SMERU

research report

Industrial Relations in Jabotabek, Bandung, and Surabaya during the Freedom to Organize Era

The SMERU Research Team

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EXECUTIVE SUMMARY

1. This qualitative study was undertaken by SMERU Research Institute for Bappenas supported by PEG-USAID. The main objectives were to understand employer and worker views of current and proposed legislation and the practice of industrial relations in Indonesia during the current transition period. The field work was carried out throughout October and November 2001 in Jakarta, Bogor, Tangerang, Bekasi (Jabotabek), Bandung, and Surabaya. Information was gathered from managers of the Human Resources Departments and owners of 47 businesses investigated (mostly larger scale firms), the committees from 42 labor unions at the enterprise level, workers, committees of affiliated labor unions at the *kabupaten/kota* level, the heads or staff of the Office of Manpower at provincial and *kabupaten/kota* level, as well as business associations. Information was also gathered from secondary data, including laws and regulations, and other sources such as the mass media. The study focused on the existence and coverage of labor unions, the extent of disputes arising between employers and employees, and the dispute resolution processes used in these firms, particularly at the enterprise level.

2. The system of industrial relations in Indonesia is undergoing a transition from a heavily centralized and government-controlled system, to a more decentralized system where employers and employees negotiate the terms and conditions of employment at the enterprise level. However, many components are still influenced by the paternalistic central government practices of the past. This transition is in line with the changes in the broader social and political context, where Indonesian society has recently transformed itself from a society under the control of an authoritarian regime to one that is more democratic.

3. On the one hand, the workers' demands for improved welfare, through wage increases and better working conditions, are understandable. In relation to this, government policies which have influenced the economic livelihood of the workers have also contributed to the emergence of strikes and demonstrations. These strikes and demonstrations have tended to increase since mid 2001. On the other hand, the economic recovery, in combination with symptoms of the global recession, which have tended to slow down economic and associated employment growth, pose a dilemma for employers in facing the demands of workers. Many employers reported that the government's policy which increased minimum wages by as much as 30-40% in 2001 caused their enterprises to suffer.

4. Outside of issues concerning wages, the SMERU research team's findings indicate that other aspects of industrial relations are in fact functioning more smoothly than might be expected at the enterprise level. Most employers stated that despite the burden of 'over-regulation', they had complied with the new laws, partly because they followed the process of a tri-partite negotiation. Enterprise level bargaining had begun to play a more important role in the determination of labor conditions in many firms where new unions were established from 1997 as part of the *reformasi* process.

   Most disputes were resolved through bipartite dialogue. Only a few cases were settled through tripartite dialogue, including being passed on to the Regional and National Government Committees. Both employees (or enterprise unions) and employers argue that there are few serious indications of tension in employee-employer relations. Both parties are still undergoing a learning process: employees are learning to exercise the freedom to organize, articulate their demands, and find better methods of negotiation,

whereas employers are learning to regard employees as work partners. Both affiliated labor unions and employers associations advise their members to settle industrial disputes through bipartite agreement. Tripartite negotiations and options which bring the case to a higher level are considered costly and time consuming without always delivering the desired outcome for either party.

5. It is important that any future legislation which is drafted by the government pays careful attention to creating a balance between employee-employer rights and obligations so that protests and demonstrations are avoided. Furthermore, in light of the varied opinions and understanding of both current and proposed legislation, better guidance, training and orientation of new laws and legislation needs to be provided by the government. A stronger union movement means that the government no longer needs to play a major role in industrial relations disputes, but rather should act as an impartial facilitator and regulator.

6. The effectiveness and professionalism of a labor union is dependent on how well they are able to organize and recruit their membership, their level of understanding of their roles, functions and the regulations in place, as well as how well they can present their demands, negotiate, and resolve disputes. This indicates that leadership at the *kabupaten* and *kota* level plays a role in influencing the effectiveness of affiliated labor unions. Affiliated union bodies are generally prepared to defend and support enterprise unions and the workers in situations requiring dispute resolution. Labor unions are also 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. However, generally the role of enterprise unions is considered more important than that of the affiliated labor unions because they have a direct relationship with both the workers and the employers and have a much better understanding of the challenges faced by both.

7. Several government organizations are making a serious effort to facilitate the smooth running of a system which now operates in a very different institutional, political and economic environment than under Soeharto. However current and proposed legislation has often undermined the creation of a more productive industrial relations system. In Indonesia, a stronger union movement means that the government no longer needs to play a major role in industrial relations disputes, but rather should act as impartial facilitator and regulator. This will result in less influence and rewards for government officials. In light of a more open and decentralized industrial relations system which emphasizes dialogue at the enterprise level, clear, equitable and functional dispute resolution mechanisms are required so that they can be relied upon by all parties concerned. Once again, this emphasizes the need for the government to draft legislation that not only provides equity in terms of the rights and responsibilities for all parties, but also legislation which provides certainty for industrial relations. Further, to overcome misinterpretation and misinformation of these regulations, it is essential that the government provides further guidance on understanding and implementing legislation in the future.

GOVERNMENT POLICY ON INDUSTRIAL RELATIONS

8. In 1974, the New Order administration formulated its Industrial Relations policy based on *Pancasila*, the state ideology, taking into account various Indonesian socio-cultural factors and traditional values. The *Pancasila* Industrial Relations emphasizes cooperation and partnership between employees, employers, and the government with the aim of building an ideal industrial society. This framework for "tripartite"

negotiation of labor policies and resolution of disputes still remains the guiding principle for industrial relations in the post-Soeharto era.

9. Despite some minor changes, the legislation regulating industrial relations did not undergo any significant changes since the passing of Laws No. 22, 1957 on Labor Dispute Resolution and Law No.12, 1964 on Employment Termination in Private Firms. During the short-term of the Habibie administration in 1998 and 1999 important steps were taken in industrial relations, especially ratification of ILO Convention No.87, 1948 on "Freedom of Association and Protection of the Right to Organize". This was a positive step towards creating a fair platform for industrial relation negotiations which would be internationally more acceptable, particularly in regard to protection for workers to form, or become members of labor organizations.

   The installment of the Abdurrahman Wahid government saw new legislation ratified on unions through Law No. 21, 2000 on "Labor Unions". According to this law, a labor union can be established with a minimum of 10 members. This law also stipulates that no party is allowed to prevent the formation of labor unions, nor force the establishment of unions or prohibit their formation. Similarly, no party is permitted to prevent workers from becoming union organizers or members, or obstruct unions from either carrying out or not carrying out their activities.

10. Presently, two new laws are being debated in the Parliament (*Dewan Perwakilan Rakyat* - DPR). These Bills are the Industrial Relations Dispute Resolution Bill and the Development and Protection of the Workforce Bill. In contrast to the 1957 and 1964 laws, dispute resolution is to be regulated through the Court of Industrial Relations Disputes as well as through mediation, conciliation and arbitration.

    According to SMERU's findings in the field, many workers, unions, enterprise unions, and employers were not satisfied with the proposed Industrial Relations Dispute Resolution Bill. Only a few of them felt that a special court for industrial relations disputes will improve the current situation. Apart from being too technical, their complaints included: potentially expensive and time consuming dispute resolution through the courts; placing employers in a stronger position because they have more funds at their disposal; and weakening workers' rights through union representation, because of the need to mobilize legal defense in situations of dispute. However, only a few employers and labor unions fully understood the details of both the rationale and the articles stipulated in the Bill.

11. The study also examined employer and employee views regarding recent laws and controversy over severance pay. New legislation raising the cost of severance to employers was issued by the government in June, 2000 (*Kepmenaker No. Kep-150/Men/2000*). This regulation drew a strong negative reaction from employers. In response to these objections, the government modified several articles in the Decision These changes eventually triggered conflict and mass labor unrest. In light of these strong reactions, ultimately the government reinstated *Kepmenaker 150*. Responses to questions on this regulation brought a similar response from employers on the one hand, and unions on the other. The former felt that severance pay should not be paid in the case of quits and cases of criminal offense, whereas unions felt that any attempt to take away new won benefits was a retrograde step.

INDUSTRIAL RELATIONS IN PRACTICE

12. Although businesses acknowledge that Indonesia's present economic conditions are still unfavorable, most businesses try to ensure that workers' basic rights *(hak-hak normatif)* are fulfilled. They ensure that minimum wage requirements are fulfilled (94% of the sample). Apart from wages paid in cash, a number of businesses also provide a range of benefits in kind. The extent of benefits provided for the workers generally depended on the size of the business.

13. As a result of the ratification of the ILO Convention No. 87, 1948 and Law No.21, 2000, the number of labor organizations in Indonesia has exploded. By the end of 2001, 61 National Workers Union Federations, 1 Confederation, more than 144 National Labor Unions, and approximately 11,000 enterprise unions have been registered, with a reported total membership amounting to 11 million workers. The total wage labor workforce in urban areas is around 18 million. It is very likely that the reported number of union membership greatly overstate effective union membership.

14. There are two types of labor unions which can be distinguished by the way that they are formed. *Firstly*, there are labor unions which are formed as a base for workers to voice their grievances within a business. These unions have a clear mission, well-defined membership, and sound management. *Secondly*, there are labor unions which are formed as a political base, and include non-workers who claim to act on behalf of enterprise workers. Of the Federations of Labor Unions interviewed, only *Sarbumusi* has clearly admitted to being affiliated with the Muslim organization, Nahdratul Ulama after being given a mandate to recruit members of the workforce under their banner. In general, national labor unions have been formed beginning at the national level, rather than from the efforts of the workers at the enterprise level, without employing any sort of selection process.

15. Enterprise unions were found to have played a more important role in setting labor standards consistent with improvements in productivity than the affiliated labor unions formed at higher levels because their actions were based on direct involvement in work situations. However, many businesses still object to the formation of enterprise unions, and workers are not always aware of the benefits they could experience by forming unions.

16. Generally, the workers showed more interest in the formation of enterprise unions after they had experienced troublesome episodes of industrial unrest. In each region investigated, only 10-20% of businesses were reported to have enterprise union representation, presumably because unions were rarely found in smaller enterprises. However, of the 47 businesses investigated in this study, 39 of them already have formed enterprise unions. In three, two enterprise unions had been established, affiliated to different national bodies. Half of the 42 enterprise unions investigated were established after 1997. Enterprise unions that were formed before 1997 (mostly SPSI) often did not have the support of the management and as a consequence, several workers were made redundant and union leaders were both pressured and intimidated by their respective employers. There are still some businesses which endeavor to obstruct the formation of unions.

17. The recent flare up of demonstrations and strikes has left businesses, particularly those with enterprise unions, traumatized and anxious. At the same time, a number of businesses are concerned that sanctions will be imposed if they violate a regulation, and therefore, they do not openly obstruct the formation of unions. The presence of extended industrial unrest within a large number of companies tends to be the initial trigger for the

formation of enterprise unions. On the other hand, SMERU's research team found that enterprise unions are rarely formed mainly within smaller businesses that have effective dispute resolution mechanisms in place. Eight businesses investigated by SMERU chose not to form enterprise unions for several reasons. These included:

- the enterprises have fulfilled all of the workers' basic and additional rights *(hak-hak normatif* and *non-normatif);*
- good employer-employee relations already existed, whereby the workers could communicate their complaints directly to their employers; and
- a forum was provided for communication between employers and employees when required, for example, through routine meetings or cooperatives; and businesses consider their workers to be part of their family or "their partners".

18. Generally, most businesses acknowledge the benefits of enterprise unions once they have been formed, particularly when it is time to carry out negotiations with workers. Before the establishment of enterprise unions, businesses mostly issued company regulations on working conditions and other labor matters. Those that wished to make a collective agreement would negotiate with a representative from each work division. Even though the businesses are aware that existing enterprise unions are making new demands, the companies themselves are increasingly experiencing the benefits, including easier dispute resolution processes at the enterprise level. In addition, enterprise unions can also monitor discipline within the workplace.

19. The ratification of ILO Convention No.87 and Law No.21, 2000 has also made it possible to establish more than one enterprise union within an enterprise and at levels outside of the enterprise. The existence of more than one enterprise union within a firm was found in several enterprises, and generally did not result in problems or conflict between the unions concerned. However, the business associations, enterprise unions, and workers believe that the process to form unions based on Law No.21, 2000 is too lenient, as only 10 members are required to establish an organization. Many would prefer that no more than one enterprise union exist in each firm. They have proposed that unions be formed based on a percentage of the total number of workers in each enterprise. Others proposed that the requirements for establishing unions be increased from 10 members to 100 members. The SMERU research team found that enterprises, labor unions, and workers have presented similar rationale regarding their objection to the presence of more than one enterprise union in each enterprise. Whenever there is more than one enterprise union existing within a firm, it is more difficult to determine which union has the right to represent the workers in bargaining or dispute resolution processes, even though according to a 1985 Ministerial Decree the union with at least 50% membership among all workers should take on this role. In general, a fragmented union movement makes it more difficult to determine which unions will represent the workers in national tri-partite negotiations. Ten union bodies may be represented in these forums, together with 10 employers' organizations and government representatives.

20. Although a labor union can be formed with a minimum of ten employees, smaller and medium-scale businesses (with around 50 workers or less) are generally of the opinion that their workers do not require a union. The employers and employees believe that they do not require an enterprise union because until now they have been able to resolve any disputes themselves. They believe that the workers can approach their superior or management individually if they experience problems basis.

21. According to data from the Ministry of Manpower, in 1997, 6.6% businesses had collective labor agreements in place. In the same year, around 78% of enterprise unions registered with the Ministry of Manpower which had already collective labor agreements in place. Enterprise regulations are a legal alternative to collective labor agreements where the enterprise has no union. Thirty per cent of the sample enterprises had internal enterprise regulations, 58% have collective labor agreements, and 12% have neither internal regulations nor collective labor agreements (consisting of three larger enterprises and three medium-sized enterprises).

22. The articles outlined in the collective labor agreements were overall quite uniform throughout the regions researched. They include: general stipulations, acknowledgment of enterprise unions and the facilities provided for the unions, work relations, work hours, wages, workplace health and safety, permission for leave and holidays, disciplinary regulations, sanctions imposed as a result of regulation violations, retrenchment, and complaint resolution processes.

23. Information collected in the field indicates that both employers, and employees who are represented by their enterprise union, are generally involved in the formulation of collective labor agreements. Nevertheless, there are still a small number of cases where collective labor agreements have been unilaterally created by the businesses, and union representatives have been forced to read and agree to them. Several businesses have also used a legal consultant to advise on making collective labor agreements. Meanwhile, the coordinating body of the labor union is sometimes included in the negotiating process.

24. Although collective labor agreements are formulated based on an agreement reached between employers and employees, disputes still arise. Often cases of industrial unrest arise as a result of issues unrelated to the regulations agreed to. For example, employees recently demanded that wages and transport allowances be increased because of a rise in fuel prices. In such cases, guidelines need to be established to cover negotiation on issues not covered in collective labor agreements, or special clauses inserted in agreements, to ward off industrial disputes.

25. From the cases of industrial disputes and strikes found in the enterprises visited, the main origins of disputes in most enterprise can be grouped into four categories:: (i) non-normative demands which refers to issues not regulated in legislation or collective labor agreements; (ii) normative demands which are demands for workers rights as stipulated in various laws and legislation, which are mutually agreed to in collective labor agreements or enterprise regulations; (iii) interference and involvement of third parties, such as workers from other enterprises and other affiliated labor unions, often provoke workers to become in labor disputes ; and (iv) pressure from a number of workers inside the enterprise, forcing other workers to support their cause through demonstrations or strikes.

    Other origins of conflict include a range of issues. These include:

    - solidarity with fellow workers believed to have been treated unfairly by the employers;
    - diverging perceptions of government laws and regulations;
    - demands for the resignation of the human resources department manager who is viewed as too strict and biased towards the enterprise;
    - changes in corporate management which are viewed as neglecting workers' interests and welfare;

- demands for transparency in enterprise management (especially regarding profits which might be partly redistributed to workers in the form of higher wages and improved benefits);
- the implementation of severance pay regulations; perceived non-transparency on the company's behalf concerning profits;
- suspicions that the firm did not pay its legal *Jamsostek* contributions;
- impatience of workers in waiting for results of negotiations; and
- other new demands which are surfacing related to workers' increased knowledge of their rights following the formation of an enterprise union in their workplace.

26. Nevertheless, we need to reaffirm that the industrial relations system is in fact functioning remarkably smoothly at the enterprise level. Based on the four categories of disputes,[23] the SMERU team noted that only three out of the 47 respondent enterprises (6%) have experienced extensive disputes, 21% encountered major disputes, 30% experienced average disputes, and (26%) experienced only minor disputes within the last five years. Eight of the enterprise investigated have not encountered any disputes, apart from minor complaints and handling cases of individual difference, as claimed by both employees and employers.

[23] Four categories of industrial relations disputes are as follows: (a) Minor disputes: disputes without strikes, bipartite resolution; (b) average disputes: disputes with strikes, bipartite resolution; (c) major disputes: disputes without strikes, tripartite resolution; and (d) extensive disputes: disputes with strike, tripartite resolution.

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LIST OF ABBREVIATIONS

AAMI	*Asosiasi Apparel Manufaktur Indonesia*	Indonesian Apparel Manufacturers Association
AJI	*Federasi Aliansi Jurnalis Independen*	Association of Independent Journalists
API	*Asosiasi Pertekstilan Indonesia*	Indonesian Textiles Association
Apindo	*Asosiasi Pengusaha Indonesia*	Indonesian Employers Association
APMI	*Asosiasi Pengusaha Mainan Indonesia*	Indonesian Toy Business Association
Aprisindo	*Asosiasi Persepatuan Indonesia*	Indonesian Footwear Association
BPS	*Biro Statistik Indonesia*	Statistics Indonesia
Depnaker	*Departemen Ketenagakerjaan*	Department of Manpower
Dinas		Local Government Office
DPR	*Dewan Perwakilan Rakyat*	House of Representatives
FBSI	*Federasi Buruh Seluruh Indonesia*	All-Indonesia Workers Federation
FNPBI	*Front Nasional Perjuangan Buruh Indonesia*	National Front for Indonesia's Labor Struggle
Fokuba	*Federasi Organisasi Pekerja Keuangan dan Perbankan*	Federation of Finance Workers' and Banking Organizations
FPI	*Federasi Pekerja Indonesia*	Indonesian Workers Federation
F-SBDSI	*Federasi Serikat Buruh Demokrasi Seluruh Indonesia*	All-Indonesia Democratic Federation of Workers Unions
F-SPSI	*Federasi - Serikat Pekerja Seluruh Indonesia*	Federation of All-Indonesia Workers Unions
F-SPTSK	*Federasi Serikat Pekerja Tekstil, Sandang, dan Kulit*	Federation of Textiles, Clothing, and Leather Industry Workers Unions
Gaskindo	*Gabungan Serikat Pekerja Indonesia*	Consolidation of Indonesian Workers Unions
hak-hak normatif		worker's basic rights/basic work rights

Jabotabek	*Jakarta, Bogor, Tangerang dan Bekasi*	Jakarta, Bogor, Tangerang, and Bekasi
Jamsostek	*Jaminan Sosial Asuransi Tenaga Kerja*	Employee Social Security and Insurance
KKB	*Kesepakatan Kerja Bersama*	Workplace Agreement
LBH	*Lembaga Bantuan Hukum*	Legal Aid Institute
P-4D	*Panitia Penyelesaian Perselisihan Perburuhan Daerah*	Regional Government Committee
P-4P	*Panitia Penyelesaian Perselisihan Perburuhan Pusat*	Central Government Committee
Perbupas	*Persatuan Buruh Pabrik Sepatu*	Footwear Factory Workers Union
pesangon		Severance pay
PK	*Perjanjian Kerja*	Work Contract
PKB	*Perjanjian Kerja Bersama*	Workplace Contract
PP	*Peraturan Perusahaan*	Internal Enterprise Regulations
PPI	*Pengadilan Perselisihan Industrial*	The Court of Industrial Relations Disputes
PPMI	*Persaudaraan Pekerja Muslim Indonesia*	Indonesian Moslem Workers Association
PTUN	*Pengadilan Tata Usaha Negara*	State Administrative Court
RUU	*Rancangan Undang-Undang*	Proposed Bill
Sarbumusi	*Serikat Buruh Muslim Indonesia*	Indonesian Moslem Workers Union
SBJ	*Serikat Buruh Jabotabek*	Jabotek Workers Union
SBSI	*Serikat Buruh Sejahtera Indonesia*	Indonesian Prosperous Labor Union
SOBSI	*Sentral Organisisasi Buruh Seluruh Indonesia*	All-Indonesia Central Labor Organization
SP	*Serikat Pekerja*	Labor Unions
SP Farkes	*Serikat Pekerja Farmasi dan Kesehatan*	Health and Pharmaceutical Workers Union

SP LEM	*Serikat Pekerja Logam, Elektronik, Mesin*	Metals, Electronic and Machinery Workers Union
SP PAR or PAR-SPSI	*Serikat Pekerja Pariwisata*	Tourism Workers Union
SP PHRI or PHRI-SPSI	*Serikat Pekerja Persatuan Hotel dan Restoran Indonesia*	Indonesian Hotel and Restaurant Workers Union
SP-TSK	*Serikat Pekerja Tekstil, Sepatu dan Kulit*	Textiles, Footwear and Leather Workers Union
SPMI	*Serikat Pekerja Metal Indonesia*	Indonesian Metal Workers Union
SPSI	*Serikat Pekerja Seluruh Indonesia*	All-Indonesia Workers Union
SP-TP	*Serikat Pekerja Tingkat Perusahaan*	Enterprise Unions
UMK	*Upah Minimum Kabupaten*	Kabupaten Minimum Wage
UMP	*Upah Minimum Propinsi*	Provincial Minimum Wage
UMR	*Upah Minimum Regional*	Regional Minimum Wage, referred to as the Minimum Wage

LIST OF REGULATIONS

Konvensi ILO No.87	*Konvensi ILO No.87 tentang Kebebasan Berserikat dan Perlindungan Hak untuk Berorganisasi*	ILO Convention No.87 on "Freedom of Association and Protection of the Right to Organize"
Konvensi ILO No.98	*Konvensi ILO No.98 tentang Hak untuk Mengatur dan Melakukan Perjanjian Bersama*	ILO Convention No.98 on "The Right to Organize and Collective Bargaining"
UU No. 22, 1957	*Undang-undang tentang Penyelesaian Perselisihan Buruh*	Law No. 22, 1957 on "Labor Dispute Settlement"
UU No.12, 1964	*Undang-undang tentang Pemutusan Hubungan Kerja di Perusahaan Swasta*	Law No.12, 1964 on "Employment Termination in Private Firms"
UU No.5, 1986	*Undang-undang tentang Pengadilan Tata Usaha Negara*	Law No. 5, 1986 on "The State Administrative Court"
UU No.21, 2000	*Undang-undang tentang Serikat Kerja/Serikat Buruh*	Law No.21, 2000 on "Labor Unions"
UU No.22, 1999	*Undang-undang tentang Pemerintah Daerah*	Law No.22, 1999 on "Local Government"
UU No.25, 1997	*Undang-undang tentang Ketenagakerjaan*	Law No.25, 1997 on "Manpower"
RUU-PPHI	*Rancangan Undang-Undang Penyelesaian Perselisihan Hubungan Industrial*	The Industrial Relations Dispute Resolution Bill
RUU-PPK	*Rancangan Undang-Undang Pembinaan dan Perlindungan Ketenagakerjaan*	The Guidance and Protection of the Workforce Bill
PP No.25, 2000	*PP No.25, 2000 tentang Kewenangan Pemerintah dan Kewenangan Propinsi sebagai Daerah Otonomi*	Government Regulation No.25, 2000 on "The Authority of the Central Government and the Provinces as Autonomous Regions"

Permenaker No. Per-01/Men/85	*Permenaker No. Per-01/Men/85 tentang Mekanisme untuk Menetapkan Perjanjian Kerja*	Minister of Manpower Regulation No. Per-01/Men/85 on "Mechanisms used to Formulate Workplace Agreements"
Permenaker No.03/Men/1996	*Permenaker No.03/Men/1996 tentang Penetapan Uang Pesangon, Uang Jasa dan Ganti Kerugian di Perusahaan Swasta*	Ministry of Manpower Regulation No.3, 1996 on "Settlement of Employment Termination and Determining the Payment of Severance Pay, Long Service Pay, and Compensation in Private Firms"
Peraturan Menakertranskop No.Per/02./Men/1978	*Peraturan Menakertranskop No.Per/02./Men/1978 tentang Peraturan Perusahaan Internal dan Negosiasi mengenai Penetapan Kontrak Kerja*	Minister of Manpower, Transmigration and Cooperatives Regulation No.Per/02.Men/1978 on "Internal Enterprise Regulations and Negotiations regarding the Formulation of Labor Contracts"
Kepmenaker No. Kep-150/Men/2000	*Kepmenaker No. Kep-150/Men/2000 tentang Penyelesaian Pemutusan Hubungan Kerja dan Penetapan Uang Pesangon, Uang Penghargaan Masa Kerja dan Ganti Kerugian Perusahaan*	Minister of Manpower Decision No.150, 2000 on "The Settlement of Employment Termination and Determining the Payment of Severance Pay, Bonuses and Compensation in Firms"
Kepmenakertrans No. Kep-78/Men/2001	*Kepmenakertrans No. Kep-78/Men/2001 tentang Perubahan Atas beberapa Pasal Kepmenaker No. Kep.150/Men/2000*	Minister of Manpower and Transmigration Decision No. 78, 2001 on "Amendments to Several Articles in Kepmenaker No Kep-150/2000"
Kepmenakertrans No. Kep-111/Men/2001	*Kepmenakertrans No. Kep-111/Men/2001 tentang Perubahan Atas Pasal 35A Kempenakertrans No Kep-78/2001*	Minister of Manpower and Transmigration Decision No. 111, 2001, on "Amendments to Article 35A Kepmenakertrans No Kep-78/2001"
Surat Dirjen Binawas No.B.444/BW/1995	*Surat Dirjen Binawas No.B.444/BW/1995 tentang Meningkatkan Peraturan Perusahaan Menjadi Perjanjian Kerja*	Director General of Inspection and Supervision letter No.B444.BW/1995 on "Upgrading Internal Enterprise Regulations to become Workplace Agreements"

I. INTRODUCTION

A. BACKGROUND

At present, industrial relations in Indonesia is entering a new phase: an era of transition. The democratization process, partially triggered by the fall of the Soeharto government and followed by the implementation of regional autonomy, has largely influenced this transition. Previously, industrial relations in Indonesia was under the tight control of the central government. The New Order regulated the existence of labor unions (at that time only one labor union was officially recognized by the government), stipulated the level of minimum wages, regulated the settlement of industrial relations disputes, and influenced general labor conditions. Nowadays, the industrial relations system is becoming increasingly decentralized even though many components are still influenced by the paternalistic central government practices of the past.

Both the new government administration and decentralization have transformed the way decisions are made in regards to the industrial relations system. Nowadays, elements of decentralization as well as dialogue are starting to influence the decision- making processes. In addition, over the last two years several changes have been made to the labor laws and regulations. For example, the local governments currently have the authority to determine minimum wages. Another important development has been the ratification of several International Labor Organization (ILO) conventions including Convention No.87, 1948, on "Freedom of Association and Protection of the Right to Organize" in 1998. Furthermore, new industrial relations legislation has been ratified through Law No.21, 2000 permitting workers to establish unions at the enterprise level. At present, the government is in the process of evaluating ways to ensure that Indonesian labor laws are consistent with this convention and several others.

The democratization process and transparent decision-making processes accompanying these changes have transformed workers' attitudes and behavior when expressing their ideas and objectives. Previously, the voice of the workers was silenced, and their rights repressed. Now, workers, through labor unions, workers' movements and advocacy, are openly making their demands with increasing fervor through strikes and demonstrations.

On the one hand, workers' demands for improved welfare through wage increases and better working conditions are understandable, bearing in mind the purchasing power of workers' wages have barely increased since before the crisis. Government policy and legislation influencing the livelihood of the workers has also contributed to the increasing number of strikes and demonstrations since mid 2001, where unfortunately there has been a tendency to resort to violence. However, it is also important to note that the settlement of labor disputes in Indonesia has long been an area of confusion contributing to the current industrial unrest.[24] The settlement of several of these cases has often resulted in repressive action being taken outside of the legal process, for example through the use of the police, military or even "local thugs".

[24] James Gallagher, *Indonesia's Industrial Dispute Resolution Process,* USAID-AFL-CIO, 2000.

On the other hand, the slow recovery from the economic crisis and symptoms of a global recession have impacted negatively on the international market, creating a dilemma for Indonesian employers in accommodating the demands of their employees.[2] Employers consider the government policy, which stipulated a nominal minimum wage increase of between 30-40% in January 2002, to be a financial burden. In Jakarta, for example, the Indonesian Employers Association (*Asosiasi Pengusaha Indonesia* – Apindo) rejected this increase in minimum wages and referred the issue to the State Administrative Court (*Pengadilan Tata Usaha Negara* – PTUN). From a macro-economic point of view, a policy which continually provides for minimum wage increases, has the potential to disrupt labor market flexibility that until now has been a part of labor market dynamics.[3]

There are indications that industrial relations at present is largely colored by a conflict of interest between the employers and employees, where their different objectives have resulted in a number of disputes. If this discord continues, both employers and employees risk financial loss. Consequently, there is an urgent need to minimize these disputes. One way to reach consensus is through intensive dialogue, where each party is treated as equal and is welcome to express their opinions. Such an effort to reach a compromise requires the involvement both employers and employees and their representatives. According to SMERU's research, there are indications that most employers and employees actually strongly support this strategy and are making serious efforts to pursue this path, while recognizing this as a part of a learning process. Unfortunately, these positive efforts often escape the attention of the media and the community.

To address some of these issues, the government submitted two proposed bills *(Rancangan Undang-Undang* – RUU*)* to the House of Representatives (*Dewan Perwakilan Rakyat* – DPR*)* in 2000, both are intrinsically linked and concern numerous aspects of industrial relations. The first legislates on employer-employee relations, including employment contracts, labor protection, and workplace safety. The second bill establishes a framework for industrial relations dispute resolution procedures.[4] It is extremely important that before these two proposed bills are ratified, public debates are held to make certain there is input from all parties concerned. Similarly, an in-depth study and its findings are required to support the process. This will not only facilitate a transparent revision and ratification process, but it will also ensure that the pattern of industrial relations and the dispute resolution mechanisms created are able to accommodate all parties concerned.

The Indonesian government does not actually have to start from scratch to create a system of industrial relations which can accommodate all interests. The experience of several other countries can provide useful examples and lessons for Indonesia, when formulating an industrial relations system which suits its domestic conditions. For example, Japan has adopted a more decentralized system of industrial relations using a

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[2] The new Megawati Soekarnoputri administration has made little progress in structural and governance reform, restimulating nervousness in markets. The events of the September 11 bombing and the slowdown in the global economy worsened the investment climate in Indonesia (Indonesia: The Imperative for Reform, The World Bank, November 2001).

[3] See SMERU Report (2001) on The Impact of Minimum Wages in the Formal Urban Sector, which found that increases in the minimum wage caused statistically significant negative impact on employment. Manning (1996) and Rama (1996) indicate that minimum wages are beginning to impact on several types of workers, especially youth, and unskilled female workers in certain regions. An opposing opinion is presented by Islam and Nazara (2000).

[4] SMERU obtained the third draft bill (dated 25 September, 2001) referred to in this study from F-SPSI. It is likely that the following edition of this bill will undergo various revisions, bearing in mind that it is presently being discussed by House of Representatives.

paternalistic approach where the employers are responsible for their workers' welfare. The industrial relations system in Korea tends to be more centralized where workers' federations and movements are powerful. In contrast, Taiwan has a completely decentralized, market-oriented industrial relations system, where no detail is specified for workplace requirements and the government only acts as an arbiter in disputes.

Many argue that the reason the industrial relations system in Indonesia is still in transition is because its future direction remains unclear. It remains to be seen whether industrial relations will be fully decentralized, partially decentralized where the dominance of the central government is slowly reduced, or whether in reality, it is not yet possible for industrial relations in Indonesia to be free of the legacy of the New Order's centralized policies.

B. RESEARCH OBJECTIVES

This study was carried out by the SMERU Research Institute for Bappenas supported by PEG-USAID. The objectives of the study were to assess the nature of: industrial relations during this era of transition, including its legislation and regulations; the existence of labor unions; the extent of disputes arising between employers and employees in the sample of manufacturing, hotel and mining enterprises investigated; and, the dispute resolution processes used in these firms. It is hoped that this study can assist the government in gaining a full understanding of the state of industrial relations and the manpower sector at the enterprise level. This can then be used to create a labor policy capable of supporting both the industrial relations system and the interests of the workers, employers and the wider community.

C. METHODOLOGY

The study was conducted between October – November 2001 in several regions including Jakarta, Bogor, Tangerang, and Bekasi (Jabotabek), Bandung, and Surabaya. The qualitative research methodology applied in this study relied on in-depth interviews using questionnaire guidelines. Information was gathered from businesses, labor unions, workers, relevant local government agencies (for example, The Office of Manpower and Transmigration), as well as business associations such as the Indonesian Employers Association (Apindo), the Indonesian Textiles Association (API) and the Indonesian Footwear Association (Aprisindo).

The labor union respondents in this study included the leaders of a number of unions at the enterprise level and the leaders of various affiliated enterprise unions at the *kabupaten* and *kota* and provincial level. The four labor union respondents were from the All-Indonesia Workers' Union (status quo SPSI), the Jabotabek Workers' Union (SBJ), the Indonesia Muslim Workers' Union (Sarbumusi), and the Federation of Textiles, Clothing and Leather Industry Workers' Unions (FSP-TSK). Meanwhile, the respondents from the enterprises included the managers of the human resource divisions, and the enterprise managers or owners. The enterprises were selected for the study based on information obtained in the field from Labor Unions (SP), Apindo, API, the Office of Manpower and Transmigration, the Department of Manpower and Transmigration, the Department of Industry and Trade, the Department of Tourism, the Department of Mining, and other informants. SMERU found that in each enterprise there was always at least one respondent, if not several which understood the issues surrounding industrial relations and labor disputes.

The characteristics of the enterprises selected for the study include:

i) enterprises which were categorized as either large-scale businesses (>100 employees) or medium-sized firms (20-100 employees) based on the criteria provided by *Statistics Indonesia*;

ii) enterprises with labor unions existing at the enterprise level (approximately 83% of the firms investigated);

iii) enterprises that have already been involved in dispute cases with the employees[5] (approximately 83% of the firms investigated); and

iv) enterprises which use either foreign capital or domestic capital.

