is an appeal to the Central Committee for the Settlement of Labour Disputes (P4P); and
- decisions of the Central Committee are binding and executable within 14 days, unless the Minister for Manpower postpones or cancels a decision for reasons relating to the maintenance of public order or the protection of the interest of the State.

The industrial dispute settlement system in Indonesia has not worked well in recent years and there are a number of reasons for this. Among the problems associated with the Committees have been:

- lack of trust in the overall fairness and integrity of the procedure;
- overload of work, with a particular problem concerning cases of termination of employment, which represent more than 90 % of the cases heard by committees;
- issues concerning the composition of the Committees. The Committees are chaired by a representative of the Ministry of Manpower and Transmigration although an official of the Ministry may already have been involved in an effort to mediate the case;
- until recently all the workers' representatives on many Committees were appointed from the FSPSI (and did not include representatives from other unions);
- there have been government interventions in the dispute settlement process through the exercise of the power of the Minister to postpone or cancel decisions of the Committees;
- there have also been legal challenges brought in the Administrative Court and higher courts against decisions of the Committees;
- legal appeals and Ministerial interventions are seen as introducing a lack of legal certainty to proceedings, which is now cited by business associations as a significant concern.

As Indonesia began to move towards establishing a new framework of industrial relations, the need for a new system which has the confidence of the parties and which could provide for the fair and timely resolution of industrial disputes has been increasingly recognized. It was against this background that the Government proposed the Industrial Relations Dispute Settlement Bill, which has now been under discussion since 1998. The original intention was to provide a more effective regime for the settlement of industrial disputes in "a simple, quick, fair and inexpensive way." The proposed new legislation is intended to replace Act No. 22 of 1957 and Act No. 12 of 1964 concerning Termination of Employment in Private Enterprises.

Proposed Industrial Relations Disputes Settlement Bill

At the time of writing, discussions are continuing on the contents of a new Industrial Relations Disputes Settlement Bill and the exact nature of the Bill to be presented to the Parliament remains unclear. There is widespread agreement that there is a need to develop a new focus on mediation, conciliation and arbitration. However, there is also some concern that the nature of the Bill's provisions relating to arbitration and the role of proposed Industrial Relations Dispute Courts might effectively restrict workers' right to strike.

The proposed Bill divides disputes into four types. A dispute over rights is a dispute that arises "because the rights that have been specified and established in work agreements, enterprise rules and regulations, collective work agreements, collective deals or statutory laws and regulations are not fulfilled".

A dispute over interests is a dispute that arises in employment relationships because of the absence of agreement "concerning the formulation of and or the interpretation of, and or changes to employment requirements that have been determined in work agreements or enterprise rules and regulations and or collective work agreements".

The essential difference between a "rights" and "interests" disputes is that the latter usually concerns an improvement to standards whereas the former concern application of already established standards.

A dispute over termination of employment means a dispute "that arises because of the absence of agreement of opinion concerning the termination of an employment relationship performed by either side...". The fourth type of dispute covered in the Bill concerns inter-union disputes between unions operating in the same enterprise.

Industrial Disputes Courts

In early discussions concerning the Bill's contents, to be consistent with the wish to have a "simple, quick and inexpensive way" of dealing with disputes, discussion focused on having a revised form of Dispute Committee/Tribunal system, but one which would avoid the problems associated with the P4D/P4P system. However, during the course of tripartite consultations concerning the Bill, the idea of establishing Industrial Disputes Courts was suggested and gained the support of those involved in the discussions.

The current draft Bill provides that "Industrial Dispute Courts shall be established at District Courts and at the Supreme Court". Membership of the panel of Judges hearing cases will consist of one legally qualified Judge and two ad hoc Judges, to be chosen from a list of candidates submitted by employers and workers organizations.

The decision to make new Industrial Disputes courts central to the new legal framework has been criticized by some observers on a number of grounds. These include:

- the perception that Courts will not independently resolve issues. The problem of corruption within the judiciary, a major problem in Indonesia, raises the question as to whether the new structures will be more credible than existing structures (an important factor in generating confidence in the new bodies);
- possible expense involved and fear of the atmosphere being too legalistic (some unions are concerned they will be at a disadvantage against companies using experienced lawyers);

- lack of clarity as to whether the Courts are independent or will be fully integrated in the court system;
- the dangers of an "overload" of work which will make use of the Courts a time-consuming exercise and reduce their effectiveness.

The process of dialogue and the pace of legal reform

The formulation of the new labour laws has been in the hands of the Government of Indonesia, regarding both the content and timing of the legislation. The ILO contribution took the form of suggestions as to the process to be followed, provision of information regarding labour laws and systems in other countries, assistance regarding compliance with international labour standards and comments on draft legislation.

The initial process adopted for the development of the new labour laws included consultation through a series of tripartite-plus workshops on all the bills. In addition, in the early stages, a tripartite-plus drafting group was established to develop work on the Trade Union Bill and other legislation.

An ILO study of the early stages of the labour law reform process commented on the consultative process saying "It is a highly commendable approach which involves representatives of employers' and workers' organizations and other interested groups in the work on the new laws and an approach which is consistent with the Indonesian "way of doing things" - a relaxed style of talking issues through".¹²

Originally, an ambitious timetable was set by the Ministry of Manpower, which hoped to complete the development and drafting of the new laws by the end of 1998. This timetable was not met, mainly as a result of the size and difficulty of the exercise, weaknesses in the policy development process and other work commitments of Department officials.

After the initial push for swift progress with the labour law reforms, a combination of factors contributed to slowing down the process. In addition to factors mentioned above, continuing political uncertainty, sometimes sharply differing views among legislators, and increasingly active lobbying from employers and trade unions resulted in the Bills on Disputes Settlement and Manpower proceeding at a much slower pace than planned. An additional factor was the lack of time in which the Parliament could discuss the legislation. In the wake of the political changes in Indonesia, there has been development of new legislation across many parts of Government, resulting in a serious backlog in Parliament's deliberation of proposed legislation.

Following further drafting work on the Bills during 2001 and 2002, the Government had hoped to implement the laws on Manpower and Dispute Settlement in September 2002. However, against a background of growing opposition to parts of the proposed legislation on the part of both trade unions and employers, implementation was postponed. The special parliamentary Committee considering the Bills then assigned a member of the Committee, Dr. Rekso Ageng Herman, to consult further with unions and employers about both the Manpower Bill and the Industrial Relations Disputes Settlement Bill.

¹² *Demystifying the core conventions of the ILO*, ILO Jakarta, op cit, p.15

Following a series of intensive bipartite discussions, assisted by Dr Herman, early in February 2003 it was reported that unions and employers represented in the discussions had reached agreement on the provisions of the Manpower Bill and Industrial Relations Disputes Settlement Bill. However, other reports said that a number of unions were still opposed to parts of the draft laws. Some unions said that they had not had an opportunity to be properly represented during discussion of the draft legislation.

Eventually, the Government submitted the Manpower Bill only to the House of Representatives and it was approved on 25 February 2003. In April 2003, the Minister of Manpower and Transmigration was reported as saying that work on some 40 Ministerial Decrees and regulations referred to in the Manpower Act would be completed within six months.

The Ministry of Manpower and Transmigration also indicated that it expected the earliest date for approval of the new Industrial Relations Disputes Settlement Bill would be June 2003 and that further consultations on the Bill would be taking place with the social partners.

Whilst there has been some criticism of the slow speed of the legislative reform process it has been clear that there are some major issues involved. When faced with strong views from employers or trade unions, there has usually been a readiness on the part of government to have a dialogue with a view to reaching a consensus.

Chapter 4 – Freedom of Association

Impact of the Trade Union/Labour Union Act 21/2000

The ratification in June 1998 of ILO Convention No. 87, the Freedom of Association and Protection of the Right to Organize Convention, and the subsequent enactment of the Trade Union/Labour Union Act 21/2000, has had a significant impact on the trade union movement in Indonesia.

An early indicator of change came in 1998 when the FSPSI Trade Union Federation (later to become the KSPSI), split to become two competing Federations, FSPSI and SPSI Reformasi. With a fast growing awareness of the concept of freedom of association, the number of registered trade union federations began to grow rapidly. By February 2003, there were some 66 Federations registered at national level with the Ministry of Manpower. However, it should be noted that some 30 of these were Federations associated with the KSPSI or KSPI Confederations, so almost half the total number of Federations belong to just two Confederations.

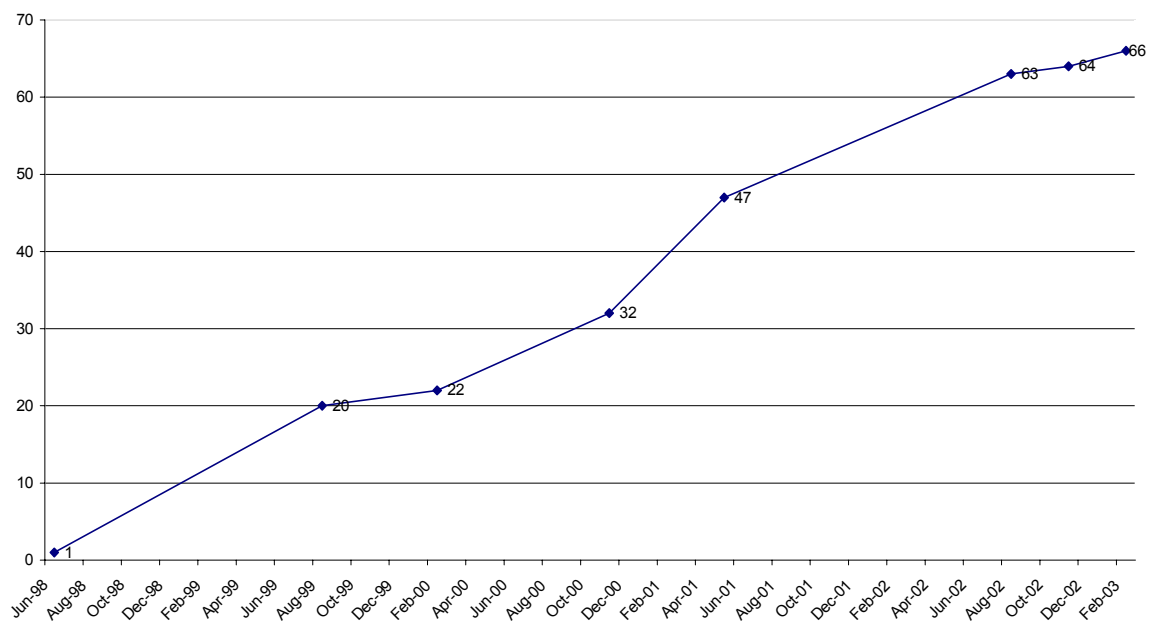
Table 2 shows the growth in the number of national Federations. In the period since mid-2001, there has been some slowing down in the recording of new Federations. Although 19 new Federations were recorded between mid-2001 and February 2003, the majority of these were sectors of the KSPSI which were recorded as separate Federations following changes in the structure of the FSPSI (FSPSI turned itself into a Confederation of separate Federations).

There are also more than 100 national company-based unions and thousands of independent unions in the provinces. Statistics from the Ministry of Manpower and Transmigration suggest that the number of local unions recorded increased from 6,211 in October 1999 to 11,030 in May 2001, an increase of almost 78%. However, this may not be an accurate guide as it is quite possible that there is an element of "double-counting" with different organizations claiming the same group of members.

In the past, many workplace unions were automatically registered with the local offices of the Ministry and there was often no way of knowing whether the union was a genuine organization or a "paper" organization. To a large extent, this problem still remains.

Whilst there are a number of difficulties in using the national data, it is clear that the effort to promote freedom of association has resulted in a level of diversity in the trade union movement which was not present prior to 1998.

Number of Registered Trade Union Federations 1998-2003



Source: Ministry of Manpower and Transmigration statistics

Trade union membership

There are widely varying estimates of the level and density of trade union membership and almost all trade unions lack reliable data on the number of members they have. The situation is further complicated because many unions claim as "members" people who neither make a financial contribution nor complete any membership record.

In the years leading up to 1998, the FSPSI (now KSPSI) claimed it had a membership of around 2.5 million members. However, some observers estimated FSPSI membership as having never exceeded one million.¹³ Today, however, the KSPSI claims a membership of more than 4.5 million members.

¹³ Fenwick, Lindsey and Arnold, op cit, p.11

The membership claims of KSPSI, KSPI, and SBSI combined with those of a range of other unions that now exist, suggest a total union membership of more than 8 million members. This figure obtained from the results of a membership verification exercise organized by the Ministry of Manpower and Transmigration early in 2002.

In the 2002 membership verification, Unions were asked to "self-verify" their membership. A number of unions raised objections to the validity of the exercise but the figures produced were as follows:

KSPSI Unions	4,576,440
KSPI Unions	1,702,058
SBSI	1,752,000
SPSI Reformasi	75,778
Others (14 others)	375,665
Total	8, 281,941

If correct, this figure would suggest a union density in excess of 30% of the formal sector workforce. It seems extremely unlikely that this figure is an accurate reflection of the level of trade union membership, particularly as many unions lost a significant number of members during the crisis period, and during the economic downturn that has hit many sectors since 2001.

A paper presented to an ILO seminar in 1999, estimating union densities in south-east Asia, suggested a density of 2.7% in Indonesia, not including union membership in the public services and civil service. The UNDP's 2002 Human Development report gives a figure of 3% union membership in Indonesia as a percentage of the non-agricultural labour force. However, the statistical basis used for producing both these figures is unclear.

Whatever the overall total membership figure, it certainly seems to be the case that union activism has been increasing. There are regular newspaper reports of workers calling for the right to form a trade union. However, it is not possible to say definitely whether the increase in union activism and the number of local unions has been matched in any way by a corresponding increase in total union membership. Given the difficult economic circumstances for much of the past five years, it is perhaps unlikely that overall union membership is higher than it was before 1998. Many of the sectors most affected by the economic downturn have been sectors in which trade union membership was quite high (textiles, electronics, wood processing).

Representativity of trade unions

The changing trade union scene quickly gave rise to questions as to which of the many unions were most representative of workers. Representativity issues are relevant both in relation to bargaining structures within the enterprise and in relation to participation of unions in tripartite structures.

As the number of new unions in Indonesia increased, employers became increasingly concerned at the impact, actual or possible, on existing bargaining arrangements. At the same time, tripartite structures, which had previously only included trade union representatives from the FSPSI, increasingly lacked legitimacy and there was pressure from new unions for representation within such structures.

Multi-unionism and its impact on bipartite industrial relations

Following the introduction of the Trade Union/Labour Union Act 21/2000, there was much discussion about the likelihood of multi-union environments developing at the workplace and about criteria to be used in establishing bargaining arrangements in such situations. Employers in particular complained that there was no effective means for determining who should be the bargaining agent when there is more than one union in an enterprise.

Although much has been said about the development of multi-unionism at the workplace level, the limited research available suggests that the issue of multi-unionism may not be as much of a problem as sometimes suggested. In a study of 47 enterprises during October-November 2001, of which 39 had trade unions, only 3 reported the existence of more than one union. In these companies, it did not appear that the existence of more than one union was a major problem, because the unions appeared to be influential in different divisions of the companies.¹⁴

Consultations with APINDO during the preparation of this study also suggested that the development of multi-union workplaces had not been as much of a concern as originally feared. However, other anecdotal evidence has suggested that multi-union situations are increasingly common even if not a major problem. In response to concerns about this, the Manpower Act 13/2003 seeks to provide a formula covering multi-union situations as well as generally dealing with collective work agreements. It says that if there is more than one trade union in an enterprise, the union which has the right to represent workers in negotiating a collective agreement shall be the one whose membership exceeds 50% of the total number of workers in the enterprise.

If there is more than one union in an enterprise but no one union has more than 50% of employees in membership, the unions may form a coalition. If the coalition secures more than 50% of the total number of workers in an enterprise, it is qualified to represent workers in negotiating a collective agreement. In such a case, the unions involved shall establish a negotiating team whose members shall be determined in proportion to the number of members that each union has.

Whilst the new law makes an effort to deal with this issue, many minority unions are still likely to be unhappy with these provisions, arguing amongst other things, that a Union with a significant membership could still have no rights to be involved or consulted during the negotiation of a collective agreement. For example, if one union has 51% and another has 49% of the workforce in membership, the union with 49% would still apparently have no legal right to participate in negotiating a collective agreement or to be consulted during the negotiation process.

The absence of earlier clarification covering bargaining rights in multi-union situations was a problem. The Trade Union Act/Labour Union Act 21/2000 said that a trade union that has a record number has the right to negotiate a collective work agreement with the management and represent workers/laborers in industrial dispute settlements. Many new small unions saw this as legitimizing their right to seek to secure a collective agreement. However, the Trade Union Act said that the exercise of the rights to negotiate a collective agreement "shall be carried out in accordance with valid national statutory rules and regulations" and so presumably in the future the provisions of the Manpower Act will guide practice in this area.

¹⁴ SMERU, op cit, p.45

There have been a number of cases in which larger established trade unions complained about the activities of smaller trade unions, which they say can destabilize industrial relations. In a small number of cases there have been physical clashes between "old" and "new" unions, although there have been reports that the main Federations have sought to contain and defuse potential for such incidents.

Smaller trade unions often complain that they are unable to obtain bargaining rights even though they have established trade unions at workplaces and have recorded the existence of these organizations with the Ministry of Manpower. They say that collusion between employers and established Unions makes it difficult for new unions to organize, despite the provisions of legislation which theoretically provide this right.

The provisions of the proposed legislation are likely to provide only a partial solution to such issues and the practical impact of the legislation will need to be closely monitored.

Barriers to freedom of association

Despite the positive changes which have taken place in recent years, there have remained some significant barriers to freedom of association. In its 2002 Annual Survey of Trade Union Rights, the ICFTU said that "Whilst the worst restrictions on trade union rights have been lifted, many others remain."¹⁵ The ICFTU report documented a number of cases in which it said trade union rights had been violated. Many trade unions continue to complain about activities which hinder their efforts to organize and represent workers. Some of the key issues raised by unions as barriers to freedom of association are summarized below.

Obstacles to trade union development at the workplace

Trade unions frequently complain about actions taken by company management to restrict their ability to organize at the workplace. They say tactics used by employers include dismissal of union activists, demotion, moving union activists to other work sites, and in some instances reporting union activists to the police. There have been instances of workers involved in union activity being called to a police station to face questioning about their activities.

During the process of negotiating with an employer, trade unions may also face other problems. There have been reports that in some negotiations, military personnel sit with the company management during the negotiation, which unions not surprisingly see as an intimidatory tactic.

There have been complaints of some employers seeking to exert undue influence over workplace unions and of some establishing their own management-controlled unions as a means of dividing workers and discouraging them from joining newly developing trade unions.

Trade union registration/notification

Chapter 5 of the Trade Union/Labour Union Act 21/2000 provides for Notification and Recording of a trade union's existence. Upon its establishment, a union, federation or confederation must notify the

¹⁵ International Confederation of Free Trade Unions (ICFTU), *Annual Survey of Trade Union Rights*, 2002

local government agency responsible for manpower affairs. The notification is to include a list of the names of its founding members and its officials and a copy of its constitution. The local government agency must keep a record of the union, federation or confederation which has fulfilled the necessary requirements and must issue a record number to the union, federation and confederation within 21 working days of the receipt of the notification. Where a union has not fulfilled the necessary requirements, the reasons for postponing the recording and issuance of a record number must be advised within 14 days of the receipt of the notification

In the process of discussion concerning the trade union act, some trade unions complained about the need for registration. Some newer organizations took the view that local Ministry of Manpower officials favoured the established trade unions and would create difficulties for new unions who wished to register. The wording of the legislation was eventually changed to “notification and recording” in an effort to accommodate concerns.

There have been some complaints by unions about difficulties in the notification/recording process, particularly for newer unions. SBSI has regularly raised problems they claim to be experiencing, as have some other newer trade union organizations. An issue concerning recording of a trade union in the education sector is reported in the section of this study concerning freedom of association in the public sector.

Deduction of union dues

Until 1996, trade union membership dues deducted by the employer were sent direct to the national level union. This system was then changed, and most unions now have a procedure under which a proportion of membership dues are held by the workplace union, and remittances are then made by the workplace union to the union structures at national, provincial and branch level.

Some of the newer unions complain that the check-off arrangement supports established unions and say that employers are very reluctant to extend check-off facilities to newer union organizations. There have also been complaints that in some cases union dues have been deducted from non-KSPSI workers and then paid to KSPSI.¹⁶

Restrictions limiting areas of union organization

In 2001, the Governor of Jakarta distributed a circular letter saying that security guards employed in commercial premises were not allowed to join trade unions. These staff, known as SATPAM, represent a large group of workers and in many companies have joined trade unions. Their salaries are paid by private companies.

Military and police involvement in industrial relations

During the new order period, there was a history of regular police and military involvement in industrial relations. When differences arose between workers and employers, all too often, the employers’ reaction was to call in the local security forces, who had a reputation for using force to suppress worker protests. It has been, and remains, common practice for companies in Indonesia to

¹⁶ ICFTU, op cit

privately hire a local unit of police or military personnel if companies consider they require some special assistance with security.

The military also became involved in the industrial relations process in other ways. Many companies had a practice of using former military officers as personnel managers and the military also had (and still have) a direct financial interest in many enterprises, giving it an added interest in uninterrupted production. The police and military have therefore been seen by workers as not being an independent force, but as supportive of employers.

In the period since 1998, there does seem to have been significant reduction in the extent of open police or military involvement during labour disputes, although there are still reports of inappropriate and partial military/police involvement. During the course of a high profile dispute at the Shangri-La hotel in Jakarta, the Union accused the police of heavy-handed and unnecessary attacks on striking workers. There have also been quite frequent newspaper reports from around the country of clashes during the course of worker protests.

Employers say that worker protests sometimes cross the line between freedom of assembly and interference with the rights of others. During 2000 and 2001, a number of protests ended in violent clashes between police and protestors when groups of workers/activists sought to enter workplaces other than their own to encourage workers to join protests. In these instances, factory security guards often sought the assistance of the police, resulting in clashes between protestors and police. Tripartite discussions could provide a valuable means of discussing some of the issues relating to the right to freedom of assembly and issues of public order, with a view to finding ways of trying to avoid clashes during protests, and avoiding involvement of security forces.

Against the background of change in the legal framework governing industrial relations, and some uncertainty among security forces as to their changing role, the ILO sought to include military and police during early efforts to socialize the ILO's fundamental conventions. During 1999-2000, the ILO held a series of consultations involving the Ministry, the Indonesian Army and Police. The purpose of those consultations was to begin to discuss the roles of the police and the military in relation to public order issues. During the course of 1999 and 2000, military and police personnel participated in a number of "awareness-raising activities".

More recently, the ILO has developed a project to provide further training to police concerning developments in labour laws and labour rights and the handling of industrial disputes. It remains the case that when industrial disputes occur, the police are still called upon to take action. These calls usually come from employers or government officials. The police say that calls usually relate to concerns about property damage or threats to public order but the action taken by police may lead to criticisms about conduct or improper interference by police in industrial disputes. The training programme formulated by the ILO aims at bringing Indonesian police officers up-to-date with international and national developments in the field of labour and workers' rights and to develop a broader understanding of these rights.

It should be noted that the Indonesian Police are no longer part of the Indonesian Armed Forces. The separation of Indonesian Police from the military and the roles of the police are stipulated in law No. 2 of 2002 on Indonesian Police.

Physical attacks on workers

Although the level of police and military intervention in labour disputes has fallen, there have been a number of instances of “third forces” staging violent attacks on striking workers and union activists. The most disturbing case involved the murder of two striking workers at a car upholstery supplier, PT Kadera. On 16 March 2001, 300 employees of PT Kadera demonstrated and went on strike demanding an increase in wages. They stayed in front of the factory during the nights, and on the night of 29 March were attacked by approximately 500 unknown men. The attackers arrived in buses and carried iron bars, glass bottles, machetes, knives and explosives. In the violence that ensued, one striking worker was killed by an explosion, and another died of knife wounds several days later.

The main suspect believed to have organized the attack, the company’s Head of Personnel, was sentenced to three months and 15 days imprisonment under Article 335 of the criminal code, for inciting another to commit unsatisfactory acts towards a third party. Seven of the attackers also received prison sentences but there was much criticism of the investigation and the court trial. It was felt that the sentences did not reflect the severity of the crimes inflicted.

In another incident in March 2001, a textile union official at a factory in Serang, West Java, was attacked by a number of men with machetes as he made his way to work. He was hospitalized for a week and was unable to work for a month. His attackers said nothing and made no attempt to rob him, but the attack came shortly after the union official had been quoted in a newspaper describing labour abuses in local factories. In a similar case in Malang, East Java, a union activist was attacked with a machete by an unknown attacker, prior to the activist being arrested on charges related to union activities.

There have also been a number of other cases of "preman", thugs, being used to intimidate workers who have become active in union campaigns or to interfere with workers' protest actions.

Use of criminal charges against union activists

There have been a number of cases in which union activists have been detained and charged with offences under the criminal code (KUHP), when the activities giving rise to the charges appear to have been related to the individuals’ trade union activities. Article 335 of the criminal code prohibits "unsatisfactory conduct towards another" and can be widely interpreted.

In one such case during 2001, a young woman union activist, Ngadinah, was arrested shortly after a television interview in which she made comments about her employer, a contractor for a major multinational company. Two days later, she was arrested and charged with offences alleged to have occurred during an industrial dispute nine months earlier. She was detained in the womens' prison at Tangerang for six weeks, and charged under article 335. She was refused bail several times, until the charges against her were finally dismissed.

Such a case is an example of how the criminal law can intrude into labour issues that have little to do with criminality. It does however appear that such cases have more to do with local situations than any national policy. Indeed in some cases Ministers have sought to intervene to assist defendants.

Other legal actions

A high profile dispute involving workers at the Shangri La hotel in Jakarta began in September 2000 following a breakdown in negotiations on the terms of a collective agreement. The suspension of a

union representative triggered a long and acrimonious dispute, which involved dismissal of union members and claims for damages against union officials. The dismissals were the subject of legal appeals and counter appeals, until the Supreme Court in December 2002 upheld the dismissal.

In November 2001, the South Jakarta State Court had ordered seven union officials to pay damages of \$2.2 million for damage to reputation, damage to hotel facilities and losses suffered due to the closure of the hotel. In June 2002, the ILO's Committee on Freedom of Association, noted "with regret that the Government has not provided any information in respect of the US\$2 million compensation award granted by the South Jakarta District Court. The Committee must recall in this respect that it has always recognized the right to strike by workers and their organizations as a legitimate means of defending their economic and social interests."