D. REPORT STRUCTURE

Chapter I in this report provides an introduction to industrial relations in Indonesia and Chapter II briefly outlines the businesses investigated, including discussion on the existence of labor unions and work conditions. Industrial relations as a concept is discussed in Chapter III. The changes and development of industrial relations laws and regulations, labor unions, as well as both employers and employees perceptions of these regulations are examined in Chapter IV.

Meanwhile, Chapter V discusses the changes in industrial relations conditions, comparing in general the differences between certain aspects of industrial relations during the New Order with the present period of transition. Chapter VI, Section A, focuses on labor unions, covering both enterprise level unions and their affiliated labor unions. The essence of this chapter includes the establishment, roles, and functions of labor unions as well as the problems they encounter. Discussion of the rationale as to why one business applies internal enterprise regulations while another applies collective labor agreements (workplace contracts or agreements) is outlined in Chapter VI, Section B. Other important issues are presented in Chapter VI, Section C, such as the background to industrial disputes and the resolution processes. This chapter covers the reasons as to why industrial disputes arise, the mechanisms used to overcome these disputes as well as efforts to prevent disputes arising. Finally, the conclusion of the report will be outlined in Chapter VII.

[5] Industrial disputes in this study are defined as those which: include more that one person; are not based on individual reactions; do not always disrupt the production process; and, include bargaining processes.

II. DESCRIPTION OF THE BUSINESSES INVESTIGATED

A. SAMPLE

Research was carried out in 47 firms (mostly larger scale firms) located in Jakarta, Bogor, Tangerang and Bekasi (Jabotabek), as well as Bandung and Surabaya (see Table 1). The sample consisted of 42 manufacturing companies, four hotels and one mining company. In each region, the research team investigated between six and twelve firms. The products by these businesses include textiles, garments, footwear, vehicle spare parts, household utensils made of plastic and metal, food and beverages, ceramic tiles, wood products, wire cables, chemicals, packaging boxes, PVC pipes, and coal.

The businesses investigated consisted of approximately 42 large-scale businesses (89% of the sample) with a workforce of between 100-8000 employees and 5 medium-scale businesses. Fourteen (14) of these large-scale businesses are foreign direct investment from Japan, Korea, Taiwan, the United States, the United Kingdom, and include a Swiss-German joint venture.

Table 1. Characteristics of Sample (n=47 firms)

FDI/ DI*	Scale	Number of Employees	Jabotabek	Bandung	Surabaya	Berau E.Kalimantan	Total	%
FDI	Large	101-1000	5	0	2	0	7	15
		> 1000	4	1	1	0	6	13
	Medium	20 – 100	1	0	0	0	1	2
			10	1	3	0	14	30
DI	Large	101-1000	10	3	5	1	19	40
		> 1000	6	1	3	0	10	21
	Medium	20 – 100	2	1	1	0	4	9
			18	5	9	1	33	70
Total			28	6	12	1	47	100
Percentage (%)			60	13	25	2	100	

Note:
* FDI = Foreign Direct Investment (*PMA*); DI = Domestic Investment (*PMDN*)

Enterprise unions (SP-TP) have been formed in 39 businesses in the sample study. All of the existing enterprise unions with the exception of two in Bekasi are affiliated with other *kabupaten/kota*, provincial or national level unions. These include the Indonesian Workers Union (which includes the Metals, Electronic and Machinery Workers Union – SP KEP, the Health and Pharmaceutical Workers Union – SP Farkes, the Textiles, Footwear and Leather Workers Union – SP TSK, the Indonesian Hotel and Restaurant Workers Union – SP PHRI, and the Tourism Workers Union – SP PAR), the Indonesian Metal Workers Union – SPMI, the Indonesian Moslem Workers Union – Sarbumusi, the Federation of Textiles, Clothing and Leather Workers Unions, the Indonesian Workers Federation – F-SBDSI, and the Jabotabek Workers Union – SBJ. One of the businesses investigated in Surabaya has two enterprise unions which are affiliated with two different external unions; the All-Indonesian Workers Union and the Indonesian Moslem Workers Union. Similarly, one business investigated in Bekasi has two enterprise unions which are affiliated with different external unions; the Federation of Textiles, Clothing and Leather Workers Unions and the All-Indonesian Democratic Federation of Workers Unions. One business in Tangerang has two

enterprise unions which have affiliated with Federation of Textiles, Clothing and Leather Workers Unions, and the Footwear Factory Workers Union (Perbupas).

B. WORK CONDITIONS

Work conditions largely influence the degree and frequency of industrial disputes. The chance of disputes arising is significantly reduced in those businesses that provide favorable work conditions and fulfill the expectations of workers in regard to their wages, allowances and workplace facilities. In general, three types of workplace regulations, namely, employment contracts (*Perjanjian Kerja* – PK), internal enterprise regulations (*Peraturan Perusahaan* – PP), and collective labor agreements (workplace agreements/contracts; *Kesepakatan Kerja Bersama* – KKB or *Perjanjian Kerja Bersama* – PKB*)*, determine the working conditions in a business. Usually, employment contracts are applicable for workers who have recently been employed, or they are used in businesses which have no established internal enterprise regulations, collective labor agreements. Employment contracts outline the rights and obligations of both employees and employers as well as other relevant workplace requirements.

Work regulations and collective labor agreements contain more detailed stipulations than employment contracts regarding both the work conditions and requirements agreed to by the parties involved (in accordance with the government regulations). These stipulations concern work hours, payment systems, health insurance, social security, workplace health and safety, leave, retrenchment, as well as severance pay and services. The difference between these forms of agreements is that internal enterprise regulations are devised by those enterprises with no union representation, where the workers are obliged to abide by the rules stipulated. Meanwhile, collective labor agreements are formulated by the business owners in collaboration with the relevant unions, taking into account the workers' interests. Generally, collective labor agreements are reviewed every two years.

Businesses based on foreign capital, particularly those producing export goods with foreign trademarks generally have a code of conduct or work regulations which are determined by those foreign businesses placing orders for the products.[6] These codes of conduct cover human rights and environmental issues. An example of work regulations from one such company include:

- Overtime should not exceed 60 hours per month;
- Under-age workers are not permitted to be employed;
- Basic wages must meet the required standards;
- Overtime pay should be based on attendance and work productivity;
- Work safety facilities, for example, masks, gloves and safety clothing must be provided;
- Rest facilities, a lunch room and lockers must be provided for the workers;
- Standard toilet facilities must be provided (one toilet for every 30 people);
- Standard first-aid kits must be provided; and
- Fire extinguishers must be provided.

[6] Companies producing goods (for example, footwear or shirts) with internationally recognized trademarks place orders with their Indonesian business partner for products made with the company's own label. These partner enterprises must fulfill both the production requirements and comply with the work conditions set out by their foreign partners.

The companies placing orders for these products carry out routine inspections once every three months to ensure internal enterprise regulations are observed and in accordance with the administrative documentation within the company. The inspections include first-hand examinations of work conditions and interviews with the workers.

In order to become familiar with, and evaluate the work conditions within a business, both the status of the workers and the size of the business needs to be taken into consideration, as both of these factors influence the size of wages and allowances for employees as well as the facilities provided by the business. Several businesses investigated divide the status of their workers into three categories: daily contract workers, permanent daily hire workers and permanent monthly hire workers.

Casual and permanent daily hire workers are paid based on the number of days they work, in contrast to monthly permanent workers who receive their wage irrespective of their attendance. Apart from the basic wage, payments which differ between the monthly and daily workers include various additional allowances (health, rank, performance and transport), overtime pay, meal allowances, health funds, as well as target premiums and bonuses. In general, daily-hire workers do not receive any of these extra payments. However, every year companies provide a *Hari Raya* Bonus (*Tunjangan Hari Raya* - THR) for both their daily and monthly hire workers. For those businesses using a shift-work system, night-shift workers generally receive certain incentives, such as a shift work allowance as well as a food and transport allowance. In addition, sometimes the workers receive other allowances in the form of sugar, coffee, milk and noodles.

Apart from wages paid in cash, a number of businesses also provide other facilities in kind. These facilities include, medical clinics, company physicians and paramedical services, lunch coupons, transport to and from work, uniforms and shoes, canteens with reduced prices, housing, cooperatives, prayer rooms, sport and recreation facilities, health insurance, as well as Employee Social Security and Insurance (*Jaminan Sosial Asuransi Tenaga Kerja - Jamsostek)*. The number of facilities provided for the workers generally depends on the size of the particular business.

In addition to the benefits mentioned above, most the monthly permanent hire workers receive health insurance facilities. The amount of each workers' entitlement varies according to their wage and the premium paid. Some companies apply an expense-reimbursement system for medical treatment and medicine, while other companies reimburse doctors fees up to a set amount, or reimburse expenses for treatment at a public health center. Only a small proportion of businesses offer any sort of retirement pension for their workers.

Although businesses acknowledge that Indonesia's present economic conditions are still unfavorable, most businesses ensure basic work rights *(hak-hak normatif)*[7] exist for their workers (see Appendix 1). For example, they ensure that minimum wage requirements are fulfilled, additional allowances and facilities are provided and that leave and working hours are all in accordance with the regulations. Approximately 94% of the businesses investigated are already complying with the minimum wage regulations. Yet, because of the government's frequent changes to the minimum wage, a number of businesses have been forced to make several adjustments. Nowadays, some businesses also include education levels in their criteria for determining the level of workers' wages.

[7] Workers' basic rights (*hak-hak normatif)* are the rights stipulated in the legislation, government regulations, and collective labor agreements.

III. BASIC INDUSTRIAL RELATIONS CONCEPTS IN INDONESIA

Industrial relations is more than simply an area of organizational management. The development of the industrial relations system reflects changes in the nature of work within a society (in both economic and social terms) as well as the different views on employment legislation. Industrial relations "encompass a set of phenomena, both inside and outside the workplace, which is concerned with determining and regulating the employment relationship". However, it is difficult to define the term "industrial relations" in a precise and universally accepted way. Industrial relations for many is perceived to involve male, full-time, unionized, manual workers in large manufacturing units imposing restrictive practices, strikes, and collective bargaining.[26] However, industrial relations concerns the relationships between all parties involved in the employment relationship in enterprises across a variety sectors, regardless of gender, union membership, and the nature of the work. Industrial relations should be viewed not just in terms of simple organizational work regulations but in a broader social, political and economic context. Industrial relations are integrated with, and not separated from the political and economic environment.[27]

In simple terms, Suwarto (2000) defines industrial relations as a system of relationships formed between agents involved in the production process of goods and services.[28] These relationships are based primarily around employees, employers and the government. The employees and employers are physically and directly involved in the production process on a daily basis, while the government's involvement is confined to certain aspects of the production process. Industrial relations begin with the existence of personal work relationships between employees and employers. The regulations concerning the rights and obligations of these parties are formulated in individual work contracts. These work contracts are prepared when an applicant is appointed to their position, and generally include the appointment date, assignment and matters relating to their probation period, position, wage, facilities available, responsibilities, job description, and work placements.

At the enterprise level, the key agents in industrial relations are employers and employees. Within the industrial relations system both employers and employees have equal and legitimate rights to struggle for and protect their own interests and to safeguard their objectives – this includes their right to exert their collective power if it is deemed necessary.[29] On the one hand, employees and employers share the same goal, that is, to sustain and develop the enterprise, but on the other hand, their relationship has the potential to cause conflict, especially if coupled with different interpretations of what is deemed best for each party.

Industrial relations covers a range of concepts, including the concept of justice and equality, power and authority, individualism and collectivism, rights and responsibilities, as well as integrity and trust.[30] The government's primary role within the industrial relations system is to formulate and enforce rules and regulations related to labor issues. In doing this, they aim

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[8] Michael Salamon, Industrial Relations: Theory and Practice, 4th edition, Prentice Hall, 2000: pp. 4-5.

[27] ibid, p. 10.

[28] Suwarto, "*Prinsip-prinsip Dasar Hubungan Industrial*", 2000.

[29] op. cit., p. 35.

[30] op. cit., pp. 74-89.

to create a balanced and harmonious relationship between employers and employees, which is based on fairly regulating each party's rights and obligations. In addition, the government also has a responsibility to act fairly when resolving industrial disputes and conflicts. Basically, it is in the government's best interest to safeguard the sustainability of production processes in the best interest of the wider community.

Ultimately, industrial relations regulations aim to increase both productivity and the welfare levels of both employees and employers. These objectives are both complementary and intrinsically linked, meaning that a reduction in one will adversely influence the other. The level of productivity in an enterprise is based on the level of employee productivity, where high productivity is only possible if the enterprise employs workers who have a reasonable standard of living or employees who are optimistic that there welfare will improve in the future.

At the same time, increasing the welfare levels of both parties (especially the workers) is only feasible if a certain level of enterprise productivity is reached, or if there is an adequate increase in enterprise productivity which indicates that the level of productivity envisioned by the employers can be achieved.

In order to reach this desired level of productivity, all of the agents involved in the production process, principally the enterprise managers, need to create a conducive working environment. The key to successfully creating secure and dynamic working conditions is communication. Sound communication channels are difficult to maintain, and therefore require special attention. By maintaining these communication channels, both employees and employers will benefit.

A primary factor supporting sound communication channels is the existence of positive interaction between employees and employers. If this beneficial interaction between the two parties can be maintained and continued, it will help build mutual understanding and a feeling of trust. In turn, this will facilitate peaceful industrial relations in the workplace.

For the employees, communication channels can be used to attain first hand information on the current condition of, and future prospects for their enterprises. In addition, employees can voice their opinions in an effort to enhance the firm's performance. Employers need to respond positively to these opinions, acknowledge their employee's ideas, and show their respect for their employees who are equally concerned about the fate of the enterprise.

Communication channels are also beneficial for management teams and employers. Aside from the employees' involvement and participation in the future of the enterprise, the management teams will also be in touch with all of their employees, right down to the lowest levels within the enterprise. This will enable management teams to take the precautionary measures as required to avoid more serious disputes.

One requirement for the formation of effective communication channels is that each head of the work units in the enterprises (no matter what there function is) should have the capacity to encourage communication amongst the employees in the corresponding work units. These positions (for example, executive directors, managers or division managers) will not be able to ensure the existence of such communication channels alone, without the mutual interest and concern of the other divisions within the enterprise. For that reason, general employee guidance, especially on industrial relations matters, needs to be a real concern for all the heads of divisions at every level of the enterprise. Consequently, industrial relations concepts and principles need to be understood, not just by the heads of human resources or personnel

groups, but by all levels of management, so that industrial peace and sound industrial relations can be achieved. This industrial peace is indicated by the presence of dynamic work relations between management, employees or their labor unions.

Industrial relations are collective in nature and cover a wide range of interests. Therefore, in order to achieve the various objectives of the parties concerned, a variety of institutions exist to facilitate industrial relations which focus on collective relationships. These can be divided into two groups. Firstly, at the enterprise level there are labor unions, workplace agreements or contracts, internal enterprise regulations, institutions of: bipartite cooperation, education, and industrial dispute resolution. Secondly, at the macro level, there are labor union federations, associations of employers, institutions of tri-partite cooperation, laws and regulations, industrial dispute resolution processes, and general public awareness raising sessions on industrial relations.

IV. GOVERNMENT POLICY AND INDUSTRIAL RELATIONS

In Indonesia, the legislation regulating industrial relations had not been changed significantly for more than four decades until 1998 (see Appendix 2a and 2b). Presently, the pertinent regulations in effect are Law No.22, 1957 on Labor Dispute Settlement and Law No. 12, 1964 on Employment Termination in Private Firms. In 1997 the government endeavored to comprehensively improve the labor laws through Law No.25, 1997 on "Manpower". This law was ratified with the objective of modifying all the laws concerning labor so that they were in line with recent political, social, and economic developments. However, the implementation of the new law was postponed because it was opposed by labor unions and NGOs. Ultimately, the government is considering revoking Law No.25, 1997 and is in the process drafting a new Bill.

During the short-term of the Habibie administration (May 1998-October 1999) important steps were taken in industrial relations.[31] For instance, on 5 June 1998 the government ratified eight International Labor Organization (ILO) conventions on workers' basic rights (*hak-hak normatif)*, including ILO Convention No.87, 1948 on "Freedom of Association and Protection of the Right to Organize". This was a positive step towards creating a platform for equitable industrial relations negotiations which would be more internationally acceptable, particularly in regards to protection for workers to form or become members of labor organizations aiming to fight for and protect workers' interests. The installment of the Abdurrahman Wahid government saw new legislation ratified on unions through Law No. 21, 2000 on "Labor Unions". Through the abolition of the one union policy (at both the national, regional and enterprise level), the new government provided wider opportunities for unionists to establish free and independent organizations. These changes, combined with the ratification and subsequent implementation of ILO Convention No.87, 1948 have resulted in a significant increase in union activity.

Other laws and government regulations, which are not directly related to industrial relations but influence the implementation of industrial relations policy, include the laws relating to regional autonomy (Law No.22, 1999 on "Local Government" and Government Regulation No.25, 2000 on "Government Authority and Provincial Government Authority as Autonomous Regions") which have both provided regional governments with greater authority to manage and organize their own affairs. However, almost all aspects of industrial relations have both a national and inter-regional scope in terms of the policy and practice relating to unionism, legislation, international conventions, tri-partite negotiation mechanisms, employers associations, as well as internal enterprise regulations and workplace contracts. The new regional autonomy policy stipulates the local government's regulatory authority regarding labor matters. With particular regard to industrial relations, regional autonomy has also provided each of the provincial, *kabupaten* and *kota* governments the freedom to set minimum wages according to the conditions of each region. Recently, workers with lower minimum wages in one region have been demanding the same minimum wages as workers in the surrounding regions. For example, the workers in Kabupaten Tangerang and Bekasi have been demanding the same minimum wage as the workers in the Jakarta Special Province which have higher minimum wage without taking into account the different minimum requirements for subsistence. Similarly, the workers in Kabupaten Sidoarjo have been demanding the same wage as those in Kota Surabaya even though the minimum requirements for subsistence vary between the two areas.

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[31] Suwarno, S., and J. Elliot, "Changing Approaches to Employment Relations in Indonesia," in *Employment Relations in the Asia Pacific: Changing Approaches*, ed. Bamber, Greg J, pp. 130, 2000.

There have been rapid changes made to labor policy in recent years, particularly in the industrial relations system. This is especially evident in the new policies supporting the freedom of labor to organize and form unions, which have influenced collective bargaining processes as well as the level of minimum wages. In reality, these changes have fueled debate and caused the sharply disparate views of the workers (through labor unions) and employers (through employers organizations) to materialize.

The first section in Chapter IV describes in detail the key laws, government regulations and proposed bills relating to industrial relations being debated at present. Following this, the views and arguments put forward by employers, employees (or unions), academics and experts in industrial relations will be discussed. Section two focuses on the history, legislation and regulations concerning both the rights for labor to organize and the existence of unions.

A. LEGISLATION AND REGULATIONS RELATING TO INDUSTRIAL RELATIONS

The history of the industrial relations laws and regulations in Indonesia is outlined in Appendix 2a and 2b. These appendices describes the relevant legislation, in particular Law No. 22, 1957 on "Labor Dispute Settlement", and Law No.12, 1964 on "Employment Termination in Private Firms", both of which have recently been the topic of wide debate.

In 1997, the government ratified Law No. 25, 1997 on "Manpower". However, the implementation of this law has been delayed because several unions and NGOs are of the opinion that it was less conducive to protecting workers than the existing laws (Law No.22, 1957 and Law No.12, 1964), particularly in regards to the protection of workers' rights. In addition, they consider the process of formulating this law to be morally flawed because it was funded by Jamsostek funds intended for the workers. Consequently, the implementation of Law No.25, 1997 has been postponed until October 1, 2002, and there is a possibility that it may be revoked entirely if the two new bills on Industrial Relations Dispute Resolution and the Development and Protection of the Workforce, presently being discussed by the DPR, are ratified.

Meanwhile, Minister of Manpower Decision No.150, 2000 on "The Settlement of Employment Termination and Determining the Payment of Severance Pay, Bonuses and Compensation in Firms (*Kepmenaker No. Kep-150/Men/2000*) was issued by the government in June, 2000. This decision was issued to guarantee orderly conduct, fairness and legal certainty when retrenching workers, as was intended in the provisions for regulation of the implementation of Law No.22, 1957 and Law No. 12, 1964. Two issues currently being debated concerning the new decision are the explicit provisions for the payment of severance pay and other benefits for those workers who are retrenched because they have committed major offences, or those who voluntarily resign.

Prior to the release of *Kepmenaker No. Kep-150/Men/2000,* the regulation applicable for settlement of employment terminations was Minister of Manpower Regulation No.3, 1996 on "Settlement of Employment Termination and Determining the Payment of Severance Pay, Long Service Pay, and Compensation in Private Firms" (*Permenaker No.03/Men/1996)* which was effective as of 14 February 1996. According to *Permenaker No.03/Men/1996,* employees who committed minor offences were entitled to receive severance pay and other benefits, whereas it was not stipulated that employees who resigned voluntarily on good terms should also receive severance pay and other benefits. Consequently additional clauses were required in the new decision stipulating the rights of those employees who resign voluntarily.

In contrast to *Permenaker No.03/Men/1996* which resulted in few objections, *Kepmenaker No. Kep-150/Men/2000* drew a strong negative reaction from employers, who argued that this decision would impose a burden on employers. Consequently, the government amended several articles in the decision through Minister of Manpower and Transmigration Decision No.78, 2001 (*Kepmenakertrans No. Kep-78/Men/2001* issued on 4 May 2001, and Minister of Manpower and Transmigration Decision No.111, 2001 (*Kepmenakertrans No.Kep-111/Men/2001)* released on 31 May 2001. These amendments eventually triggered discontent and mass labor unrest because *Kepmenakertrans No.78* and *No.111* were believed to favor employers, while *Kepmenaker No. Kep-150/Men/2000* was considered by unions and workers to provide adequate protection for employees.

It is important to highlight that Law No.22, 1957 and Law No.12, 1964 are no longer appropriate because during the industrialization era in Indonesia, industrial relations disputes have become more prominent and complex, requiring institutions and mechanisms to resolve disputes in a rapid, timely, just, and inexpensive manner. Accordingly, the government has proposed two new Bills which are still being debated by the DPR: The Industrial Relations Dispute Resolution Bill, and, The Development and Protection of the Workforce Bill. The Industrial Relations Dispute Resolution Bill, which was originally intended to be ratified on 8 October, 2001, has not yet been approved by the DPR because it has been rejected by both employers and employees. The objective of ratifying both of these proposed bills is to replace Law No.25, 1997 on "Manpower" which is yet to be implemented.[32]

Detailed analysis of Law No.22, 1957, Law No.12, 1964, the proposed Industrial Relations Dispute Resolution Bill, *Kepmenaker No. Kep-150/Men/2000, Kepmenakertrans No. Kep-78 and 111/Men/2001* is provided in the following section.

Law No.22, 1957

Law No.22, 1957 on " Labor Dispute Settlement" is made up of nine sections (which can be viewed in detail in Appendix 3), including an outline of the types and stages involved in peacefully resolving disputes through the bargaining process, where the agreement reached is eventually accommodated in labor contracts. If no agreement is reached between the parties involved, then the parties can facilitate voluntary arbitration or mediation, where a person is nominated to act as a mediator or arbitrator. In terms of the arbitration process, if the arbitrator or arbitration committee makes a final decision, it becomes binding on both parties after being ratified by the Central Government Committee (P-4P).[33] In contrast, official mediators[16] do not have the authority to make binding decisions resolving disputes through mediation. Instead they have just enough authority to make a recommendation.

[32] For explanation of the reasons for delaying the implementation of this law see the above paragraphs in this Chapter IV.

[33] *Panitia Penyelesaian Perselisihan Perburuhan Pusat (P-4P)*. According to Article 1.d.2.g: The Central Government Committee is the Central Government Committee for Industrial Relations Dispute Resolution. According to Article 12, Clause (1), The Central Government Committee covenes in Jakarta and includes a representative from each of the Ministry of Labor Affairs, Ministry of Industry and Trade, Ministry of Finance, Ministry of Agriculture, Ministry of Transport and Communications or the Ministry of Services, as well as five labor representatives and five employer representatives.

[16] That is, an official from the Ministry of Labor Affairs who is nominated by the Minister of Labor Affairs.

If the voluntary mediation and arbitration processes do not resolve the conflict, then the case is passed on to the Regional Government Committee (P-4D[17] for their recommendation which becomes binding if agreed to by both parties. However, either party may request an investigation by the Central Government Committee into particular aspects, whose final decision on these particular issues becomes binding for all parties concerned. All final decisions made in the mediation and arbitration process which are binding, can be implemented by the State Court in the region where the decision was formulated. According to Law No.5, 1986 on "The State Administrative Court", only those decisions from the Central Government Committee can be appealed in the State Administrative Court by the unsatisfied party.

Article 11 of this law also stipulates that the Central Government Committee can take over the process of resolving a particular labor dispute from the local government officials or the Regional Government Committee, if, according to the Central Government Committee, the labor dispute endangers the public interest and/or the interest of the state.

Law No.12, 1964

Law No.12, 1964 on "Employment Termination (PHK) in Private Firms (see Appendix 3) stipulates the rules and regulations on retrenchments (Article 1, clause 1), even though the legislation actually prevents employers from retrenching workers in certain circumstances. Ministry of Manpower regulations and decisions also regulate retrenchments, including the provision of severance pay, long service pay, and compensation, as well as rules on mass retrenchments and retrenchments in firms where there is no union representation. In contrast to Law No.22, 1957, this law does not provide that the party concerned must be the union (representing their members). Any disputes over the settlement of employment termination for individual workers can also be resolved based on this law, and do not have to include the union. In principle, the law provides stipulations regarding retrenchment for each respective worker, regardless of their union membership. In order to retrench less than 10 workers, the employer must obtain permission from the Regional Government Committee, whereas to retrench 10 or more workers, permission must be obtained from the Central Government Committee.

The Proposed Industrial Relations Dispute Resolution Bill

The title and contents of the proposed Industrial Relations Dispute Resolution Bill (*RUU-PPHI*) have been revised several times during the process of drafting the bill. The original draft of the bill was titled "The Industrial Dispute Resolution Bill" which was modified in the second draft to become "The Court of Industrial Relations Disputes Bill", and in the final draft "The Industrial Relations Dispute Resolution Bill". The contents of the final draft are still being modified and discussed by the DPR. SMERU has obtained a copy of the third draft of the bill.[18]

[17] *Panitia Penyelesaian Perselisihan Daerah (P-4P)*. According to Article 1.d.2.f: The Regional Government Committee is the Regional Government Committee for Industrial Relations Dispute Resolution. According to Article 5, Clause (2), this Committee includes a representative from each of the Ministry of Labor Affairs, Ministry of Industry and Trade, Ministry of Finance, Ministry of Agriculture, Ministry of Transport and Communications or the Ministry of Services, five employer representatives, and five employee representatives.

[18] See footnote No.4.

This bill contains nine sections (see Appendix 3), including:

(i) General provisions;

(ii) The procedures for resolving industrial relations disputes (bipartite, mediation, conciliation, arbitration);

(iii) The Court of Industrial Relations Disputes;

(iv) Resolving disputes through the Court of Industrial Relations Disputes;

(v) Stopping strikes and workplace lock-outs;

(vi) Administrative sanctions and stipulations for criminal acts;

(vii) Other provisions;

(viii) Transitional Provisions; and

(ix) Commencement of the Act.

The rationale for the changes to the legislation as stipulated in the Bill include the following :

(i) According to the principles of Pancasila, industrial relations which is harmonious, dynamic, and based on the principle of fairness have not yet fully materialized in an optimal fashion;

(ii) During the era of industrialization, industrial relations disputes are becoming more frequent and complex, requiring institutions and mechanisms for dispute resolution which are rapid, timely, equitable, and inexpensive; and

(iii) Law No. 22, 1957 and Law No.12, 1964 are no longer appropriate.

The basic difference between the proposed bill and the two previous laws is that dispute resolution is regulated through the Court of Industrial Relations Disputes as well as through mediation, conciliation and arbitration. In addition, individual disputes which do not involve unions, can be resolved according to the provisions in this bill. The bill proposes the resolution of disputes through conciliation. Mediation and conciliation in principle constitute the same process, that being mediation through official mediators. The differentiating factor is that during the mediation process, the mediators are local government officials from the government office in charge of local labor issues, meanwhile during the conciliation process the person appointed by the Minister to mediate or conciliate is a non-government appointee. Both parties in the dispute must agree to the appointed mediator or conciliator, whereas the arbitrator (or council of arbitrators) is chosen from the list of arbitrators already determined by the Minister.

In this bill, the definition of an industrial relations dispute is: a difference of opinion which results in conflict between employers (or a group of employers) and employees (or labor unions); a conflict between labor unions[19] due to a dispute about the rights, interests, and retrenchment of workers; or, a conflict between labor unions in one enterprise.

[19] The Federation of All-Indonesia Workers Unions disagrees with the sentence "…or a dispute between unions' based on the following: industrial relations agents are employees, employers, and the government; the essence of industrial relations in the labor laws are industrial relations between employees, employers, and the government; the party which have a case are the workers (individually or through their representatives) within an enterprise, with the employers (or employers representatives); and, disputes between labor unions in terms of the legal norm, are resolved under the jurisdiction of the public courts. According to Suwarto, the Chairman of the Indonesian Industrial Relations Association, disputes between unions are not connected to disputes over rights, interests and retrenchment. These three types of disputes are only related to the relationship between employees (or their representatives) and employers.

If a dispute about employer or employee rights is resolved through bipartite negotiations, but in practice, one of the clauses agreed upon by both parties during negotiations is not implemented, the party who feels that they are being exploited may take the decision to the Court of Industrial Relations Disputes within the local State Court. The decision of this court is final. Meanwhile, if disputes about employers' or workers' interests and the retrenchment of employees cannot be resolved through bipartite negotiations, then the parties concerned may choose to use mediation, conciliation, or arbitration processes. Whenever mediation or conciliation fails to resolve the conflict, or one of the parties does not agree to the written proposals, the dispute can be taken to the Court of Industrial Relations Disputes within the local State Court. However, those industrial relations disputes which are in the process of being resolved, or have already been resolved through arbitration, cannot then be taken to the Court of Industrial Relations Disputes[20]. The new bill proposes that the decision made during arbitration is binding for both parties because at the time the agreement is made, both parties also agree that they will accept and implement the arbitrator's decision. This process is different to that outlined in Law No.22, 1957, where if arbitration is not successful, then the official arbitrator passes the case on to the Regional Government Committee for deliberation.

The draft Bill proposes that a Court of Industrial Relations Disputes be established within the State Court in every provincial capital city, and in every *kabupaten/kota*, as well as within the Supreme Court. The Court of Industrial Relations Disputes has the power of authority which exists within the scope of the public courts, to investigate and resolve industrial relations disputes. The proposed Industrial Relations Dispute Resolution Bill also specifies in detail the role of the Judge, the Ad-hoc Judge, the Judge of Appeals, and the Ad-hoc Supreme Court Judge. Judges are Career Court Judges given cases in the Court of Industrial Relations Disputes, whereas the Judges of Appeals are Career Supreme Court Judges and Ad-hoc Court Judges in the Supreme Court which have the task of investigating industrial relations dispute cases. Furthermore, Ad-hoc Judges are Industrial Relations Dispute Court Judges which are appointed based on the labor unions' or employer organizations' proposals. Based on the proposed bill, Ad-Hoc Judges must hold a law degree. Unions oppose this change because they believe the Ad-Hoc Judge must possess the understanding of, and expertise to overcome industrial relations disputes, which is not necessarily evident in their academic qualifications.

According to SMERU's findings in the field, many workers, unions, enterprise unions, and employers were not satisfied with the proposed Industrial Relations Dispute Resolution Bill. Only a few of them are of the opinion that a special court for industrial relations disputes will improve the current situation. For example, the Indonesian Prosperous Labor Union (SBSI) and the All-Indonesia Workers Union (SPSI) believe that the resolution of industrial disputes through the present Central and Regional Government Committee system has created corruption and collusion and therefore needs to be changed.

Few employers and labor unions understand in detail both the rationale and Articles in the Bill. Their opinions on the Bill are both wide and varied, and often based on misunderstanding. For example, Apindo argues that apart from being too technical, dispute resolution through the courts using legal services is expensive and time consuming. While the Bill does not stipulate the use of legal services, in practice legal services have to be used to build a case based on legal evidence, which can only be compiled by a professional lawyer. Others believe that industrial relations dispute cases need to be quickly resolved because they affect the livelihood of many workers. Furthermore, many doubt the capacity of the general courts to resolve industrial

[20] Nevertheless, these decisions may be submitted to the Supreme Court for judicial review if one of the parties deems it necessary.

relations dispute cases, even though in the future a special court for industrial relations disputes will be formed. While this skepticism is possibly excessive, according to Suwarto, the Chairman of the Indonesian Industrial Relations Association, it is no different from that which emerged under the tri-partite system which stipulated a role for the Central and Regional Government Committees. Yet, there are few who are aware that the new Bill is intended to improve the weaknesses in the current system.

SMERU's findings indicate that both employers and employees are aware that if they seek solutions to industrial disputes through the courts, employers will be in a stronger position because they have more funds at their disposal. Both parties believe that the proposed Bill reduces workers rights to legal defense from unions, as well as handing over the process of industrial dispute resolution to the courts. However, there is no article in the bill prohibiting workers from requesting assistance from unions.

Compared to the proposed Bill, generally the unions interviewed in the field are more in favor of Law No.22, 1957 and Law No.12, 1964 outlined above, even though the respondents did not mention specifically which articles from the previous laws they believed to be more appropriate. As discussed previously, the views on the proposed Bill vary widely. As an example, Appendix 4, presents a summary of the views of the Anti-Oppression of Workers Committee released in 2000 in regards to the Bill. This committee has compared the proposed Bill with Law No.22, 1957 and Law No.12, 1964. It is important to note that it is possible not all of the comparisons made by the committee are completely accurate.

In October 2001, four federations of labor unions (the *Reformasi* branch of the Federation of All-Indonesia Workers Unions – F-SPSI *Reformasi*, the Indonesian Muslim Workers Association - PPMI, the Consolidation of Indonesian Workers Unions - Gaskindo, and the All-Indonesia Democratic Federation of Workers Unions – F-SBDSI) have collectively submitted their objections to the proposed Bill to the DPR.[21] They are very pessimistic about the new Bill and estimate that an extended period of time will be needed before the Bill can be ratified. This federation's objections are displayed in the same Appendix. A variety of other views, including that of both employers (through Apindo) and industrial relations observers, are also outlined in Appendix 5. As is evident, at the time SMERU was undertaking its research, discussions about the proposed Bill were ongoing, both amongst unions and Apindo.

Minister of Manpower Decision No.150, 2000

As was discussed at the beginning of the chapter, Minister of Manpower Decision No.150, 2000 (*Kepmenaker No. Kep-150/Men/2000)*, is based on Minister of Manpower Regulation No.3, 1996 on "Settlement of Employment Termination, and Determining the Payment of Severance Pay, Long Service Pay, and Compensation in Private Firms" (*Permenaker No.03/Men/1996)* which is no longer appropriate for the needs of the community. According to Suwarto, provisions on voluntary resignation were included in *Kepmenaker No. Kep-150/Men/2000* because *Permenaker No.03/Men/1996* only covered provisions on the rights of employees who have had their employment terminated because they have committed a minor offence, not those employees resigning voluntarily.

This new Manpower decision has six sections (see Appendix 6), including:

(i) General provisions;

(ii) Settlement of employment termination at the enterprise level and through mediation;

(iii) Settlement of employment termination at the Regional Government and Central Government Committee level;

[21] Republika, "*Empat Organisasi Serikat Pekerja Tolak RUU-PPHI*", 5 October, 2001, p. 15.

(iv) Determining the payment of severance pay, long service pay and compensation;

(v) Temporary provisions; and

(vi) Commencement of the Act.

Several articles in this decision have been opposed by employers, including: Article 15 (clause 1), Article 16 (clause 1 and 4), Article 18 (clause 3 and 4), Article 19 (clause 3), Article 21, Article 22, and Article 26. The contents of these articles are outlined in detail in Appendix 6.

Employers and workers differ in their views of *Kepmenaker No. Kep-150/Men/2000*. Almost all workers interviewed desire the full implementation of the decision, whereas a large percentage of businesses believe they will suffer a considerable financial loss because they are obliged to provide long service pay for their workers, including those who commit criminal acts in the workplace and those who resign voluntarily. In light of this, labor intensive firms such as textile and footwear businesses, are strongly opposed to this decision because they have a high level of staff turnover. They are concerned that they will be required to make large provisions for severance pay if many workers resign collectively and then move to another factory, even though the business has invested in improving their skills. If this occurs there will certainly be an impact on production levels. Appendix 7 presents a simulation of long service pay provisions which must be paid by businesses to those workers who have their employment terminated or resign voluntarily. According to Suwarto, in order to avoid this problem employers in these industries have created a code of conduct making it difficult to employ workers leaving a different business in the same industry. Consequently, employers do not need to be concerned about employees changing workplace *en masse* and suffering a financial loss.

Employers also oppose the timeframe used to calculate the provision of long service contributions which has been reduced from five years to three, and has the potential to take a financial toll on businesses (see Articles 22 and 23 in Appendix 6). In addition, employers do not have the right to withhold contributions from workers who suddenly resign, even though previous regulations have stipulated that one month's notice must be provided by the employee. Employers believe that there are no legal sanctions imposed on those who contravene the regulations, such as by not fulfilling their obligations.

Employers' opposition to *Kepmenaker No. Kep-150/Men/2000* has been outlined for the government and the general public through a Joint Circular of the Indonesian Textiles Association (API), the Indonesian Apparel Manufacturers Association (AAMI), the Indonesian Footwear Association (Aprisindo) and the Indonesian Toy Business Association (APMI), dated 15 December, 2000.[22] This circular states that the new decision:

- adds to the obligations of the firm regarding the cost of personnel and may exceed the capacity of the business, disturbing the sustainability of the business. This responsibility will be a greater burden on labor-intensive firms because labor turnover at any particular time in these firms is relatively high;
- obliges employers to pay larger long service contributions and compensation to workers who terminate their employment compared to the previous regulation (both relatively and nominally). This is considered to squeeze the available funds for other compulsory costs in the business, including acquiring raw materials. Consequently, there will be a contraction in the potential volume of production at a financial cost to the business, and in addition will reduce the level of employment available in the firm;

[22] Kompas, "*Nasib Buruh Memperpanjang Daftar Keluhan Sektor Usaha*", 24 June, 2001.

- puts pressure on the component of reserve funds in the business (including reserve funds available to provide incentives for increased production and productivity) because of long service and compensation payments. This in turn decreases the resources available to encourage employees to increase their skills;
- potentially reduces the competitiveness of the workers (in terms of their skills levels) where the calculation of remuneration based on the minimum wage, with no reference to the productivity levels, could result in them being replaced with professional staff, including foreign professionals who normally associate their income levels with productivity; and
- does not anticipate liberalization of the economy within the framework of the ASEAN Free Trade Area (AFTA), Asia-Pacific Economic Cooperation (APEC), and the World Trade Organization (WTO), where free movements of labor will be created in the future within ASEAN countries. This must be anticipated by fairly calculating remuneration based on minimum wages and productivity, not by formulating over-protective stipulations or providing excessive protection for workers.

At the same time, unions are of the opinion that the employers' opposition to *Kepmenaker No. Kep-150/Men/2000* is a result of their misinterpretation of the decision, particularly in regards to the provision of long service pay for workers who commit criminal acts or resign. According to the unions investigated, criminal cases must be resolved through the legal system and in this case workers do not automatically receive severance pay.

Generally, enterprise union organizers provided similar responses when questioned about several of the labor regulations, including *Kepmenaker No. Kep-150/Men/2000*. It is estimated that the standardized answers provided by enterprise union organizers opposing the regulations is the result of training from affiliated unions or from the information proved in seminars attended by union organizers. In several enterprise unions, SMERU observed brochures from affiliated national unions emphasizing the general view of unions regarding a number of these regulations.

The Secretary General of the Indonesian Footwear Association has stated that employers have noted there is ample opportunity for workers to manipulate *Kepmenaker No. Kep-150/Men/2000.*[23] For example, it is possible that key employees in the production process in Firm A and Firm B may collectively plan to resign from their respective positions at the same time. They can both then receive their severance pay, long service pay, and compensation entitlement, and following this apply for work in the corresponding firm. Because their positions are crucial for production processes in the business, it is certain that they will be appointed to the new positions.

In order to make objective conclusions about the debate surrounding *Kepmenaker No. Kep-150/Men/2000*, further research is required about the implications of implementing this decision. Hence, the various opinions of the new decisions can be verified. Logically, it is not easy for employees in the lower levels of the organization to tender their resignation with the sole objective of receiving severance pay and compensation, as it is quite difficult to find other employment. The substitution of long-standing employees with professionals is very likely if their skills are essential or truly scarce. Consequently, labor unions with the majority of their membership employed at the lower levels in the businesses do not always benefit from this new decision.

[23] Bernard Hutagalung, "*Pemberlakuan Kepmenaker No.150/2000, Kemenangan Para Buruh*", Business News, 20 June, 2001.

Minister of Manpower and Transmigration Decisions No.78 and No.111

Following the reaction of employers regarding *Kepmenaker No. Kep-150/Men/2000*, Minister of Manpower and Transmigration Decision No.78, 2001 (*Kepmenakertrans No. Kep-78/Men/2001)* and No. 111 (*Kepmenakertrans No.Kep-111/Men/2001)* were issued (see Appendix 6). The changes to *Kepmenaker No. Kep-150/Men/2000* through the two new decisions were based on the following considerations[24]:

1. To accommodate and protect the balance of interests between employees and employers, as well as the demands of the wider community, based on the principle of fairness;

2. Until now, there has been no other nation which provides compensation for workers who resign or commit major offences in the workplace;

3. Between July 2000 and February 2001, the number of employment termination cases recorded for major offences was only 2,014, or 2.54% of the total number of employment terminations, and for resignations only 249 cases were recorded, or 0.31%;

4. The government has made the stipulations in order to protect business investment which is conducive to economic growth and in turn, will increase the number of employment opportunities; and

5. Rights for workers who are retrenched have not at all been reduced, but this is not applicable for workers who resign or commit major offenses.

Other minor changes to the previous decision include the revision of the terms used to describe workers and labor unions. In addition, the Minister of Manpower is now referred to as the Minister of Manpower and Transmigration. However, there are two basic changes to *Kepmenaker No. Kep-150/Men/2000* in the new decisions, these are:

1. Employees who resign voluntarily on good terms with the employer only receive compensation, and are not entitled to long service leave payments. The basis for this decision was that the employment relationship is based on the desire of both parties involved (employees and employers). When an employee resigns, the employer still desires that the employee remain working for the business. Consequently, it is reasonable that the employee who resigns bears the risk of their decision, and does not need to receive long service leave payments.

2. Workers whose employment is terminated after committing a major offence are only entitled to compensation, but not long service pay (as opposed to the previous decision which provided for long service payments). This decision was made because a large number of major offences can be categorized as criminal offences, so they do not deserve entitlement to long service pay. In addition, long service pay should not be misinterpreted as bonuses, gifts, or incentives for major offences which are deliberately committed or other acts of sabotage, which ultimately have the potential to endanger the interests of all workers. The question is whether the clauses in *Kepmenaker No. Kep-150/Men/2000* which create barriers to employment opportunities for those who are unemployed, will still be endorsed in the decision. Changes to these clauses will only affect a small number of workers who are currently employed, but will be of great benefit to the millions of workers who at present have no job opportunities.

[24] Based on a press release from the Bureau of Public Relations and International Cooperation, Department of Manpower and Transmigration, 31 May, 2001.

The basic changes to the decision can be viewed in Appendix 6, including Articles 15 (clause 1), 16 (clause 1, 2, and 4), 17A, 18, 26 and 35. An explanation of the background reasoning for the changes to these clauses includes:

Article 15:
Clause (3) has been added to the new decision in order to avoid the repeated manipulation of clause 1: by employees remaining absent from work for five days and then attending, and following this continually repeating the process; or, work hours being used for workers strikes outside of the stipulations in the current legislation.

Article 17A:
There is concern that employers and employees will not fulfill their obligations during the settlement of employment termination disputes by the Regional or Central Government Committees. This means that employees may not go to work, and employers may not pay workers' wages. Consequently, Article 17A has been inserted between Article 17 and 18, which stipulates that while these disputes are being resolved, workers must continue to work and employers must continue to pay full wages until the dispute resolution process is complete.

Article 18:
Article 18 has undergone several basic changes: in clause (3) it is stressed that suspensions should be based on the provisions for suspensions in work contracts, internal enterprise regulations, and collective labor agreements. Clause (4) states that employees who are retrenched due to major offenses are entitled to compensation as regulated in Article 26B. Originally, *Kepmenaker No. Kep-150/Men/2000* stipulated that employees who are retrenched due to committing major offenses are also entitled to long service pay.

Article 26:
Similar to Article 18, Article 26 has also been revised to stipulate that employees who resign voluntarily on good terms with the employer are only entitled to compensation payments. The original *Kepmenaker No. Kep-150/Men/2000* stipulated that employees who resign in such a fashion are also entitled to long service payments. This new article was formulated due to the concern that employees would resign *en masse*, and then apply for the same positions at other firms.

Article 35A:
Article 35A in *Kepmenaker No. Kep-150/Men/2000* resulted in the new decision *Kepmenakertrans No. Kep-111/Men/2001* in order to change this article. The original article stipulated the provision of severance pay, long service pay, and compensation for employees. This has been changed to "if the provisions of severance pay, long service leave, and compensation stipulated in work contracts, internal enterprise regulations, collective labor agreements exceed the provisions in *Kepmenakertrans No. Kep-78/Men/2001*, then the provisions in the work contracts, internal enterprise regulations and collective labor agreements remain effective".

The Status of *Kepmenaker No. Kep-150/Men/2000* and *Kepmenakertrans No. Kep-78 and 111/Men/2001*

The decision of the government to replace *Kepmenaker No. Kep-150/Men/2000* with *Kepmenakertrans No. Kep-78 and 111/Men/2001* resulted in protests from workers, requesting that the government abolish the two new decisions as well as reinstate *Kepmenaker No. Kep-150/Men/2000*. Workers believe that the original decision provides adequate protection for workers, while the two new decisions are less effective, or do not sufficiently protect the workers. The workers protested against the new decision through various forms of industrial unrest and mass strikes in several regions. As a result, in Bandung, the unrest and total

paralysis of the city, resulted in mass chaos where tens of thousands of workers joined in the three days of protesting. This forced the Governor of West Java to reinstate *Kepmenaker No. Kep-150/Men/2000*.[25] According to a number of workers, the reasons that the new decision was rejected include[26]:

- *Kepmenakertrans No. Kep-78/Men/2001* is detrimental to those workers who are retrenched; the new decisions weaken the bargaining position of workers, but at the same time strengthens the position of employers in the dispute resolution process. The workers believe this is because the conditions and submission process for requesting permission to retrench workers through the Regional and Government Committees are very lenient, ultimately supporting the employers to choose retrenchment as a short-cut for resolving industrial disputes;

- The new decisions imply that the workers have committed a wrong doing. At the same time, they allows employers to strengthen their own position by manipulating the workers when requesting the permission of the Regional and Central Government Committees to retrench workers (Article 15). The ease with which employers can retrench workers results in a high level of unemployment;

- The new decisions invite foreign investors to invest in capital resulting from the privatization program of those state-owned enterprises which have pension programs, that can be used as a means of the quick mass retrenchment of workers;

- The new decisions make fostering relations with the international community more difficult, particularly in relation to human rights issues and the process of democratization; and

- The two new decisions do not include a role for the involvement of workers, therefore not giving the necessary attention to the principles of participation, transparency and accountability, meaning that the contents of the regulation are not fully equitable for workers.

Up until mid-June 2001, there were 65 institutes including labor unions, the DPRD, the Governor, *Bupati* and *Walikota*, which rejected *Kepmenakertrans No. Kep-78/Men/2001*.[27] *Kepmenaker No. Kep-150/Men/2000* is still effective in at least 10 provinces including East Java, West Java, and Lampung, as a means of curbing excessive worker unrest. Only the Indonesian Footwear Association agrees with the implementation of *Kepmenakertrans No. Kep-78/Men/2001*.

In context of these developments, reinstating *Kepmenakertrans No. Kep-150/Men/2000* is just enough for the government to restrain worker demonstrations. Consequently, as has been outlined above, a special study into *Kepmenaker No. Kep-150/Men/2000* is required.

It is important to note that if the three decisions above remain effective, or one of them is not abolished, interpretation of the law will be confusing.[28] On the one hand, workplace contracts, which were effective before *Kepmenakertrans No. Kep-78/Men/2001* and refer to *Kepmenaker No. Kep-150/Men/2000*, will remain effective until the workplace contract is

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[25] Bernard Hutagalung, *"Pemberlakuan Kempenaker No.150/2000, Kemenangan Para Buruh"*, Business News, 20 June, 2001.

[26] Business News, *"Pemerintah Memberlakukan Kembali Kepmenaker No.150/Men/2000"*, 18 June, 2001.

[27] op.cit.

[28] ibid.

complete. However, those workplace contracts which became effective after the release of *Kepmenakertrans No. Kep-78/Men/2001* refer to this decision, meaning that *Kepmenakertrans No. Kep-111/Men/2001* was only temporarily valid.

Considering the negative reaction of the workers to the new decisions, despite employer concern, ultimately the government reinstated *Kepmenaker No. Kep-150/Men/2000* on the 15 June, 2001 which was publicized directly by the Minister of Manpower and Transmigration, Al Hilal Hamdi. The reinstatement of the decision was based on a meeting between employers, workers' representatives, and the government, and will remain effective until the new National Tripartite Forum is formed. The new forum is a result of the Minister of Manpower and Transmigration awareness that *Kepmenakertrans No. Kep-78* and *111/Men/2001* were not formed based on tri-partite consultation because each tri-partite meeting always reached a dead end.[30] However, difficulties have arisen because the reinstatement of *Kepmenaker No.150/Men/2000* was carried out without revoking *Kepmenakertrans No. Kep-78* and *111/Men/2001*.

B. THE HISTORY OF THE LAWS AND REGULATIONS ON LABOR UNIONS

The freedom for labor to form associations or to organize in Indonesia has long been protected by law. Indonesia has been a member of the International Labor Organization (ILO) since 1950. As discussed previously, in 1956, ILO Convention No.98 on "The Right to Organize and Collective Bargaining" was ratified through Law No.18, 1956. Law No.18 1956 regulates the right to organize and protect workers against anti-union practices, as well as the right of employers and employees to be protected against interventions from other parties. Furthermore, this legislation stipulates that the role of the police and the military is determined by other national laws. Both regulations emphasize bipartisan and tri-partite approaches to collective bargaining rather than attempting to reach agreements through the courts. Meanwhile, the core principles of ILO Convention No.98 are: to guarantee the right of workers to join, or not to join a union; respect for the right to organize; protection for workers from the intervention of employers; and, to guarantee the development and use of voluntary bargaining processes when formulating workplace contracts.

In the 1950s, labor unions grew in both size and number because the political system at the time was quite liberal. During that period, many labor unions in Indonesia tended to adopt party ideologies. The four main ideologies adopted by the political parties and the unions at the time included religion, communism, nationalism and socialism. However, all workers' movements in Indonesian promoted peaceful and harmonious industrial relations where maintaining the principle of solidarity was their main objective.

By 1957 there were at least 12 labor federations, most with political affiliation. The largest, most influential, and carefully organized federation was the communist affiliated All-Indonesia Central Labor Organization (*Sentral Organisisasi Buruh Seluruh Indonesia* – SOBSI). However, this labor union was disbanded after the Indonesian Communist Party was banned in 1965. Furthermore, since 1966 when the Old Order government under Soekarno was toppled, the New Order government relied heavily on industrial development and emphasized economic and political stability. While during the

[30] ibid.

Soekarno period labor unions adopted political party ideologies, under Soeharto their struggle was more focused on the welfare of the workers.[31]

In 1973, labor unions declared the establishment of the independent All-Indonesia Workers Federation (*Federasi Buruh Seluruh Indonesia* – FBSI) which was an umbrella organization for the 21 existing labor unions established by trade sector. In 1985, this organization changed its name to the All-Indonesia Workers Union (*Serikat Bekerja Seluruh Indonesia* – SPSI) where the sector unions acted like branches of the SPSI. The existence of only one labor union, that is the SPSI, in reality was not conducive to promoting the interests of the workers because the organization was controlled by the government of the day, that being the New Order Government.

After the collapse of the New Order and the installment of the *Reformasi* Government, the democratization process and the freedom to form associations began to strengthen in Indonesia. Drastic changes occurred after the government ratified ILO Convention No.87 on "Freedom of Association and the Protection of Right to Organize", through Presidential Decree No.83, 1998 which permits workers and employers to freely establish organizations to protect the interests of their members, including the establishment of labor unions by workers. Following this, the government ratified Law No.21, 2000 on "Labor Unions", which provides wider scope for workers to form labor unions. These two changes have had a much greater impact on the industrial relations system than the ILO convention ratified in 1956.

The essential components of ILO Convention No.87 include the right of workers and employers to both establish, and affiliate with other organizations at their own discretion, where "administrative authorities" are prohibited from dissolving these organizations or restricting their activities. It also stipulates that these organizations and their members (employees and employers) must obey the national laws, and national laws are not permitted to water down the convention.

The ratification of ILO Convention No.87, 1948 during the administration of the Habibie Government was considered quite liberal by observers. In Asia, only two countries have ratified this convention, one of which was Indonesia. A relatively large number of nations across the world have ratified this convention (approximately 58), including the third world countries Nigeria and Guatemala. However, the United States, considered one of the more liberal nations, has not yet ratified this convention. What is even more extraordinary about this policy is that, based on Law No.21, 2000, labor unions can be established with a minimum of 10 workers. This legislation also regulates the establishment of workers' union federations, which require the membership of at least five labor unions, and confederations requiring at least three member federations. This law also stipulates that no party is allowed to prevent the formation of labor unions, nor force the establishment of unions or prohibit their formation. Similarly, no party is permitted to prevent workers from becoming union organizers or members, or obstruct unions from either carrying out or not carrying out their activities. According to the legislation, sanctions will be imposed on any person who does not comply with the above stipulations.

As a result of the ratification of ILO Convention No.87, 1948 and Law No.21, 2000, the number of labor organizations in Indonesia has exploded. To date, 61 National Workers Union Federations, one Confederation, more than 144 National Labor Unions, and approximately 11,000 enterprise unions are registered, with a reported total membership

[31] See Hikayat Atika Karwa, Chairman of the National Council, Federation of LEM-SPSI and Chairman of National Council of the SPSI Confederation, "*Hubungan Industrial dalam Gerakan Buruh di Indonesia"*, Seminar Paper, Bekasi, 21 November 2001.

amounting to 11 million workers[32] (see Appendix 8). According to Suwarto, this growth in the union movement has not been followed by growth in the number of enterprise unions. As a comparison, according to data collected by the Department of Manpower and Transmigration in 1998, at the time there was only one federation (Federation of All-Indonesia Workers Unions), 12 national unions based on industry sectors, and 12,000 enterprise unions. Hence, there was no growth in the number of enterprise unions with the ratification of the new laws. This is not in accordance with the spirit of unionism, which needs to grow from the grass-roots level, that being the enterprise level. Compared to a wage workforce in urban areas of around 18 million, it is very likely that the reported number of union membership greatly overstate effective union membership.

The ratification of ILO Convention No.87 and Law No.21, 2000 has also made it possible to establish more than one enterprise union within an enterprise and at levels higher than the enterprise, which may not be prohibited or limited. According to this ILO Convention, this is one of the workers' basic rights in terms of implementing human rights. Consequently, any nation which has ratified this convention, must respect and implement the convention as stated in ILO Declaration, 1948. Bearing in mind the existence of many labor unions, especially at the enterprise level, confusion over the role of particular unions in the national bargaining process (where only 10 national unions can represent the workers) has the potential to weaken their bargaining position. However, this is one of the consequences to be faced during the era of transition, where based on natural selection, the representative unions are chosen by the workers themselves. Ultimately, workers can only choose labor unions to represent them in the national bargaining process which have professional leaders who truly understand labor union issues, business conditions, and the workers situation. In order to reach these objectives, extensive time and clear processes will be required.

Based on the field research carried out by SMERU, the existence of more than one enterprise union within a firm was found in three of the 47 enterprises investigated. In general these three firms, so far, have no problems or conflict between the unions concerned. However, employers (Apindo), enterprise unions, and workers believe that the forming unions based on Law No.21, 2000 is unrestrained because only 10 members are required to establish the organization. Most of them would prefer that no more than one enterprise union exist in each firm. They have proposed that unions be formed based on a percentage of the total number of workers in each enterprise. The SMERU research team found that enterprises, labor unions, and workers have presented similar rationale regarding the presence of more than one enterprise union in each enterprise. This includes:

1. Whenever there is more than one enterprise union existing within a firm, it is more difficult to determine which union has the right to represent the workers in bargaining or dispute resolution processes, even though according to regulations the union with the highest membership should take on this role.
2. It is difficult to determine which union will represent the workers in national tri-partite negotiations. Unions across the board may only be represented by 10 unions in these forums, similar to the 10 employers' representative organizations and government representatives that can take part in the negotiations.

[32] Data obtained from the Directorate General of Inspections and Supervision (*Binawas)*, Department of Manpower and Transmigration, 2001 and Minister of Manpower and Transmigration Briefing at the Tri-partite National Dialogue with the Association of All-Indonesia Workers Unions in Kabupaten/Kota Bekasi, 23 November, 2001.

3. The existence of more than one union within an enterprise is may cause conflict in the workplace because it creates competition between the workers for influence over other members and workers.
4. The easy procedures to establish unions based on ILO Convention No.87 should be interpreted in light of ILO Conventions No.98 (through Law No.18, 1956) which emphasizes that the objective of forming a union is to bargain *collectively*. In the opinion of the respondents, the essence of "collective bargaining" is bipartite bargaining at the enterprise level because unions are generally organizations which exist at the enterprise level.

Under the legislation on the freedom to organize, employers, enterprise unions, and workers cannot reject the existence of more than one enterprise union in a firm. Businesses tend to disagree with this legislation because of the technical problems that result, such as providing more than one set of facilities for the administration of the union including a secretariat office, name board and development support for unions.

In order to avoid the emergence of uncontrolled union and enterprise union activity, one respondent from the local Office of Manpower in the study carried out by SMERU has proposed that the requirements for establishing unions should be more stringent. Apart from proposing that the number members required to establish an enterprise union be increased from 10 members to 100 members, they also suggested that union organizers create and implement education programs on how to organize.

V. CHANGES IN INDUSTRIAL RELATIONS PRACTICE

A. INDUSTRIAL RELATIONS DURING THE NEW ORDER

In 1974, the New Order administration formulated its Industrial Relations policy based on *Pancasila*, taking into account various Indonesian social-cultural factors and traditional values. This *Pancasila* Industrial Relations policy (*Hubungan Industrial Pancasila*, HIP) was outlined in Minister of Manpower Decision No.645/1985 (*SK Menaker RI No. 645/Men/1985)*, stipulating relations between the various agents involved in the production process of goods and services based on the five principles of *Pancasila*.[33] *Pancasila* Industrial Relations emphasizes cooperation and partnership between employees, employers, and the government, with the aim of building an ideal industrial society.[34] It is also based on the three principles of partnership between these groups: in the production process; in terms of responsibility, and gaining the benefits.

Pancasila Industrial Relations emphasizes a balance between the rights and responsibilities of employees and employers, as well as each of their respective obligations towards the other party. Both social justice and recognition of reasonable limits determine the balance between these rights and obligations, rather than determining the balance of power in the relationship. *Pancasila* Industrial Relations endeavors to establish: harmony in the workplace; increased levels of productivity; and improvements in the human dignity and values of employees. If these conditions in the workplace can be achieved, then it is hoped that harmonious industrial relations will follow, subsequently contributing to political and social stability which was deemed paramount to the New Order regime.

Pancasila Industrial Relations can be differentiated from other industrial relations policies based on the following factors: (i) employees are not seen merely as wage earners but as a form of servitude for God, together with other human beings and the society and country in general. (ii) employees are not merely factors of production but also individuals with their own dignity and values; (iii) workers and employers essentially have the same interests, (iv) disputes between employees and employers are to be settled through mutual agreement; and (v) there must be a balance between the rights and obligations of both employees and employers. Five main mediums are required to facilitate the implementation of *Pancasila* Industrial Relations: labor unions, employer's organizations, institutes of bipartite cooperation, institutes of tripartite cooperation, employment contracts, internal enterprise regulations, collective labor agreements, guidelines on industrial relations dispute resolutions, and legislation.

In practice, the industrial relations system envisioned by the *Pancasila* Industrial Relations policy has not fully materialized. The interests of employees are often co-opted by employers or those in power, continuing to marginalize the workers. While there were many shortcomings, the New Order often successfully used the *Pancasila* Industrial Relations policy to create political and economical stability. Close collaboration between employers and government has managed to curb labor unrest. However the key issues in industrial relations remain unresolved, such as the significance of the principle of partnership in *Pancasila* Industrial Relations.

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[33] *Pancasila* Industrial Relations, Module 1: Education and Training for Trainers in *Pancasila* Industrial Relations Awareness Raising Workshops, Institution of Manpower and Workplace Regulations Project, Financial Year 2000, Department of Manpower, 2000.

[34] See footnote No. 13.

Conceptually, Industrial Relations policy maps both the structure and quality of the links and relationship between the three central elements of the production process; labor (human resources), employers (owners of capital), and the state.[35] According to Carmelo Noriel, the Head Advisor of the Industrial Technical Cooperation Project ILO/USA, the main principle in industrial relations is maintaining balance, rather than creating a relationship where the employer benefits while the employee suffers, or where the employer bends to meet high demands of the workers, eventually leading to bankruptcy.[36] Inconsistencies in the implementation of industrial relations policies until now have been affected by the *unsettled* nature of labor conditions, which are dependent on the following factors[37]:

1. Changes to industrialization strategy. The early 1980s witnessed a change in industrialization strategy, moving away from import substitution towards the strategy of export orientation. Consequently, this required availability of a labor force which was both cost effective and politically controllable, in order to increase market competitiveness and attract investors. This in turn resulted in a bias, favoring the protection of business interests;

2. Demographic pressure. A surplus of labor has meant that employers need not be concerned about labor shortages (or high labor turnover); and

3. Employers and employees still lack adequate knowledge and understanding of laws and other regulations concerning manpower.

In view of creating harmonious, dynamic and equitable industrial relations during an era of granting workers the right to freely organize, experts and practitioners have developed several views. Soemantri (2001)[38] argues that: industrial relations must be based on good will; the essence of the partnership between employers and employees (that is the authority of the employers and the conditions for employees) must be understood completely; both parties must act maturely; and, each party must endeavor to increase its knowledge base with the purpose of gaining a wider perspective useful in carrying out objective and rational bargaining processes. Soemantri also argues that generally, the larger the enterprise, the greater the number of rules that should be agreed upon by all parties involved. In large companies, the system of employer-employee communications tends to be formal, where company management acts more cautiously when making decisions by both taking into account the investment risks and anticipating the level of complexity in terms of future obstacles. On the other hand, employees often lose patience due to infrequent communication with company management. An important platform for the creation of harmonious communication is the establishment of collective labor agreements.

In response to these arguments, the Federation of All Indonesia Workers Unions has proposed several measures to be undertaken by each party[39]:

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[35] Dedi Haryadi, "*Agenda Revitalisasi Hunungan Industrial*", Bisnis Indonesia, 26 May 1997.

[36] Pikiran Rakyat, "*Banyak Pengusaha Tidak Bersahabat terhadap Pekerja, Hubungan Industrial Masih Sangat Lemah*", 29 November 2001.

[37] op.cit.,

[38] Dibyo Soemantri, *"Sikap Ambigu dalam Membangun Hubungan Industrial"*, Kompas, 20 June 2001.

[39] Drs. Sjukur Sarto, MS., Secretary General of DPP F-SPSI, quoted from the National Tri-partite Dialogue, Bekasi, 22 November 2001.

Measures to be taken by employers:

- Increase the level of transparency so that labor unions are aware of the financial state of the enterprise;
- Fully guarantee the right for labor to organize and implement a system of collective bargaining;
- Implement workers' basic rights;
- Avoid discrimination against workers;
- Provide as many opportunities as possible for employees to improve their careers and accomplishments; and
- Allow employees to actively practice their respective religions.

Measures to be taken by employees:

- Carry out their responsibilities in facilitating harmonious and dynamic industrial relations, with full adherence to, and respect for decision-making processes which are based on agreement;
- Optimize work output, as well as both maintain and increase work productivity and work motivation;
- Both maintain and increase the level of responsibility, discipline, and work ethos, along with acknowledging the rights of the employer;
- Carry out obligations as employees, as members or leaders of labor unions with complete responsibility;
- Honor the principle that both strikes and demonstrations are the last alternatives to be used when settling industrial disputes; and
- If forced to strike or demonstrate, respect enterprise property and avoid disturbing public peace.

Measures to be taken by the Government:

- Supervise the implementation of labor legislation with responsibility, speed, objectivity, justice and impartiality;
- Carry out revisions of labor legislation deemed inconsistent with the spirit of *reformasi;* and
- Protect employer-employer relations from possible intervention by other parties.

According to Suwarto, the essence of industrial relations is the regulation and execution of the rights and responsibilities of employees and employers at the enterprise level. These rights and responsibilities are to be found in those laws and regulations which govern general matters and minimum provisions. In addition, at the enterprise level, more specific details of both parties rights and responsibilities can be found in employment contracts (individual), internal enterprise regulations, and collective labor agreements, which outline work conditions and requirements in accordance with the conditions of the enterprise. Collective labor agreements are the best form of work regulations because they are formulated based on bargaining and agreement between employers and employees (through labor unions). The bargaining process involved reflects the principles of participation and responsibility. Therefore the outcome constitutes a general agreement and commitment to work together to implement these

responsibilities. Consequently, as long as collective labor agreements are valid, significant disputes should not eventuate.

Attempting to formulate an industrial relations system which proportionally satisfies all parties involved is no easy task. However, the ongoing process of *reformasi* and democratization has made it possible for all concerned to critique their actions and be transparent, therefore increasing the probability of formulating a more desired industrial relations system.

B. THE STATE OF INDUSTRIAL RELATIONS DURING THE PRESENT ERA OF TRANSITION

Under regional autonomy, matters relating to manpower should be completely managed and organized by regional governments, yet in practice this has not yet been fully implemented. For example, the Minister of Manpower still has responsibility for protection of the workforce, the allocation of labor, as well as training and increasing productivity.

According to Haryadi, the unstable nature of industrial relations at present is neither the fault of the system nor the underlying concepts, but rather the implementation and practice of the policies.[40] The New Order regime was relatively effective in curbing labor unrest, which for some translated as the effective implementation of *Pancasila* Industrial Relations. However, in reality this was the result of repressive labor practices on the part of the regime, which impeded the ability of labor to voice their interests. Although *Pancasila* Industrial Relations has not been fully implemented to date, it is not surprising that it continues to be debated in every region included in this research, regardless of the government administration, which has included the Habibie, Abdurrahman Wahid and the current Megawati administration.

The Federation of All-Indonesia Workers Unions acknowledges that *Pancasila* Industrial Relations has not been fully implemented.[41] The Federation of All-Indonesia Metal, Electronics and Machine Workers Unions (Federasi LEM-SPSI) are also of the opinion that *Pancasila* Industrial relations has not been correctly implemented by all the parties involved.[42] Statistics from the Indonesian Chamber of Commerce and Industry indicate that 90% of labor strikes, demonstrations, and other labor disputes caused by poor implementation of *Pancasila* Industrial Relations before the fall of the New Order regime have not been fully resolved. The previous *Pancasila* Industrial Relations policy is still the national consensus[43] meaning that there are no direct sanctions if it is not implemented. At present, the newly introduced concepts of industrial relations have neither been understood nor well accepted, let alone implemented.

Apart from issues of authority during this period of transition, determining minimum wages at the *kabupaten* and provincial level is also an issue in the industrial relations system. Throughout 2001, nominal minimum wages increased by between 25%-30%. Both employer opposition and efforts to delay the implementation of the new minimum wages have triggered numerous labor strikes. However, before this problem had even been resolved, the government stipulated an increase in provincial minimum wages for January 2002. For example, provincial minimum wages for workers in Jakarta Special

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[40] Dedi Haryadi, "*Agenda Revitalisasi Hubungan Industrial*", Bisnis Indonesia, 26 May 1997.

[41] Comments from the Chairman of DPC SPSI Kabupaten/Kota Bekasi quoted at the National Tri-partite Dialogue, Bekasi, 22 November 2001.

[42] See Hikayat Atika Karwa, 2001.