The IUF, the Global Union Federation with which the hotel workers' union is associated, argued that the use of civil suits to intimidate workers from exercising their right to freedom of association is a violation of ILO Convention Nos 87 and 98. Subsequently a settlement of the dispute was agreed on terms which included the employer dropping legal actions and pursuit of damages.

Freedom of association in the civil service and public sector

Civil servants and employees of state-owned enterprises (BUMN) have for many years been required to be members of the civil servants association, Korps Pegawai Negari Indonesia (KORPRI). Prior to 1998, KORPRI was closely linked with the ruling GOLKAR party and did not function as a trade union. KORPRI has now registered as a trade union, although its role and activities in relation to members and management do not appear to have changed.

In 1999, changes in KORPRI's constitution ended its coverage in state-owned enterprises (BUMN). As a result, many new unions have emerged in state enterprises. Large groups of workers, such as those in the national electricity company, PLN, the postal service, and a large telecommunications company, Indosat, established new trade unions outside of the KORPRI structure. Workers in the railways, that had an independent union pre-1945, reestablished a union outside of KORPRI control.

The situation concerning freedom of association in the civil service remains unclear. The Trade Union/Labour Union Act 21/2000 said that "Civil servants have freedom of association and the right to organise" and indicated that implementation of those rights was to be regulated by a separate Act. However, as yet, there have not been any proposals for the separate legislation.

Presidential Decision 26/2000 states that all civil servants are members of KORPRI and have responsibility to pay financial contributions to KORPRI. It appears therefore that membership of KORPRI remains compulsory for workers in the civil service and deductions continue to be made automatically from the salaries of civil servants.

Teachers are classed as civil servants, but also have a second organization, PGRI. This organization has traditionally played a role as an administrative and professional unit of the education system and until recently had no significant trade union function. However, the organization has taken a decision to turn itself into a trade union federation, and is registered as such with the Ministry of Manpower and Transmigration. The union is receiving capacity building support from a Global Union Federation, Education International.

The union has recently experienced problems with interpretation of the Trade Union/Labour Union Act 21/2000. Following a situation in central Java in which PGRI experienced problems when trying to register the union with the local office of the Ministry of Manpower and Transmigration, the union sought clarification from the Ministry. They say they were informed that civil servants right to organize has not yet been regulated as provided in the Trade Union/Labour Union Act 21/2000. Therefore, because KORPRI had determined all civil servants are automatically members of KORPRI, the local manpower office could not register PGRI as a trade union for its members who are also civil servants (the vast majority of the 1.5 million members PGRI claims to represent).

Freedom of association and employers' organizations

Although most violations of freedom of association are directed against trade unions, the fundamental right to organize for employers' organizations should not be overlooked. During the New Order period, APINDO experienced various restrictions in carrying out its role.¹⁷ However, recent consultations with APINDO suggest that they are generally satisfied with their present ability to organize and conduct their activities. There have, however, been instances during disputes and during discussions on minimum wages, when employers have expressed concern at tactics used by trade unions.

Chapter 5 – Collective Bargaining

Background

In 1956, Indonesia ratified ILO Convention No. 98, the Right to Organise and Collective Bargaining Convention. Whilst existing law has stated the need for bipartite and tripartite approaches to collective bargaining rather than seeking to deal with matters through the courts, other legislation and practice developed during the New Order period seriously restricted the extent of collective bargaining. In particular, restrictions on independent trade unionism and involvement of military in labour issues meant that the effective right to collective bargaining remained very restricted. In June 1997, a report of the ILO's Committee of Experts on the Application of Conventions and Recommendations "observed with deep concern that the discrepancies between the Convention on the one hand, and legislation and national practice on the other, have continued for many years."

One aim of the labour law reform process which began in 1998 has been to stimulate collective bargaining between the social partners. The new rights to freedom of association embodied in the Trade Union/Labour Union Act 21/2000, efforts to curb the involvement of military in industrial relations, and other measures, are intended to create a climate which will enable new relationships to develop between the social partners. However, the lack of a culture of negotiations, which reflects the legacy of the New Order period, remains an impediment to the growth of collective bargaining.

¹⁷ Baseline survey of APINDO, op cit, p.1

Enterprise regulations and collective agreements

For many years, Indonesian legislation has provided that companies can stipulate terms and conditions of employment either through Enterprise Regulations, or through a collective labour agreement. The Manpower Act 13/2003 states that with Enterprise Regulations "The entrepreneur shall formulate the rules and regulations of his or her enterprise and shall be responsible for them". Whilst the Act says that Enterprise Regulations should take "into account the recommendations and considerations from the workers representatives", in practice Enterprise Regulations are seen as rules which are usually made unilaterally by the employer.

The Manpower Act 13/2003 describes a "collective work agreement" as the *result of agreement* between a trade union and an employer that shall "specify work requirements, rights and obligations of both sides". The legal basis for establishing collective agreements is also contained in various other regulations. The Trade Union/Labour Union Act 21/2000 also provides that trade unions have a right to negotiate collective agreements.

In the mid-1990s, against the background of growing international criticism of Indonesia's approach to labour rights and a growing level of industrial conflict, the Ministry of Manpower encouraged a shift from the use of internal enterprise regulations to the implementation of collective agreements. Whilst there is no evidence that this significantly changed the extent of genuine collective bargaining, many companies began to register as CLAs, documents which were still essentially management determined enterprise regulations.

The Manpower Act 13/2003 - provisions concerning collective bargaining

The Manpower Act 13/2003 provides that in each enterprise only one collective agreement can be made, and that agreement shall apply to all workers in the enterprise.

If there is only one trade union in the enterprise, it shall have the right to represent workers in negotiating an agreement provided that more than fifty per cent of the total number of workers in the enterprise are members of the trade union. If the union does not have the required level of membership, it can still represent workers in negotiating an agreement provided that a vote is held in which the union "wins the support of more than fifty per cent of the total number of workers in the enterprise". If the union fails to win the required level of support, it can put forward a further request to negotiate a collective agreement after a period of six months since the vote was held.

If there is more than one trade union in an enterprise, the union with the right to negotiate an agreement shall be the one whose members total more than fifty per cent of the workforce. If no Union has the required number, unions may form a coalition until the coalition has the support of more than fifty per cent of the workforce

In both the above scenarios, membership of a trade union "shall be proved with a membership card". This could prove problematic as many unions do not have effective systems for recording membership and/or issuing membership cards. However, the requirement might encourage unions to improve standards for recording and verifying membership, and in practice unions may utilize other methods for verifying membership.

A collective agreement shall last for "no longer than two years" but may be extended for one year based on a written agreement between the employer and trade union. In cases where negotiations fail

to result in agreement, the existing collective agreement shall remain effective for no longer than one year.

Extent of collective bargaining

When a company establishes a collective agreement, it is supposed to register the agreement with the local office of the Ministry of Manpower and Transmigration. Figures in 1999 suggested that there were 10,965 collective agreements registered with the Ministry's offices.

A recent research study for the ILO/USDOL Declaration project on freedom of association and collective bargaining looked at statistics from six provinces. Looking at companies employing more than 25 workers, the analysis indicated that 51% of companies regulated working conditions under Enterprise/Company Regulations. In 14% of companies, conditions were regulated under Collective Labour Agreements. This suggests that 35% of companies had registered neither (Table 3).

A recent study of industrial relations in Greater Jakarta, Bandung and Surabaya looked at the existence of collective agreements and enterprise regulations in mainly larger companies. In this survey, trade unions existed in 39 of the 47 companies examined. Therefore, the study perhaps gives a better guide to the existence of collective agreements in the unionized sector. In this study, 58% of the companies had collective agreements, 30% had internal Enterprise Regulations, and 12% had neither.

Table 3 - Number of companies with Collective agreements or Enterprise regulations

No	Province	Number of Companies	Enterprise Regulations (%)	Collective Labour Agreement (%)
1	North Sumatra	2,490	41	26
2	Riau	1,623	56	21
3	Jakarta	8,530	33	4
4	West Java	10,208	51	13
5	East Java	9,486	69	16
6	East Kalimantan	1,118	53	42
	Total	33,455	51	14

Source: Directorate General of Binawas – Depnakertrans - From Suwanto, Practical Utilisation of Industrial relations mechanisms

Of the 39 companies with workplace unions, 27 (70%) had collective agreements, nine (23%) had internal Enterprise Regulations and three had neither. In eight companies without trade unions, five had Enterprise Regulations and three did not.¹⁸

Overall, the available information suggests that much needs to be done to extend the coverage of collective bargaining.

The process of forming a collective agreement

The recent SMERU study of industrial relations in Greater Jakarta, Bandung and Surabaya, made a number of observations on the collective negotiating process¹⁹. It found that:

employees, represented by their union, are now generally involved in the formulation of collective agreements and in some cases large groups of workers have a voice on the content of the agreement; there are still a small number of agreements created by the company, and which union representatives are forced to agree to;

during the negotiation process, employers are generally represented by the Director, Human Resources Manager and Production Manager with some businesses also using a legal consultant;

workers are represented by workplace union leaders, and on occasions, an external union official;

generally, there are several stages of negotiation before an agreement is reached. The process of establishing a first collective agreement can be time consuming, taking around six months or more, but subsequent agreements generally require three months or less;

in order to raise workers' understanding of the agreements, some union leaders clarify the contents of the agreement through meetings with workers. Agreements are posted on a notice board and some companies also distribute copies of the agreement to all employees.

When a collective agreement has been agreed, it is submitted to the local office of the Ministry of Manpower and Transmigration. The idea is that the Ministry checks to ensure that none of the articles contravene the official manpower regulations. After this, the agreements are signed by the representatives of the company and the union, and by a witness, normally from the Ministry of Manpower and Transmigration.

Content of collective agreements

Some observers have noted that where collective bargaining exists, the agreements are often not very different from the minimum conditions required by law. An ILO consultant who carried out a programme of training on collective bargaining received much feedback on the content and quality of collective agreements. In his report of the programme, he wrote "It is common practice in Indonesia for collective agreements to carry benefits already provided by labour laws...Since these benefits already exist in law why should they be carried in collective agreements? The practice of including "normative" provisions in collective agreements reflects a soft area in collective bargaining that needs to be addressed by the Indonesian trade unions. Incorporating benefits that already flow from legal enactments or decrees...crowds out advancement of other benefits that otherwise could be obtained

¹⁸ SMERU, op cit, p.52

¹⁹ SMERU, op cit, p.54

through the bargaining process. Seen in the framework of the *reformasi*, this phenomenon may be a passing phase in the development of collective bargaining in the country".²⁰

The consultant's report also noted that the need to include normative conditions in collective agreements may partly be explained by the fact that some employers may find it convenient to disregard them. He notes "Many workers are unaware of these legislated benefits until they read about it in the collective agreement. The collective agreement therefore becomes an instrument for their enforcement".

For the purposes of this study, an analysis was made of 109 collective agreements collected in five provinces. The agreements were obtained from trade unions and employers involved in ILO activities, so is not an entirely representative sample. The agreements might be somewhat better than the average CLA.

The analysis considered how provisions of the agreements compared to basic legal standards on six topics. These were: pay, holidays, *Jamsostek*, working hours, overtime payments for weekdays and overtime payments for weekends. The analysis also looked at whether the agreements included provision on two "non-normative issues" frequently raised by workers, transport and meals allowances. The analysis confirms that many companies use the collective agreement simply to codify obligations under the law, but there are also a number of agreements improving on minimum standards.

On the issue of minimum wages, 46.8% of CLAs contained provisions above the minimum standard. Interestingly, more than half the CLAs (52.3%) had a provision on *Jamsostek* and social security that was above the legal minimum requirement. On holidays, 22.9% were above the minimum standard. On working hours, only 4.6% were above the minimum standard whilst 10.1% were below the minimum standard. On overtime for weekdays, all agreements followed the legal standard whilst on overtime for weekends, 3.7% were above the legal standard (see table 4).

Table 4 - Analysis of Collective Labor Agreements (CLA)

Subject	% below legal standard	% same as legal standard	% above legal standard
Minimum wage	0	53.2	46.8
Holidays	0	77.1	22.9
<i>Jamsostek</i>	7.2	40.4	52.3
Working hours	10.1	85.3	4.6
Overtime pay for weekdays	0	100	0
Overtime pay for weekends	0	96.3	3.7

²⁰ Internal ILO document, Manuel Dia, ILO consultant

In respect of non-normative conditions, matters which are not prescribed by law but are often the subject of negotiation, the analysis looked at how many agreements had provisions on meal allowances and transport allowances. 61.5% had provision for transport allowance and 60.6% had provision for a meals allowance (see table 5).

Table 5 - Analysis of collective labour agreement provisions on two non-normative issues

Subject	% of CLAs with provision	% of CLAs without provision
Transport allowance	61.5	38.5
Meals allowance	60.6	39.4

Gender dimensions of collective bargaining

Indonesia has ratified ILO Convention Nos 100 and 111, mandating equal remuneration for men and women for work of equal value and the promotion of equal opportunity and treatment in employment and occupation.

There are significant gaps in the earnings of male and female workers, although there has been a narrowing of differentials since 1990. At that time, average earnings of women were 56% of those of male workers but by 2000 this figure had risen to 68%. There are significant variations between sectors ranging from agriculture where women earn 56% of the earnings of men, to finance and banking where the figure is 86%.