[43] Merdeka, "*Susah, Gara-gara Tak Ada Saksi*", 21 May 1997.

Province saw a nominal increase of 38% compared to the previous year. Once again, employers and businesses objected to the increase. Through the Indonesian Employers Association, employers threatened to withdraw from the national Minimum Wage Formulation Team and disregard the new January 2002[44] minimum wage policy. Facing opposition from employers, the Minister of Industry and Trade requested that the employers continue to make efforts to comply with the new policy. At the same time, the Minister of Manpower and Transmigration gave a strong warning to those employers disobeying the new policy.[45] Finally, the State Administrative Court decided that employers must implement the new provincial minimum wage.[46]

The Industrial Relations policy was once again under scrutiny following the general disagreement between employers and employees concerning *Kepmenaker No. Kep-150/Men/2000* and *Kepmenakertrans No. Kep 78 and 111/Men/2001*, Law No. 21 Year 2000, and the Proposed Industrial Relations Dispute Resolution Bill. The main points of disagreement concerning these decisions, laws and regulations are detailed in Chapter IV.

Disharmony in industrial relations has not only been triggered by the basic conflict of interest between employers and employees, but also by minor problems and misunderstandings, including misinterpretations of both government and internal enterprise regulations. The most common cause of discord has been the attempts of employers to reduce the cost of production, while employees are demanding increased wages. Employees, through their respective unions, perceive the employers as both unwilling and closed to discussion, regarding themselves as sole holder of authority and lacking general concern for the fate of the employees. Ultimately, employees have lost trust in the enterprise and company management.

Apart from issues concerning wages under the industrial relations policy, the SMERU research team's findings indicate that other aspects of industrial relations at the enterprise level are functioning properly. Table 2 illustrates the implementation of several of these aspects, such as implementation of minimum wages, the existence of labor unions, as well as the existence of work contracts, internal enterprise regulations, and collective labor agreements.

[44] Suara Karya, *"Sejumlah Asosiasi Tolak Naikkan UMR di Jakarta"*, November 23, 2001.

[45] Suara Merdeka, *"Pengusaha Tolak UMP Dihukum 3 bulan"*, January 9, 2002" and Bisnis Indonesia *"Pengusaha Diminta Penuhi UMP Buruh"*, January 4, 2002.

[46] Kompas, *"PTUN Cabut Penundaan UMP, Pengusaha Terpaska Bayar UMP 2002"*, January 10, 2002.

Table 2. Minimum Wage Compliance and the Existence of Enterprise Unions and Collective Labor Agreements

FDI/ DI	Size of the Firm	Minimum wage compliance		Existence of Enterprise Unions			Existence of Internal Enterprise Regulations and Collective Labor Agreements		
		Yes	No	Yes	Multiple	No	PP*	PKB/KKB*	NA**
FDI	Large	13	0	13	1	0	2	11	0
	Medium	1	0	1	0	0	0	1	0
		14	0	14	1	0	2	12	0
DI	Large	27	2	24	2	5	12	15	2
	Medium	3	1	1	0	3	0	0	4
		30	3	25	2	8	12	15	6
Total		44	3	39	3	8	14	27	6
Percentage (%)		94	6	83	8***	7	30	57	13

Note: * PP = Internal Enterprise Regulation
PKB = Workplace Contracts
KKB = Workplace Agreements
**NA = PP and PKB/KKB are not in place
*** = % from 39 enterprise union exists

An examination of the implementation of minimum wages indicates that 94% of respondents from the enterprises (employers) have complied with the 2001 minimum wage regulations. Employers generally stated that despite the burden, they had complied with the regulation because it was the result of a tri-partite decision. In addition, the enterprises did not want to fuel disputes with their employees. Nevertheless, some employees feel that the increase in their wages is insufficient compared with the increased cost of the minimum requirements for subsistence. Table 2 also illustrates that in 39 out of 47 enterprises in the sample, labor unions exist at the enterprise level, and 27 out of that cluster have formulated collective labor agreements.

Based on implementation of the industrial relations policy discussed above, both employees (or enterprise unions) and employers argue that there are no serious indications of tense employee-employer relations, although both parties are still undergoing a learning process in carrying out industrial relations and the freedom to organize. Most disputes have been able to be resolved based on bipartisan dialogue (see Chapter 6, Section C). Both parties realize that there is much to be learned in order to achieve a better understanding of the rights and obligations of each party. During this era of transition, employees are learning to organize, to articulate their demands, as well as better methods of negotiation, while enterprises as employers are learning to regard employees as work partners.

Respondents from labor unions believe that harmonious industrial relations are work relationships which are based on mutual trust, appreciation, and assistance. Furthermore they purport that in order to achieve harmonious industrial relations, along with realizing workers' basic rights (*hak-hak normatif)* workers/laborer, employers must facilitate two-way communication networks with employees. Other factors viewed by union respondents as influencing industrial relations include: management style, the knowledge of both employers and employees of their respective rights and obligations as well as with their practical implementation, the work environment, employee recruitment procedures, and a willingness on the part of the employers to conduct discussion and bargaining with employees. No less important is the employee-employer relationship: as working partners, not just boss and subordinate. Generally, evidence of a functioning industrial relations system can be found in the satisfaction and welfare of employees as well as the absence of labor strikes and demonstration. Internal enterprise regulations, and collective labor agreements which are collectively agreed to, are all procedures for facilitating harmonious employer-employee relations.

Aside from internal enterprise factors, numerous case studies indicate that government policies often trigger instability in the industrial relations system. Workers often regard government policies as unfavorable to their interests, where the formulation of these policies does not include labor representatives. The Minister of Manpower and Transmigration openly admitted that *Kepmenakertrans No. Kep-78 and 111/Men/2001* did not involve labor representatives in the formulation process. On the other hand, employers feel burdened by government policies on manpower, such as stipulations in *Kepmenaker No. Kep-150/Men/2000*. Overall, harmonious industrial relations cannot be achieved by one party alone, whether it be the government, employers or employees.

Fluid bargaining and negotiation processes between employers and employees, are facilitated by open, transparent, and good relations between all parties. Union respondents agree that the key to the creation of harmonious industrial relations is the role and involvement of a middleman. The middleman is usually the head of the human resources division or the production manager, but often people in these positions lack the courage to defend the interests of the employees even though they sympathize and understand their conditions.

Based on SMERU's findings in the field, employers argue that several approaches are required to maintain and improve industrial relations including:

- Arranging routine face-to-face meetings with employees and their respective unions, for example through daily morning briefings of between 5-10 minutes, or weekly or monthly meetings to discuss future work activities, new internal enterprise regulations and government policies concerning labor. (These meetings, for example, are used in a seat-belt producing company in Tangerang, and both a garment factory and vehicle spare part producing company in Bekasi);

- Providing suggestion boxes for employees to give their input without revealing their identity. If the suggestion is then voiced in an open forum and accepted by all parties, then the employer can provide certain incentives for the contributor (for example large companies producing vehicle spare parts in both Tangerang and Bekasi use this system);

- Appointing a head of the human resources division who is considered capable of curbing conflict and arranging fair discussions and negotiations between employees, their respective unions and employers which are equitable;

- Creating training and educational programs for employees, including explanations of government laws and regulations concerning labor;

- Giving preference to bipartite and collective dispute resolution processes through discussions between employers and union representatives at various levels;

- Periodically inviting officials from the local Office of Manpower to provide counsel and guidance, or to obtain information on recent developments or new policies regarding labor;

- Attending meetings held by the Indonesian Employers Association to discuss possible solutions and alternatives to labor disputes; and

- Organizing various types of group activities, such as recreation, sports competitions, and voting for employee of the month.

Following the fall of the New Order Regime, in accordance with the principles of autonomy and labor's right to organize, the Federation of the All-Indonesia Workers Unions has

proposed a reassessment of the principles of *Pancasila* Industrial Relations so that it is relevant to regional autonomy. Furthermore, the Federation has also proposed that a new paradigm for the principle of industrial relations be developed as a part of the era of *reformasi*.

However, the Federation of All-Indonesia Metal, Electronics and Machine Workers Union has suggested that in taking account of regional autonomy, industrial relations must maintain national uniformity, leaving behind regional characteristics and adhering to the principles of justice and security. This Federation also argues that *Pancasila* Industrial Relations is still relevant and applicable for the existing industrial conditions in Indonesia. Employers, through the Indonesian Employers Association, also share this view, adding that *Pancasila* Industrial Relations can be utilized to buttress the government's national objectives, including the advancement of public welfare.[47]

During this period of transition, two factors at the national level are triggering the deterioration of employer-employee relations: firstly, ongoing debate on the implementation of *Kepmenaker No. Kep-150/Men/2000* and *Kepmenakertrans No. 78 and 111/Men/2001*, and secondly, the delayed implementation of the new minimum wages policy by employers. In addition, these recent developments have manifested rumors and allegations that foreign investors and multinational companies will chose to withdraw their capital investment from Indonesia.

These extreme conditions have resulted in workers feeling like they are only regarded mere production tools, while employers believe that they have allocated a significant amount of funding for workers' interests without a corresponding increase in their work productivity. It appears that increased wages have not provided an effective incentive to increase work productivity. Employers feel that in the long term, this will create a high-cost economy and reduce their competitive advantage, at some point forcing employers to transfer their business to countries promising lower and more competitive production costs such as Vietnam or China. In light of this possibility, businesses and employers have taken several measures:

- They have been forced to implement existing internal enterprise regulations, in order to be viewed as capable of accomplishing the mission of the enterprise as formulated by company owners; to continue production levels in the interim at levels which are just enough to protect the viability of the business, as much as possible maximizing performance; and

- Where enterprises are already feeling that they are not capable of continuing production under these conditions, several recovery measures are being taken, including: cutting back on the number of employees, opting for alternative production methods which are quick yielding, and relocating the business to another country with potentially better business opportunities.

Anticipating the above prospects, SEB has called on employees and their respective union to:

1. Behave in a dignified manner and think strategically for the sake of their collective futures, both in the short and long term, and most importantly being holistic in their views on labor issues; and

2. Assist fellow members of the Indonesian work force who are still unemployed, by creating an environment conducive for investment and the creation of employment opportunities.

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[47] Drs. H. Suparwanto, General Chairman of the National Council – Apindo, at the National Tri-partite Dialogue, Bekasi, November 22, 2001.

Ultimately, industrial relations in Indonesia will not only be affected by legislation and regulations ratified, but also by the actual implementation of these industrial relations regulations. This, in turn, will depend on the determining factors in industrial relations: employers, workers and labor unions, employment contracts, internal enterprise regulations, workplace contracts or agreements, dispute resolution processes, and the active participation of the government in providing guidance for the above mentioned parties. SMERU's findings in the field regarding the interaction of these factors are further illustrated in Chapters VI. This chapter has been divided into three sections: Section A on Labor Unions; Section B on Internal Enterprise Regulations and Collective Labor Agreements (Workplace Agreements or Contracts); and, Section C on dispute resolution.

VI. INDUSTRIAL RELATIONS IN PRACTICE : RESULTS FROM THE FIELD

This chapter aims to present a picture of industrial relations in practice based on findings from the field. Section A focus on labor unions, while Section B outlines internal enterprise regulations and collective labor agreements (workplace agreements or contracts). Finally, Section C discusses industrial disputes and dispute resolution processes.

A. LABOR UNIONS

According to Article 1 of Law No.21, 2000, labor unions are organizations formed from, by, and for the workers. They can be formed within as well as outside of an enterprise. Labor unions are free, open, independent and democratic organizations which are responsible for defending and protecting employees' interests as well as raising the welfare levels of both employees and their families. Labor unions existing within an enterprise are those unions formed by the employees within one enterprise or several enterprises. Meanwhile, labor unions operating outside of the enterprises are formed by non-enterprise employees. Labor union federations[48] are consolidations of labor unions, whereas labor union confederations are consolidations of union federations. It is also important to note that in Indonesia the term enterprise union in practical speaking refers to those unions existing at the enterprise level.

Labor unions represent employees when collective labor agreements need to be formulated or industrial disputes need to be resolved. In addition, they act as a vehicle to create harmonious, equitable and dynamic industrial relations, as well as creating a channel for workers to voice their grievances and defend their rights. They are also responsible for workplace strikes. Union leaders at the *kabupaten* and *kota* level stated that the function of a labor union is to defend, develop, educate, as well as fight for and protect the workers within the established framework. However, their core activities should be to amend company violations of workers' basic rights.

Section A of this chapter will discuss enterprise level labor unions, as well as labor union consolidations, federations and confederations, according to the findings in the field.

Labor Unions, Consolidations, Federations and Confederations

1. The Formation Process

According to the businesses surveyed, there are two types of labor unions which can be distinguished by the way that they are formed. Firstly, there are labor unions which are formed as a base for workers to voice their grievances within an enterprise. These unions have a clear mission, well-defined membership, and sound management systems. Secondly, there are labor unions which are formed as a political base, and include non-enterprise employees who claim to act on behalf of enterprise workers. Generally, this second group has no clear membership, and does not include enterprise workers. It is not uncommon for these unions to exploit the workers, forcing them to join in demonstrations on the basis that they are struggling to improve the well being of the workers, even though the labor unions

[48] According to Law No. 21, 2000, labor union federations constitute a consolidation of labor unions (Article 1) which are formed by at least five unions (Article 6). These labor union federations generally have a branch on the provincial, *kabupaten* and *kota* levels. This will be explained in more detail later in this chapter.

themselves do not always fully understand the issues. In other words, some believe that for this type of union the labor movement is only a vehicle used for political gain and to obtain the funds generally assumed to originate from international NGOs. In fact, there are labor unions which help fight for workers' severance pay and then request a proportion of it once it has been received.

In response to this issue, Dita Indah Sari[49] from the National Front for the Indonesian Worker's Struggle (*Front Nasional Perjuangan Buruh Indonesia* - FNPBI) has rejected all such malicious remarks directed at the organizations she chairs. However, she does not reject such remarks if they are directed towards wayward organizations which only exploit labor issues based on self interest. Yet, she believes there are only three to five of these labor organizations in operation. Muchtar Pakpahan[50], the chairperson of the Indonesian Prosperous Labor Union (*Serikat Buruh Sejahtera Indonesia* - SBSI), and Eggy Sudjana, the chairperson of the Indonesian Muslim Workers' Association (*Persaudaraan Pekerja Muslim Indonesia* - PPMI) have also rejected these accusations.[51] They are both of the opinion that there are still several labor organizations which have an idealistic approach to defending workers.

According to the National Board of Directors from one labor union, the process used to form national labor unions is still inappropriate. Until now, national labor unions have been formed beginning at the national level, rather than from the efforts of the workers at the enterprise level, without employing any sort of selection process. This information is supported by data from the Department of Manpower and Transmigration (see Appendix 8) which indicates that 22 labor union federations do not have any records of their membership numbers on the enterprise level. Information obtained from the sample of enterprises investigated indicates that a number of the labor union federations which have not yet registered with the Department of Manpower and Transmigration have already recruited members. According to the Department of Manpower and Transmigration, there has been a backlog in their system of updating the membership data due to the implementation of regional autonomy. Consequently, *kabupaten* and *kota* level data is more comprehensive.

Data from the Department of Manpower and Transmigration indicates that there are currently 61 labor union federations, and one labor union confederation which have their central office in Jakarta.[52] The All-Indonesia Workers Union (SPSI)[53] in particular, has been divided into four different unions: the *status quo* SPSI or simply SPSI; F-SPSI *Reformasi*; F-SPTSK (the Federation of Textiles, Footwear, and Leather Industry Workers Unions) and SPMI (The Indonesian Metal Workers Union). The *status quo* SPSI is then divided into 17 member unions.[54] Of the labor organizations mentioned above F-SPSI has the largest membership. According to other data from the Department of Manpower and Transmigration, the total number of enterprise unions registered locally up until January 2001 are as follows: *Konfederasi* SPSI has 6,241 enterprise unions and Presidium SPSI *Reformasi* F-SPSI has 3,149 enterprise unions. These labor organizations are not only monopolized by factory workers, but also white-collar workers and professionals. For example,

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[49] Media Indonesia "*Organisasi Buruh Masih Dicurigai*", 4 May 2001.

[50] ibid.

[51] ibid.

[52] Sub-Directorate for the Empowerment of Employer and Employee Organizations, January 2002.

[53] According to the National Council from one labor union federation in Bekasi.

[54] Based on a brochure on SPSI obtained from the SPSI's Regional Council in Jakarta.

the Federation of Finance Workers' and Banking Organizations (*Federasi Organisasi Pekerja Keuangan dan Perbankan Indonesia* - Fokuba), or the Association of Independent Journalists (*Aliansi Jurnalis Independen* - AJI).

2. The Relationship between Labor Union Consolidations, Federations and Confederations, and other Interest Groups.

According to respondents in the field, there are indications to suggest that a relationship exists between labor unions and certain groups or political parties. Of the labor union federations investigated, only *Sarbumusi* has clearly admitted to being affiliated with the Muslim organization, Nahdratul Ulama, after being given a mandate to recruit members of the workforce under their banner. There are three types of labor unions presently operating in Indonesia.[55] These include: labor organizations which tend to have relationships with the government, labor organizations which lean towards democratic ideologies and present themselves as militant organizations, and labor organizations which are managed by (or affiliated with) religious foundations, like *Sarbumusi* and PPMI.

A union's ability to remain in operation is one indication of its involvement with particular groups, for example their sources of their funding and courage to mobilize the workplace. In terms of funding, Muchtar Pakpahan[56] has stated that he has not had any problems with funding for the organizations which he organizes. He believes that if an organization is honest and can be trusted it will receive funding from several quarters. For example SBSI, which was established in 1992, received funding from its members' fees as well as donations from several labor unions in America, Australia, The Netherlands and England. In 1992-1993, 100% of SBSI's funding came from members' fees. In 1995-1999, 100% of its funding came from labor unions overseas. Meanwhile, since 1999, 60% of SBSI's funding came from members' fees and only 30% from overseas. PPMI, which was established on March 3, 1998, receives the majority of its funding from members' fees, the development of its business organizations, as well as contributions from sympathetic conglomerates. This organization also works together with the ILO and the Japanese embassy to carry out its training.

3. The Leadership and Effectiveness of Labor Union Consolidations, Federations and Confederations

Consolidations, Federations and Confederations' labor union leadership teams are generally made up of ex-employees, employees who are still active within a firm, or labor union activists. The following diagram details the management structure within these labor unions, from the national level right down to the enterprise level:

National Council (DPN/DPP): at the central or national level

▼

Regional Council (DPW/DPD): at the provincial level

▼

Branch Council (DPC): at the *kabupaten* and *kota* level

▼

Unit Leaders (PUK): at the enterprise level

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[55] Kompas, "*Aksi Massa Buruh, Kemenangan Itu Belum Apa-apa"*, 24 June, 2001.

[56] Media Indonesia, "*Organisasi Buruh Masih Dicurigai*", 4 May, 2001.

SMERU's field research indicates that the effectiveness and professionalism of a labor union is dependant on: how well they are able to organize and recruit their membership; their understanding of their roles, functions and the regulations in place; as well as how well they can present their demands, negotiate, and resolve disputes. Both enterprise unions and workers' level of satisfaction a good indication of the effectiveness of labor union federations and consolidations. In fact, these issues directly relate to the maturity of a union's management or leadership team both within the enterprise union itself or within the labor union federation or consolidation, as well as any underlying influence of political interest.

Based on SMERU's field observations and interviews with several labor union federations (including the regional council of the F-SPSI in Bekasi and Surabaya, the national and regional councils of the F-SPTSK in Bekasi and Bogor, *Sarbumusi*'s branch council in Surabaya, as well as the Jabotabek Labor Union), the effectiveness and professionalism of labor union federations and consolidations at the *kabupaten* and *kota* level has been sufficient to defend the interests of the workers during this period of transition. They are generally prepared to defend and support enterprise unions and the workers in situations requiring dispute resolution. Labor union federations always prioritize negotiation as a means to resolve disputes and choose strikes a last resort. These federations also guide the enterprise unions, explaining government legislation and regulations, the formulation of collective labor agreements as well as how to organize and recruit their members.

Enterprise union representatives interviewed by SMERU consider the long established labor union federations more effective and professional than the newer ones. For this reason, enterprise unions tend to favor labor union federations which are more experienced in both organizing and recruiting members as well as carrying out union activity.

Nevertheless, the same labor union federation is still evaluated differently in different regions, even though it may have been established for a long period of time. For example, one labor union in Bekasi is considered effective, meanwhile the same labor union in Surabaya is considered to be "vocal or even aggressive" and members of the leadership team are often judged as opportunists. This indicates that leadership at the *kabupaten* and *kota* level plays an important role in influencing the effectiveness of these labor unions. The workers choose to affiliate with the new labor union federations or consolidations because their representatives visit the workers and convey the benefits of the affiliation.

Two businesses in Bekasi have chosen not to affiliate with any labor union federation because they do not perceive there to be any benefits from such affiliation, rather they feel that they will be burdened with additional fees and costs.

Enterprise Level Labor Unions (SP-TP)

As outlined in the beginning of this chapter, enterprise unions are labor unions that are formed by the employees within a business. These enterprise unions can chose to affiliate with labor union federations at the *kabupaten* and *kota* level or labor union federations/confederations at the national level, or they can chose not to affiliate with any labor organization and remain independent. This section will provide a description of the enterprise unions investigated in the field, beginning with their formation, management, membership, operating costs and funds, guidance, and the number in existence, right through to their effectiveness.

1. The Formation Process

Half of the 42 enterprise unions investigated, including those that have not affiliated with any other labor unions, were established after 1997. Enterprise unions that were formed

before 1997 often did not have the support of the management, and as a consequence several workers were made redundant and union leaders were both pressured and intimidated by each of their respective employers. The primary trigger for the formation of an enterprise union has been the existence of employer-employee unrest. In the past, enterprise unions were very limited in the activities they could carry out (see Box 1).

Box 1
The Difficulties in Establishing Enterprise Level Unions before the Ratification of Law No. 21, 2000

1. One Case in Bekasi

In 1989 workers from a company located in Bekasi proposed the formation of an enterprise union. Because the company did not support of their idea, the 13 leaders who initiated the formation of the union were made redundant. Two years later the workers' grievances resurfaced in the form of demonstrations. This time, two workers were made redundant. However, finally in 1994 the workers successfully formed an enterprise union which then affiliated with SPSI. Nonetheless, between 1994-1996 the company limited the union's activities. They repeatedly threatened the union leaders with retrenchment, and on occasion they even tried to persuade the union leaders to accept a position as a staff member so that they would no longer only focus on the interests of the workers. If these tactics failed, they would use other methods to ruin the reputation of the union leaders. This company believed that an enterprise union would be more trouble than its worth. As a result, the union leaders endeavored to point out the benefits of labor unions by raising work place discipline through extension activities.

Finally, in 1996 this company acknowledged the existence of the enterprise union after it experienced some of the benefits. In fact, since then, the company has often discussed issues with the union leaders. Besides providing guidance for the company, this union also endeavors to defend the workers. If a worker is found guilty of committing a crime in the workplace, the objective of the enterprise union is not to exonerate the worker, but to defend the worker so that the sanctions imposed are as fair as possible.

2. One Case in Surabaya

In 1992, 1995, and finally in 1996, workers from one large foreign footwear export company in Surabaya held demonstrations to push for the formation of an enterprise union. The company did not fulfil their demands because the company's management did not fully understand the functions of enterprise unions. They believed that forming an enterprise union would only result in labor unrest. During this time, demonstrations were held once a month. There is also evidence to suggest that company representatives were intimidating a number of workers. Even though in 1996 the workers succeeded in forming a union within the company, it only lasted for one day before being dissolved. Eventually in 1997, after several other efforts, the workers were able to establish a union which then affiliated with F-SPTSK.

According to a number of unions investigated in the regions visited, there are still numerous businesses which endeavor to obstruct the formation of unions. The recent flare up of demonstrations and strikes has left businesses, particularly those with enterprise unions, traumatized and anxious. At the same time, a number of businesses are concerned that sanctions will be imposed if they violate regulations, and therefore, they do not openly

obstruct the formation of unions. These businesses instead use tacit measures to discourage the formation of unions including:

- raising the workers level of welfare;
- increasing their compliance with the workers' basic and additional work rights *(hak-hak normatif dan non-normatif);*
- offering an adequate level of severance pay to those workers who are instigating the formation of a union; or
- simply firing those workers involved in the process.

In order to avoid company disapproval of the workers' plans to form enterprise unions, often consolidations or labor union federations generally intervene and assist the workers (see Box 2). Even though most businesses are not happy with the idea of an enterprise union operating within their firm, they eventually permit, or are legally forced to permit the union's formation.

Box 2.
The Measures Taken by One Labor Union Federation to assist in the Formation of an Enterprise Union.

One labor union federation in Surabaya has a useful tactic to avoid company disapproval of its workers' desires to form an enterprise union. They form a union within the company without informing the company itself. After the union has already been established, information regarding its existence is disseminated to all relevant people in the company. The labor union at the *kota* level then makes a presentation on the roles of both enterprise unions and their affiliated unions to company representatives. Usually, after the presentation, the company will approve of their involvement. Nowadays, even companies can see the benefits of having an enterprise union, for example, they can carry out negotiations far more easily and peacefully.

Although there are still businesses which do not endorse the establishment of enterprise unions, SMERU's research team did find a small number of businesses which initiated the formation of enterprise unions themselves. For example, one large clothing export company in Bandung, with a workforce of around 2,600 workers, formed an enterprise union which affiliated with SPSI in 1997. Although the union leaders are still chosen by the business itself, in 2002 the leaders will be elected directly by the workers. This business also invited the Bandung Regional Council of the SPSI to provide leadership training to all work unit leaders (PUK) for three months. Generally, companies that support the formation of enterprise unions are aware of the potential benefits for the business.

The decision to form associations (that is to establish an enterprise union) is usually initiated by a number of workers within an enterprise, based on their own initiative, information from several forms of media (for example, television and radio), friends, or through offers to affiliate with outside unions. Other workers within the enterprise generally follow suit, as they feel the need to defend their rights. Consequently, they collaborate with the workers who originally proposed the idea to form an organization within their enterprise.

The presence of extended employer-employee industrial unrest within a large number of companies tends to be the initial trigger for the formation of enterprise unions. On the other

hand, SMERU's research team found that enterprise unions are rarely formed mainly within smaller businesses which have effective dispute resolution procedures in place. For example, eight businesses investigated by SMERU chose not to form enterprise unions for several reasons, including:

- until now the enterprises have fulfilled all of the workers' basic and additional work rights *(hak-hak normatif dan non-normatif)*;
- healthy employer-employee relations already exist, whereby the workers can communicate their complaints directly to their employers;
- a forum is provided for communication between employers and employees when required, for example, through routine meetings or cooperatives; and
- businesses consider their workers to be part of their family or "their partners".

Examples of companies which have not formed enterprise unions include, one vehicle spare parts business in Bekasi (with a workforce of 261 employees) and a large food production business in Jakarta (with a workforce of 200 employees). Both of these businesses are based on domestic investment.

Although Article 5 of Law No.21, 2000 states that a labor union can be formed with a minimum of ten employees, medium-scale businesses are generally of the opinion that their workers do not require a union. For example, a footwear producing business in Tangerang with a workforce of 60 employees does not believe that their employees require an enterprise union to be established, because until now they have been able to resolve any employer-employee disputes themselves. One worker interviewed by the SMERU research team on another occasion acknowledged that until now, all of the workers went directly to their superior if they experienced any problems. Workers from another medium sized company in Tangerang without any union representation, stated that they did not need union representation because their workforce was not particularly large (approximately 45 workers), and the majority were employed on a piece-work basis. Until now, each group of workers in all of the company's divisions have approached management individually in order to express their grievances or discuss their proposals.

There is one case in Surabaya where workers from a family printing business formed a union within the enterprise, even though they only had a workforce of 25 people. The existence of this enterprise union created psychological stress for the aging business owner. She believes that if every business was to form an enterprise union that made demands without taking into account the economic circumstances of the business, then a large number of businesses would be forced to close down because they would not be able to afford to pay their workers. Consequently, she argues that several businesses will be of no assistance to the government if they are unable to provide job opportunities for the community.

Even though Law No.21, 2000 permits the establishment of more than one enterprise union within a firm, almost all firms do not agree that this is feasible. Generally, employees, employers and business associations interviewed are of the opinion that the existence of more than one union within an enterprise will cause difficulties for the union leaders, the business, and the workers themselves. In fact, the three enterprises investigated that has more than one union within the firm also prefer that no more than one enterprise union exist in their firms. Such preference was due to some discouraging experiences faced by firms with multi enterprise unions. For example, one five-star hotel in Jakarta has experienced difficulties with its four enterprise unions which have all affiliated with different labor unions. Following this, a separate five-star hotel in Jakarta learnt an

important lesson from the prolonged disputes experienced by the first hotel and therefore its employees decided to establish only one enterprise union. Presently, they have an enterprise union which has affiliated with PAR-SPSI. Another example of the difficulties caused by more than one enterprise union operating within one business is a prominent bank which has five established enterprise unions. It took 11 weeks to negotiate and finally reach an agreement on their collective labor agreements.[57]

Generally, businesses acknowledge the benefits of enterprise unions once they have been formed, particularly when it comes time to carry out negotiations with workers. Before the establishment of enterprise unions, businesses had to negotiate with a representative from each work division. Even though the businesses are aware that existing enterprise unions are already making new demands, the enterprises are now increasingly experiencing the benefits of enterprise unions, including easier dispute resolution processes at the enterprise level. In addition, enterprise unions can also monitor discipline within the workplace and act as the social committee to organize any social activities for the company.

2. Leadership and Management

The effectiveness and professionalism of an enterprise union depends on the capabilities of its union leaders and the amount of time given to union leaders to organize union related activities. In the past, enterprise union leader elections were carried out through an executive council. However, the enterprises often interfered with the process in an effort to ensure that the leaders chosen would suit their own interests. Enterprise union leaders who were not the enterprise's choice (particularly those who were very vocal in expressing the rights of the workers), were often pressured or intimidated by the enterprises. As a result of several cases like this in the past, Article 28 of Law No.21, 2000 was stipulated to prohibit enterprises from interfering with the election process.

Nowadays, almost all union leaders are elected by the workers. However there is still a small number of enterprise union leaders who are appointed by the enterprise. For example, in one large footwear producing business in Tangerang, approximately 40% of the union leaders and the union coordinating body are appointed by the business. There are other businesses which still chose or install their enterprise union leaders, but are intending to change this process so that the workers chose their representatives directly during the next election. For example, one large business producing garments for export in Bandung, (with a workforce of around 2000 workers) facilitated the first election of their enterprise union leaders. However, in 2002 the workers will directly elect the union leaders.

Enterprise union leadership teams consist of between 10-12 people who are often assisted by several representatives or the workers (known as the coordinating body). The union leadership generally consists of a chairperson, several section leaders, a secretary and a treasurer. They handle numerous portfolios including education, labor defense and workers' welfare. One enterprise union even has a special woman's empowerment division. The coordinating body works to accommodate the workers' demands and communicate new government and business policies to the workers. Usually, one coordinating body will represent between 20-50 workers.

Women are reasonably prominent in the leadership of enterprise unions. Nonetheless, the chairperson's position still tends to be male dominated. SMERU found an extreme example of this in one enterprise union formed within a footwear producing company (based on foreign investment) in Surabaya. The majority of workers in this enterprise are female. In the leadership team consisting of 11 people, nine of them are women, but the chairperson and

[57] Kompas, *'Aksi Massa Buruh, Kemenangan Itu Belum Apa-apa'*, 24 June, 2001.

vice chairperson are both men. A similar situation was also found in a company in Bogor where 90% of the workforce are women but the union chairperson is male.

Workers who make themselves available to be elected as union leaders generally have various motives including: the desire to increase their union organizing experience, to make positive changes to the workplace, as well as to defend and increase the welfare of the workers. Nevertheless, these workers do not always have a sound understanding of the manpower laws and regulations.

The union leaders' capabilities reflect the effectiveness of an enterprise union. SMERU's researchers conducted interviews with both employers and employees and met briefly with the union leaders themselves to get a better impression and additional information on union leaders' skills. During their discussions, the employers tended to focus on the union leaders' ability to understand laws and regulations, negotiate, organize their unions, and their capacity to lead as well as manage their members (for example, to handle their members demands and demonstrations). Meanwhile, the employees emphasized the union leaders' capacity to defend their interests as being of primary importance. For example, they focussed on the ability of union leaders to resolve redundancy disputes, insist that minimum wages and leave are in compliance with the laws, and raise food and transport allowances. A number of employees interviewed based their judgement of a good union leader on their ability to reduce the incidence of demonstrations while others based their judgement on their ability to organize demonstrations.

SMERU's research indicates that not all union chairpersons have an adequate understanding of the manpower laws and regulations. Generally, one or two union leaders in every enterprise union management team who have a good understanding the laws and regulations in effect, although not in detail. While each union leader's understanding of labor laws and regulations varies, most union leaders generally have a similar understanding of several of the prominent issues. For example, when they were asked about sections of the Ministerial Decisions, government legislation and the proposed bills with which they did not agree, they were unable to identify the exact Articles. The union leaders generally highlighted the issue of severance pay resulting from Minister of Manpower Decision No. Kep-150/Men/2000 or issues relating to the Court of Industrial Relations Disputes outlined in the proposed Industrial Relations Dispute Resolution Bill. The union leaders' lack of understanding can be offset by the assistance provided by the Regional Council of their affiliated union. The majority of enterprise union leaders generally gain a better understanding of the laws and regulations after they have attended the various training sessions led by their affiliated labor union federation or consolidation.

Generally union leaders are chosen once every three years. However, there is evidence that one or two union leaders who have not completed their terms because they were either dismissed from their employment by their employer, or they were dismissed from their position as union leader by the employees because: they were unable to improve the welfare of the workers, or they tended to side with the company.

The amount of time a company permits its union leaders to organize union related activities is one factor that influences the effectiveness of an enterprise union. Article 29 of Law No.21, 2000 states that employers are required to provide union leaders and/or union members with the opportunity to carry out union related activities within work hours, according to the stipulations in their collective labor agreements or provided that both parties are in agreement. Almost all enterprise union leaders are permitted work dispensation to organize union related activities either inside or outside of the workplace. In fact, several enterprises allow union organizers to take turns working as officers on duty at the secretariat office. A small number of enterprises limit the amount of time

enterprise union leaders use to organize union related activities. For example, a textile company in Bandung employs a piecework system, where union leaders who do not fulfill their work requirements because they are spending too much of their time on union related activities lose part of their salary.

Almost all enterprises provide their union with a secretariat office, and a number of these are even equipped with a computer. Those enterprises which have yet to provide such an office often allow the union to make use of one room within the enterprise to carry out their activities, for example, the security post or the enterprise union leader's own work room. A number of enterprises also provide certain facilities like a vehicle and a food allowance for these union leaders if they are wanting to carry out a demonstration outside of the workplace.

Almost all union leaders from the enterprises investigated (with the exception of one) do not receive any incentives, but they are quite happy to do the work for reasons of personal satisfaction and helping their fellow workers. One enterprise union in Surabaya seems to have been formed through interference on the part of the enterprise and it was found that the enterprise union leader was receiving incentives from the company of between Rp105,000-Rp135,000 per month, which would only be paid if demonstrations did not occur during the month.

3. Membership

In general, enterprise union membership is limited to enterprise workers below the management level. Enterprise unions in a number of businesses stipulate this as a requirement to avoid a conflict of interest between working for management and working for the union. Nevertheless, there are other enterprises which include the management team, with the exception of the HR manager, but they are not permitted to become union leaders.

Generally, enterprise union membership for employees is automatic. A number of enterprise unions have requested that new employees sign a membership declaration. SMERU also found that a number of employees from several enterprises registered voluntarily because they believe that the existence of an enterprise union is beneficial, acting as a coordinating institution which both contests and legally defends employees' rights. Generally, if there are two enterprise unions active within one enterprise, the employees will select their preferred union. It is extremely important that each employee becomes a member of only one enterprise union. This was found to be the case at a large garment producing business (based on foreign investment) in Bekasi, and a large spare parts firm based on domestic capital in Tangerang. Quite frequently, if there are two enterprise unions active within the one business, they are each influential but in different divisions. Employees either voluntarily or automatically become a member of the union representing their division. One example of this is a large enterprise in Surabaya which has separate plastic and metal producing divisions, both with their own influential enterprise union. Article 14 of Law No.21, 2000 states that an employee is not permitted to become a member of more than one union within an enterprise. From all the businesses investigated, SMERU found that all employees were only members of one enterprise union.

4. Fees and Operating Funds

Employees who join an enterprise union are obliged to pay a fee. Both the enterprise union and their affiliated labor union federation or consolidation, use the money raised from these fees to carry out their duties. Approximately 40%-50% of the fees are used to fulfil the needs of the enterprise unions, and the remainder is divided up amongst the affiliated unions at the *kabupaten* and *kota,* provincial or national level.[58] The enterprise unions' funds are used for

[58] Usually the Branch Council receives around 30%, the Regional Council receives 10% and the National council receives 10%.

the organizations' activities, for example, transport and training costs. Yet, no money is set aside as an incentive for the union leaders. SMERU found one exception to this rule in an enterprise union in Bogor, where the chairperson receives Rp100,000 per month and the other leaders receive between Rp50,000-Rp75,000 per month. Affiliated union leaders at the *kabupaten* and *kota*, provincial and national level receive an incentive which is taken from the members' fees. Fees are determined in enterprise unions' statutes and rules of association, and generally constitute 1% of the employee's wage, although there are others which are only 0.5% of the employee's wage. In practice, enterprise union fees were found to be almost uniform across the regions investigated, that is, Rp1,000 per month per employee or less than 1% of each employee's wage. A relatively small number of enterprise unions and labor union federations or consolidations have set their fees between Rp2,100-Rp5,000 per member per month, although there are others which charge less than Rp1,000 per month. With the exception of the F-SPTSK in Surabaya, where the coordinating body takes the union fees directly from its employees, most businesses will deduct the workers fees directly from their wage through the firms' finance division. Therefore the enterprise leaders can take their incentive directly from the finance division. Until now, employees have not had any objections to the fees they have had to pay provided that their enterprise union is effective. Apart from a monthly fee, the employees (members) are obliged to obtain a membership card at a cost of Rp4,000.

It is difficult to imagine that labor union federations or consolidations could survive without additional support, bearing in mind that the funds collected from the employees are minimal even before they have been divided up amongst the unions at all levels. One indication of their sustainability, as mentioned earlier in this chapter (but still requiring further research) is the political and financial support affiliated unions receive from particular groups.

5. *Guidance*

The state of industrial relations is directly connected to the effectiveness and professionalism of an organization and its leaders. Development and guidance are important factors that should be taken into account in order to increase the effectiveness and professionalism of a labor union. Enterprise unions which have affiliated with labor union federations or consolidations are primarily developed by the union's branch council at the *kabupaten* and *kota* level. Development guides cover the principles of organizing, workers welfare, basic collective labor agreements formulation guidelines, dispute resolution and internal auditing systems. It is also worth noting that on occasion, the national level unions work in cooperation with the ILO.

The guidance that labor union federations and consolidations provide for their affiliated enterprise unions at the *kabupaten and kota*, provincial or national level, seems to be sufficient. For example, almost all labor union consolidation and federation branch councils hold routine face to face discussions with enterprise union leaders each month at their office. Similarly, the branch council of F-SPTSK in Surabaya once sent a number of enterprise union leaders to a training course in Bogor which was organized by an international NGO. In 1994, the branch council of the SPSI gave every enterprise unions' coordinating board of employees from large footwear manufacturing companies in Bekasi the opportunity to attend ILO training. The branch council of SPSI in Surabaya and the regional council of the SPSI in East Java both provide explanations on laws and organizational matters every three months, in the meeting they hold for a large timber processing business (with workforces of 1,750 employees) and a large ceramic tile producing business (with a workforce of 2,500 employees). Meanwhile, the branch council of the F-SPSI in Bandung visits each of the enterprise unions which have affiliated with the PHRI-SPSI to gain information on membership numbers and to provide information about various regulations on a monthly basis. Nevertheless, there are some labor union federations which do not provide guidance on a regular basis, but only when requested.

Several affiliated unions have a network which enables them to conduct meetings to discuss government policy and regulations at the national level.

A number of enterprise unions also receive guidance from their respective enterprises. One business in Surabaya believes that if they agree to the formation of a union, then it is their responsibility to develop the union so that it becomes a sound partner in the production process. Businesses experiencing numerous worker demonstrations have often not provided any union guidance and have communicated minimally with the enterprise union. Businesses should provide training sessions to educate their employees about government regulations so that both parties have similar interpretations and perceptions of the regulations, therefore easing negotiating processes in the future. In addition, businesses should also provide other services including: adequate union and unit leader secretariat facilities; routine face to face discussions with employers, employees and enterprise union representatives; work dispensation for union leaders; and training as well as guidance sessions with government representatives (from the local Office of Manpower). Enterprises should also send or permit the relevant employees to join in labor union meetings on the regional or national level. Some businesses in Surabaya have followed the principle that guidance will eventually benefit both the business and the workers, therefore, they give the union leaders permission and financial assistance so that they can attend seminars outside of the workplace. This enterprise has even sent union representatives overseas to compare and study other developing labor unions.

6. *The Existence and Number of Enterprise Unions in Operation*

The number of enterprise unions already formed is still quite small compared to the actual number of medium and large-scale businesses in operation in the research area.[59] This is not only because a large number of businesses still object to the formation of enterprise unions, but also because workers are not aware of the benefits they can have from forming unions. Generally, the workers have shown more interest in the formation of enterprise unions after they have experienced industrial unrest at the enterprise level which has been difficult to resolve. In each region investigated, only 10-20% of businesses have enterprise union representation. The following table provides data collected in the field.

Table 3. The Total Number of Enterprise Unions within the Research Area

Kabupaten/Kota	Number of Enterprises (small, medium and large)	Enterprise Unions (large and medium scale)	
		Number	Percentage %
Jakarta	n.a.	n.a.	n.a.
Kabupaten Bogor	1,657	170	10.3
Kabupaten Tangerang	n.a.	250	n.a.
Kota Bekasi	1,500	110	7.3
Kabupaten Bekasi	1,300	265	20.4
Bandung	n.a.	n.a.	n.a.
Kota Surabaya	6,000	580	9.7
Total	10,457	1,125*	10.8

Source: Apindo and the local Offices of Manpower in each of the regions investigated.

* : *Kabupaten Tangerang* not included.

n.a. : data not available.

[59] Based on records from the *kabupaten and kota* Offices of Manpower.

Since 2001, in accordance with Article 18 of Law No.21, 2000, each labor union including enterprise unions, labor union federations and confederations, is required to register in writing[60] with the government office responsible for manpower matters in their region.[61] Enterprise unions, which were formed and registered before the law was ratified are required to re-register. In order to register, each enterprise union must provide a copy of their terms of reference, rules of association, management structure, list of members with their signatures[62], as well as proof of business address (*domisili)*. Those enterprise unions that have registered previously need to provide a letter from the Department of Manpower. After the registration process is complete each enterprise union receives a registration number. Enterprise unions with a registration number have the right to negotiate on behalf of the workers. A number of enterprise union representatives stated that they incurred a charge the first time they registered, but any later re-registration was free. Nevertheless, rogue employees from the local Office of Manpower sometimes seize this opportunity to increase their income, for example, by trying to sell books on labor regulations. One enterprise union representative in Bekasi stated that they paid Rp200,000 to register.

7. *The Current Effectiveness of Labor Unions*

Just like labor union consolidations and federations, the effectiveness of an enterprise union is not only judged according to its capacity to defend the interests and rights of its workers (as is stated in Law No.21, 2000), but also its ability to understand its role, functions, the existing regulations. In addition, their merit is determined according to their ability to organize the union, convey the workers' demands, negotiate and resolve disputes. Worker satisfaction is also a good gauge of an enterprise union's effectiveness.

Enterprise unions are considered more important than labor union consolidations or federations because they have a direct relationship with both the workers and the businesses, which has a direct impact on the stability of industrial relations in Indonesia. According to both enterprise union leaders and Law No.21, 2000, the primary role of an enterprise union is to defend and protect the rights of its workers as well as raise their welfare levels. An effective method used by enterprise unions to achieve this objective is to negotiate with the employers until an agreement is reached. While negotiations can begin through formulating collective labor agreements, several workers consider demonstrations a more effective mechanism to defend their rights and interests.

In general, the employees interviewed during this research consider that to date, the enterprise unions operating within their enterprise have been effective. They are of the opinion that they listen to their complaints and provide a forum for employees to express their grievances, as well as defend the workers' interests and rights. In addition, they resolve disputes which can include both protecting the workers and acting as a bridge or mediator between the workers and their enterprises. Employees from a large garment foreign direct investment firm in Bogor consider their enterprise union (which is affiliated with F-SPTSK) effective because 75% of its members are pro-workers.

In addition, the employees interviewed were of the opinion that in order to evaluate the effectiveness of an enterprise union, other aspects besides a union's capacity to defend the rights of the workers must be emphasized. For example, employees from a large metal producing company based on foreign direct investment in Bogor consider their enterprise union (which is affiliated with SPMI) to be extremely effective because they invite external

[60] Article 22, (clause 2) of Law No. 21, 2000 states that the registration records are open for inspection by the general public at all times.

[61] The local office of Manpower or the Department of Manpower office.

[62] Even though, according to the effective regulation, a signed membership list is not required.

experts and conduct surveys of the market conditions before making any demands. Employees from a large food production business in Jakarta consider their union leaders to be inexperienced, and therefore ineffective even though they do resolve disputes. Meanwhile, a large garment company in Bekasi with a workforce of 1,200 employees, considers that their enterprise union (which is affiliated with SPSI) is effective, precisely because they can resolve disputes before they result in strikes.

According to the enterprises investigated, enterprise unions carry out their role as a bridge or mediator between employers and employees quite effectively. They judge an enterprise union to be ineffective if the union leaders are inexperienced and do not have the capacity to manage the union, for example, they are unable to organize the union, manage the members, negotiate, or they have limited understanding of the laws and regulations in effect. One large garment producing company in Bogor with a workforce of approximately 7,800 employees considers that its enterprise union leaders are not well skilled in dealing with the workers demands and are not good at promoting and distributing the results of bipartite negotiations to their members.

The labor unions' negotiating capabilities is another factor which determines their effectiveness. This includes the way that they are able to negotiate collective labor agreements, as well as the processes that they use to resolve disputes. These two matters will be explained in more detail in Section B on collective labor agreements (workplace contracts and agreements), and Section C on industrial disputes and dispute resolution.

A large number of enterprise unions are aware that they are actually business partners. In spite of this, there is another group of unions which consider themselves to be working in opposition to the businesses. During this study, SMERU found several enterprise unions which assist in increasing the level of discipline amongst workers. For example, one enterprise union operating within a business in Bekasi has been carrying out staff development sessions for an hour every Monday morning. The topics discussed concern their rights and obligations, also emphasizing work discipline. On occasion, enterprise unions in a number of businesses have even become involved with matters that are not directly related to labor issues. For example, they arrange social affairs like sports and music events, National Remembrance Day Celebrations, and provide financial aid for workers who are ill. However, there are a number of enterprise unions which have limited their roles to only dealing with matters directly related to labor issues. Therefore, the relevant section supervisors within the company are left to handle issues relating to production.

Based on SMERU's observations in the field, it appears that during this period of transition, most enterprise unions have implemented work procedures that are both effective and professional in terms of both their functions and roles. Some enterprise unions have successfully improved the welfare of their members through non-violent negotiations with employers, yet, there are also one or two cases where enterprise union leaders have used force in order to reach an agreement. The negotiating processes used by an enterprise union to reach an agreement concerning collective labor agreements, as well as the way these unions are able to resolve disputes, are other means for establishing the effectiveness of an enterprise union.

B. INTERNAL ENTERPRISE REGULATIONS AND COLLECTIVE LABOR AGREEMENTS (WORKPLACE AGREEMENTS/KKB OR CONTRACTS/PKB)

The implementation of internal enterprise regulations as well as collective labor agreements (workplace agreements or contracts) based on SMERU's findings in the field will be discussed specifically in this section. Firstly, the existence of collective labor agreements as well as internal enterprise regulations in the businesses investigated will be outlined. Following this, a more general overview of collective labor agreements is provided. The explanation of collective labor agreements includes:

(i) a summary of the definition of the meaning and formation of internal enterprise regulations, and collective labor agreements;

(ii) an example of a workplace agreement. This will be used to evaluate whether the rights and obligations of both employers and employees are covered in the document; and

(iii) the process used by employers and employees to negotiate the formulation of collective labor agreements.

Furthermore, this section discusses the effectiveness of both internal enterprise regulations and collective labor agreements in guaranteeing improved employer-employee relations. The aim of this is to determine whether both parties are complying with collective labor agreements and are using them as a reference point to resolve disputes. The links between collective labor agreements, and internal enterprise regulations will be discussed as well as the transition process involved in the upgrade of internal enterprise agreements to collective labor agreements.

The research carried out by SMERU is based on several internal enterprise regulations as well as collective labor agreements, successfully obtained from a number of businesses and enterprise unions. This is also supported by information from the print media. A number of businesses investigated, especially in Surabaya, were not prepared to show researchers their internal enterprise regulations or even their collective labor agreement. They gave no clear reason for this, except that they were still in the process of negotiation. Nevertheless, the research team was eventually able to obtain copies of around five internal enterprise regulations, three workplace contracts, 13 workplace agreements, and one proposed workplace contract.

Legislation and Regulations

Internal enterprise regulations are outlined in Minister of Manpower, Transmigration and Cooperatives Regulation No.Per/02.Men/1978 "Internal Enterprise Regulations and Negotiations on the Formulation of Labor Contracts". This regulation states that internal enterprise regulations are written stipulations outlining both work requirements and conduct within the workplace. Article 2 of this regulation states that every enterprise with a workforce of 25 or more employees is required to formulate internal enterprise regulations.

Meanwhile, workplace agreements (now more commonly known as workplace contracts, and both are called collective labor agreements) are regulated by Ministry Decision No.Per-01/Men/85 "Mechanisms Used to Formulate Workplace Agreements". Article 1 of this Decision describes a workplace agreement as a labor contract, just as it was regulated in Law No.21/1954.[63] According to S. Sianturi (1997)[64] the Indonesian government prefers

[63] Article 1 of Law No.21/1954, states that a labor contract is a contract drawn up between labor unions, employers and a legal body. This contract is used by labor unions after they have registered with the labor ministry. The contracts generally cover those workplace requirements which need to be considered in workplace contracts.

enterprises with a workforce of over 100 employees to issue a collective labor agreement. Businesses with a workforce of more than 25 employees, which do not have a collective labor agreement in place, are required to formulate internal enterprise regulations. The shift from the implementation of internal enterprise regulations to the implementation of collective labor agreements is regulated in a letter from the Director General of Inspections and Supervision (Binawas) No.B.444.BW/1995, on upgrading internal enterprise regulations to become collective labor agreements.

According to Simanjuntak[65], collective labor agreements and internal enterprise regulations fulfil the same purpose, as they both cover the rights and obligations of both employers and employees, as well as how these rights and obligations are protected and carried out. First of all, the Department of Manpower examines the contents of both collective labor agreements and internal enterprise regulations to ensure that they do not violate any government legislation. After both the employer and an employee representative have come to an agreement over their collective labor agreements or internal enterprise regulations, a government representative witnesses their signatures. Following this, the government carefully reviews the internal enterprise regulation, and legalizes the document.

Simanjuntak is also of the opinion that the stipulations outlined in collective labor agreements are not always better than those outlined in internal enterprise regulations, taking into account both the contents of these two types of regulations and the interests of the workers. If there is an industrial dispute, collective labor agreements and internal enterprise regulations are an important primary reference for dispute resolution. However, there is a slight difference in the processes used to form collective labor agreements and internal enterprise regulations. Employer and employee representatives discuss the contents of collective labor agreements until an agreement is reached. Meanwhile, the government recommends that businesses without any enterprise union representation consult with employee representatives to draft internal enterprise regulations. Following this, the government reviews the internal enterprise regulation to ensure that it complies with the law.

Collective labor agreements are formulated by both employers and employees with the objective of creating an industrial relations system which is satisfactory for both parties. Collective labor agreements should act as reference documents, regulating the rights and responsibilities of both employers and employees, and be complied with by both parties. Collective labor agreements as well as internal enterprise regulations can become the most important reference materials used to overcome complaints, differences of opinion, and industrial disputes between employers and employees. Therefore, both employers and employee representatives should ideally divide up the contents of the documents and explain each section individually to the workers so that they gain a better understanding of their rights and obligations and to ensure compliance.

Aside from the similarities, there are also differences between internal enterprise contracts and collective labor agreements. Articles are stipulated in collective labor agreements after they have been agreed to by both employers and employees. Meanwhile, internal enterprise

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[64] Former Director General of Inspections and Supervision (Binawas), Department of Manpower, "*Baru 10,962 perusahaan yang punya KKB*", Bisnis Indonesia, October 2, 1997.

[65] Former Director General of Inspections and Supervision, Department of Manpower, *"Kesepakatan Kerja Bersama dan Peraturan Perusahaan"*, Suara Pembaharuan, March 15, 1993.

regulations constitute of regulations formulated by the employers, with or without employee consultation or input. Internal enterprise regulations are often used as a point of reference when collective labor agreements are being formulated for the first time. The workplace is generally regulated by internal enterprise regulations prior to the establishment of a collective labor agreement.

The Existence of Internal Enterprise Regulations and Collective Labor Agreements

Of the 47 businesses investigated, 39 (83%) of them already have formed enterprise unions. The composition of internal enterprise regulations and collective labor agreements within these businesses is indicated in the table below:

Table 4. Internal Enterprise Regulations and Collective Labor Agreements in the Surveyed Firms (n=47)

Firms	Internal Enterprise Regulations (PP)		Collective Labor Agreements (KKB/PKB)		None*	
	> 25**	< 25**	> 100**	< 100**	> 100**	< 100**
With enterprise Unions	9	0	26 ***	1	3	0
Without enterprise Unions	5	0	0	0	0	3
Total	14	0	26	1	3	3
Percentage (%)****	30		58		12	

Note: * No internal enterprise regulations or collective labor agreements in place
** Number of workers
*** Still in draft version; **** Percent of the total businesses

According to data from the Department of Manpower, there were 163,846 businesses in operation in Indonesia in 1997. Of these, 30,017 were medium-scale businesses, another 13,552 were large-scale businesses and 10,962 or 6.7% of the total business had collective labor agreements in place. In the same year, there were some 14,023 enterprise unions registered with the Department of Manpower, indicating that 78% of firms with enterprise unions already had collective labor agreements in place.[66] According to the general chairperson of the All-Indonesia Workers' Union (SPSI)[67], in 1997 there were some 23,525 collective labor agreements in place within businesses in Indonesia, but only 12,747 enterprise unions have registered with the All-Indonesia Workers' Union Federation (FSPSI), therefore at least 10,776 of all the collective labor agreements in place are "unofficial". The Chairman of the SPSI suspected that these "unofficial" collective labor agreements are often the trigger for increased conflict and employer-employee disputes. It is also assumed that these workplace contracts are not in accordance with government regulations.

Up until January 2001, some 2,175 enterprise unions have been registered and 1,429 collective labor agreements have been agreed to in East Java alone. As a means of comparison, as many as 4,504 internal enterprise regulations have been formulated during the same time period.

Internal Enterprise Regulations

The businesses investigated which have internal enterprise regulations in place include five businesses with no union representation (with a workforce of between 45-300 employees) and

[66] Business Indonesia, *"Baru 10,962 perusahaan yang punya KKB"*, October 2, 1997.

[67] ibid.

one large-scale business with an enterprise union (with a workforce of 3,800 employees). This business made the decision to continue to apply its internal enterprise regulations rather than opt for a collective labor agreements. Two hotels with enterprise union representation, as well as one business (based on foreign investment) with union representation and a workforce of 86 employees also have internal enterprise regulations in place.

Even though Minister of Manpower, Transmigration and Cooperatives Regulation No.Per/02.Men/1978 stipulates that employees must be consulted during the formulation of internal enterprise regulations, in reality, the employers dominate the formulation process and therefore the contents of the regulations tend to favor the businesses.

Based on information collected in the field, the first step in the formulation of internal enterprise regulations is carried out by the employers who design a set of draft regulations. This is then submitted to the local Office of Manpower for inspection to ensure that all clauses included in the document do not conflict with the current government regulations. If the internal regulations are in accordance with the government regulations, the local Office of Manpower will authorize the document. According to information from the field, the authorization process generally takes less than one week. Inspection and authorization costs vary depending on the scale of the business, and range between Rp50,000-Rp150,000. According to government regulations, internal enterprise regulations must be renewed once every two years. It seems that this does not pose too much of a problem for businesses.

One set of internal enterprise regulations obtained in the field was from a large business in Surabaya. Their internal enterprise regulation covers:

- general stipulations explaining the definitions and objectives of internal enterprise regulations;
- work relationships, for example the appointment and transfer of employees;
- work hours and overtime;
- work dispensation and obligations, for example arrangements for leave;
- matters relating to wages which include the system used to determine wages as well as sick leave obligations;
- work discipline, for example employees' obligations and work prohibitions as well as the sanctions imposed;
- retrenchment;
- work protection and health care;
- matters relating to employees welfare, including *Hari Raya* bonuses, places to perform religious duties, work cooperatives and Labor Social Security and Insurance (*Jamsostek*); and
- closing provisions, covering grievance resolution and commencement of the agreement.

Collective Labor Agreements (Workplace Contracts and Agreements)

Based on Government Regulation No.2, 1985 and Minister of Manpower Regulation No.2, 1993, collective labor agreements are formulated by businesses which have already established enterprise unions. The conversion of internal enterprise regulations to collective labor agreements is stressed by the Minister of Manpower through the Directorate General in Letter No.B.444/M/BW/95 on "Industrial Relations Guidance and the Supervision of Matters Relating to Manpower". This was disseminated to all heads of the regional offices of

the Department of Manpower in Indonesia.[68] Since 2001, workplace agreements have changed their name to workplace contract[69] (both are collective labor agreements). However, because old workplace agreements were still in effect when the change took place, many employers and employees still use the term workplace agreements.

The Contents of Collective Labor Agreements (Workplace Contracts and Agreements)

On average, the collective labor agreements that were obtained in the field were in the form of a pocket book (quite small). The regulating clauses outlined in the workplace contracts were overall quite uniform throughout the regions researched. They included: general provisions, acknowledgment of enterprise unions and facilities provided for union operations, work relations, work hours, wages, workplace health and safety matters, permission for leave and holidays, disciplinary regulations, sanctions imposed as a result of regulation violations, retrenchment and complaint resolution processes. One business in Bekasi also includes stipulations on productivity, health care and efforts to raise the welfare levels of the workers. Similar to workplace contracts, workplace agreements are more or less uniform throughout the regions researched. The structure and content of the workplace contracts obtained tended to have a more logical sequence than the workplace agreements, distinguishing the two types of documentation.

The contents of workplace agreements from three businesses in three different regions are presented in Appendix 9. They are all large-scale businesses, two of them are based on foreign investment and the other one is based on domestic capital. A thorough examination of these workplace agreements indicates that some of the details stipulated could trigger industrial disputes.

The Negotiating Process

Information collected in the field indicates that both employers, and employees who are represented by their enterprise union, are generally involved in the formulation of collective labor agreements. In fact, one large textile company in Bandung involves 90% of its employees in the process. Nevertheless, there are still a small number of cases where collective labor agreements have singularly been created by the businesses, and union representatives have been forced to agree to them. One domestically funded garment company in Bekasi with a workforce of 1,200 employees is an example of a company which created its collective labor agreement without the involvement of other parties. When collective labor agreements are being negotiated, businesses are generally represented by the Director, Human Resources Manager and Production Manager. Several businesses also use a legal consultant who is not a business employee. Meanwhile, the workers are represented by their enterprise union leaders and on occasion, the coordinating body is included in the negotiating process.

[68] The contents of the letter include: In order to overcome increasing industrial unrest, the rights and obligations of the production process agents need to be regulated in the first instance in workplace agreements. In reality, businesses which already have workplace agreements in place have not experienced any major problems. The heads of the regional offices have been requested to encourage businesses which have internal enterprise regulations which have already been renewed twice to change their status and apply a workplace agreement. If the business has no enterprise union, they are encouraged to form one.

[69] It would appear from the workplace contracts and agreements collected by the researchers in the field that a number of work agreements issued in 2001 are using the term workplace contracts. No information was available on government regulations which legislate on this matter.

The businesses and enterprise unions investigated stated that the formation of the first draft of either a collective labor agreements can be initiated in three ways.[70] Firstly, both the business and the enterprise union can formulate a draft. Secondly, the employers alone can compile a draft which is then submitted to the enterprise union, or thirdly, the enterprise union can formulate a draft which is then submitted to the business. After both parties have studied the drafts, negotiations begin. Generally, a collective labor agreement is negotiated several times before a final agreement is reached. The enterprise union representatives usually raise issues regarding the employees' welfare, meanwhile the business representatives often express their concerns over disciplinary matters. This process is sufficient to indicate that collective labor agreements do indeed already accommodate the desires of both parties. In one large company producing wood products in Surabaya, the process involves the business formulating a draft of the agreement, which is then discussed in a meeting with union representatives. After this, the union representatives can request clarification of matters that are still unclear and suggest improvements. Another large business in Surabaya, which previously experienced mass solidarity strikes, now discusses its draft every week with union representatives until an agreement is reached. They also request suggestions from employees in the collective labor agreement meetings.

The draft collective labor agreement, which have already been agreed upon by both parties, are then submitted to the local Office of Manpower to ensure that none of the Articles included contravene the official manpower regulations. Collective labor agreements operating in the businesses investigated are on average valid for two years and can be extended for an additional one year.

After an agreement has been reached, collective labor agreements are not only signed by the representatives of the business and enterprise union, but they are also signed by witnesses, namely, a representative of the local Office of Manpower and the negotiating team. The Director and Vice-Director of the firm as well as the Human Resource Manager signs the collective labor agreement on behalf of the business. Meanwhile, the enterprise union chairperson or several of the union leaders sign on behalf of the workers. In a number of businesses, employee representatives also participate in the negotiating process and sign the collective labor agreement.

Those businesses investigated which already have either a collective labor agreement in place, clarified that the process of formulating such an agreement for the first time is generally quite time consuming, taking around six months or even several years in some cases. Subsequent collective labor agreements which are reviewed two or three years later, only accommodate new proposals from both the enterprise unions and the businesses, and the time required to formulate the agreement is greatly reduced, requiring three months or less.

Adjustments to the contents of collective labor agreements are generally related to the amount of Rupiah which have to be paid in terms of wages and additional allowances. Drawn out negotiations often cause the workers to become impatient and trigger disputes with the businesses.

At the time this research was carried out, one enterprise union active in a business producing plastic and metal products in Surabaya had not yet agreed upon a draft of the collective labor agreement and therefore it had not been authorized. As a result, this business imposed its old agreement.

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[70] The first draft of either a workplace agreement or contract draws upon the business' existing internal enterprise regulations, meanwhile the succeeding workplace agreements or contracts refer to the previous versions of the same document.

The Effectiveness of Collective Labor Agreement

Collective labor agreements (workplace contracts or agreements) are formulated based on an agreement reached between employers and employees, yet more important than this, is how these regulations are implemented within the workplace. Often cases of industrial unrest arise as a result of issues unrelated to the regulations they have already agreed upon. For example, employees recently demanded that wages, food and transport allowances be increased because of a rise in fuel prices. Because of matters like this, collective labor agreements are generally deemed insufficient as a means to ward off industrial disputes.

Information from the field indicates that businesses that are yet to formulate collective labor agreements, but still implement internal enterprise regulations, actually continue to have sound employer-employee industrial relations. Nevertheless, employers acknowledge that collective labor agreements are effective reference materials for dispute resolution. Yet, they also recognize that this documentation does not ensure industrial disputes or strikes will not occur. One pharmaceutical foreign investment company in Bogor is aware of the importance of enterprise union regulations and collective labor agreements as they produce medicine for public consumption. The company believes that the quality of its products depends on the implementation of its collective labor agreement.

One case study of a large company producing foodstuffs in Jakarta, with a workforce of 800 employees, can be used as an example to evaluate the effectiveness of collective labor agreements. This business has a collective labor agreement which was formulated 10 years ago and until now has never been improved or revised. The employees are pessimistic in terms of whether the business will make any adjustments. Meanwhile, employees from another business in Jakarta producing foodstuffs with a total workforce of 200 employees feel that even though they have not set up an enterprise union, they do not need a collective labor agreement because the business has consistently fulfilled the workers' basic rights *(hak-hak normatif pekerja)*. Frequent changes to government regulations hamper the formulation of collective labor agreements.

Another business with a workforce of 2,800 employees working in factories in Tangerang, Jakarta and Bogor can also be used as another example in evaluating the effectiveness of workplace regulations. Workers from the Jakarta factory have an enterprise union which is affiliated with the Jabotabek Workers' Union (SBJ), yet they do not have information on the contents of their collective labor agreement. This is because workers from the Bogor factory, whose enterprise union is affiliated with the All-Indonesian Workers' Union (SPSI), formulated the collective labor agreement. Similar implementation shortcomings are evident in a large garment company in Bogor, where employees have stated that the business enforces 90% of the articles included in their collective labor agreement, which benefit the employer, but rarely fulfill the articles which benefit the workers.

On average, businesses that have already established an enterprise union, have a collective labor agreement in place. However, the formulation of such documentation is not always carried out immediately after the establishment of the union. Although one business producing footwear for export in Surabaya has had an enterprise union in operation since 1997, both employees (represented by their union) as well as the employers, decided to continue to apply internal enterprise regulations. They believe that such regulations allow them more freedom to file proposals, negotiate and alter agreements (see the Box 3).

Although there are business groups which agree to impose a uniform collective labor agreements throughout all of their firms, often they do not impose the ratified agreement in all of their sister firms, especially in those which are smaller and less developed. This is

often the trigger of disputes. Businesses with two enterprise unions which have affiliated with different labor unions may experience additional complications in their negotiation processes. Even though the regulations state that the enterprise union with the majority of members will represent all the workers, in practice this is difficult to ensure. The solution to this dilemma is for both enterprise unions to submit a draft collective labor agreement to the business, or for the business to give its proposed draft agreement to each of the unions. All of the parties involved can then study the proposals, and add their own input before negotiating the collective labor agreement together. This process resulted in one business in Surabaya with two enterprise unions in place, to finally agree to the formulation of two collective labor agreements with the same content.

Box 3
Enterprise Union Representation in a Factory which has Chosen to Keep their Internal Enterprise Regulations

The employees at a shoe export factory in Surabaya established an enterprise union which affiliated with FSP-TSK in 1998. Instead of formulating a new collective labor agreement, both the employers and employees decided to continue to apply internal enterprise regulations. They are of the opinion that such regulations allow them the freedom to file proposals, negotiate and alter agreements. Direct proposals from employees can be submitted through a letter to the business. These proposals are then negotiated until an agreement is reached.

Internal enterprise regulations cover several general matters, meanwhile on-demand agreements cover more specific matters. On-demand proposals which regulate additional matters outside of internal enterprise regulations include:

- The 9th of May 2001 Agreement: this agreement stipulated annual bonuses a part of workers' wages;
- The 11th of December 2000 Agreement: regarding the *Idul Fitri* bonus and work rotations;
- The 12th of October 2000 Agreement: on daily and monthly workers resignation as well as long service pay outs;
- The 12th of July 2000 Agreement: on the temporary lay-off of employees.

Both the employers and employees are in agreement and feel satisfied with the controls set through both internal enterprise regulations and on-demand agreements.

The cost of authorizing a collective labor agreement is borne by the businesses. In 2001, a business in Bekasi which requested the authorization of their collective labor agreement spent approximately Rp800,000. Previously, such authorization only cost Rp200,000.

Collective labor agreements, to which both parties have agreed and authorized, are posted on a notice board. Several businesses also distribute copies of their collective labor agreement to all of their employees. Nevertheless, a number of the employees do not completely understand the contents of the documents. In order to raise the employees understanding of the collective labor agreements, several union leaders clarify their contents in regular meetings.

C. INDUSTRIAL RELATIONS DISPUTES AND DISPUTE SETTLEMENT

The Causes of Industrial Relations Disputes and Strikes

The formal definition of industrial relations disputes has undergone various changes in accordance with legislative developments. Law No.22, 1957 did not define industrial relations disputes, instead it defined labor disputes as a conflict between employers (or employer's associations) and employees (or labor unions) triggered by a lack of common understanding about work relations, work requirements and/or labor conditions.

According to Law 25, 1997[71], an industrial relations dispute is conflict between employers (or employers associations) and employees (or labor unions) due to a lack of common understanding about the implementation of work requirements, workplace norms, work relations, and work conditions. Meanwhile, according to proposed Industrial Relations Dispute Resolution Bill, industrial relations disputes are disagreements leading to actual conflict between employer (or employers associations) and employees (labor unions) as a result of a dispute about rights, interests, and retrenchment, as well as disagreements among labor unions at the corporate level.