Although there are no reliable statistics on the level of female membership in unions, it is quite possible that a majority of union members are female. They make up a majority of the workforce in textiles, electronics, tobacco, food and plantations. However, they are poorly represented in union leadership structures, including at workplace level. This may be one reason why issues of pay differentials, equal pay for work of equal value and access to promotion do not feature more prominently in workplace negotiations.

There are, however, regular reports of negotiations in which women are involved, and an increasing number of women are becoming involved in workplace union roles. Issues of maternity leave and menstruation leave, which are covered by legislation, are frequently raised during negotiations if it is considered that an employer is incorrectly applying the legal standard.

Collective bargaining in the public sector

At present, collective bargaining in the civil service and public sector is limited, but is expanding. As new unions emerge in many state-owned enterprises, collective bargaining is beginning to develop. The government's privatization programme has raised concerns about job security and conditions of employment in many parts of the state sector, which is likely to encourage workers to want to develop bargaining arrangements.

Whilst there is no "culture" of collective bargaining in the civil service, there are already signs that it would be desirable to develop new arrangements. During 2000, members of the teachers' trade union

PGRI were involved in a major nationwide pay dispute, with large scale and vocal demonstrations calling for a better pay arrangement. However, there appeared to be an absence of any forum through which teachers could negotiate, with the result that the dispute dragged on for a long time.

Similar situations are likely to occur again in the future if civil servants and others in the public service feel that there are no procedures through which their voice can be expressed and through which negotiations can take place. There are plans for restructuring the civil service, which would include significant reduction in employment levels and a restructuring of salary arrangements. Such a development reinforces the need for new structures of dialogue and negotiation to be established.

Agricultural sector

About 45% of Indonesia's formal sector workforce is found in the agricultural and rural sector, often working under very difficult conditions. A number of the large state-owned and private plantations do have collective labour agreements, although little is known about the quality of these agreements. The KSPSI's plantation sector union, which organizes in the state sector, claims a membership of more than 520,000 and there has recently been the development of a number of new unions for plantation workers.

However, the likelihood is that large numbers of workers in the plantations and rural sector are working on conditions below the legal minimum standards. These are not just small-scale farming families, but will include formal sector workers employed on some of the country's massive plantations. A recent newspaper report said that several state-owned palm oil plantations in North Sumatra had employed tens of thousands of workers for years below the minimum wage and without social security programs. The workers had many times held demonstrations in an attempt to get the attention of the provincial authorities, but no action has been taken against the companies for any possible violation of the rulings on the minimum wage and the social security programs.²¹

There are well recognized problems in enforcing labour standards in agriculture and the rural sector. It is sometimes considered that the nature of the rural economy makes it very difficult to check on implementation of minimum standards. However, in Indonesia, the large plantations that exist in much of the country, often employing tens of thousands of workers, would not be such a difficult target in which to assess standards. Women make up a large proportion of agricultural workers and they undoubtedly face obstacles in relation to freedom of association and collective bargaining. Whilst much of the information from this study is derived from the urban economy, it would be useful for a separate detailed analysis to be made of issues relating to freedom of association and collective bargaining in Indonesia's agricultural and rural economy.

The changing environment and need for technical support

A process of change is underway in the workplace relationship between trade unions and employers with a more open and dynamic bargaining environment developing. Newspaper reports of negotiations often refer to workers wanting to establish a collective agreement, or seeking to secure improvements to an existing collective agreement.

²¹ Jakarta Post, January 28, 2003

Although in the past, many companies were reluctant to have genuine collective bargaining, in Indonesia today there are increasingly reasons why employers need to examine the potential benefits of collective bargaining and a new approach to industrial relations. Building partnerships between workers freely chosen representatives and management can help improve workplace relationships and unlock potential within the enterprise for increasing productivity.

The pressure from workers for effective collective bargaining also raises a challenge for trade unions. Trade union structures during the New Order period were very hierarchical. Small committees of local union officials often made decisions concerning collective agreements without any reference to the members they were supposed to represent. In the new situation, workers frequently demand a greater voice in the decision making process.

For both trade unions and employers, the new situation has raised a range of technical needs. These include training representatives in the practice of collective bargaining, formation of a collective agreement, how to prevent disputes, and communications skills. Since 1999, the ILO has delivered a range of technical support aimed at helping to develop the capacity of trade unions and employers to create an effective collective bargaining environment. Evaluations of ILO work have confirmed the view that large numbers of people trained by ILO projects are going on to play a positive role in the social dialogue process.

Chapter 6 – Major Industrial Relations Issues

Introduction

Indonesia's industrial relations system comprises a number of elements. These include the legal framework, the roles and attitudes of social partners, and the prevailing culture of "custom and practice" - how people are used to dealing with industrial relations and which issues are the subject of bargaining between workers and employers. This section looks at some of the key issues in industrial relations discussions, trends in industrial disputes, the issues which lead to disputes, and what steps might be taken to improve industrial relations.

Some factors which influence industrial relations

The nature of a company's remuneration system can sometimes be a strong influence on industrial relations. In Indonesia, the components of a worker's wages are usually made up of a fixed wage and variable allowances, less a number of deductions. Components of a manual worker's wage in a large firm could include many of the items shown in table 6.

Another factor which can influence industrial relations is the level of employment security, whether workers feel that their employment status is tenuous, or reasonably safe. Very often, a worker's level of remuneration or benefits is tied to employment status. In Indonesia, a substantial number of workers are now employed on insecure contracts, and as a result many other benefits will be reduced.

In a study of large enterprises in East and West Java, firms surveyed stated they used four different payments systems, casual daily, piece rate or contract work, permanent daily, and permanent worker status. Of these categories, only permanent worker status provided any legally binding security of

employment. The study found that two thirds of workers were employed on insecure employment contracts, could be easily laid off, and many workers would not receive payment if sick or absent for any reason.²²

Therefore, from an industrial relations perspective, workplace relationships in Indonesia have two elements which could be expected to lead to complicated bargaining situations. Firstly, there is a relatively complex system of remuneration, with many variable allowances, each a potential source of dispute. Secondly, large numbers of workers are employed on insecure contracts, possibly working alongside other workers doing similar jobs, but who might enjoy a more permanent employment status and better conditions of employment.

Table 6 – Components of a workers wage in a large firm

Fixed wages	Basic wage (usually linked to the minimum wage) Allowance for family responsibilities Allowance for length of service
Variable allowances	Meal allowance Transport allowance Health allowance Education allowance Performance bonus Piece work bonus Shift work allowance Special task allowance Coffee allowance Weekday overtime Sunday overtime Holiday overtime
Deductions	<i>Jamsostek</i> (social security) Income tax Union dues

Normative and non-normative issues

Normative issues are matters on which the law establishes a standard, for example the minimum wage and annual holiday, or on which there is another agreed standard, for example the standard contained in a collective labour agreement. Non-normative issues are matters on which there is no direct legal standard or on which efforts are being made to improve on provision contained in an established standard. Table 7 shows the proportion of disputes involving normative and non-normative demands during a two and a half year period to mid-2002. Approximately two thirds of disputes related to non-normative matters.

²² Shafiq Dhanani and Iyanatul Islam, *Indonesian Wage Structure and Trends 1976-2000*, Background paper for ILO IFP Socio-Economic Security, December 2001, page 7

Table 7: Normative and Non-normative Demands 2000-2002

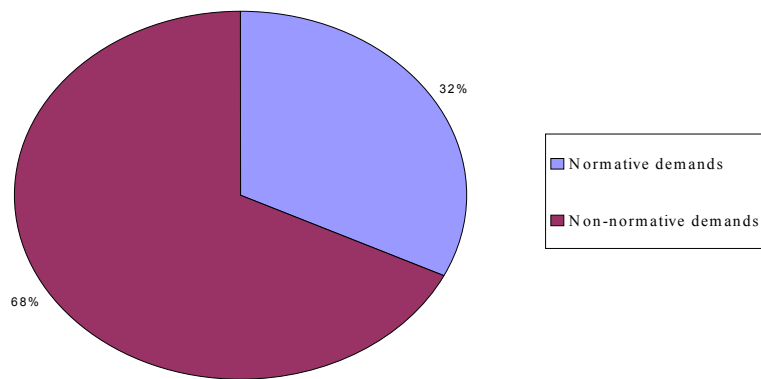
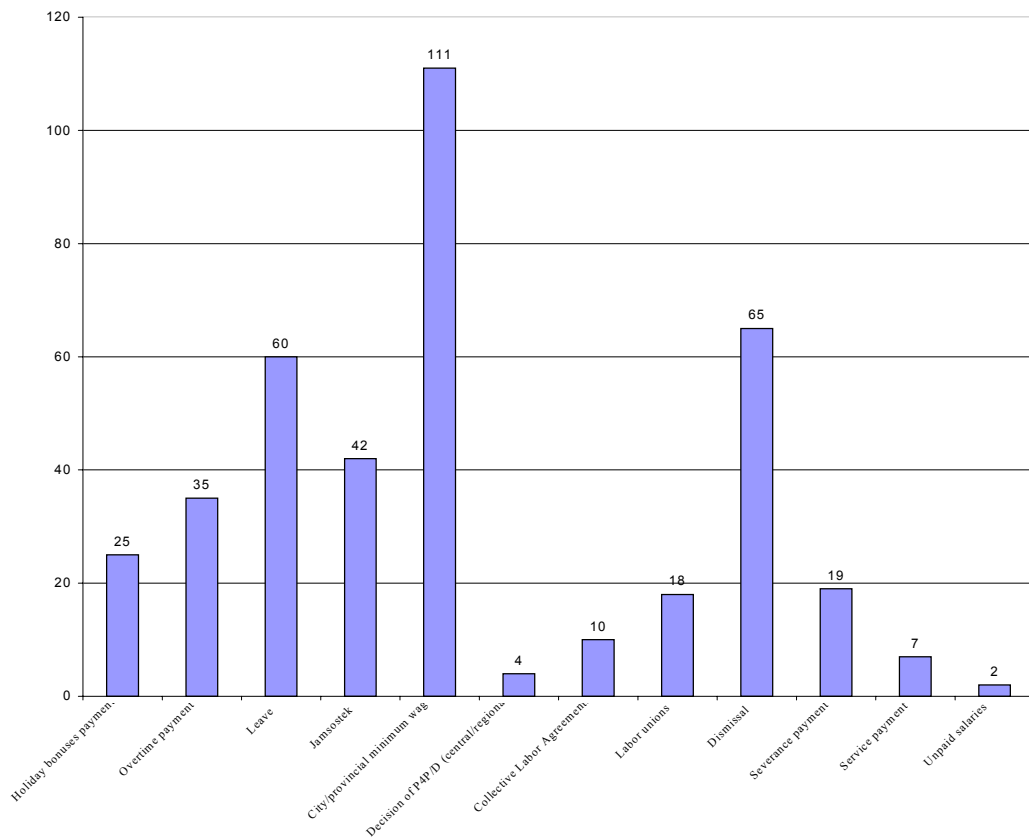


Table 8 shows the frequency of disputes concerning various normative issues. The issue being raised most frequently was minimum wage implementation, followed by dismissal, leave, *Jamsostek* and overtime payment.

Table 8: Normative Demands 2000-June 2002



Minimum wages

The minimum wage system in Indonesia was introduced in 1956. Over the years, in the absence of effective collective bargaining structures, the role of the minimum wage has become increasingly important. Until 2000, the minimum wage level was set by the Minister of Manpower and Transmigration, who set rates for each of the country's provinces. However, as part of the decentralization process in the country, in 2000 responsibility for fixing the minimum wage was passed to the provincial and district levels.

In order to determine the minimum wage a provincial or district wages council is established which includes representatives of the local government, provincial offices of several ministries, trade unions, employers, and academics. The Council has the function to:

- conduct a survey and calculate basic living needs costs. The survey looks at the price of a range of basic items in the surrounding area;
- survey and calculate companies ability to pay an increased minimum;
- propose a figure for the minimum wage taking account of the information obtained, inflation costs and other factors.

The proposal to adjust the minimum wage is presented to the local Governor or Regent for authorization. The minimum wage is usually set for a twelve-month period and is based on the subsistence needs of a single worker. There are also separately published minimum wages for major employment sectors in particular provinces. Employers who consider that they are not able to pay the minimum wage can seek exemption from the Ministry of Manpower and Transmigration, which investigates the financial position of the company before making a decision.

The minimum wage appears to be increasingly widely followed in manufacturing industry and the usual annual adjustment to the minimum is used by companies to adjust their wage levels. The recent study by SMERU of 49 mainly unionized companies found that 94% of companies were paying at or above the minimum. An earlier survey of 300 companies in East Java, conducted during 1997, suggested that 66% of employers pay at or above the minimum wage. In recent research one commentator suggested that during the era of *reformasi*, compliance with minimum wage legislation has increased, as most large enterprises are under more pressure from unions, NGOs and the government to comply with regulations.²³

The role of the minimum wage, and its possible impact on employment, has now become an important issue of debate. As worker unrest grew during the 1990s, there were increases in the real level of the minimum wage. Whilst the impact of the 1997/98 financial crisis slashed the purchasing power of the minimum wage, in the post-crisis period and particularly following the decentralization of authority to the local areas, there were again significant increases in the level of the minimum wage.