Under Law 25, 1997, strikes were defined as deliberate acts carried out by workers to cease or slow down production as a result of failed negotiations in industrial relations disputes, in order to force employers to comply with worker's demands. In practice, strikes do not always follow failed negotiations, but can also be held prior to a negotiation process to push for dialogue or during the negotiation process.

Both Law No. 12, 1957 and the proposed Industrial Relations Dispute Resolution Bill, did not define labor strikes. However, according to the civil[72], labor strikes are acts of violation and breach of work agreements, resulting in employers remaining obliged to compensate the workers. Uwiyono (2001) views labor strikes neither as a criminal act nor a given freedom, but as a part of the workers rights.[73]

This research focused on cases of industrial relations disputes and labor strikes taking place within the last three to five years. However, some respondents also provided information on notable dispute cases which emerged prior to this period. Based on the findings in the field, the main cause of industrial relations disputes and strikes differed in each enterprise.

Industrial relations disputes are usually initiated by workers' demands which are either spoken or written. An actual dispute results if: the employer does not immediately respond to workers' proposals or demands; negotiations are not held immediately; or, general agreement is not reached concerning both the type and significance of the workers' demands.

From the cases of industrial relations disputes and strikes found in the 47 enterprises visited, the main origins of disputes in most enterprises can be grouped into four categories:

(i) Demands for workers' additional rights. This refers to issues not regulated in legislation or collective labor agreements. These disputes are often a reflection of workers' discontent over working conditions, such as the absence or insufficient amount of allowance provided for food, milk, transport, work uniforms and recreational activities. These demands may also concern matters such as wage

[71] Even though this law was not brought into effect, as was outlined in Chapter IV.

[72] Aloysius Uwiyono, *"Hak Mogok di Indonesia"*, Faculty of Law, University of Indonesia, 2001, p10.

[73] ibid., p.12

systems, menstrual leave for female workers, clarity of worker status, service charges in hotels, and inadequate workplace facilities.

(ii) Demands for workers' basic rights. These are demands for workers rights as stipulated in various laws and legislation and mutually agreed to in collective labor agreements. These include: employer compliance with recent adjustments in government policy concerning manpower; compliance with minimum wage requirements or wages as agreed to in a tripartite dialogue; and other benefits such as overtime pay, maternity leave, marital and maternity allowance, bonuses, the formation of labor unions and democratic appointment of representatives, retirement allowance, *Hari Raya* bonuses, and severance pay.

(iii) Interference and involvement of third parties, such as workers from other enterprises and other affiliated labor unions, often provoke workers to fight for their interests. This also includes acts of solidarity in expressing their demands *en masse* concerning issues such as the implementation of minimum wage requirements, larger food and transport allowances due to the increased price of gasoline, and menstruation leave for female workers.

(iv) Pressure from a number of workers inside the enterprise, forcing other workers to support their cause through demonstrations or strikes.

Other origins of conflict include: solidarity for fellow workers believed to have been treated unfairly by the employer; diverging perceptions on government laws and regulations; demanding the resignation of a Human Resources Department manager who is viewed as too strict and biased towards the company; changes in corporate management which are viewed as inconsiderate of the workers' interests and welfare; demands for transparency in enterprise management; new government policies which affect workers' welfare (such as increases in gasoline prices, in effect increasing transport costs and the overall price of staple goods); the implementation of *Kepmenakertrans No. Kep-78/Men/2001* to replace *Kepmenaker No. Kep-150/ Men/2000*; perceived non-transparency on the company's behalf concerning profits; suspicions that the firm did not pay its *Jamsostek* contribution; impatience of workers in waiting for the results of negotiations; or other new demands which are surfacing along with worker's increased knowledge of their rights after the formation of an enterprise union in their workplaces.

Industrial relations disputes also arise because government laws and regulations on labor issues are inadequately publicized, both in terms of the content of the legislation and the time provided to adequately inform the public. This has resulted in government policy not being well understood both on the part of employers and employees. Subsequently, the implementation of government policy has become inconsistent with the original policy objectives.

Until this research was conducted, the most common causes of industrial relations disputes in the enterprises researched were non-normative demands for increased food allowances, transport allowances and menstruation leave. According to Department of Manpower data on some of regions covered by the research, disputes arising from non-normative demands (additional rights) accounted for as much as 70%, while normative demands (basic rights) accounted for 30%. Apindo is of the view that the chances of disputes are higher in labor-intensive enterprises such as those in the textile, garment and footwear industries. Generally, the intensity of disputes increases in the month of February coinciding with the implementation of yearly adjustments to minimum wages.

Disputes concerning transparency within a firm usually arise because employees feel that employers demand that workers understand difficult conditions faced by the firm, such as

financial losses due to the monetary crisis. Yet, at the same time the corporation seems unwilling to understand the difficulties encountered by employees who are also suffering due to the monetary crisis. Furthermore, while the workers do not receive a share of the profits, they are expected to share the company burden during times of unfavorable business conditions. Employers feel that because they are operating in the private sector rather than the public sector, they have no obligation to publicize their profits, neither to workers nor the general public. In reality, the workers only demand that the enterprise act fairly, without necessarily publicizing their profits.

Field observations by SMERU indicate that those enterprise respondents which rarely experienced industrial relations disputes have fulfilled the normative rights of their employees, are considerate of their welfare, treat them as partners, have established communication channels, and are transparent in their activities. In these enterprises, industrial relations disputes generally only occur in extraordinary circumstances, such as when there is a drastic decline in production or demand due to the economic crisis, or as the side effect of declining demand from aboard, all of which may force the enterprise to cut back in expenses and reduce the size of the workforce.

The SMERU research team grouped industrial relations disputes and strikes into four categories:

(i) Minor disputes: disputes which are not accompanied by strikes and can be settled through bipartite dialogue (dispute resolution may or may not involve enterprise unions or affiliated unions).

(ii) Average disputes: disputes accompanied by strikes, but can be settled through bipartite dialogue (dispute resolution may or may not involve enterprise unions or affiliated).

(iii) Major disputes: disputes which are not accompanied by strikes, and can be settled though tri-partite dialogue (through the Central or Regional Government Committees).

(iv) Massive disputes: disputes accompanied by strikes, which cannot be settled through tri-partite dialogue.

The research team found one case in an enterprise where the actual dispute could be categorized as an average dispute, but since the strikes were held every year, the case was categorized as a massive dispute.

Based on the four categories, according to both employees and employers, the SMERU team noted that within the last five years, only three out of 47 respondent enterprises (6%) have experienced massive disputes, whereas 10 (21%) encountered major disputes, 14 (30%) experienced average disputes, 12 (26%) experienced minor disputes, and eight (17%) of the enterprises have never experienced any disputes, apart from minor grievances and handling of cases of individual differences (see Table 5 and 6).

Below we cite various examples of industrial relations disputes, both accompanied and not accompanied by strikes. Different sources of conflict were noted such as: disagreement over bonuses, strikes engineered by a small group of workers, disputes over workers' basic rights, and strikes provoked by external parties. In some of these cases, the dispute was accompanied by violence.

Table 5. Minimum Wage Compliance, the Existence of Enterprise Unions, and Industrial Disputes

FDI/ DI	Size of the Firm	Minimum wage compliance		Existence of enterprise unions	Industrial Disputes*					
		Yes	No		Minor	Average	Major	Massive	No disputes	Total
FDI	Large	13	0	13	2	5	3	0	3	13
	Medium	1	0	1	1	0	0	0	0	1
		14	0	14	3	5	3	0	3	14
DI	Large	27	2	24	8	8	7	3	3	29
	Medium	3	1	1	1	1	0	0	2	4
		30	3	25	9	9	7	3	5	33
	Total	44	3	39	12	14	10	3	8	47
	Percentage	94	6	83	26	30	21	6	17	100

Note: *(a) Minor disputes: disputes without strikes, bipartite resolution; (b) average disputes: disputes with strikes, bipartite resolution; (c) major disputes: disputes without strikes, tripartite resolution; and (d) massive disputes: disputes with strike, tripartite resolution.

Table 6. Disputes Broken down by

Location	Disputes											
	Massive		Major		Average		Minor		None		Total	
	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%
Surabaya	1	8	6	50	5	42	0	0	0	0	12	25
Jabotabek*	2	7	4	14	7	24	11	38	5	17	29	62
Bandung	0	0	0	0	2	33	1	17	3	50	6	13
Total	3	6	10	21	14	30	12	26	8	17	47	100
Percentage	6		21		30		26		17		100	

Note: * Jakarta, Bogor, Tangerang, Bekasi.

Box 4
A Strike Due to Disagreement Over Bonuses

In July 2001, workers from one of the largest textile companies in Bandung with a workforce of 1013 workers held a strike to demand a bonus. While representatives of the All-Indonesia Workers Union (SPSI) were making their demands to the management, 400 workers held up banners at the front gate of the business exclaiming "*We Want Bonus*". Company management attempted to calm the workers and requested that they keep working while waiting for the results of the negotiations. The workers ignored their request, even after company representatives informed them that they would not negotiate if the workers continued their strike.

During the negotiation process, SPSI asked the shift coordinators and their department to act as representatives for the workers, but they were unwilling to do so. Each workers' representative proposed a sum for the amount of the bonus that they desired. One representative suggested a bonus ten times their present wage.

Until noon, no agreement had been made over the amount of the bonus. SPSI proposed a bonus which would be 2.5 times their usual wage, but the company suggested a bonus of Rp400,000 for each worker. At first SPSI held to their initial proposal, but the company suppressed their demands and only offered a bonus equal to one months pay. SPSI finally agreed to the amount.

Later in the day, the number of workers on strike had increased because workers who were roistered-on for the night shift had started to arrive. They refused the one-month wage bonus offered by the company and stated that they would only approve it if the bonus was equally distributed amongst the employees. Both company and SPSI representatives did not agree with this demand. Without any agreement being reached, the company dismissed the workers for four days while they formulated points of agreement as proposed by the Office of Manpower. SPSI was then invited to witness (with their signature) the six points of agreement in front of the company's management team, board of directors, division heads, and two representatives from the Office of Manpower.

Four days later, the company requested that workers sign one of two agreement options: namely, to either accept or decline the one-month pay bonus. Those who declined would not be allowed back to work, while those who agreed would receive their one-month pay bonus at the end of the month. Aside from that, the company also demanded that the workers who engineered the strikes be interrogated. For that purpose a Special Committee was formed, consisting of company representatives and the police. Initially it was also going to include a SPSI representative, but they declined because they were unwilling to interrogate their own members. The Special Committee questioned 22 employees. One of the workers questioned resigned from the company without any clear reason. Two days later, SPSI received a letter from the police regarding the results of the investigation and asked that SPSI authorize five commitments on the part of workers, including: that the workers being questioned in the case do not wear their uniform, and that the workers have a right to be accompanied by their lawyer while questioned by the police. As a result, two workers were suspended, two were given their third letter of reprimand, and another 17 received their first letter of reprimand. The two workers who were suspended did not accept the outcome of the investigation and have proceeded to report their case to Regional Government Committee. SPSI is currently preparing the defense argument for its members.

The enterprise's deliberate involvement of the police in this dispute is a clear indication that this enterprise has not learned from their experience with previous strikes and is yet to understand dispute settlement measures as regulated in the legislation.

Box 5
Strikes engineered by a small group of workers or a minority enterprise union which result in violence

Example 1.

A strike in a major food manufacturer in Jakarta was engineered by just 2-3 workers demanding the *Hari Raya* Bonus, the right to menstruation leave, and an allowance for food. They invited local thugs (*preman*) to the factory to force the other workers to join in their strike.

Previously, the small group of workers had filed complaints to the one of the local legal aid institutes claiming that their employer was not paying attention to the workers' basic rights. Due to the absence of an enterprise union which possessed the initiative to articulate the workers' demands, the group then appointed this institute as their legal defense. The enterprise management was then willing to negotiate, but the workers and their legal representatives refused. They chose to continue the strike, even without the support of the majority of workers.

The workers who participated in the strike padlocked the front gate and forced fellow workers to stop working. At that time, a violent confrontation occurred between workers hesitant to join the strike and individuals from this legal aid institute. This incident completely halted production for two days and affected the workplace for five working days, in effect decreasing production by as much as 50%.

The local Office of Manpower summoned the representatives of the representatives of the firm and the workers to resolve the dispute. However, the workers' representative did not attend. Eventually, the local Office of Manpower requested that the firm comply with regulations concerning workers' normative rights which had not yet been implemented in the workplace. No workers were dismissed for their participation in the strike.

Example 2:

Respondents from a footwear manufacturing company in Tangerang employing 8000 workers informed the research team that there had been no labor unrest in their firm until 2000. In 2000, a demonstration was held which was engineered by a small group of workers. The workers involved in the strike were members of the Footwear Factory Workers Enterprise Union (Perbupas) which only had 50 members. This labor union is one of two enterprise unions in the firm.

Members of *Perbupas* demanded a wage increase without the support of the majority of the other workers. At the time, the Textiles, Footwear and Leather Workers Union was in the process of representing the majority of workers in tri-partite negotiations concerning that same matter. These negotiations were successful and agreed to on a bipartite basis.

The firm's representatives believed that apart from using coercion, the strike engineered by workers with *Perbupas* resulted in financial losses for the company, and consequently the group was then reported to the local authorities. The case then became a legal matter and was presented before the Court. The court decided to free the leader of *Perbupas* who facilitated the strike, therefore obliging the firm to allow him to return to work, even though he was then moved to the Human Resources Department. During the process, the rights of the workers who participated in the strike were still observed by the firm, such as their right to receive wages. This case was widely covered in the national mass media, including receiving television coverage.

Box 6
A strike with no prior notice or clear demands

In 2000, members of the enterprise union in a cable manufacturing foreign investment firm in Surabaya padlocked the front gate of the factory. In effect, as many as 800 workers could not enter their workplace. The organizers of the enterprise union forced their fellow workers to strike without giving prior notice to the firm's representatives.

That very same day the firm's representatives attempted to carry out a dialogue with the enterprise union representatives, but it turns out that they were yet to make any demands. On the second day, representatives of the enterprise union submitted their demands, including increases to their food and transport allowance. On the third day, worried about the prospect of loosing their jobs, workers pushed the enterprise union representatives to allow them to work. The workers were finally able to commence working on the fourth day.

This industrial dispute was settled through tri-partite dialogue. As a result, the firm agreed to the demands of the enterprise union representatives: increasing the workers' food allowance from Rp36,000 to Rp66,000 per month, and transport allowance from Rp39,000 to Rp69,000 per month. Even though the demands were agreed to, as a result of the industrial unrest, eight union organizers resigned, while three other organizers had to formally apologize to the corporation. At the time the research was conducted, the three people mentioned were still working in the firm.

Box 7
An industrial dispute caused by delayed compliance with the minimum wage policy

The main cause of an industrial dispute in a large garment company in Bekasi in May 2001 was over the employer's lack of compliance with the changes to the minimum wage. Workers demanded that the regulation stipulating an increase in minimum wages be implemented immediately. The dispute in this enterprise employing 1,200 workers was able to be resolved after fierce debate between worker representatives (24 individuals), the enterprise union, and firm's representatives.

The result of the tripartite dialogue was that the company had to observe the increase in the 2001 minimum wage of Rp426,000, effective from the beginning of July 2001. The increased wages for the three previous months (March-May) were to be added collectively to the workers' pay in July. Consumers of the company's products also pressured the company to raise the wages for workers who have been with the company for more than one year, by as much as Rp3,000 above the minimum wage.

Box 8
A dispute concerning non-normative rights

During the last five years, the main cause of industrial disputes in a large garment domestic manufacturer in Bogor, employing around 7,800 workers, has been demands for non-normative workers' rights. These include non-normative demands to:

- Increase the transport allowance by 5%, and increase the food allowance by as much as Rp500 per worker per day as a result of increased gasoline prices.
- Accommodate the need for a prayer room (*musholla*)
- Provide a lunch room and adequate toilet facilities
- Hold recreational activities once a year
- Increase the coverage for medical expenses

The above demands have usually been responded to positively by corporate management and are resolved through bipartisan agreement.

Box 9
A strike based on solidarity

A strike at the beginning of the year 2000 in a garment manufacturing domestic firm in Bekasi was carried out as an act of solidarity for fellow workers who were laid off without any discussion between the workers and management nor severance pay. The employees who were laid off included 16 cleaning service employees and the firm's security officer who had all been with the company for 7-8 years. Their positions were taken over by an external cleaning service. This case was brought to the branch council of the All-Indonesia Workers Union (SPSI) and was followed by a three-day strike. On the first day of the strike, the firm's executives were held captive by workers and were not allowed to leave until midnight, after they had signed a written agreement witnessed by a representative from the Police precinct, promising to hold negotiations the following day.

At the time the strike was held, representatives from the SPSI branch council and 150 worker representatives conducted a dialogue with company owners, where representatives from the Office of Manpower monitored the discussions (on company grounds). The SPSI branch council and worker representatives presented eleven new demands, including demands for a food allowance, the accurate calculation of overtime, and increases to their basic wage.

Even though the Office of Manpower had previously promised to deliver an agreement that would benefit the workers, their final decision did not reflect that promise. In reaction to this, worker representatives walked out of the discussions and workers threatened to continue to strike until their demands were met. After three consecutive days of negotiations between worker representatives, the SPSI branch council and company owners, all of the workers' demands were granted and integrated into internal enterprise regulations. Consequently, the workers ceased the strike and recommenced working.

Meanwhile, the case concerning the dismissal of the cleaning service employees and the security officer was settled through the legal system, where the process took three months. The dismissed workers received severance pay as stipulated in the labor legislation.

Box 10
A strike organized to demand severance pay

In 1999, approximately 1,200 workers in a large wood-molding factory in Surabaya held a strike for five days. They demanded that they be laid off and given severance pay. This dispute was settled through bipartite dialogue. The company finally agreed to provide severance pay ranging from Rp1,8 – Rp3,2 million per person, for the workers who wanted to be dismissed from their positions.

Data on industrial relations disputes which were not accompanied by strikes and resolved through bipartite agreements was hard to obtain from the local Office of Manpower. This data was only available at the enterprise level, where disputes were often poorly documented. Only data on disputes that were resolved with the involvement of the local Office of Manpower and those disputes which involved strikes, were available from the local Office of Manpower.

For example, in the Province of East Java, monthly data was available concerning industrial relations disputes related to the implementation of Law No.22, 1957 and Law No, 12, 1964, which was resolved through the Regional Government Committee. This data can be viewed in Appendix 10. Appendix 10 indicates that the number and seriousness of disputes in Surabaya is far greater compared to the other areas. However, the research conducted by SMERU did not identify any clear reasons for such discrepancies. Possible factors influencing the situation could include different approaches used by labor unions and employers to handle disputes in Surabaya compared to other areas, or the fact that Surabaya is an industrial area with many labor intensive enterprises. More detailed study is required to reveal the primary reasons for the large number of disputes in the area.

During the last five years, as many as one third of the 47 sampled enterprises experienced some form of work strikes. Workers in one large enterprise in Surabaya held strikes in 1996, 1998 and again in 2000 with the same demands: the need for work uniforms.

In another example in Surabaya, workers in a large enterprise (based on foreign capital) manufacturing steel plates carried out strikes in 1996, 1997, and 2000. In 1996 they protested for three days, demanding a food allowance, transport allowance, shift penalties, attendance pay, and a milk allowance. The strike resulted in as many as 200 workers being dismissed. The following year, 600 workers held a strike for ten consecutive days, again with the same demands, this time resulting in the dismissal of 150 workers. The last strike in 2000 was conducted by workers outside the company vicinity, as an act of solidarity towards fellow laborers in Surabaya demanding increased wages.

According to Law No.22, 1957, strikes must be planned, and seven days prior notice of the strike provided to the police, the Office of Manpower, and the enterprise. However, employers and the Office of Manpower have noted that in recent years, they have been given very short notice of strikes, sometimes on the very same day.

Aside from data on industrial relations disputes resolved through the Regional Government Committee or tri-partite mechanisms, the Offices of Manpower have also recorded data on all of the work strikes held in their respective regions. As an example, Table 7 below present data on work strikes held in Bandung between 1995-2000.

Table 7. Work Strikes Held in Bandung, 1995-2000

Month	1995	1996	1997	1998	1999	2000
Jan		2	3	1	4	7
Feb		2	--	--	9	15
Mar		2	1	--	4	4
Apr		10	1	6	8	15
May		11	2	--	5	13
Jun		8	1	6	4	4
Jul		10	1	2	4	6
Aug		1	3	3	2	4
Sep		1	2	1	2	4
Oct	2	1	4	7	6	9
Nov	2	1	--	11	6	9
Dec	5	--	3	14	8	2
Total	9	49	21	50	62	92

Source: Sub-Directorate of the Office of Workforce Planning, Kabupaten Bandung
Directorate of Manpower

At the central level, the Department of Manpower has recorded data on the number of work strikes organized at the national level. Data on the number of strikes occurring in Indonesia during 1990-2001 is presented in Table 8.

Table 8. The Frequency of Labor Strikes in Indonesia

Year	Number of work strikes
1990	61
1991	130
1992	251
1993	185
1994	296
1995	276
1996	350
1997	234
1998	278
1999	125
2000	273
2001 up to April	63

Source: Department of Manpower, 1980 – April 2001 in Aloysius Uwiyono, "Hak Mogok di Indonesia", Faculty of Law – University of Indonesia, 2001,p.128

The causes of labor strikes are categorized into two groups by the Central Government Committee: those based on demands for additional rights for workers and those strikes based demands for workers' basic rights. Demands for workers' basic rights include: adjustments to new minimum wages, the establishment of labor unions, and cancellation of the *Hari Raya* Bonus. Additional rights include demands for increased wages, bonuses, and the improvement of general work conditions and work requirements. Data compiled between 1995-1999 suggests that labor strikes were predominantly caused by demands for businesses to comply with new minimum wage policies, accounting for 122 out of 147 cases of labor strikes. Meanwhile, the majority of demands for additional rights were in the form of increased wages, accounting for 19 out of the 28 labor strikes during the same time frame.

Employers are concerned about the possibility that *Kepmenaker No. Kep-150/Men/2000* (Article 15 in particular) will be manipulated by employees. Article 15 reads, "An employer has the right to terminate a worker's employment in circumstances where the worker is absent from work for more than five consecutive days, has been summoned twice in writing by their employer, and still does not provide valid written clarification of their absence". An example of workers manipulating this article occurred in 1997, within a large enterprise (based on foreign investment) manufacturing sports shoes in Bekasi. At the time, workers in the footwear factory conducted a strike demanding that the Head of Human Resources be replaced because he never passed on the workers' 11 demands to the firm's executives. The strike continued for several days, but in order to avoid employment termination under the regulation the strike was held over several different periods. The workers held the strike for five consecutive days and went back to work the following day for one day. Following this, the workers continued the strike until their demands were finally accommodated.

Based on research findings, there is no clear conclusion concerning the link between the frequency of industrial relations disputes and strikes and the type of enterprise in operation (for example, if the firm is foreign or domestic). For example it cannot be stated that disputes occur more often in enterprises based on domestic capital, as compared to enterprises based on foreign capital. Although in general it can be concluded that industrial relations disputes and labor strikes rarely occur in medium scale enterprises.

Based on the explanations provided by the respondents, neither the enterprise representatives nor the enterprise unions could provide detailed clarification as to whether or not workers' demands were linked to collective labor agreements. Therefore SMERU's research was not able to establish the effectiveness of collective labor agreements in preventing industrial relations disputes and labor strikes.

Industrial Relations Dispute Settlement Procedures

If industrial relations was fully understood by employers, employees, their respective bodies, and the government, then industrial relations disputes and strikes would be much easier to resolve. Disputes and strikes would be less likely to occur if the concepts and policies were understood and implemented correctly, but in practice this is not easy to achieve. For this reason the government needs to regulate dispute settlement procedures through legislation. For example, based on Law No.12, 1957, disputes can be resolved gradually through negotiations between employers and employees (bipartite), mediation, and through the Regional and Central Government Committees (tri-partite). Meanwhile, the Proposed Industrial Relations Dispute Resolution Bill suggests resolving industrial relations disputes through other measures such as conciliation, arbitration, and the Court of Industrial Relations Disputes.

Both affiliated labor unions and employers associations advise their members to settle industrial relations disputes through bipartite agreements. Tri-partite negotiation and resolution processes are considered costly and time consuming, without always delivering the desired outcome. In practice, most industrial relations disputes in the enterprises investigated, both those accompanied and not accompanied by labor strikes, were resolved through bipartite dialogue. Only a small number of cases were settled through tri-partite dialogue, and just seven dispute cases in the enterprises investigated were passed on to either the Regional or Central Government Committees.

For enterprises enjoying relatively good industrial relations, the majority of disputes can be handled on a bipartite basis. Bipartite negotiations can be divided into two types: informal dialogue between enterprise unions and the Human Resources Manager, and formal dialogue between enterprise unions and firm representatives, usually consisting of the enterprise

director or owner and the Human Resources Manager acting as the middleman. Bipartite dispute resolution usually begins with informal bipartite dialogue and deliberation, and if no resolution is reached then more formal bipartite discussions are organized. However, many enterprise unions prefer that formal discussions are used in the first instance for more rapid dispute resolution.

In an effort to convince the firm's representatives to negotiate, the research team noted that in several cases workers resorted to threats and violence. Extreme examples included efforts by both an enterprise union in Bekasi and workers in Tangerang, to hold their firms' executives hostage in order to force the enterprise to negotiate. At the same time, enterprises often call on law enforcers or government officials to handle strikes, as was the common practice during the New Order.

The following examples illustrate both industrial relations disputes accompanied by labor strikes which were resolved through bipartite agreement, and other disputes, which had to be settled through tri-partite mechanisms, the Regional or Central Government Committees, and through the courts.

Box 11
An industrial dispute accompanied by a strike and resolved through bipartite dialogue

Workers from a large wood-molding manufacturer in Surabaya frequently chose strikes as a way of expressing their demands. In seven years the workers held four strikes. The first was carried out in 1994 (requesting an attendance bonus), the second strike in 1996 and demanded uniforms for the workers, but apparently the request was denied and as a result the workers again held strikes in 1998 and 2000 with the same demand. Organizers of the enterprise union affiliated to the All Indonesia Workers Union (*SPTP-SPSI*) commented that most of the workers' demands covered non-normative rights because the enterprise has already fulfilled the normative rights of the workers. Even with frequent disputes and strikes, workers and members of SPTP SPSI would rather chose bipartite negotiations. Previous experience with dispute settlement through the Office of the Manpower proved time consuming, similar to efforts to resolve disputes through the Regional Government Committee, where even after four months of waiting there was no resolution.

Box 12
An industrial dispute settled through tri-partite dialogue

A strike at a large textiles domestic company in Tangerang in 2000 included 4,800 workers demanding wage adjustments due to the recent rise in gasoline prices. At the same time the enterprise union was involved in dialogue with the firm's executives, a small group of workers mobilized other workers to hold a strike. According to statements made by the enterprise union representatives, the peaceful strike that continued over six days was not under the control of the union. As a result of the strike, five technicians (foreigners) were dismissed from their positions, along with four other employees. This case was submitted to the Regional and Central Government Committees in an effort to reach a tri-partite resolution, but up until this research was conducted, no agreement had been reached.

Box 13
An industrial dispute settled at the national level

Workers at a large domestic enterprise in Surabaya held a massive strike for three days in June 2001. They insisted that the enterprise immediately comply with *Kepmenaker No. Kep-150/Men/2000*. No less than 20,000 workers from every division of the enterprise participated in the strike.

News of the dispute was acquired from the enterprise union organizer in one of the divisions of the enterprise which manufactured PVC pipes and employed 2,000 workers. The settlement of the dispute was conducted through the Central Government Committee rather than internally. Considered as a mass dispute, representatives of the enterprise union from every division in the enterprise decided to meet with the Minister of Manpower and the Indonesian President. During the meeting the President did not provide a solution to the dispute, forcing the workers to again seek dialogue with the company. Finally the employers agreed to immediately comply with *Kepmenaker No. Kep-150/Men/2000*.

Box 14
Bipartite dispute settlement following massive employment termination

In 1996 a dispute arose in a large company in Surabaya which was triggered by massive redundancies, due to both measures to automate production and the economic crisis. Replacing manual machines with new automatic machines resulted in 120 workers being made redundant. A second dispute in 1997 was triggered by the dismissal of 60 workers, a number of them entering their retirement. This time the dismissals were not only a side effect of automation, but were also influenced by the economic crisis.

The enterprise released a new workforce policy: that workers involved in labor strikes would not receive their wage for the duration of the strike. The policy was formulated to make it clear to other workers that workers who participated in strikes would not be paid. Therefore, both sides suffered losses due to the strike; the company was burdened by losses in production, and the workers lost their daily wage for the duration of the strike.

Efforts to resolve the dispute did not encounter any major obstacles because the company had acted in accordance with regulation *Permenaker No. 3, 1996*. A speedy agreement was also reached because those workers who were terminated from their positions were offered severance pay as stipulated in the regulations, and the company's streamlining efforts were mainly directed towards workers approaching retirement.

Box 15
An industrial relations dispute settled through the State Administrative Court

In 1998, as a result of the economic crisis, one enterprise in the study had to make cut-backs, resulting in around 30 workers from the operators division being dismissed. The enterprise made efforts to provide employment alternatives for the workers, but only 18 accepted. The rest of the workers searched for employment elsewhere. At one point, discontent grew amongst a small group of workers claiming to speak on behalf of their fellow employees. The case involved the Office of Manpower in Kabupaten Berau and was eventually submitted to the State Administrative Court. The enterprise delegated its responsibility to the company lawyers, while the workers counted on non-governmental organizations for assistance. The workers questioned the legality of the cut-backs approved by the Office of Manpower, meaning that in effect the workers were filing a case against the Office of Manpower which in the process involved the enterprise. The case surfaced one year after the cutbacks were made in 1998 (where previously the workers had received severance pay) but in 2000 the workers made another appeal. They claimed that after their dismissal in 1998 the enterprise expanded and recruited new workers. The dismissed workers demanded that they be given their old positions back. Until 2001 no agreement has been reached even after four rounds of negotiations.

The workers, legally represented by a labor NGO, desire some kind of truce, but this has not been responded to by the company. Currently the case is being appealed. The enterprise recruited local lawyers and lawyers from head office, and they also paid the witnesses in the trial. To date, the case has been going for approximately one year.

In cases where dispute resolution is not easily attained, the process becomes time consuming and ultimately induces losses for both sides. An example of a very serious industrial relations dispute is a strike held at a large enterprise in Tangerang. At the time this research was conducted, the strike had been in progress for two months and was still unresolved. The company has halted all operations, and workers come in merely to sign their attendance sheets. The dispute was being discussed by the Regional Government Committee when SMERU was in the field, and at the time there were no signs of settlement. This has resulted in the case being brought to the Ministerial level for consideration. The dispute arose over a disagreement about minimum wages, the status of contract workers, demands for Jamsostek, food and transport allowances, as well as demands that those workers involved in the dispute continue to be employed.

In tri-partite negotiations, the enterprise is usually represented by lawyers, while workers are represented by the labor union federation (the branch or regional council). The local government functions as mediator by appointing local government officials to assist in settling the dispute. To circumvent suspicion, each party attends the court hearings with their legal representatives.

Statements from enterprise respondents in a plastic household appliances manufacturer in Surabaya and a sports shoe manufacturer in Tangerang revealed that their enterprises would rather choose to settle disputes at higher levels. These respondents believe that by taking the dispute to a higher level it will extend the time required to reach a resolution, therefore increasing the chances of the workers losing interest in the dispute.

There are indications that foreign owned enterprises tend to resolve their industrial relations disputes through tri-partite negotiations because the firm's management has more confidence

in the government than the workers and enterprise unions. Even in cases where the conflict could be resolved through bipartite dialogue with the same end result, these enterprises still both prefer and trust tri-partite decisions.

A dispute is considered resolved when each party feels satisfied with the settlement. Cases that are not reported again or brought to the Office of Manpower are considered resolved. Regional government efforts to assist with dispute settlements include providing neutral negotiation alternatives through tri-partite dialogue. In Kabupaten Bogor, a tri-partite mechanism dubbed Tripartite Plus, was proposed, involving enterprises, workers or labor unions, the government and independent institutions (such as experts from universities and NGOs). It is still unclear whether the participation of NGOs in this tri-partite dialogue will prove more effective in bringing about the desired result.

The Office of Manpower came across various obstacles in their efforts to facilitate industrial relations dispute settlement, including: limited human resources with the skills and capacity to handle disputes, especially in comparison to the quantity of disputes yet to be resolved.

In conclusion, based on SMERU's observations in the field, this research was able to summarize dispute settlement practices as follows:

1. Industrial relations disputes between employers and employees (individual disputes) are initially discussed through informal dialogue between the conflicting parties, which are facilitated by the enterprise union. If the parties do not reach an agreement at this point the dispute resolution effort becomes more formal through bipartite discussions.

2. Industrial relations disputes originating from demands for additional rights can usually be resolved through bipartite agreements. The final agreement generally represents a compromise between the interests of the workers and the enterprise which is tolerable for both parties, such as demands for bonuses. Workers and their respective unions do not require that all of their demands be met, what is more important is that their demands are responded to by the employer (even if it is only a partial response).

3. Demands for the fulfillment of workers' basic rights are primarily resolved through bipartite negotiations. Nevertheless if the demands do not prompt a reaction from the enterprise, then the case can be continued at a higher level, such as the Regional or Central Government Committees, or the ministerial level.

4. Those demands accompanied by mass demonstrations or resulting in mass retrenchment, are usually settled through tri-partite mechanisms such as the Regional or Central Government Committee or even at the ministerial level if the demands continue to be disregarded by enterprise management. Several of the enterprises included in this research prefer tri-partite dispute settlement measures as a way of highlighting to workers that disputes which are not settled through bipartite dialogue will only prove costly and time consuming. While this has little effect on the employer, it has an immense impact on workers.

5. Demands accompanied by demonstrations and violence usually result in the termination of employment for those workers who organized, engineered, led or provoked the demonstration. In these cases the enterprise often relies on law enforcers and asks that the case be handled in the criminal courts, rather than being regarded solely as an industrial relations dispute.