Following controversial increases in minimum wages for 2001 and 2002 (with an increase in Jakarta of almost 50% in 2001 - see table 9), the average level of increase for 2003 was around 8%, broadly in line with the Consumer Price index. A number of commentators have pointed out that there can be significant differences between the Consumer Price Index and price changes in the minimum living

²³ Chris Manning, *Minimum Wages: Social Policy versus Economic Policy?* SMERU Research Institute bulletin on minimum wages, Jan-March 2002

needs index (KHM-Kebutuhan Hidup Minimum), which is used to calculate the minimum wage. Some provinces have also changed the format of the KHM. The World Bank has called on central Government to give greater guidance to the Provinces during the wage fixing process, suggesting that it is the decentralization process which has been behind the recent large increases.

Some observers have contrasted the use of minimum wages in Indonesia with experience in industrialized countries where minimum wages provide a "floor" for wage levels. They have suggested that in Indonesia the minimum wage does not set a "floor" for wages, but instead sets a benchmark for actual wages. They contend that high increases in the official minimum wage quickly translate into higher wages for large groups of workers, putting pressure on firms to reduce employment.²⁴ Employers have suggested that the present minimum wage system is a crude way of setting wages which takes no account of ability to pay or the performance of individual companies.

However, other commentators say that there is no strong evidence that minimum wage increases in Indonesia cost jobs. They say that in Indonesia wage costs are generally a small proportion of total production costs, and that too much emphasis on the minimum wage issue may well lead companies and policy makers to neglect other issues which are more important in determining competitiveness. An ILO analysis in mid-2000 contended that there was no convincing overall empirical evidence of a negative relationship between the level of the minimum wage and the level of employment.²⁵

For their part, trade unions say that the minimum wage set in accordance with the index of basic living needs (KHM) is already inadequate to meet living costs and that the inflation in costs of basic goods is far ahead of the headline inflation figure. They also contend that increases in the minimum wage have still not restored the purchasing power of workers wages and that cuts in subsidies have further pushed up basic living costs. They say that whilst much of the focus is on wages in Jakarta, across the country the average monthly minimum wage in 2002 was around \$40 and that large numbers of workers both in Jakarta and elsewhere are living on or below the poverty line.

The decentralization of authority for setting the minimum wage to the provincial and district levels has undoubtedly opened up the possibility for workers to launch local campaigns aimed at encouraging politicians to increase wage levels, sometimes above the figures recommended by local wages councils. Union representatives are also now playing a more active role within the local wages councils. Whereas in the past representatives in these bodies came only from FSPSI, in many councils a range of unions are now represented and have been increasingly vocal.

The debate about the minimum wage process in Indonesia is likely to continue. The role of the minimum wage is particularly important when there is a lack of institutional capacity to support collective bargaining. Some have suggested that as trade union organizations gain strength and become more involved in the negotiation of wage levels at the enterprise and industry level this should remove the need for the role of the government.²⁶ However whilst it is evident that unions are now more active at the workplace level, the vast majority of workers in Indonesia are still not covered by effective collective bargaining. The minimum wage is therefore likely to remain important for

²⁴ Manning, op cit

²⁵ Iyanatul Islam and Suahasil Nazara, *Minimum Wage and the Welfare of Indonesian Workers*, ILO Jakarta, July 2000

²⁶ Manning, op cit

some time. Any radical change to minimum wage structures would be likely to lead to large scale opposition.

It could, however, be opportune for the Government to open up a discussion on the minimum wage with a view to having a general dialogue on policy options and developing a consensus between trade unions and employers on the way to move forward. Any effort to lessen reliance on the minimum wage system would further focus attention on the need for significantly strengthening the scope and quality of collective bargaining.

Table 9: Provincial minimum wage (UMP) in Jakarta, 1997 – 2002

	Rupiah	% wage increase	% Inflation
1997	172,500		8.0
1998	198,000	14.78	77.63
1999	231,000	16.67	2.01
2000	344,250	49	9.35
2001	591,000	38	12.55
2002	631,000	6.8	9

Jakarta Post, 23 October 2002: Note the year is that in which the wage was established. The figure for 2002 indicates wage set in December 2002 to be applied during 2003

Severance procedures and Severance pay

Severance procedures

Until recently, Law no. 12 1964 on Employment Termination in private firms stipulated rules and regulations on retrenchments. Where there was no agreement between an employer and the workers' organization or worker concerned, the employer must, except in certain cases such as probationary or fixed-term employment, request permission to terminate employment from a Regional Committee (in respect of individual dismissals). Approval of the Central Committee needed to be sought in respect of mass dismissals (termination of the employment of 10 or more workers within a period of one month).

The overwhelming part of the work of the Central and Regional Disputes Committees has involved disputes about termination of employment. Statistics for 2001 suggest that of 2,078 cases dealt with by the Central committee for dispute settlement, all but 84 concerned termination of employment. Because the work of the regional and national committees on disputes settlement overwhelmingly consists of dealing with cases concerning individual or collective dismissals, there can be serious delays in cases being dealt with. As a result, it is common for employers to lay off workers, with pay, pending the outcome of what can be a lengthy process.

Employers argue that existing severance arrangements are overly complicated, time-consuming and not well fitted to the workings of a modern economy. This argument has found support elsewhere, with some commentators arguing that the present level of regulation makes it extremely difficult for employers to dismiss "permanent" staff, with the result that companies instead employ workers on fixed-term or other temporary contracts.

An ILO study suggested that 60% of formal sector workers were on a combination of permanent daily, piece work and casual daily contracts. These contracts do not provide any employment security, nor do they require the authorization of the P4D/P4P machinery before a dismissal takes place. The

majority of manufacturing workers could therefore be laid off at short notice.²⁷ Whilst trade unions say that existing severance procedures can help prevent random dismissals, they are also very concerned at the increase in contract working and other forms of insecure employment.

Some commentators have suggested that new measures are required to reduce the involvement of the legal system in dealing with termination cases and to establish a framework which not only asks parties to try to resolve issues themselves, but provides an incentive for so doing.²⁸

However, the Manpower Act 13/2003 does not really provide significant new ideas in this area. Under the terms of the Act the key provisions are that the entrepreneur must make all efforts to prevent termination of employment from taking place. If despite all efforts termination remains inevitable, the intention to terminate must be negotiated with the trade union, or with the individual worker if he/she is not a union member. If no solution is reached the parties "are obliged to obtain the Industrial Relations Dispute Court's decision to approve the termination of employment". Any party that does not accept the decision of the Industrial Relations Dispute Court may file an appeal to the Supreme Court.

Severance pay

The lack of any comprehensive system of unemployment benefits in Indonesia makes the issue of severance payments paid by companies particularly important. Major differences of opinion between trade unions and employers on this issue surfaced following the introduction of Ministerial Decree 150/2000 on "The Settlement of Employment Termination and Determining the payment of severance pay, bonuses, and compensation in firms". Employers were particularly unhappy with provisions concerning payment of severance pay and other benefits to workers who voluntarily resign, or commit major offences.

The controversy generated by Ministerial Decree 150/2000 led to a period of confusion and uncertainty. Following significant employer opposition to the provisions the government amended several articles through Ministerial Decision No. 78/2001 and Ministerial Decision No 111/2001. These decisions in turn triggered large scale labour protests as workers' organizations pressed for the full implementation of Decree 150/2000. Trade unions argued that whilst the severance payment arrangements might appear generous they provided an important cushion for members who become unemployed, particularly in the absence of any system of unemployment benefit.

In the very confusing situation which developed, at times it appeared that different Provinces were following different regulations. The impact of the worker protests, during what was a tense political period in Indonesia, eventually led the Government to revert to use of Decree 150/2000.

The Government has now included new provisions concerning severance pay and service pay within the Manpower Act 13/2003. Where termination of employment takes place the employer is obliged to pay the dismissed worker "at least" certain specified levels of severance pay, service pay, and compensation pay for rights or entitlements that the dismissed worker ought to have. Service and severance pay are calculated based on length of service. However, the employer does not have to

²⁷ Dhanani and Islam, op cit

²⁸ Kolbein, op cit

meet these conditions if a worker "is dismissed upon the termination of his or her contract of employment for a specified period of time with the enterprise".

Contract working

Even in the formal sector, it appears that some 60% of workers are employed on fixed-term or other insecure contracts and so would not benefit from severance and service pay compensation. Generally, daily contract and permanent hire daily workers are paid only for each day worked, and would not be entitled to a range of benefits that permanent monthly workers might expect, including *Jamsostek* coverage for pension and accident insurance. This "second class" group represents a growing part of the workforce in Indonesia, with reports suggesting an increasing number of companies are hiring workers on a day basis, fixed-term contracts, or sub-contracting employment to a labour supply agency. It is not surprising that against this background, the question of employment status is frequently raised by unions during negotiations, and can be a cause of disputes.

There may of course be a relationship between the relative rigidity of severance arrangements for those on permanent hire contracts, and the scale of the workforce now employed on insecure contracts. This situation would suggest that a more far-reaching debate is required on the whole issue of employment security and social protection. This could include analysis of the reasons for the growth in contract work, ways of encouraging more secure forms of employment, and an analysis of severance arrangements, procedures and remuneration. The aim would be to develop arrangements which could gain the support of both trade unions and employers, be appropriate for the workings of a modern economy and provide an appropriate level of social protection.

Workers' social security

The workers social security programme, *Jaminan Sosial Tenaga Kerja (Jamsostek)* was established in 1992. It seeks to protect workers suffering occupational accidents, and to provide benefits in the event of sickness, death and old age. The scheme is supposed to be mandatory for every company employing 10 or more workers but many companies do not register with *Jamsostek*. It is believed that only around one third of formal sector workers, presently the main target group, are members of *Jamsostek*.²⁹ There is a significant problem of employers "undercontributing" so that they do not pay contributions for all of their workers, resulting in problems when a worker needs to draw on the funds.

There is widespread dissatisfaction with the administration of *Jamsostek* and the benefits it provides. There have also been frequent allegations of misuse of *Jamsostek* funds. Discussions are currently taking place on the possibility of a new law on social security which would establish the status of *Jamsostek* as a Trust Fund. However, despite its shortcomings, *Jamsostek* provides one of the only means of social security for many workers. One of the issues frequently raised during workplace negotiations is for employers to pay the *Jamsostek* contribution, as they are required to do by law.

Because of the inadequate role of *Jamsostek*, it is perhaps not surprising that in some areas new private insurance arrangements are now being established with the support of trade unions. In September 2000, it was reported that 150,000 members of the textile union in Central Java would

²⁹ John Angelini, *Extension of social security to excluded groups*, paper for ILO Social security project 2002

leave *Jamsostek*. A representative of the Indonesia Textile Association (API) was reported as saying that API would form an Insurance institution in conjunction with a private insurance company and that the aim would be to give better benefits to members. He said large companies were paying \$12,000 to *Jamsostek* each month but workers only received back in benefits 20% of that figure. Shortly afterwards the Chairman of the Kudus Cigarette Companies Association said that together with the Food, Drink, Tobacco and Cigarette Workers Union (SP RTMM) the Association was developing an insurance programme to replace the *Jamsostek* insurance program.³⁰

Non-normative issues

In relation to non-normative matters, the issues raised most frequently are increase of salary/bonuses, followed by meal allowance, incentives/prosperity payments, and transport allowance (see table 10). It is interesting to note that the statistics suggest the combined number of disputes concerning meal allowances and transport allowances is almost as many as those concerning improvements to the basic salary/bonus payment. Furthermore, the total number of disputes about meal and transport allowances, bonus payments, attendance money, catering, medical care, incentive/prosperity payments, and shift allowances, is more than twice the total of disputes concerning the main wage element.

This could suggest that trade unions and workers have become used to the idea that as the main element of the wage is largely determined through the minimum wage settlement, it is therefore best to focus negotiations on other elements of the wage package.

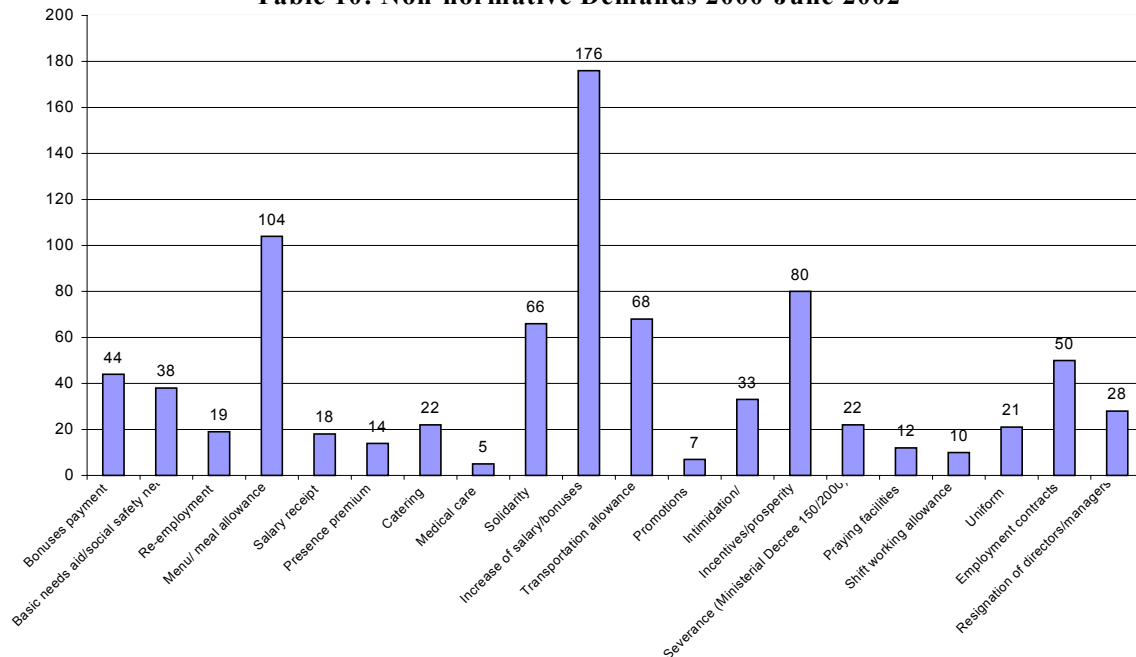
As in some other countries, the wage structure in Indonesia developed in a piece meal way, with various forms of payments and allowances being introduced to meet the needs of particular times. The overall result seems to be that today much of the economy operates with quite a complicated wage and compensation package, made up of many different components. Such complicated systems can sometimes generate the potential for industrial disputes. If the price of fuel increases, workers might reasonably feel that they are entitled to renegotiate transport money. If a few months later the increased fuel costs lead to increases in the price of food, workers might well want to renegotiate meal allowances.

Despite the complexity that these non-normative payments can introduce, employers have generally seemed quite happy to maintain these separate payments. This could be for a number of reasons. It may be more expensive for them to consolidate the payments into the basic wage, as the higher wage would then count for overtime payments, holiday, *Jamsostek* contributions, etc. There are also suggestions that if the employer is facing difficulties, he could reduce these "extra" payments.

However, the present structure of payments systems does seem relatively complicated and is possibly a trigger for many disputes. It could be that in the future the social partners might want to take a look at the system and possible options for reform.

³⁰ Jakarta Post, September 2000

Table 10: Non-normative Demands 2000-June 2002



Source: Ministry of Manpower and Transmigration

Frequency of strikes

There has been much talk in the Indonesian press about the increase in labour disputes and strikes in the *post-reformasi* period. However, the impression of an increased level of strikes is not supported by official statistics. These suggest that in the five year period 1998-2002, there were less strikes than in the five year period 1993-1997 (see table 11). The figures also suggest that the upsurge in the number of strikes in Indonesia actually occurred in the early and mid-1990s when independent unions were still prohibited and when repressive military and police action was normal in the course of industrial disputes (see table 12).

It may be that the official statistics are not reliable and are not accurately reflecting what is happening on the ground, but there is a concern that recent press reports may have tended to exaggerate the idea of a major strike problem in Indonesia. The World Bank recently noted that whilst there is a "perception" that labour conflicts are on the rise, "this is not confirmed by statistics". Whilst noting that there may be deteriorating statistics they also said that "labour strife hardly seems to be rampant".³¹

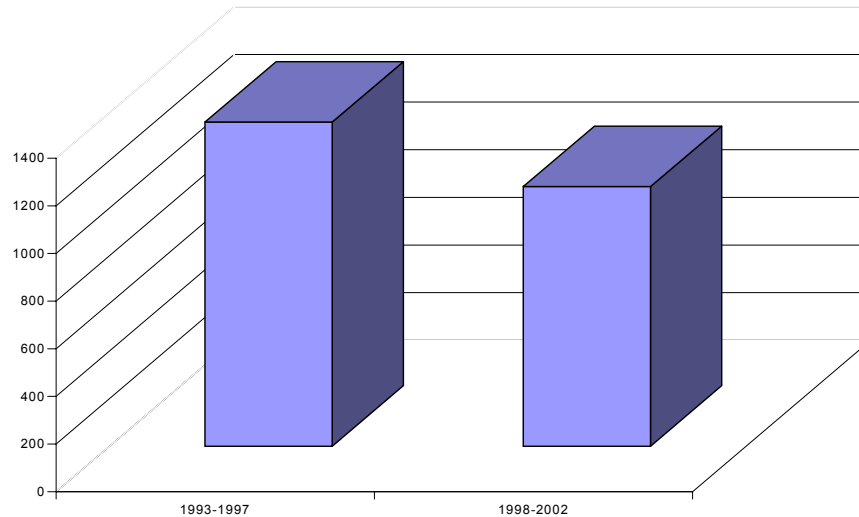
The research report of SMERU³² looked at dispute patterns in 47 companies, 39 (91%) of which had workplace unions. They found that in the past five years two thirds of companies had not experienced any strike action. 6% of companies had experienced strikes which had involved provincial or central

³¹ World Bank, op cit

³² SMERU, op cit

level disputes committee involvement. The report found that companies which rarely experience disputes were those which provided employees with their normative rights, were considerate of employees' welfare, had established communication channels, and were transparent in their activities.

Table 11: Number of Strikes 1993-1997 and 1998-2002



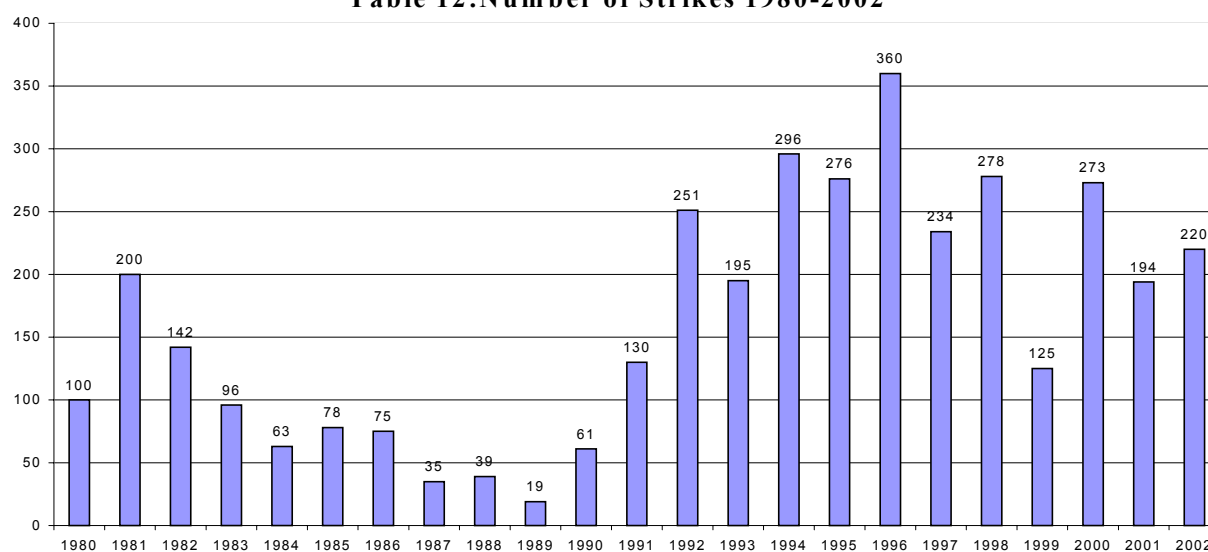
Source: Ministry of Manpower and Transmigration

A further indicator of the overall climate of industrial relations was provided in mid-2002 when a respected business consultancy group produced a survey based on responses from 200 leading export companies. They reported "Some positive news on the labour front, 50% of companies reported being neutral in respect to concerns over labour problems. Only 12% said that they were very concerned."³³

Whilst the suggestion that there is a major "strike problem" in Indonesia seems to be an exaggeration, it is the case that companies are having to adjust attitudes to take account of the emergence of a more active labour movement. It could also be the case that specific industrial sectors or companies experience problems due to their own circumstances. For example if the textiles sector is facing a downturn in production and is seeking to reduce the workforce, it might well lead to disputes. Alternatively, sectors which are seen as profitable and driven by multinational companies (e.g. oil, minerals) may become the target of union campaigns.

³³ Castle Asia/DHL Survey

Table 12: Number of Strikes 1980-2002



Source: Ministry of Manpower and Transmigration

Another interesting possibility emerging from official statistics is that many strikes may not involve a trade union. In approximately 55% of cases recorded during 2000 and 2001, the data recorded either the name of a trade union involved, or recorded the strike as "non trade union". Of the 55%, only around one third specified a trade union involvement, the remainder being classed as "non trade union". It may of course be that these figures are inaccurate, or that the staff responsible for data collection just did not know which union was involved. On the other hand, it could suggest that many strikes are taking place where workers do not have a representative trade union. If that was the case, it might indicate that the presence of a trade union in fact helps to stabilize industrial relations providing a mechanism through which grievances can be raised, thus reducing the possibility of strikes. This was one finding of the SMERU study which noted that "Labour unions are an effective means of minimizing large scale unrest, because they tend to prioritize negotiation at the national level and only use strikes as a last resort"³⁴.

Given the scale of the change which has taken place in Indonesia, it may be regarded as surprising that labour unrest has not been greater. A recent analysis which looked at a number of high profile disputes noted these cases had occurred in the context of a persistent economic crisis, the deregulation of trade unions, reduced government subsidies for basic needs and an increasing awareness among the general population of their legal rights. They suggested that given these conditions, the number of disputes that had been resolved without encountering major problems has been impressive.³⁵

Anecdotal reports, press stories and recent studies all suggest that trade unions and employers are both on a "learning curve" in industrial relations. As they become more skilled at negotiating and dispute resolution, an improved industrial relations environment should result.

³⁴ SMERU, op cit

³⁵ Fenwick, Lindsey, Arnold, op cit, p.18

Corporate social responsibility and Codes of conduct

A large number of multinational enterprises with contractors in Indonesia now apply codes of conduct or other standards to their contractors operating in Indonesia. All the known codes of conduct in Indonesia are from American or European based companies and many of the companies with codes are in the textiles and sports shoes sector. The companies use a number of practices in order to monitor the implementation of codes, often employing local organizations to periodically visit workplaces to assess the ways in which codes are being applied.

A recent research paper was quite critical of the code of practice approach in Indonesia.³⁶ It suggested processes and outcomes of monitoring are usually confidential, that monitors usually only see one or two plants chosen by the client, that monitoring is often done by accounting firms that have insufficient knowledge of workplace issues and that sanctions for non-compliance are weak.

Perhaps more fundamentally, the report's author suggested that whilst the idea of corporate social responsibility is an "ideal", the reality of workplace existence in Indonesia's manufacturing environment presents a further challenge. "Management is a new and emerging skill in Indonesia. The type of process-oriented cultural change within an organization, which corporate social responsibility implies, infers high levels of skill and an active consultative process between equals - which are not in keeping with the patriarchal top-down leadership that characterizes Indonesian business and management structures in both TNCs and domestically owned firms".

However, despite these reservations, the study reported that, typically, contractors of companies with codes of practice pay above the minimum wage, and are expected to comply with labour laws, findings which have also emerged from other studies.

Some of the major employers which operate codes of practice also say that compliance mechanisms are being strengthened and that they can point to evidence of contractors being required to tackle problems which have been identified in the course of workplace monitoring. Typically, following initial appraisals, contractors will be provided with a list of areas in which improvements need to be made. Follow up monitoring will seek to establish progress and in some instances the outcomes of monitoring have been publicized internationally.

In recent years, the ILO Jakarta office has received approaches from several multinational companies which wish to work with their local contractors on codes of conduct issues. Sometimes, companies have requested advice on local organizations/resource persons with whom they might cooperate, at other times they have sought ILO input to training sessions. The ILO office seeks to respond in a practical and positive way to such requests, whilst bearing in mind the sometimes sensitive nature of the industrial relations dynamics within companies.

Academic interest in Industrial Relations and promoting expertise

For many years, Indonesia has lacked any significant level of academic study of labour law, industrial relations, or human resources management. There is a need to develop an interest among academic

³⁶ Melody Kemp, *Corporate social responsibility in Indonesia*, United Nations Research Institute for Social Development Technology, Business and Society Programme, Paper No. 6, December 2001

institutions, building new expertise which can be used in a practical way to assist government, trade unions and employers. Such work could also lead to efforts to bring together practitioners on a regular basis. One recently formed organization, the Indonesian Industrial Relations Association, has been supported by individuals from government, employer and trade union backgrounds.

Chapter 7 – The Labour Environment and Investment

Recent debate

In an increasingly difficult international economic environment, issues of labour costs and labour relations have come under increased scrutiny. There have been regular newspaper reports suggesting companies are pulling out of Indonesia, or threatening to do so, because the country is no longer a good place in which to do business. Such reports have contested that investors, particularly Korean and Taiwanese textiles companies, have left Indonesia and relocated their production facilities to Viet Nam, Cambodia, China, and Thailand. Media reports have suggested that increased labour costs, problems with disputes and the uncertainty in the industrial relations environment combine to give investors real concern about doing business in Indonesia.

Against a background of growing concern about the investment climate, in August 2002 the Minister of Trade and Industry said that she would establish a “crisis center” to help resolve problems faced by businesses. Newspapers reported this as “a move to help prevent existing investors from fleeing the country.” The structure was to be chaired by the Minister of Trade and Industry and consist of members drawn from business, officials from relevant government institutions and the police. Subsequently, unions were also included. The Minister said the crisis center would focus on resolving long-standing problems, including labour conflicts. It was reported that the Minister had been particularly concerned at the impact of Ministerial Decree No. 150/2000 concerning severance payments.