VII. CONCLUSION

A. INDUSTRIAL RELATIONS IN TRANSITION

The system of industrial relations in Indonesia is presently in the process of transition: from a heavily centralized and government-controlled system to a more decentralized system where employers and employees negotiate the terms and conditions of employment at the enterprise level. This transition is in line with the changes in the broader social and political context, which aim to facilitate democratization and transparent decision making processes. However, many components of the industrial relations system are still being influenced by the paternalistic central government practices of the past.

B. INDUSTRIAL RELATIONS LEGISLATION

The two proposed new Bills: The Industrial Relations Dispute Resolution Bill and the Development and Protection of the Workforce Bill which are currently being reviewed by the House of Representatives, have proven to be a source of debate amongst unions, employers, employees, and observers of developments in Indonesian industrial relations. Many workers, unions, enterprise unions, and employers were not satisfied with the new dispute resolution processes outlined in the new Bills which have altered the procedures for conducting mediation, conciliation and arbitration, even though at times the Articles in these Bills are misunderstood.

Furthermore, the establishment of The Court of Industrial Relations Disputes continues to be contentious, where few believe that a special court for industrial relations disputes will improve the current situation. Instead, they believe that it will add to the financial burden on the parties concerned by forcing them to conduct court cases to resolve disputes. Generally, labor unions tend to favor Law No.22, 1957 and Law No.12, 1964, even though they do not mention the specific articles from the previous laws they believed to be more appropriate.

Other new regulations, in particular *Kepmenaker No. Kep-150/Men/2000* which replaced *Permenaker No.03/Men/1996,* have drawn a strong negative reaction from employers, who argued that this decision would be burdensome. The corresponding modification of several Articles in the Decision through *Kepmenakertrans No. Kep-78 and Kep-111/Men/2001,* have triggered conflict and mass labor unrest because the modifications were believed to favor employers, while *Kepmenaker No.150* was considered by unions and workers to provide adequate protection for employees. The decision of the government to revoke *Kepmenakertrans No. Kep-78 and Kep-111/Men/2001* and reinstate *Kepmenaker No. Kep-150/Men/2000* on June 15, 2001 adds to the confusion over the current state of industrial relations legislation, without providing certainty or solutions to outstanding debates over the dispute resolution procedures.

Many observers of industrial relations await the ratification of the two proposed Bills in order to clarify many of the outstanding issues in industrial relations and provide certainty for employers and employees. However, it is important that any future legislation which is drafted by the government pays careful attention to creating a balance between employee-employer rights and obligations so that protests and demonstrations are avoided. Furthermore, in light of the varied opinions and understanding of both current and proposed legislation, better guidance, training and orientation of new laws and legislation needs to be provided by the government. A stronger union movement means that the government no

longer needs to play a major role in industrial relations disputes, but rather should act as impartial facilitator and regulator.

C. THE DYNAMICS OF LABOR UNIONS

As a result of the ratification of ILO Convention No. 87, 1948 and Law No.21, 2000, the number of labor organizations in Indonesia has exploded. However, this increase has mainly been in the form of national labor unions and federations. The number of enterprise unions formed is still quite small compared to the actual number of medium and large-scale businesses in operation in the research area. This is not only because a large number of businesses still object to the formation of enterprise unions because they do not understand their potential benefits, but also because workers are not fully aware of the benefits they can have through forming unions. Generally, the workers have shown more interest in the formation of enterprise unions after they have experienced industrial unrest within the enterprise which has been difficult to resolve.

Existing labor unions can be distinguished by the way that they have been formed. *Firstly*, there are labor unions which have been formed as a base for workers to voice their grievances within a business. These unions have a clear mission, well-defined membership, and sound management. *Secondly*, there are labor unions that have been formed as a political base, and include non-workers who claim to act on behalf of enterprise workers. There has even been suggestions that a relationship exists between some of these labor unions and certain groups or political parties.

SMERU found that overall the effectiveness and professionalism of a labor union is dependent on how well they are able to organize and recruit their membership, their level of understanding of their roles, functions and the regulations in place, as well as how well they can present their demands, negotiate, and resolve disputes. According to research in the field, the effectiveness and professionalism of affiliated labor unions at the *kabupaten* and *kota* level is sufficient to defend the interests of the workers during this period of transition. They are generally prepared to defend and support enterprise unions and the workers in situations requiring dispute resolution. Labor Unions are also an effective means of minimizing large-scale unrest, because SMERU has found that they tend to prioritize negotiation at the national level and only use strikes as a last resort. However, generally the role of enterprise unions is considered more important than that of the affiliated labor unions because they have a direct relationship with both the workers and the employer and have a much better understanding of the challenges faced by both.

The enterprise union representatives interviewed consider the longer established federations of labor unions to be more effective and professional than the newer ones. For this reason, enterprise unions tend to favor federations of labor unions which are more experienced in both organizing and union action. Nevertheless, the same federation of labor unions, even though it may have been established for a long period of time, is still evaluated differently in different regions. This indicates that leadership at the *kabupaten* and *kota* level plays a role in influencing the effectiveness of affiliated labor unions.

The presence of extended employer-employee industrial unrest within a large number of enterprises tends to be the initial trigger for the formation of enterprise unions. Generally, few enterprises supported the formation of a union within their enterprise because they were aware of the potential benefits for the business. SMERU's research team found that enterprise unions are rarely formed mainly within smaller businesses that have effective dispute resolution procedures in place. The team also found that in general, businesses acknowledge the benefits of enterprise unions once they have been formed, particularly when it comes time to carrying out negotiations with workers. However, there are still some

enterprises which endeavor to obstruct the formation of unions because they feel that they will be a burden. At the same time, there is also a small number of businesses that have initiated the formation of enterprise unions themselves.

The ratification of ILO Convention No.87 and the implementation of Law No.21, 2000 has also made it possible to establish multiple unions within an enterprise. The existence of multiple unions within a firm was found in several enterprises. So far, this did not result in problems or conflict between the unions concerned. However, employers, enterprise unions, and workers prefer no more than one enterprise union exist in each firm. They have proposed that unions be formed based on a percentage of the total number of workers in each enterprise. Others proposed that the requirements for establishing unions be increased from 10 members to 100 members.

D. COLLECTIVE BARGAINING AND DISPUTE RESOLUTION

Most employers have ensured that minimum wages and other basic work rights exist for their workers, despite any burden arising from the current economic conditions in Indonesia. Outside of issues concerning wages under the industrial relations policy, the SMERU research team's findings indicate that aspects of industrial relations are in fact functioning more smoothly than might be expected at the enterprise level. Most employers stated that despite the burden of "over-regulated", they had complied with the new regulations and agreements, partly because they followed with the process of tri-partite negotiations. Enterprise level bargaining had begun to play a more important role in the determination of labor conditions in many firms where new unions were established from 1997 as part of the *reformasi* process.

Furthermore, SMERU's research highlights that most disputes arising between employees, employers, and their representatives can be resolved through bipartite dialogue. Only a few cases were settled through tripartite dialogue, including being passed on to the Regional and National Government Committee. Both employees (or enterprise unions) and employers (and their representatives, e.g. Apindo, Aprisindo) argue that there are few serious indications of tension in employee-employer relations. Nevertheless, both parties have acknowledged that they are still undergoing a learning process: employees are learning to exercise the freedom to organize, articulate their demands, and find better methods of negotiation, whereas employers are learning to regard employees as work partners.

In those cases where disputes did occur, SMERU's field research indicates that the main causes of strikes and dispute cases were: non-normative demands reflecting workers' discontent over working conditions; enterprises not fulfilling normative demands as stipulated in various laws and legislation and mutually agreed in collective labor agreements; interference and involvement of third parties; and pressure from a number of workers inside the enterprise forcing other workers to support any protests. In order to overcome these issues, various forms of workplace regulations (internal enterprise regulations, collective labor agreements) are an effective means of promoting harmonious industrial relations. Enterprises which continue to implement internal enterprise regulations, actually maintain sound employer-employee industrial relations. In addition, employers acknowledge that collective labor agreements are effective reference materials for dispute resolution. Yet, all parties recognize that this documentation does not ensure industrial relations disputes or strikes will not occur, particularly when industrial unrest eventuates based on issues outside of the workplace, such as demands for increased wages based on rising fuel prices.

Meanwhile, the formulation of collective labor agreements remains a controversial topic. While generally, both employers and employees involved in the formulation of collective labor agreements, SMERU found that there are still a small number of cases where collective

labor agreements have been created by the businesses, and union representatives have been forced to read and agree to them. In order to improve industrial relations in the future, both employers and employees must be given the opportunity to contribute to the formulation of collective labor agreements. In its facilitation role, it is important that the government provides education programs which highlight both the benefits of collectively creating and adhering to these workplace regulations, as well as resolving any disputes through dialogue.

In light of a more open and decentralized industrial relations system which emphasizes dialogue at the enterprise level, clear, equitable and functional dispute resolution mechanisms are required so that they can be relied upon by all parties concerned. Once again, this emphasizes the need for the government to draft legislation which not only provides equity in terms of the rights and responsibilities for all parties, but also legislation which provides certainty for industrial relations. Furthermore, to overcome misinterpretation and misinformation of these regulations, it is essential that the government provides further education and guidance on understanding and implementing any legislation in the future.

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Appendix 1. Workers' Basic Rights (*Hak-hak Normatif)* Based on Indonesian Laws and Regulations

No.	Types of Rights	Law/Government Regulation/Ministerial Decision	
		No.	Concerning
1.	• The right to a decent income • Occupational safety, health, decency, and maintenance of working ethics; • The right to establish and join a labor union.	Law No.14, 1969	Basic Provisions concerning Manpower
2.	• Working period for daily hire workers does not exceed 20 days for seasonal jobs, or loading and unloading jobs. • The right to receive the Regional Minimum Wage • The right to employment insurance	Minister of Manpower Regulation: Per-06/MEN/1985	Protection of daily workers
3.	• The right for new employees to have no probation period	Minister of Manpower Regulation: Per-02/MEN/1993	Work Agreements for specific time periods
4.	• The right for new employees to have no probation period	Minister of Manpower Regulation: Per.05/MEN/1995	Work Agreements for specific time periods in mining, oil and gas companies
5.	• 1-12 days off * per year • Paid annual leave for workers	Government Regulation No. 21/1954	Decisions concerning regulations on employees' leave
6.	• Working hours including breaks, divided into 3 shifts • Accumulative working hours do not exceed 40 hours per week • Time in excess of 40 hours per week, should be considered as overtime	Joint decision between Minister of Manpower No.Kep.275/Men/1989 and the Head of the Indonesian Police No. Pol Kep/04/V/1989	Regulations on work hours, break time and work guidance for security personnel
7.	• Overtime pay • Employees are entitled to receive meals with a calorie level of 1,400 or above • Workers should receive a weekly day off at least twice a month	Minister of Manpower Decision: Kep.608/MEN/1989	Irregularities in work hours and breaks, in enterprises employing workers for 9 hours a day and 54 hours a week.
8.	• Weekly rest amounting to two days off a week • Work exceeding 8 hours should be considered over time	Minister of Manpower Regulation: Per-06/MEN/1993	Work hours amounting to 5 days a week, 8 hours a day

No.	Types of Rights	Law/Government Regulation/Ministerial Decision	
		No.	Concerning
9.	• Labor/workers Unions are entitled to facilities (such as a meeting room) and are given permission to take a portion of a worker's wage as their membership fee • Work days and work hours • Overtime work/overtime pay • Weekly day-off • Annual days-off • Maternity leave/miscarriage leave (female employees) • Family allowance, occupational health and safety allowance • Jamsostek • Training program to improve workers' skills • Employment Termination: rights and obligations	Minister of Manpower Regulation: Per-01/MEN/1985	General Patterns of Workplace Contracts
10.	• 100% of wage (no suspension) • 75% of wage (during the settlement process) • Provision of wage while in detention • Amount of severance pay • Amount of long service pay • Amount of compensation • Cost to return to one's home • Reimbursement for housing, treatment and medication	Minister of Manpower Decision: Kep-150/Men/2000 Law No.12/1964	Settlement of Employment termination and determining Severance Pay, Long Service Pay, and Compensation in Private Firms
11.	• Prohibits the termination of employment of female employees because they marry, become pregnant or give birth • Pregnancy or maternity leave • Unpaid leave maximum 7.5 month	Minister of Manpower Regulation: Per-03/MEN/1989	Prohibits the termination of employment of female employees because they marry, become pregnant or give birth
12.	• Base wages • Family allowance, extra-ordinary allowance, company allowance, additional responsibility allowance • Spouse allowance • Child allowance	Government Regulation 23/1967	Basic Provisions on Wages for State-owned Enterprises
13.	• Work hours	Minister of Manpower Decision: Kep.64/MEN/19 97	Working hours, breaks, and over time wages in off-shore mining and geothermal companies, or in specific areas of operation.
14.	• Paid sick leave • Paid leave for the employee's own wedding • Paid leave for employees' when their son is circumcised • Paid leave for employees' when a family member passes away • Paid leave for employees' if their wife gives birth	Government Regulation 8/1981	Wage Protection

No.	Types of Rights	Law/Government Regulation/Ministerial Decision	
		No.	Concerning
15.	• Overtime wage • 1 hour overtime for monthly workers • 1 hour overtime for daily workers • 1 hour overtime for piece rate workers	Minister of Manpower Decree: KEP-72/MEN/84	Bases for determining overtime wages
16.	• Employees are entitled to a paid break with their wage paid as usual and no change to their job status	Minister of Manpower Regulation: PER-03/MEN/1987	Wages paid for employees on official public holidays
17.	• Base Wages • Fixed allowance • Irregular allowance • Non-wage: facilities, bonus, Lebaran bonus	Minister of Manpower Circular: SE-07/MEN/1990	Categories of Wage Components and non-wage incomes.
18.	• Regional Sector Minimum Wage (UMSR) Level I >= 5% of Regional Minimum Wage Level I • Regional Sector Minimum Wage (UMSR) Level II >= 5% of Regional Minimum Wage Level II	Minister of Manpower Regulation: Per-01/MEN/1999	Minimum wages
19.	• Income from service charges belongs to and becomes a part of workers' incomes, and is not included as a component of their wage	Minister of Manpower Regulation: Per.02/MEN/1999	Dividing the income from service charges in hotels, restaurants and other tourist services.
20.	• Wages are required to be paid for female employees on pregnancy or maternity leave • Enterprise limits its financial allowance up to the third child.	Circular of the Director General of Industrial Relations Guidance and Supervision in the Manpower Sector No. SE.08/M/BW/1999	Wage payments for female employees during pregnancy and maternity leave.
21.	• Employer is required to provide employees' with their full wage (base wage and fixed allowances) during the period they have been sent home**	Minister of Manpower Circular: SE 05/M/BW/1998	Wages for employees' sent home not due to employment termination.
22.	• Workplace accident insurance • Life insurance • Pension insurance • Health insurance	Law No.3/1992	Jamsostek
23.	• Rights to workplace accident insurance	Presidential Decision 22/1993	Health problems caused by workplace activities
24.	• Death allowance • Burial costs	Government Regulation PP 79/1998	Amendments to Government Regulation No.14/1993

No.	Types of Rights	Law/Government Regulation/Ministerial Decision	
		No.	Concerning
25.	• Retirement age • Preservation of worker's health • Guidance in the formulation of a Work Agreement	Minister of Manpower Circular: SE-04/MEN/88	Implementation of prohibition on discrimination against Female Workers
26.	• Employers have to employ at least one physically disabled worker for every 100 employees	Minister of Manpower Decision: KEP-205/MEN/1999	Training and job placement for physically disabled workers
27.	• Protection of the right to organize	Law No 21/2000	Labor Unions

* different to leave

** if an enterprise does not have enough work to keep their employees in the workplace, they are sent home and called in again once there is sufficient work to be carried out.

Appendix 2a. The Development of Industrial Relations Legislation in Indonesia

Year	Manpower	Labor/Work Agreements	Industrial Relations Disputes and Dispute Resolution	Wages	Freedom of Association
1940s	Law No. 12, 1948 on "Labor"				
1950s	Law No. 1, 1951 concerning The Application of Law No. 12, 1948 in all Indonesian Provinces	Law No. 21, 1954 on "Labor Agreements Between Labor Unions and Employers"	Law No. 22, 1957 on "Labor Dispute Resolution"	Law No. 80, 1957 on "Wages"	Law No. 18, 1956 on "the Ratification of ILO Convention No. 98 of 1949 concerning the Right to Organize and Collective Bargaining"
1960s	Law No. 14, 1969 on "the General Provisions concerning Labor"		Law No. 12, 1964 on "Employment Termination in Private Firms"		
1990s	Law No. 25, 1997 on "Manpower" (postponed)				Presidential Decree No. 83, 1998 on "the Ratification of ILO Convention No. 87 of 1948 concerning the Freedom of Association and Protection of the Right to Organize"
	Law No. 11, 1998 on "Amendments to the Application of Law No. 25/1997 Concerning Manpower"				
Post 2000	The Development and Protection of the Workforce Bill		The Industrial Relations Dispute Resolution Bill		Law No. 21, 2000 on "Labor Unions"

Appendix 2b. The Development of Industrial Relation Regulations in Indonesia

Year	Manpower	Labor/Work Agreements	Industrial Relations Disputes and Dispute Resolution	Wages	Freedom of Association
1950s		Government Regulation No.49,1954 on "Methods to formulate and regulate labor contracts"			
1970s		Ministerial Regulation Per 02/Men/1978 on "Internal enterprise regulations and the formulation of labor contracts"			
1980s	Ministerial Decision No. 645/Men/1985 on "*Pancasila* Industrial Relations "	Ministerial Regulation No. 01/Men/1985 on "Mechanisms used to formulate workplace agreements"		Government Regulation No. 8, 1981 concerning "Wage Protection"	
1990s			Ministerial Decision No. Kep-15A/ Men/1994 on "Guidelines on Industrial Relations Dispute Resolution and Employment Termination at the Enterprise Level and Mediation"	Circular No.08, 1990 concerning Wage and non-Wage Components	Ministry of Manpower Decision Kep-272/Men/1999 on "Revocation of Ministerial Regulation 04/Men/1996 concerning Retribution for Unions"
			Ministry of Manpower Regulation No.3, 1996 on "Settlement of employment termination and determining the payment of severance pay, long service pay and compensation in private firms"	Ministerial Regulation No. 02, 1999 on "Minimum Wages "	
2000			Ministry of Manpower Decision No.150/Men/2000 on "The settlement of employment termination and determining the payment of severance pay, bonuses, and compensation in firms"	Governor/Bupati/Mayor Decrees on Minimum Wages	
2001			Ministry of Manpower and Transmigration Decision No.78, 2001 on " Amendments to Several Articles in Kepmenaker No Kep-150/Men/2000"		Ministry of Manpower and Transmigration No. Kep-16/Men/2001 on "The Registration of Labor Unions"
			Ministry of Manpower and Transmigration Decision No.111, 2001 on "Amendments to Article 35A Kepmenakertrans No. Kep-78/Men/2001"		

Appendix 3. Amendments to Laws on Labor Dispute Settlement and Industrial Relations Dispute Resolution

Old Law Law No.22, 1957 on "Labor Dispute Settlement"	New Law Industrial Relations Dispute Resolution Bill (RUU PPHI)[1]
A. Contents: consists of 9 Chapters and 32 Articles Chapter I. Terms used in this Law Chapter II. Concerning Settlement at a Regional Level Chapter III. Concerning Settlement at a Central Level Chapter IV. Concerning Inquiries Chapter V. Concerning Arbitration Chapter VI. Concerning Other Provisions Chapter VII. Concerning Legal Regulations Chapter VIII. Transitional Provisions Chapter IX. Commencement of the Act	A. Contents: consists of 9 Chapters and 113 Articles Chapter I. General Provisions Chapter II. Procedures for Industrial Relations Dispute Resolution (Bipartite, Mediation, Conciliation, Arbitration) Chapter III. The Court of Industrial Relations Disputes Chapter IV. Dispute Resolution through the Court of Industrial Relations Chapter V. Stopping Strikes and Workplace Lockouts Chapter VI. Administrative Sanctions and Stipulations for Criminal Acts Chapter VII. Other Provisions Chapter VIII. Transitional Provisions Chapter IX. Commencement of the Act
Rationale: 1. That it is time to replace Emergency Regulation No.16, 1951 on "Settlement of Labor Disputes";	Rationale: 1. That harmonious, dynamic, and equitable industrial relations have not yet fully materialized in an optimal fashion in accordance with the principles of *Pancasila*

[1] Draft III, was obtained by SMERU from the Federation of All Indonesia Workers Unions. The Proposed Bill has repeatedly been amended based on feedback from Apindo (The Indonesian Employers Association) and Labor Unions (as representative of workers). The date that Draft III was issued is unknown. The title of Draft I was: Industrial Dispute Resolution (RUU PPI). The title of Draft II was: The Court of Industrial Relations Disputes Bill. Initially, this Bill was scheduled for ratification by the Parliament on October 8, 2001. However, many labor unions continued to reject the Bill. At the time this study was conducted the Bill had not been ratified.

Old Law	New Law
2. That it is necessary to issue a new regulation for labor disputes resolution.	2. During the era of industrialization, industrial relations disputes are becoming more frequent and complex, requiring institutions and mechanisms for dispute resolution which are speedy, timely, equitable, and cheap. 3. That Law No.22 of 1957 and Law No.12 of 1964 are no longer appropriate. 4. That based on these considerations, a law governing Industrial Relations Dispute Resolution is required.
C. Articles that were later amended in the RUU PPHI or later became the basis for workers arguments	C Basic Amendment 1. A more structured system. 2. Stipulations in the General Provisions are more complete.
Article 1 (Part I): (1) c. A Labor Dispute is conflict between an employer or an association of employers and a labor union or a group of unions, which arises because there is no consensus concerning industrial relations, employment requirements and/or labor conditions.	Article 1 of Chapter I: An Industrial Relations Dispute is: a difference of opinion which results in conflict between employers (or a group of employers) and employees (or labor unions), or a conflict between labor unions[2], due to a dispute about the rights, interests, and retrenchment of workers; or, a conflict between labor unions in one enterprise.

[2] The Federation of the All-Indonesia Workers Unions disagrees with the sentence "…or a dispute between unions' based on the following: industrial relations agents are employees, employers, and the government; the essence of industrial relations in the labor laws are industrial relations between employees, employers, and the government; the party which has a case are workers (individually or through their representatives) within an enterprise, with the employers (or employers representatives); and, disputes between labor unions in terms of the legal norm, are resolved under the jurisdiction of the public courts.

Old Law	New Law
Article 2 (Part II) up to Article 17 (Part III). Shall govern the process of labor disputes as follows: Labor disputes between labor unions and employers ↓ <u>Part II of Article 2</u> <u>Peacefully through negotiation</u> (the agreement can be devised to make a work contract) ↓ <u>Alternative I:</u> Part V, Article 19 Willingly, or as recommended by an Officer and the Regional Government Committee, one can submit a dispute case to be settled by an arbitrator or an arbitration committee. (The decision made by an arbitrator/arbitration committee, after being ratified by the Central Government Committee, shall have the power of authority as a decision of the Central Government Committee). Alternative II: <u>Article 3</u> (In the event that a dispute cannot be settled and the party concerned rejects the option of settlement through arbitration /Article 19), then the Officer[3] shall be notified in writing to provide <u>mediation</u> ↓	Article 2, Chapter II: Types of Industrial Relations Disputes that shall be covered: a. Disputes over rights; b. Disputes over interests; c. disputes on the termination of employment; and d. <u>a dispute between unions within an enterprise</u> (FSPSI disapproves of d) The stages for settlement are stipulated as follows: Dispute occurs ↓ Bipartite Negotiations ↓ <u>Disputes over Rights:</u> In the event an agreement is not reached → Court of Industrial Relations Disputes at the State Court. <u>Dispute over Interests and Employment Termination *(PHK)*:</u> In the event that no agreement is reached → Both parties may choose to settle the dispute through: mediation, conciliation, or arbitration. ↓ In the event that both parties disagree over settlement through mediation, conciliation, or arbitration → Then the settlement shall be reached through the Court of Industrial Relations Dispute Resolution as so desired by both parties or one of the parties.

[3] According to Article 1.d.2.e: An officer *(pegawai)* shall be an employee of the Ministry of Manpower who is appointed by the Minister to mediate labor disputes.

Old Law	New Law
Article 4 (In the event that the dispute cannot be settled, then it should immediately be submitted to the Regional Government Committee[4]). The agreement reached shall have a legal authority as a Labor Agreement. The committee shall reserve the right to make a recommendation which is binding in nature. ↓ Part III, Article 11 If the verdict concerns particular issues that have to be resolved by the Central Government Committee[5], one of the disputing parties can seek the Central Government Committee's investigation. The Central Government Committee can take over a labor dispute case from the local Officer/Regional Government Committee, if the Central Government Committee considers the labor dispute endangers the interest of the state or the public. (The verdict of the Central Government Committee shall be binding in nature, to be implemented within 14 days) ↓	Settlement through Bipartite Negotiations: • through deliberation to reach consensus; • If consensus is reached a joint agreement shall be drafted and signed by both parties; and • The joint agreement shall be binding in nature and must be implemented by parties and registered at the responsible office of the local government, and a certificate shall be issued as a proof of registration titled: IN THE NAME OF JUSTICE AND BASED ON THE ONE AND ONLY GOD (the last sentence is not agreed to by FSPSI as it is an agreement between parties, not a court verdict. The registration is administrative in nature and is not a legal verdict). Settlement Through Mediation: • Parties choose a mediator's name from a list of mediators posted and publicized at the office of the government agency responsible for local manpower; • If consensus is reached, a joint agreement shall be drafted and signed by both parties and acknowledged by the mediator;

[4] *Panitia Penyelesaian Perselisihan Daerah (P-4P)*. According to Article 1.d.2.f: The Regional Government Committee is the Regional Government Committee for Industrial Relations Dispute Resolution. According to Article 5, Clause (2), this Committee includes a representative from each of the Ministry of Labor Affairs, Ministry of Industry and Trade, Ministry of Finance, Ministry of Agriculture, Ministry of Transport and Communications or the Ministry of Services, five employer representatives, and five employee representatives.

[5] *Panitia Penyelesaian Perselisihan Perburuhan Pusat (P-4P)*. According to Article 1.d.2.g: The Central Government Committee is the Central Government Committee for Industrial Relations Dispute Resolution. According to Article 12, Clause (1), The Central Government Committee covens in Jakarta and includes a representative from each of the Ministry of Labor Affairs, Ministry of Industry and Trade, Ministry of Finance, Ministry of Agriculture, Ministry of Transport and Communications or the Ministry of Services, as well as five labor representatives and five employer representatives.

Old Law	New Law
Article 16 If it is necessary to implement a decision of the Central Government Committee, the parties concerned may request the State Court of Jakarta to do so.	• If no consensus is reached, the mediator shall issue a written recommendation; and • If the written recommendation is rejected by one or more of the parties, then settlement is sought through the Court of Industrial Relations Disputes at the local State Court.
Law No.12 of 1964 on "Employment Termination *(PHK*) in Private Firms" A. Contents: Consists of 14 Articles (there are no Chapters and it is directly followed by the Articles). B. Contents and Articles: Article 1. Conditions for prohibiting PHK prohibition. Article 2. Obligations to negotiate the intention to terminate employment with worker(s) or labor organization. Article 3. Determining Employment Termination following permission from the Regional Government Committee (individual) and Central Government Committee (massive). Article 4. The Employment Termination of workers during a probationary period. Article 5. Permission to Terminate Employment must be in writing. Article 6. The time stipulated for Regional and Central Government Committees to complete the applications for permission to terminate employment. Article 7. (1) The requirements to observe the situation and business developments as well as the interests of workers and enterprises; (2) determining the amount of severance pay, bonuses, and compensation.	Settlement Through Conciliation: • If a consensus is reached, then a joint approval shall be made and signed by parties and acknowledged by the conciliator; • If no consensus is reached, then the conciliator shall issue a written recommendation; • If the written recommendation is rejected by one or more of the parties, then the settlement shall be sought through the Court of Industrial Relations Disputes at the local State Court; and • The conciliator shall reserve the right to receive an honorarium/repayment for services, on the basis of settlement of the dispute, which shall be charged to the State, the amount of which shall be determined by the Minister.

Old Law	New Law
Article 8. Lodging an appeal to the Central Government Committee. Article 9. Resolving an appeal by the Central Government Committee. Article 10. Employment Termination without permission shall be void by law. Article 11. The requirements of entrepreneurs and labor to fulfil their obligations while waiting for the appeal process to complete. Article 12. The application of the Law for Employment Termination cases in private enterprises towards all employees without considering their work status, provided that they have already been employed for three (3) consecutive months. Article 13. Any other provisions that are not governed in this Law shall be determined by the Minister of Manpower. Article 14. This Law shall come into force on 23rd September 1964.	Settlement Through Arbitration: • Shall be based on the consensus reached by the disputing parties; • The arbitrator authorized to settle Industrial Relations Disputes must be registered; • Parties shall reserve the right to choose the desired arbitrator from the list of arbitrators or else they can appoint a single arbitrator or a maximum of three (3) arbitrators; • If the parties fail to reach a consensus to appoint a single arbitrator or arbitrators, then the settlement of dispute shall be submitted to the Court of Settlement of Industrial Relations Disputes; • Shall commence by efforts to reconcile the disputing parties; • Should peaceful settlement be reached, the arbitrator shall issue an official document of peace, which shall be signed by parties and the arbitrator(s) or a council of arbitrators; and • In the event that process fails, the arbitrator or the council of arbitrators shall proceed with the arbitration sessions. The verdict of the arbitration session shall be determined based on the law, justice, custom, and current regulations.

Appendix 4. The Anti-Oppression of Workers Committee view's of the Proposed Industrial Relations Dispute Resolution Bill and Preceding Laws,

Substance	Law No.22, 1957	Law No. 12, 1964	Industrial Relations Dispute Resolution Bill	Comments from The Anti-Oppression of Workers Committee
Labor law	Labor issues are covered by public and private law, thus providing the government with the responsibility to protect the weaker party involved in the process, for example the workers.		Labor issues are covered by civil law, so that labor dispute resolution wholly falls within the powers of the judiciary.	The world community has recognized that labor laws are deemed to be public as well as private laws, hence many countries have established a labor court using the Quasi Model where not all labor disputes are considered to be within the power of the judiciary because they also involve the executives.
Protection of the rights of workers and unions	The state is well aware that the employer-employee relationship is sub-ordinative, with workers being the weaker party in the relationship. Consequently, the state is responsible to take the workers' side.		The state is of the opinion that the position of the workers is equal to that of the employers, therefore it takes a hands-off attitude, resulting in the responsibility for dispute resolution lying solely with the parties involved in the dispute, that is employers and employees	Industrial Relations Dispute Resolution Bill conflicts with Article 27 paragraph (2), Article 28D paragraph (2), Article 28I paragraph (4) of the 1945 Constitution; and is not in line with Article 8, Article 71 and Article 72 of Law No. 39, 1999.
Existence of Labor Unions	Recognizes the existence of labor unions which have the role to protect and represent their members, and therefore labor conflict becomes communal conflict.		Does not recognize the existence of labor unions as representing their members because it creates the opportunity to manipulate communal conflict and make it into individual conflict.	Industrial Relations Dispute Resolution Bill conflicts with Article 28, Article 28E paragraph (3) of the 1945 Constitution; is not in line with Article 39 of Law No. 39, 1999; Article 25 of Law No. 21, 2000; and ILO Convention No. 87 and No. 98.
Protection for workers against easy employment termination	The process for resolving disputes includes intervention from the state to protect workers	The spirit of Law No.12, 1964 is to protect workers as the weaker party and prohibit employment termination. Consequently, if the employers wish to terminate employment, they must wait for permission from the government.	Employers may terminate employment with ease, because the government has relinquished its role to protect the workers.	Industrial Relations Dispute Resolution Bill conflicts with Article 27 paragraph (2), Article 28A, Article 28D paragraph (2), Article 28H paragraph (2) of the 1945 Constitution, and is not in line with Article 38 of Law No. 39, 1999.

Substance	Law No.22, 1957	Law No. 12, 1964	Industrial Relations Dispute Resolution Bill	Comments from The Anti-Oppression of Workers Committee
Speedy, inexpensive and equitable dispute resolution.	The government has the authority to intervene in dispute resolution at no expense for the parties involved (Department of Manpower, Central Government Committee and Regional Government Committee)		Dispute resolution has been handed over to mediating bodies, arbitrators, and the Court of Industrial Relations Disputes, which is expensive and time consuming.	Industrial Relations Dispute Resolution Bill conflicts with Article 28H paragraph (2) of the 1945 Constitution.
The financial rights of the workers during the dispute resolution process.	Respects the financial rights of workers and obliges employers to continue paying their employees wages during the dispute resolution process.		Contains no protection for the rights of workers during the dispute resolution process.	Industrial Relations Dispute Resolution Bill conflicts with the presumption of the innocent principles.
The right for labor to strike	Provides workers with the right to carry out "go-slows" and strikes during the dispute resolution process.	"Go-slows" and strikes are not categorized as activities that may cause employment termination	Does not recognize the right of workers to "go slow" and to strike during the dispute resolution process.	Industrial Relations Dispute Resolution Bill conflicts with Article 28, Article 28C paragraph (2) of the 1945 Constitution; and is not in line with Article 25 of Law No. 39, 1999; Article 4 paragraph (2) e and Article 27(a) and (b) of Law No. 21, 2000; and Article 3 ILO Convention No. 87.
Possibility of intervention from the police, military and para-military	Does not provide the opportunity for intervention from the military, police or para-military in industrial relations.		Provides the opportunity for intervention from the military, police and para-military in terms of the prohibition of strikes during the dispute resolution process.	Industrial Relations Dispute Resolution Bill conflicts with Article 28I paragraph (1) of the 1945 Constitution; and is not in line with Article 30 of Law No. 39, 1999.
Violation of workers' basic rights	Disputed issues including a lack of consensus on the meaning of industrial relations, work requirements and labor conditions.	Disputed issues include: retrenchment procedures, permission to terminate employment, and determining the amount of severance pay and other payments.	Violation of workers' basic rights becomes disputes concerning rights.	Violation of workers' basic rights is an act of crime punishable by law. Law No 3, 1951 stipulates that the Labor Supervision Officers are responsible to bring such acts to the court.