Whilst labour issues are frequently cited in the press as a “problem”, little evidence has been produced to substantiate the suggestion that labour issues are, in general, a major difficulty. This is not to deny that particular companies or sectors may experience problems. It is quite possible that individual companies might have problems complying with a significant minimum wage increase, for example. However, seeking to develop policy on the basis of recent media reporting of labour issues would be unwise.

The World Bank recently noted that despite recent increases, Indonesia's minimum wage is still well below that of the Phillipines and Thailand, and barely higher than that of Viet Nam. It also said that “compared to GNP per capita (a rough indicator of productivity) Indonesia's minimum wage does not seem out of line with some of its competitors, and only Thailand stands out as more competitive.”

Table 13 - Nominal minimum wages in major urban industrial centers in Asia, April 2002

Major Industrial Center Per Year	Per Month	<u>Minimum Wages \$</u> Capita \$ (in 2001)*	GNP Per Capita \$
Manila	1,793	149	939
Bangkok	1,128	94	1,797
Jakarta	755	63	669
Hanoi	692	58	395*

Source: Chris Manning, PEG Project, Bappenas, quoted in World Bank "Maintaining Stability, Deepening Reform" Brief for CGI, January 2003

The difficult global economic environment has affected the overall level of economic activity and level of investment in a number of countries in the region. There have undoubtedly been some particular issues in Indonesia, which has seen a fall in new Foreign Direct Investment and in domestic investment. There are a number of factors which are frequently cited as problems for companies. These include, in no particular order of priority:

- the uncertain and tense political environment during recent years;
- security concerns;
- problems concerning the impact of regional autonomy on business;
- corruption (10% of the revenues of medium- and small-sized firms appear accounted for by illegal levies)³⁷ ;
- legal uncertainties for business (including high profile cases when courts have issued ruling against the interests of foreign investors);
- taxation issues;
- smuggling;
- labour issues;
- other regulatory matters.

All these factors have combined to increase the "risk" element in Indonesia. Whilst labour issues may be a factor in some companies, they need to be seen within the context of the much bigger picture of the many concerns which can influence investment decisions.

However, improving the legal framework of industrial relations and strengthening institutions and processes of dialogue can make a positive contribution to the country's efforts to improve the investment climate. Through improved dialogue, government, employers and trade unions can begin to consider in a measured way the policy responses required to deal with the important issues they face.

Productivity and competitiveness issues

Indonesia now faces the challenges posed by its participation in the ASEAN Free Trade Area, or AFTA, which lays out a comprehensive program of regional tariff reduction. The immediate impact

³⁷ Jakarta Post 5 February, 2003, quoting World Bank Country representative Andrew Steer

of the free trade arrangement has implications for many producers in Indonesia and for labour market policy. It is likely to highlight the need for Indonesia to look more closely at issues of company level productivity and overall competitiveness.

The annual World Competitiveness Yearbook looks at the economy of 49 countries, the 30 OECD members and 19 newly industrialized and emerging economies. Its analysis of business efficiency examines the extent to which enterprises are performing in an innovative, profitable and responsible manner. The 2002 survey suggests that the overall efficiency of Indonesian companies compared poorly with other countries in South East Asia. An ILO analysis³⁸ of data in the survey suggested the following facts about Indonesia's performance:

- Indonesia's productivity statistics are discouraging;
- the quality of human resources (both labour and management) needs to improve;
- workers in Indonesia were paid less than in all other countries surveyed;
- the work week in Indonesia is long compared to other countries;
- worker motivation is low;
- investment in training is low (both company/government);
- foreign direct investor confidence is depressed;
- fear about the impact of globalization is high.

The analysis argued that Indonesian companies need to develop a "high road" approach to productivity, built on a clear strategy, development of a new workplace culture, and changes in workplace organization. This could unlock human potential and address fundamental issues within the Indonesian workplace.

It was also argued that the Government had a role to play in establishing a national productivity "culture", creating an enterprise enabling environment, improving education and training, improving the labour relations framework and providing proper research and information in order to facilitate policy making.

Chapter 8 – Bipartite and Tripartite Structures for Consultation and Negotiation

Bipartite structures

Improvement of industrial relations depends largely on the capacity of the social partners to find ways of discussing issues of concern, and developing ways of reaching consensus on issues which affect them. A first step in this process is to have a forum which brings together trade union and employer representatives and which enables discussion to take place.

A survey reported in October 2002 suggested that Indonesian companies are among the worst in the Asia Pacific region in terms of communication between executives and employees. As a consequence, employees are not well-informed about the company's projects, policies or strategies. The survey

³⁸ Presentation by David LaMotte, ILO SEAPAT, at Tripartite workshop on Employment policy and poverty reduction, Jakarta, November 2002

report noted that Indonesian companies failed to engage employees in decision-making, to solicit input from employees or gauge their perceptions and feelings. The report suggested that companies should adopt a more open style of communication and obtain input from employees.³⁹

For many years Indonesian law has stated that companies should form bipartite committees but research undertaken for the ILO/USA DOL Declaration project suggested that currently the actual number of bipartite committees is relatively small. In figures provided for six major provinces, fewer than 20% of companies had a bipartite committee⁴⁰ (see table 15).

It also appears that where such committees do exist, many are not in the habit of meeting on a regular basis. The report found that in the district of Tangerang, a major industrial area on the outskirts of Jakarta, in a sample of 50 companies, Bipartite Cooperative Bodies were established in 14 companies (28%). However, in only 3 of those companies, had 4 to 5 meetings been held during the previous 18 months.

This suggests that in a large number of companies, bipartite committees need to be established, and that where they already exist, there is significant scope for improving their effectiveness. Against the overall background of change in Indonesia, and the need to develop a culture of social dialogue, the present deficiencies in the bipartite system could be seen as a major weakness. Effective consultation and negotiation at the workplace could be an important step in efforts to improve industrial relations and to build effective communications on a range of workplace issues.

The Manpower Act 13/2003 says that all companies with more than 50 employees are obliged to establish a bipartite cooperation committee which shall function “as a forum for communication, consultation and deliberation aimed at solving manpower problems at an enterprise”. However, an issue that needs to be addressed is how effect will be given to this provision of the Act. Earlier law required companies to establish bipartite structures but most have been failing to do so. How can the new law be expected to change matters? It would appear very likely that in addition to the new legal provision there is also a need for a major initiative to promote awareness of the benefits of bipartite structures for both employers and trade unions.

Table 15 - Use of Bipartite Committees

No.	Provinces	Number of Companies	Companies Having Bipartite Cooperative Body	%
1	North Sumatra	1,414	370	26.17
2	R i a u	940	268	28.51
3	Jakarta	4,604	913	19.83
4	West Java	6,894	1,001	14.52
5	East Java	5,980	1,248	20.87
6	East Kalimantan	720	239	33.19
Total		20,522	4,039	19.68

Depnakertrans (2001), in Suwato. *The Practical Utilisation of Industrial relations mechanisms*

³⁹ Jakarta Post October 24, 2002, report of Watson Wyatt Human Capital Group

⁴⁰ Suwato, *The Practical Utilisation of Industrial Relations Mechanisms*, paper for ILO/USA Declaration project

Tripartite Structures

Since the 1980s, a number of tripartite bodies have been established in Indonesia. These include:

- national and regional tripartite councils;
- occupational safety and health Council;
- national wages council;
- national Council of Training;
- national Productivity Forum;
- various Sectoral tripartite bodies.

The effectiveness of many of these structures is questionable. It would appear that efforts are required to revitalize tripartite structures, taking account of the very different situation now facing the country, the changes in the industrial relations environment, and the involvement of new trade union organizations.⁴¹

National Tripartite Council

The National Tripartite Council was established by Ministerial Decree in 1983 as an institution for deliberation, consultation and cooperation, which provides input, advice and opinions to the Minister of Manpower and Transmigration on various labour-related policies. The council was based on the principles of *Pancasila*, with the objectives of creating peaceful work, productivity improvements, better income and welfare for workers, and continuous and smooth operations for business. The national tripartite council has been comprised of 40 representatives, with a ratio of 2:1:1, from government, employers and workers, respectively. From the government side, there are a total of 20 representatives, with 16 from the Ministry of Manpower and Transmigration, one each from the ministries of Industry and Trade, Communication, Home Affairs, and Forestry. There are 10 employer representatives, all from APINDO, and 10 worker representatives. Other actors, including legal advisors, academics and other professionals also take part in this tripartite forum.⁴²

In recent years the Council has not been used effectively for discussion of key issues, eg labour law reforms, minimum wage issues, etc. As a result, there have been a series of other initiatives to bring together tripartite groups to discuss these major issues, although very often the initiatives seem to fade after some initial publicity.

- In March 2000, the Ministry of Manpower, 25 trade union Federations, APINDO, KADIN and the National Council for Business Development formed the Indonesia Tripartite Communication Forum. The Forum included a broader range of unions and employers than the Tripartite Council, but after its initial launch the Forum seemed to play little role.
- Delegates from Indonesia attending the 2001 and 2002 International Labour Conferences also took decisions to form tripartite dialogue groups, but these initiatives also seemed to have no clear long term role.
- The announcement by the Minister of Trade and Industry in August 2002 that she was forming a "Crisis centre" was another initiative which brought together Government, employers and unions

⁴¹ Peggy Kelly, Indonesia, *Promoting Democracy and Peace through Social Dialogue*, ILO InFocus Programme on Strengthening Social Dialogue, Working Paper no 7

⁴² Dr. Payaman J. Simanjuntak, *National Labour Administration Systems, Database on Indonesia*, March 2002

to discuss critical issues facing the country, including industrial relations, but this initiative has been criticized for doing little. There also seemed to be differences between the Ministry of Trade and Industry and other Ministries with an interest.

One of the key recommendations of the ILO Direct Contacts Mission in 1998, was that the Government should take steps to establish a truly representative tripartite body to promote social dialogue and cooperation in industrial relations (including effective consultation on the preparation and implementation of labour legislation). It is possible that if such a body had been working effectively, some of the recent confusion in industrial relations policy (such as that surrounding Ministerial Decree 150/2000 concerning severance pay) might have been avoided. An efficient and representative tripartite body could provide the mechanism by which Government could consult in a structured way with the social partners, and through which it could begin to organize policy research, discuss policy options, and try to develop consensus on key labour market issues.

Recently, the Government has taken steps to broaden trade union representation within the national Tripartite Council in order that representatives from unions other than KSPSI can also be involved. Potentially this could pave the way for the national Tripartite Council to begin playing a new role. However there needs to be a new political commitment to the role of the council if it is to become the main forum in which Government and social partners discuss labour policy issues.

Regional tripartite committees

Tripartite committees also function at the provincial and district levels. The formal tripartite structure for the regional level has objectives and a mandate similar to those described for the national tripartite council. The membership is comprised of 16 persons, including eight from government, four from employers (APINDO) and four from workers. (In practice, numbers often differ from these figures). The Governor of the province is the chair of the regional tripartite body, with the head of the regional office of the Ministry of Manpower and Transmigration designated as substitute chair.

In addition to the main tripartite council, there are also tripartite structures concerning wages, productivity, training and occupational safety and health at provincial level.

As industrial relations policy issues are increasingly being discussed and determined at the Provincial and District level, the significance of tripartite discussions at this level will increase.

Representation of unions in tripartite bodies

During 2001 and early 2002, there was discussion between unions and the Ministry of Manpower and Transmigration concerning representation of trade unions within tripartite forums. At the time, existing regulations only provided for the participation of one trade union organization, KSPSI (formerly FSPSI). Following the membership self-verification exercise, in 2002, the Ministry indicated that it would extend representation to other trade unions. The Ministry weighted representation according to the reported membership (Table 16). The Ministry also increased the number of seats held by unions on a range of tripartite bodies, to facilitate broader union representation (Table 17).

Table 16 – Result of Trade Union membership self-verification and weighting

No	Group	Number of Plant Level	Number of Members	Union representatives
1	K.SPSI	12.234	4.376.440	5
2	Others	3.305	2.127.665	3
3	K.SPI	2.231	1.702.058	2
4	SPSI Reformasi	294	75.778	0
		18.064	8.281.941	10

Table 17 – Number of Union Representatives in Tripartite Institutions

No	Name of Institution	Previous number of Union Representatives	Current number of Union Representatives
1	National Tripartite Cooperation Institution	10	10
2	National Wages Council	2	10
3	National Productivity Council	1	12
4	Labor Dispute Settlement Committee	10	10
5	National Council for Occupational, Safety and Health	1	10
6	National Council for Job Training	1	10
7	National Crisis Center	-	10
8	National Council for International Affair	-	10

Chapter 9 – ILO Technical Assistance

Summary of Assistance

Since 1998, the ILO has been involved in a range of technical cooperation activities which have sought to assist Indonesia's ratification and implementation of ILO Conventions, to support the labour law reform programme, and to help build the capacity of the ILO's constituents. The regular programme of assistance to the constituents, coordinated through the ILO's Jakarta Area Office and the ILO's Multi-Disciplinary Team in the South East Asia and Pacific Office, has been supported by a number of special projects and activities. A short summary of key projects is given below:

Advisory Assistance on the Implementation of Labour Law Reform and Realising the Fundamental Principles and Rights at Work in Indonesia (Netherlands funded project)

When this project was first developed the new Government of President B. J. Habibie had just come into office. In responding to widespread demands for change and ‘*reformasi*’, the new Government sought ILO technical assistance to help develop a new respect for human rights and democratic processes. In December 1998, Indonesia signed a Letter of Intent with the ILO regarding the ratification of the ILO’s fundamental conventions. The ILO provided technical assistance for the ratification and implementation of the Conventions, and also assisted in the very initial drafting work on the new labour legislation. The project also assisted with human rights training for the Indonesian Military and Police, with reference to the fundamental human rights Conventions of the ILO.

Change and reforms in labour law and policy and in realising the Fundamental Principles and Rights at Work (French funded project)

This project worked in three areas. Firstly, it enabled the ILO to provide technical assistance for the drafting and technical comments on the Bills on Manpower Protection and on Labour Dispute Settlement. Secondly, it sought to provide training to the Indonesian police on the fundamental principles and rights at work. Finally, the project organized a number of promotional activities related to the fundamental principles and rights at work.

ILO/US Declaration project - Promoting freedom of association and collective bargaining

This tripartite project began in February 2001. The project seeks to promote and realize freedom of association by building trust and capacity in industrial relations. The project’s mandate includes technical assistance to ensure the effective implementation of the new laws enacted under the labour law reform programme. Project activities consist mainly of training programmes for the tripartite constituents (both separately and jointly) on freedom of association and collective bargaining, international labour standards, globalization, gender equality, implementation of new laws, labour administration, labour inspection, mediation and the promotion of labour- management cooperation.

A second phase of the project began early in 2003. The activities to be implemented in the new phase include government capacity building, training on dispute settlement through mediation, conciliation, and arbitration, collective bargaining and support for implementation of the new Manpower Act and the planned legislation on disputes settlement.

ACTRAV workers education project (supported by UK government's DFID)

This project began in January 1999 and has aimed to support the development of independent, democratic and representative trade unions, and to improve industrial relations. An evaluation of the project in 2002 found it had made a considerable impact and had been a major enabling force, supporting the evolution of the trade union role in enterprise level discussions with employers

The evaluation team also reported that the project had released the enthusiasm and resources of a host of workers at grass roots level (especially many women and young people) who were now engaged in constructive social dialogue and in union development. Of more than 6,000 people trained by the project, 74% of trainees have been below the age of 35 and 31% have been women.

Improving industrial relations (supported by Government of Japan)

This project sought to conduct work at enterprise level, providing industrial relations training for managers and workers in 36 companies in the Greater Jakarta area and Surabaya. In-house training was conducted in 20 enterprises. This training, which was preceded by a training needs analysis at each company, was positively received and many requests were made for similar training in other companies.

Restructuring of the Social Security Scheme in Indonesia (supported by Netherlands)

This project continued ILO involvement in assisting plans to restructure the social security system in order to make the system more effective and extend coverage to a larger percentage of the population.

Impact of ILO activities

It is evident from evaluations of projects and from other feedback received that the ILO's technical cooperation activities have generally had a very positive impact. Activities can be seen to have:

- boosted awareness and understanding of the ILO's conventions on freedom of association and collective bargaining;
- supported the continuing labour law reform process;
- enhanced the capacity of Government, trade unions and employers, as they seek to develop the skills needed for the new industrial relations environment;

The ILO has been able to respond to a wide range of technical support requests, whilst often working with slender resources. Not all activities have gone exactly as planned. The project activities have had to take account of changing situations on the ground, problems caused by delays in the legislative timetable, etc. However, the ILO has been able to respond to such situations in a flexible way, where necessary redirecting assistance towards other key priorities associated with improving the labour relations climate.

Chapter 10 – Conclusions

Context and progress

The efforts Indonesia has made to promote freedom of association and collective bargaining have taken place against a background of problems generated by the Asian financial crisis, political instability, and continuing difficulties facing the economy as a result of the global economic slowdown. In addition, the process of regional autonomy has had an impact on the role and structure of the Ministry of Manpower and Transmigration.

Despite this difficult background, Indonesia's climate of industrial relations has changed significantly since 1998, with positive progress being made in relation to rights to freedom of association and collective bargaining. There is still, however, some way to go in making the full exercise of these rights a reality.

Progress since ILO Direct Contacts Mission

The ILO's Direct Contacts Mission in 1998 made various recommendations directed towards assisting the Indonesian Government to ensure that its labour legislation fully complies with the requirements of ILO Convention Nos 87 and 98. Progress has been made on a number of the issues raised, and work is continuing on others. Table 18 provides in matrix format an indication of progress on key issues identified by the Direct Contacts Mission.

Labour law reform

In 1998, the Government set out its plans for the reform of trade union, manpower, and disputes settlement law. The Indonesian Government has itself been in charge of the process of developing the content of legislation and deciding timing for the introduction of new laws. Whilst the pace of the labour law reform process has been much slower than originally anticipated, there have been some understandable reasons for this. One reason has been a readiness of the Government to consult with the social partners on the proposed laws.

The implementation of recent and proposed legal reforms will require a major programme of action. The Manpower Act 13/2003 requires development of many enabling Decrees and Regulations. There is also a considerable amount of work required to develop an infrastructure for mediation, conciliation and arbitration as envisaged in the Industrial Relations Disputes Settlement Bill. If the proposed new Industrial Relations Dispute Courts are to win the support and confidence of the social partners, it will be necessary to ensure that the new structures work in an effective and impartial way.

The new laws will not solve all matters, and indeed may give rise to new questions. Monitoring the application and impact of the new laws will be important in order to assess the extent to which they support the extension of freedom of association and collective bargaining and improve the industrial relations environment.

Table 18 - Progress on issues identified during ILO Direct Contacts Mission

Recommendations of ILO Direct Contacts Mission	Current position
Establish a truly representative tripartite body to promote social dialogue and cooperation in industrial relations (including effective consultation on the preparation and implementation of labour legislation)	The existing tripartite body has not appeared to work effectively. Government has preferred to arrange tripartite consultations on major issues, including labour law reform, through other mainly <i>ad hoc</i> meetings. One reason may have been that only in late 2002 was a formula determined under which representation in the Tripartite Council would be extended to unions other than KSPSI (FSPSI).
Ensure that civil servants and workers in state owned enterprises have the right to freedom of association	Workers in state owned enterprises appear to be free to form new trade unions and many new unions in this sector have emerged during recent years. The Trade Union/Labour Union Act 21/2000 said that civil servants have the right to freedom of association, but that the details of this would be provided in a separate Act. No new legislation has been tabled and there presently appears to be a lack of clarity about the position of civil servants.
Establish an appropriate system for the registration and recognition of unions	The Trade Union/Labour Union Act 21/2000 and a subsequent government regulation has provided a system for notification and recording of unions, and for the rights of unions in relation to employers.
Establish an effective and impartial disputes settlement institution	The Industrial Relations Disputes Settlement Bill provides a structure which will replace the existing P4D/P4P system. The Bill remains under discussion.
To provide protection for workers against anti union discrimination and protection for unions against acts of interference by employers	The Trade Union/Labour Union Act 21/2000 contains provisions on protection of the right to organize. In practice some problems remain, but there have been significant improvements in the right to organize.
Ensure that the security forces refrain from intervening in industrial disputes	There has been a significant reduction in the extent to which security forces become involved in disputes, although some problems remain.
Ensure the immediate release from imprisonment of labour activists, including Dita Sari	Dita Sari was released from prison in July 1999. There have however continued to be cases in which trade unionists have been detained, and there is concern at the use of section 335 of the criminal code.

It is likely that debates on issues such as minimum pay and severance arrangements will continue. These form part a wider debate about the appropriate role for Government within the changing industrial relations environment, and about how basic social protection should be provided to workers. These broader policy issues have not really been addressed during the recent discussions on labour laws.

Freedom of association

The ratification of ILO Convention No. 87 and the introduction of the Trade Union/Labour Union Act 21/2000 has resulted in significant progress with regard to freedom of association. Workers have enjoyed a new freedom to join and form unions of their own choice and many have exercised that

right. Both at the national and local levels, many new trade union organizations have been established.

However, despite the real progress that has been made on freedom of association, some serious problems have remained for some of those seeking to exercise their rights. The most serious case in recent years involved the murder of two striking workers, but there have also continued to be cases of detentions of trade unionists, dismissal of union activists and restrictions on union organization. A determined effort is required to ensure that new rights to freedom of association can be applied in practice.

The Trade Union/Labour Union Act 21/2000 stipulated that civil servants have the right to freedom of association but indicated that implementation of the right would be dealt with by a separate Act. It would be beneficial if the new Bill could be tabled for discussion at an early stage, as at present there is a lack of clarity concerning freedom of association in the civil service.

Collective Bargaining

Whilst there are some signs of an increase in genuine collective bargaining, there remains a need to significantly strengthen collective bargaining, which is limited both in coverage and quality. There is also a need for action to strengthen the processes through which negotiation can take place. At the workplace level, relatively few companies have effective bipartite committees. A new emphasis is required on the important role of bipartite committees, which can provide a forum for communication, consultation and negotiation.

An issue raised by the ILO's 1998 Direct Contacts Mission was the need to ensure that security forces refrain from intervening in industrial disputes. There appears to have been a significant reduction in the extent of such intervention although there have continued to be occasions when trade unions have accused the police of inappropriate and partial behaviour in their approach to workers protests. For their part, employers have had concerns about some worker protests which they say cross the line between freedom of association and restriction of the rights of others.

Building tripartism

One of the recommendations of the ILO Direct Contacts Mission in 1998 was that the Government should take steps to establish a truly representative tripartite body to promote social dialogue and cooperation in industrial relations. The existing National Tripartite Council has not worked effectively in recent years, and as a result tripartite discussions often take place in various other forums, often established to respond to a particular "crisis".

There is a need for strengthening the National Tripartite Council so that it becomes a credible and relevant structure which can research and consider major policy issues and seek to develop consensus on labour policy. There is a need for it to work in a considered way, based on well informed discussions, rather than forever reacting to the latest "crisis". In order to establish the Council as a meaningful structure, a new and strong political commitment is required to the role of such a forum. There are a range of issues which influence freedom of association and collective bargaining which could benefit from informed tripartite policy debate and action. These include:

- consideration of proposed legislation;
- monitoring implementation and workings of new laws;
- promoting the strengthening of bipartite structures;

- considering medium and long term policy options on issues such as minimum pay, workers' social security, contract working, wages structures and severance arrangements.

An issue related to the effectiveness of tripartite policy discussions is the need to establish a new method of collecting reliable national data on workplace industrial relations. The process of regional autonomy appears to have weakened efforts to collect required statistics on a range of issues.

ILO Technical support

ILO technical support has played a very important role in maintaining momentum for the ratification and implementation of ILO Conventions and for labour law reform. Other ILO technical assistance, which has sought to strengthen capacity within the Ministry of Manpower and Transmigration and among the social partners has also been well received and positively evaluated. This support is contributing to the overall improved understanding of how the parties involved can seek to strengthen institutions and processes of collective bargaining.

Summary

Continuing the reform of Indonesia's industrial relations is important for all. For workers, freedom of association provides a chance to organize in trade unions and to have a voice on terms of employment and working conditions. For business, the changing environment should make companies rethink their human resources policies with a view to taking the "high road" to competing in the global market. For government, a sound industrial relations framework will be a positive factor in assisting economic growth and tackling poverty.

The period since 1998 has provided an important start in laying foundations upon which Government and social partners can continue efforts to build a fairer and more effective industrial relations system, which gives full effect to rights of freedom of association and collective bargaining. However, much still needs to be done to ensure that the reform process is consolidated and continued.

List of Working Papers of the InFocus Programme on Promoting the Declaration

- No. 1 Bonded Labour in Pakistan, by Aly Ercelawn and Muhammad Nauman, June 2001.
- No. 2 A Perspective Plan to Eliminate Forced Labour in India, by L. Mishra, July 2001.
- No. 3 Défis et opportunités pour la Déclaration au Bénin, by Bertin C. Amoussou, August 2001.
- No. 4 Défis et opportunités pour la Déclaration au Niger : Identification des obstacles à la mise en œuvre des principes et droits fondamentaux au travail et propositions et solutions au Niger, by Moussa Oumanou, August 2001.
- No. 5 Égalité de rémunération au Mali, by Dominique Meurs, August 2001.
- No. 6 Défis et opportunités pour la Déclaration au Burkina Faso, by Seydou Konate, September 2001.
- No. 7 Child labour in the Russian Federation, by Svetlana Stephenson, June 2002.
- No. 8 Intersecting risks: HIV/AIDS and Child Labour, by Bill Rau, June 2002.
- No. 9 Los principios y derechos fundamentales en el trabajo: su valor, su viabilidad, su incidencia y su importancia como elementos de progreso económico y de justicia social, de María Luz Vega Ruiz y Daniel Martínez, Julio 2002.
- No. 10 The Links between Collective Bargaining and Equality, by Adelle Blackett and Colleen Sheppard, September 2002.
- No. 11 Annotated bibliography of forced/bonded labour in India, by Mr. L. Mishra, December 2002.
- No. 12 Minimum wages and pay equity in Latin America, by Damian Grimshaw and Marcela Miozzo, March 2003.
- No. 13 Gaps in basic workers' rights: Measuring international adherence to and implementation of the Organization's values with public ILO data, by W. R. Böhring, May 2003.
- No. 14 Equal Opportunities Practices and Enterprises Performance: An investigation on Australian and British Data, by Prof. V. Pérotin, Dr. A. Robinson and Dr. J. Loundes, July 2003.