Source: The Anti-Oppression of Workers Committee, 2000

Appendix 5. Opinions Concerning the Proposed Industrial Relations Dispute Resolution Bill *(RUU PPHI)*

No.	Law/Regulations	Labor/Workers Unions	Employers/Apindo	Observers
1.	RUU PPHI Replacing Law No. 21, 1957 and Law No. 12, 1964	FSPSI-*Reformasi*, PPMI, Gaskindo, FSBDSI[6]: • RUU PPHI will diminish workers' freedom to organize in labor unions and to receive legal defense from their union. • Article 44 will provide alternatives for workers to use an arbitrator who will use the argument that the Bill is considerably liberal. Workers with a limited level of education and financial backup will not be able to hire a good arbitrator. • RUU PPHI is considered to be in conflict with Law No. 21, 2000 which provides the workers with an opportunity to exercise the freedom to organize. • Article 109 is considered legally flawed because not stopping strikes and not preventing lock outs is deemed to be a criminal act, although each party has the right to carry out these actions. The solution is to apply Article 11 of Law No. 12, 1964 on Employment Termination: i.e. during the period of negotiations, if no dispute resolution is achieved and no legal certainty is reached, both parties still have to fulfill their obligations.	Resource persons in the field: • Dispute resolution in court will be a heavy burden for workers. • Currently, the capacity of Indonesia's judicial system to settle disputes in a relatively short time is still questionable. The settlement of industrial disputes which may affect the livelihood of the workers should be handled within the shortest time period possible.	Benedictus Gultom[7]: • Government efforts to fix and assure law enforcement have suffered a set back • RUU PPHI has three underlying weaknesses: - Firstly, dispute resolutions in a formal and technical industrial relations court will create new problems for the workers, particularly when they have to adjust to a system using public courts. - Secondly, the process will be more complicated. Consequently, workers will have to pay more, and the settlement of disputes will take longer.

[6] Republika, 5 October 2001, p.15.

[7] Benedictus Gultom, "Menggagas Mekanisme Solusi Sengketa Perburuhan", Media Indonesia, 1 Mei 2001

No.	Law/Regulations	Labor/Workers Unions	Employers/APINDO	Observers
		• If Article 109 is to be implemented, this will indicate that Indonesian Legislation has suffered a set back. • Law No 12, 1957 and Law No. 21, 1964 are still deemed relevant to the settlement of industrial relations disputes between employers and employees. FSPSI provided their own alternative version of the Bill, including each article and paragraph. Vice Director of LBH Jakarta, Surya Tjandra[8] is of the opinion that : • Both Bills currently reviewed by the House of Representatives tend to reflect the ideology of liberalism, and only consider labor problems as individual issues. The right to strike, for example, is mentioned as an individual right, and whoever if found inciting other fellow workers to join the strike will be threatened with major punishment.		- Thirdly, the legal process (*verset)* will be longer, and - Fourthly, the Department of Manpower will lose its role as employment supervisor. • Consequently, this will put workers in a weaker position in the eyes of the employers as well as the law. • Law No.22, 1957 is no longer relevant. • Because workplace contracts tend to favor voluntary arbitration with a clausal pattern of *factum de compromitendo*, this may provide opportunity to strengthen the bargaining position of the labor unions in Indonesia.

[8] Kompas, "Aksi Massa Buruh: Kemenangan itu Belum Apa-apa", 24 Juni 2001

Appendix 6. Minister of Manpower Regulations and Decisions on Determining the Payment of Severance Pay, Long Service Pay and Compensation in Firms

Permenaker No.03/Men/1996	Kepmenaker No. Kep-150/Men/2000 (June, 2000)[9]	Kepmenakertrans No.Kep-78/Men/2001 (May 4, 2001) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)[10]
Permenaker No.03/Men/1996 on "Determining the Payment of Severance Pay, Long Service Pay, and Compensation in Private Firms".	Kepmenaker No. Kep-150/Men/2000 on "The Settlement of Employment Termination and Determining the Payment of Severance Pay, Long Service Pay and Compensation in Firms."	Kepmenakertrans No.Kep-78/Men/ 2001 on Amendments to Several Articles in Kepmenaker No.Kep.150/Men/2000.
Rationale for the Regulation: 1. Law No. 22, 1957 on Labor Dispute Settlement 2. Law No. 12, 1964 on "Employment Termination in Private Firms". 3. In order to ensure law and order, justice and rule of law in employment termination (PHK) settlement. 4. Retrenchment procedures and the determination of severance pay, honorarium and compensation as referred to in Ministerial Regulation No.Per 04/Men/1986 is no longer in accordance with needs and therefore requires to be improved.	Legislation References and Rationale for the Decision • Law No.12/1957 • Law No.22/1964 • In order to ensure law and order, justice and rule of law in employment termination (PHK) settlement. • The determination of severance pay, honorarium and compensation as referred to in Minister of Manpower Regulation No. Per 03/Men/1996 is no longer in accordance with needs and therefore requires to be improved.	Rationale behind the Amendments: 1. Law No. 22/1957 2. Law No. 12/1964 3. Kepnaker No. Kep-150/Men/2000 4. Press Release from the Head of the Public Relations Bureau and KLN, Depnakertrans dated May 31, 2001, includes: • In order to accommodate and maintain the balance between the interests of the workers and the employers, and the desires of the public, on the basis of the principles of justice; • Until now there has been no country that has given compensation to workers who resign or workers whose employment is terminated due to major offences; • During the period between July 2000 and February 2001, only 2,014 workers or 2.54% (of employment terminations) occurred due to serious mistakes, and only 249 workers or 0.31% resigned voluntarily (PHK).
Contents of Permenaker 01/Men/1996: Chapter I. General provisions Chapter II. Settlement of Employment Termination at the Enterprise level and at both the Enterprise and Mediation levels (Article 6 to Article 13).	Contents of the Minister of Manpower Decree: Chapter I. General Provisions Chapter II .Settlement of Employment Termination at the Enterprise level and at both the Enterprise and Mediation levels.	

[9] Because Kepmenakertrans No.78/2001 and No.111/2001 have been rejected by workers/labor as well as association of workers/labor unions, hence based on the Minister of Manpower and Transmigration Decision, this Kepmenaker No. Kep-150/2000 is still in effect until further notice.

Permenaker No.03/Men/1996	Kepmenaker No. Kep-150/Men/2000 (June 2000)	Kepmenakertrans No. Kep-78/Men/2001 (May 4, 2001) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)
Chapter III. Settlement of Employment Termination at both Provincial and Central Committee levels (Article 14 to Article 19). Chapter IV. Determination of Severance Pay, Long Service Pay, and Compensation (Article 20 to Article 30) Chapter V. Transitional Provisions (Article 31) Chapter VI. Commencement of the Act Permenaker No. 03/Men/1996 Does not regulate the amount of severance pay, long service pay or compensation if the employee resigns voluntarily, similar to Article 27, Kepmenaker No. Kep-150/Men/2000.	Chapter III. Settlement of Employment Termination at both Provincial and Central Government Committee levels. Chapter IV. Determination of the Payment of Severance Pay, Long Service Pay, Incentives and Compensation Chapter V. Transitional Provisions Chapter VI. Commencement of the Act Chapter I. General Provisions This chapter contains the concepts of enterprise, entrepreneur, worker, employment termination (PHK), Mass PHK, severance pay, long service pay, compensation, fixed allowances, mediation officer, Provincial Committee, Central Committee, and Ministry.	• The government is determined to maintain a conducive investment climate in order to enhance economic growth which in turn, will stimulate the growth of job opportunities (based on research, under normal conditions, economic growth of 1% would be sufficient to accommodate 400,000 workers, whereas under the multi-crisis conditions only 200,000 workers would be able to be employed). • The rights or compensation for workers whose employment is terminated (not because they resign or commit major offences) are not at all diminished. Amendments: The following terms shall be amended: - *Pekerja* (workers) shall be amended to read *pekerja/buruh* (workers/labor); - *Serikat pekerja* (labor union) shall be amended to read *serikat pekerja/serikat buruh* (workers union/labor union); and - M*enteri Tenaga Kerja* (Minister of Manpower) shall be amended to read *Menteri Tenaga Kerja dan Transmigrasi* (Minister of Manpower and Transmigration).
<u>Article 15</u>: Anyone who is absent for five (5) consecutive days shall be considered to have resigned, and the employer is obliged to submit an Application for Permission to Terminate Employment (PI PHK).	Articles that are later amended (in Kepmenakertrans No. Kep-78/2001 and Kep-111/2001): <u>Article 15:</u> (1) In the event that a worker is absent for at least five (5) consecutive working days and they have been summoned twice in writing by the employer, but they fail to give a legally valid written explanation, then the employer may proceed with termination of employment (PHK).	Basic amendments: <u>Article 15:</u> (1) In the event that <u>pekerja/buruh</u> (worker/labor) …… is written pekerja/buruh ……that is valid, then <u>the worker/labor shall be regarded to have resigned not for good</u> and as such the employer/firm can conduct ……..

[10] This regulation is new and intended to replace Kepmenaker No.150/2000, but since it has been rejected by workers and workers/labor unions, it shall not come into effect.

Permenaker No. 03/Men/1996	Kepmenaker No. Kep-150/Men/2000 (June 2000)	Kepmenakertrans No. Kep-78/Men/2001 (May 4, 2002) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)
		Previously, there was no paragraph 3 in Kepnaker No.150.2000. In the event that the worker/labor does not report to work as referred to in paragraph (1) because the worker is involved in a strike that is not in accordance with the current regulations, then the worker shall be declared absent.
Article 16: In the event of suspension from work (*skorsing)* prior to termination of employment (PHK), the employer shall be obliged to pay a minimum of fifty percent (50%) of the wage for no longer than 6 months. After 6 months, the employer is not obliged to pay this wage. The suspension from work shall be in writing and forwarded to the worker concerned.	Article 16 (1) Before permission to conduct employment termination (PHK) is issued by the Provincial Committee or Central Committee, and in the event that the employer suspends the worker(s) concerned from work, in accordance with the provisions in the work agreement or company regulation or collective labor agreement, then the employer shall be obliged to pay the worker(s) at least seventy-five per cent (75%) of their wages.	Article 16: (paragraph 1 has been divided into two with some additions) (1) Before the Provincial Committee or Central Committee issues a permit to terminate employment, the employer can suspend the worker/labor from work provided that the suspension from work has been stipulated in the work agreement or company regulation or the collective labor agreement. (2) In the event that the employer conducts suspension from work as referred to in paragraph (1), then during the suspension from work the employer shall be obliged to pay at least seventy-five per cent (75%) of the worker's wage. (5) Paragraph (4) becomes paragraph (5): After the period of suspension from work (as referred to in paragraph (3) is over), then the employer shall not be obliged to pay the wages unless otherwise determined differently by the Provincial Committee or the Central Committee.

Permenaker No.03/Men/1996	Kepmenaker No. Kep-150/Men/2000 (June, 2000)	Kepmenakertrans Nos. Kep-78/Men/2001 (May 4, 2001) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)
If there is no suspension from work, the respective parties shall continue with their duties, provided that: • If the employer prohibits worker(s) from working, then 100% of their wage shall be paid during the process; • If the worker(s) willfully fails to do their duties, then the employer shall not be obliged to pay their wages during the process. • If the workers fulfill their duties, but not clearly, then only 50% of their wage shall be paid during the process.	(4) After six (6) months of suspension from work, if no verdict has been issued by the Provincial or Central Committees, further wage payment shall be determined by both the Provincial and Central Committees.	Article 17A is inserted between Article 17 and Article 18, which shall read as follows: (1) In the event that the employer submits an application for a permit to terminate employment as referred to in Article 2 paragraph (1) but they do not suspend the worker from work as referred to in Article 16 paragraph (1), then as long as the permit to terminate employment has not been issued by the Provincial Committee or Central Committee, then the worker/labor shall remain in their position and the employer is obliged to pay 100% of the worker's wage during the process. (2) In the event of employment termination, where the employer fails to apply for permission, the employment termination as referred to in Article 2 paragraph (1) shall become a dispute case before the Provincial Committee or Central Committee, and the wage of the worker/labor during the process shall be a hundred percent (100%) of the wages to be paid to the worker concerned.

Permenaker No.03/Men/1996	Kepmenaker No.Kep-150/Men/2000 (June 2000)	Kepmenakertrans No. Kep-78/Men/2001 (May 3, 2001) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)
	Article 18: (1) Permission to terminate employment can be issued because a worker commits a major offense as follows: a. b. c. d. e. f. g. h. its contents = g i. its contents = h = g j. k.	Article 18: (2) Permission to terminate employment can be issued because a worker commits a major offense, as follows: a. b. c. d. e. f. g. h. carelessly or intentionally causing damage, harm or leaving any goods belonging to the employer in poor condition; or i. carelessly or intentionally causing damage or intentionally endangering oneself or other worker(s); or j. k.
Before obtaining permission to terminate employment, suspension from work can be applied, but if the employment termination is the result of a major offence, the worker shall not be entitled to severance pay, but they shall be entitled to long service pay and compensation. A worker who is detained, not as a result of the employer's report shall not receive their wage, but the dependant family shall be given some financial support for six (6) calendar months with the following provisions:	(3) Suspension from work can be applied to a worker committing or involved in offenses as referred to in paragraph (1) prior to the permission to terminate employment to be issued by the Provincial or Central Committees. (4) Worker(s) whose employment is terminated because they have committed a major offence as referred to in paragraph (1) shall not be entitled to severance pay, but shall be entitled to long service pay, provided that their time in service meet the requirements for obtaining long service pay and compensation.	(3) Suspension from work can be applied to workers' committing offense(s) referred to in paragraph (1) prior to permission to terminate employment to be issued by the Provincial or Central Committees provided that the suspension from work has been stipulated in the work agreement or internal enterprise regulation or collective labor agreement. (4) A worker whose employment is terminated due to a serious offence (s) referred to in paragraph (1) shall not be entitled to severance pay as referred to in Article 22 and long service pay as referred to in Article 23, but they shall be entitled to compensation as referred to in Article 26B.

Permenaker No.03/Men/1996	Kepmenaker No. Kep-150/Men/2000 (June 2000)	Kepmenakertrans No. Kep-78/Men/2001 (May 3, 2001) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)
a. 1 dependant: 25% of wage b. 2 dependants: 35% of wage c. 3 dependants: 45% of wage d. 4 dependants: 50% of wage Article 22 The amount of long service pay as stipulated in Article 20 is as follows: a. Work Period=> 5<10 years; 2 months wages b. Work Period=> 10<15 year; 3 months wages c. Work Period=> 15<20 years: 4 months wage 4. Work Period=> 20<25 years: 5 months wage 5 Work Period=> 25 years : 6 months wages	Article 19 (1) In the event that the worker is detained by the authorities as referred to in paragraph (2), the employer shall not be obliged to pay their wage but shall be obliged to provide aid to the worker's dependant family, with the following stipulations: a. for 1 person: 25% of wage b. for 2 persons: 35% of wage c. for 3 persons: 45% of wage d. for 4 or more persons: 50% of wage Article 23 The amount of long service pay as stipulated in Article 21 is as follows: a. Work Period=> 3<6 years; 2 months wages b. Work Period=> 6<9year; 3 months wages c. Work Period=> 9<12 years: 4 months wages d. Work Period=> 12<15 years: 5 months wages e. Work Period=> 15>18 years: 6 months wages f. Work Period=> 18>21years: 7 months wages g. Work Period=>21>24 years: 8 months wages h. Work Period=> 24 years:10 months wages Article 26 (1) In the event of employment termination due to a worker's voluntary resignation, the worker shall be entitled to long service pay and compensation in accordance with the provisions in Article 23 and Article 24.	Article 26: (1) In the event of employment termination because of voluntary resignation, the worker/labor shall be entitled to compensation as referred to in Article 26B. Addenda of four (4) new paragraphs that stipulate the obligation of the worker/labor to submit an application for resignation in writing at the latest thirty (30) days prior to the date the resignation commences and before the resignation day they shall be obliged to carry out their duties. It is also herein stipulated the employer's obligation to respond at the latest fourteen (14) days prior to the date of resignation.

Permenaker No. 03/Men/1996	Kepmenaker No.Kep-150/Men/2000 (June, 2000)	Kepmenakertrans No. Kep-78/Men/2001 (May 4, 2001) and Kepmenakertrans No.Kep-111/Men/2001 (May 31, 2001)
		Addenda of new Articles, namely, Article 26A and Article 26B are inserted between Article 26 and Article 27. Article 26A stipulates the limitation on the number of workers/labor who can resign in a certain period. Article 26B stipulates the payment of compensation referred to in Article 18 paragraph (4) and Article 26 paragraph (1) namely, compensation for annual leave, extended leave, cost of transportation to go home, reimbursement of housing, hospitalization, and medication which is fixed at 15% of a worker's wage.
	Articles 27 through 32 are related to the obligation to provide severance pay, long service pay and compensation, which is stipulated as follows: • Severance pay, two times in accordance with the provisions outlined in Article 22 • Long service pay shall be in accordance with Article 23 (no provision on how many times) • Compensation shall be in accordance with the provision in Article 24 (no provision regarding how many times.)	Articles 27 up to 32 are related to the obligation to provide severance pay, long service pay and compensation which is stipulated as follows: • Severance pay, 2 times as much as the provision in Article 22 • Long Service Pay, in accordance with the provision in Article 23 • Compensation, in accordance with the provision in Article 24 Article 32A is inserted between Articles 32 and 33, which stipulates that workers/labor whose employment is terminated when they have not yet entered retirement age but have been participating in a pension program, then the workers concerned shall not be entitled to long service pay

Permenaker No.03/Men/1996	Kepmenaker No. Kep-150/Men/2000 (June, 2000)	Kepmenakertrans No. Kep-78/Men/2001 (May 4, 2001) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)
		Article No.35A is inserted between Articles No's.35 and 36, which stipulate the imposition of severance pay, long service pay and compensation since the effective date of this Kepmenakertrans. Kepmenakertrans No. Kep-111/Men/ 2001 concerning Amendments to Article 35A of Kepmenakertrans No. Kep-78/Men/2001 The basic amendment to this Kepmenakertrans is that if the work agreement or internal enterprise regulation (PP) or workplace agreement (PKB) contains provisions on providing severance pay, long service leave, and compensation in excess of the provisions in Kepmenakertrans No.78/2001, then the provisions in the work agreement or PP or PKB shall remain in effect.

Appendix 7. Simulation of Compliance Cost of Severance Payment Regulation

Number of employees	=	2,000 persons		
Monthly turn over, approximately 2%*	=	40 persons		
Number of employees who voluntary resign	=	10 persons within < 2 years work period	6 persons, 5 years work period	
		6 persons, 3 year work period	6 persons, 6 year work period	
		6 persons, 4 year work period	6 persons, 7 year work period	

Hypothetical wage bill

Work Period (year)	Wage per worker per month (Rp)	Number of employees (person)	Total wage per month (Rp)
< 1 year	421,000	300	126,300,000
2 years	435,000	300	130,500,000
3 years	450,000	200	90,000,000
4 years	500,000	200	100,000,000
5 years	570,000	200	114,000,000
6 years	700,000	200	140,000,000
7 years	800,000	200	160,000,000
8 years	900,000	200	180,000,000
9 years	1,000,000	200	200,000,000
Total		2000	1,240,800,000

Hypothetical Severance Pay

Work Period (year)	Wage (Rp)	Number of employees voluntary resigned (person)	Long service pay **	Total (Rp)
< 2 years	421,000 ***	10		
3 years	450,000	6	2 x monthly wage	5,400,000
4 years	500,000	6	2 x monthly wage	6,000,000
5 years	570,000	6	2 x monthly wage	6,840,000
6 years	700,000	6	2 x monthly wage	8,400,000
7 years	800,000	6	3 x monthly wage	14,400,000
Total		40		41,040,000
Percent of Total Wage				3.3

Note: * Labor Intensive Industries

** Based on Article 21 and 23, Kepmenaker No. Kep-150/Men/2000; This does not include compensation

*** Minimum Wage in Tangerang

Appendix 8. List of Labor Union Federations

No	NAME OF LABOR ORGANIZATION (in BAHASA)	COMMITTEE (HEAD)	REGISTRATION NUMBER	NUMBER OF ENTERPRISE UNIONS	
				Based on Data Compiled by the Department of Manpower	Based on Field Information**
1	2	3	4	5	6
1	Konfederasi Serikat Pekerja Seluruh Indonesia (FSPSI)	Jacob Nuwa Wea	B. 936/M/BW/98	6.241	
2	Dewan Eksekutif F-SPSI Reformasi	Andi Hisbulin P	B.892/M/BW/98	3.149	
3	Federasi Serikat Buruh Demokrasi Indonesia (FSBDSI)	A. Azis Riambo , SH	B.959/M/BW/98	121	
4	Serikat Buruh Sejahtera Indonesia (SBSI)	DR. Muchtar Pakpahan	B.1025/M/BW/98	229	
5	Serikat Buruh Muslim Indonesia (SARBUMUSI)	Drs.H. Sutanto M	B. 451/M/BW/98	11	Surabaya: 30
6	Persaudaraan Pekerja Muslim Indonesia (PPMI)	Eggi Sujana	B. 334/M/BW/99	122	
7	Gabungan Serikat Pekerja Merdeka Indonesia (GASPERMINDO)	Moh. Jumhur Hidayat	Kep. 250/M/BW/2000	10	
8	Federasi Organisasi Pekerja Keuangan dan Perbankan Indonesia (FOKUBA)	Kodjari Darmo	B. 379/M/BW/99	32	
9	Kesatuan Buruh Marhaenis (KBM)	M. Pasaribu		-	
10	Kesatuan Pekerja Nasional Indonesia (KPNI)	Dr. Haryono. MBA	Kep.345/M/BW/98	9	
11	Kesatuan Buruh Kebangsaan Indonesia (KBKI)	DR. M. Ali, SH, MSC	B. 102/M/BW/99	-	Surabaya: 3
12	Asosiasi Karyawan Pendidikan Swasta Indonesia (ASOKADIKTA)	Drs. H. Dedi Hamid, SH	B. 1119/M/BW/98	-	
13	Gabungan Serikat Buruh Industri Indonesia (GASBIINDO)	H. Agus Sudono	B. 082/M/BW/99	194	
14	Asosiasi Serikat Pekerja Indonesia (ASPEK INDONESIA)	Indra Tjahya	KEP. 421/M/BW/2000	65	
15	Serikat Pekerja Keadilan (SPK)	Ir. Eddy Zamut, MSAE		1	
16	Serikat Pekerja Metal Indonesia (SPMI)	Thamrin Mosi	B. 178/M/BW/98	115	
17	Gabungan Serikat Buruh Independen (GSBI)	Sobirin		1	
18	Dewan Pengurus Pusat Korps Pegawai Republik Indonesia (KOPRI)	Drs. HM Faisal Tamim	B. 343/M/BW/99	-	
19	Federasi Serikat Pekerja BUMN	Drs.H.Bambang Syukur	B. 559/M/BW/99	28	
20	Serikat Buruh Merdeka Setiakawan	Saut H.Aritonang	B. 658/M/BW/99	-	
21	Serikat Pekerja Nasional Indonesia	HM Amri, MBA	B. 493/M/BW/99	12	
22	Federasi Serikat Pekerja Tekstil, Sandang dan Kulit (FSP.TSK)	Rustam Aksan	40/M/BW/2000	680	
23	Gabungan Organisasi Buruh Seluruh Indonesia (GOBSI)	Y. Yahya	KEP. 395/M/BW/2000	57	Bandung: 68
24	Asosiasi Karyawan Pendidikan Nasional (ASOKADIKNA)	Soeganda Priatna	KEP. 451/M/BW/2000	-	
25	Federasi SP Penegak Keadilan Kesejahteraan & Persatuan (SPKP)	Andry WM	178/FSP-SPKP/DFT/BW /2000	49	
26	Federasi SP Rakyat Indonesia (SPRI)	Ruslan Effendy. SE	186/FSP-SPRI/DFT/BW /2000	28	
27	Federasi Kimia Energi Pertambangan (KEP)	Syaiful	187/FSP-KEP/DFT/BW/ IX/2000	481	

1	2	3	4	5	6
28	Federasi SP Indonesia (SPI)	Siraj EL Munir Bustami	190/FSP-SPI/DFT/BW/IX/2000	23	
29	Front Nasional Perjuangan Buruh Indonesia (FNPBI)	Dita Indah Sari	191/FSP-GSBM/DFT/BW/X/2000	14	
30	Federasi Gabungan Serikat Pekerja Mandiri (GSBM)	Amran Simanjuntak	Kep.199/FSP-GSBM/DFT/BW/X/2000	22	
31	Federasi Perserikatan Buruh Indonesia (FBI)	Yudhi S Hidayat	Kep 502/FSP-SBP/ DFT/BW/XI/2000	5	
32	Federasi Serikat Buruh Perjuangan (FSBP)	Drs. HM. Syahrin, BSc	Kep. 745/M/BW/2000	-	
33	Federasi Aliansi Jurnalis Independen (FAJI)	Didik Supriyanto	Kep. 742/M/BW/2000	58	
34	Federasi Gabungan Serikat Pekerja PT. Rajawali Nusantara Indonesia (GSPRNI)	Ir. Widodo Rahardjo	216/FSP-FARKES/RIF/DFT/BW/XII/00	-	
35	Federasi Farmasi dan Kesehatan Reformasi	DjufnieAshary	223/FSPM/DFT/BW/ 2001	68	
36	Federasi SPM (Hotel, Restoran, Plaza, Apartemen, Katering, dan Pariwisata Indonesia)	Isep Saepul Mubarah	231/FSP – GASPERMINDO/ DFT/BW/II/2000	9	
37	Gaspermindo Baru	Miyadi Suryadi, SH	13/DPP-GSBI 2000/III – 2001	20	
38	Gabungan Serikat Buruh Indonesia 2000 (DPP GSBI 2000)		140/I/DPP/FSPK/03-2001	-	
39	Federasi SP Kahutindo	Dra. Hj.Sofiati Mukadi		400	
40	Federasi Serikat Pekerja Pariwisata (SP PAR)	Djoko Daulat		725	
41	Federasi Serikat Pekerja Percetakan, Penerbitan dan Media Informasi	Isprapto	87/V/VII/2001	-	
42	Federasi SP Pertanian dan Perkebunan	Hartono	78/V/VII/2001	905	
43	Federasi Serikat Pekerja Bangunan dan Pekerjaan Umum (SP BPU)	Drs. Syukur Sarto,MS	118/V/N/2001	-	
44	Federasi Serikat Pekerja Bank, Niaga Jasa dan Asuransi (NIBA)	T. Zoelficakib	104/V/N/VII/2001	-	Surabaya: 24
45	Federasi Serikat Pekerja Farmasi dan Kesehatan	Alexander Sinaga	98/V/N/III/2001	107	
46	Federasi Serikat Pekerja Angkutan Darat, Danau, Feri Sungai dan Telekomunikasi Indonesia (SP ADFES)	Drs.H Sofjan Soedjaja, MA		-	
47	Federasi Serikat Pekerja Logam, Elektronik dan Mesin (FSP LEM)	Hikayat A.K	77/V/N/III/2001	720	
48	Federasi Serikat Pekerja Rokok, Tembakau, Makanan dan Minuman (FSP RTMM)	Tosari Wijaya	109/V/N/VII/2001	-	Surabaya: 39
49	Federasi Serikat Pekerja Kependidikan Seluruh Indonesia (F SPKSI)	Drs. Firman Hadi, Bclp	96/V/N/VII/2001	-	
50	Federasi Serikat Pekerja TSK SPSI	A. Sidabutar	89/V/VII/2001	753	
51	Federasi SP Perkayuan dan Kehutanan (FSP KAHUT- SPSI)	M. Silalahi		-	Surabaya: 33
52	Federasi SP Transportasi Indonesia (FSP TI)	Drs. M.CH.David		-	Surabaya: 25
53	Federasi SP Kimia, Energi dan Pertambangan (FSP KEP)	Jacob Nuwa Wea		217	
54	Federasi SP Maritim Indonesia (FSP MI)	Oesodo H.D.S		-	

1	2	3	4	5	6
55	Kesatuan Pelaut Indonesia (KPI)	Hanafi Rustandi		-	
56	Federasi SP Tenaga Kerja Indonesia di Luar Negeri (FSP TKI LN)	Drs. Azwar Nadlar		-	
57	Federasi Serikat Buruh Karya Utama (FSBKU)	Dwi Agustin	560/04-DKK/PC/kota-TNG/ VIII/2001	5	
58	Federasi Serikat Pekerja Perkebunan Nusantara (FSP BUN)	Drs. HM. S. Ginting	134/I/N/XI/2001	-	
59	DPP Gerakan Buruh Markaenis	A. Takumansang	190/V/N/I/2001	-	
60	Federasi Serikat Pekerja Industri Semen Indonesia (FSP ISI)	Muchtar Junaedi	197/V/N/I/2002	12	

Source: Sub-Directorate of Employer and Employee Empowerment, Department of Manpower and Transmigration, January 2002
note: ** only noted if the number of labor unions (based on field information) is higher than Department of Manpower and Transmigration data

Appendix 9. A Comparison of Workplace Agreements from three enterprises in three different areas Authorized between 1998-2000

Bogor	Bekasi	Bandung
December 2000 (2000-2002), large-scale company based on foreign direct investment, producing garments with 3,600 employees.	May 2000 (2000 – 2002), large-scale company based on foreign direct investment, producing chemical substances with 319 employees.	June 1998 (1998 –2000), large-scale company based on foreign direct investment, producing textiles with 1,013 employees.
Chapter I. General Provisions 1. Terms and definitions 2. Parties holding the workplace agreement 3. Objectives and goals of agreement 4. Scope of agreement	Chapter I. Parties formulating the Workplace Agreement 1. Terms and definitions 2. Parties holding the workplace agreement	Chapter I. General Provisions 1. Terms and definitions 2. Contents of the agreement 3. Scope of the agreement 4. Rights and obligations of parties involved in the agreement
Chapter II. Recognition, Security and Facilities for the Labor Union 5. Recognition of the rights of all parties 6. Obligations of parties involved in the agreement 7. Relationship between the employer and the workers union 8. Rights of workers 9. Rights of employers 10. Workers union membership 11. Guaranteed protection for both the committee and members of labor the union 12. Time dispensation for labor union leaders 13. Facilities provided for the labor union 14. Suggestion box and information board for labor unions 15. Union membership fees	Chapter II. General 3. Objectives and goals of the Workplace Agreement 4. Scope of the Workplace Agreement 5. Rights of employers and the labor union 6. Facilities for labor union 7. Bipartite institutions 8. Awareness-raising on industrial relations	Chapter II. Recognition of Guarantees and Facilities for Labor Unions 5. Recognition of labor unions 6. Employer guarantees for labor union committees 7. Facilities and support provided by employers for labor unions 8. Fees or supporting funds for labor union 9. Dispensation for labor union committees 10. Full time employees
Chapter III. Work Regulations 16. Employee recruitment 17. Categorization of workers 18. Training periods 19. Contract workers 20. Probation periods 21. Permanent daily hire workers	Chapter III. Work Regulations 9. Employment recruitment 10. Probation periods 11. Letters describing work agreements and work placements 12. Wage/salary, rank and scale 13. Workers' position	Chapter III. Codes of Conduct, Work Regulations, Occupational Health and Safety 11. Codes of conduct 12. Work regulations 13. Occupational health and safety

Bogor	Bekasi	Bandung
22. Letter of appointment 23. Education, training, and career development 24. Workers holding two jobs 25. Tour of duty 26. Promotion and demotion	14. Work performance evaluation 15. Transfers 16. Promotion and demotion 17. Foreign labor 18. Promotion from position as permanent worker B to permanent worker A	
Chapter IV. Working Hours 27. Work days and work hours 28. Break time 29. Overtime 30. Shift arrangements 31. Attendance/Time Cards	Chapter IV. Work days and working hours 19. Working hours and break time 20. Work days 21. Overtime and overtime allowance	Chapter IV. Management of Employees/Wages and Salary Basis 14. Employee recruitment and category of employment. 15. Wage and salary basis for employee/workers 16. Evaluations 17. Wage/salary increases, periodical increases, and promotion 18. Overtime and duty officers 19. Business trips 20. Income tax allowances
Chapter V. Wages/Salary 32. Remuneration system 33. Monthly salary system 34. Daily wage system 35. Contract-based wage system 36. Wage system for workers in probation 37. Additional responsibilities allowances 38. Attendance/Diligence allowances 39. Shift allowances 40. Meal and transport allowances 41. Transport and fuel allowances for specific positions 42. Sick leave allowances 43. Wage system for workers in custody 44. Wage/salary payments 45. Settlement for workers who resign 46. Wage/salary review	Chapter V. Work Dispensation 22. Annual leave and company leave 23. Menstrual and maternity Leave 24. Leave for religious purposes 25. Permission to leave work 26. Wages during sick leave 27. Wages for workers detained by authorities	Chapter V. Health Services 21. Employees eligible for health services 22. Health service facilities 23. Pregnancy and birth 24. Dental health services 25. Specialist health services 26. Eye glasses 27. Mental illness 28. Nursery 29. Treatment abroad 30. Family planning 31. Cancellation of health services fee

Bogor	Bekasi	Bandung
Chapter VI. Days off, Public Holidays, Leave, Permission and Exemption from work responsibilities 47. Weekly off and public holidays 48. Paid permission to leave work 49. Annual leave 50. Company leave 51. Pregnancy leave, maternity leave/miscarriage leave 52. Menstrual leave 53. Sick leave 54. Permission to leave work without pay 55. Standard permission requests	Chapter VI. Wage Payment System 28. Wages and wage components 29. Wage payments 30. Wage increases 31. Additional responsibilities allowances 32. Allowances for family, expertise and housing 33. Transportation allowance and company vehicle facilities 34. Diligence allowances 35. Hari Raya Bonuses 36. Bonuses 37. Business trip allowances	Chapter VI. Social Security and Work Insurance 32. Meal 33. Work uniforms 34. Transportation 35. Religious holiday allowances 36. Bonuses 37. Souvenirs 38. Recreation 39. Contribution for employee's wedding 40. Death allowances 41. Accident cost/ compensation 42. Cost of amputation 43. Observance of religious duties 44. Incentives 45. Education support 46. Workers' cooperatives
Chapter VII. Facilities for the Welfare of Workers 56. Jamsostek 57. Treatment and medication 58. Recreation 59. Workers cooperatives 60. Praying facilities 61. Sport and recreation facilities 62. Non-workplace death financial provisions 63. Family planning programs 64. Hari Raya 65. Work uniforms 66. Pension allowance	Chapter VII. Treatment and Medication 38. Health checks 39. Health protection	Chapter VII. Insurance/Pensions 47. Retirement age limit 48. Pre retirement period 49. Amount of pension 50. Social security for employees
Chapter VIII. Workplace Health and Safety 67. Supervising committee for occupational health and safety 68. Occupational safety 69. Occupational health 70. Working equipment	Chapter VIII. Occupational Health and Safety 40. General provisions 41. Work equipment 42. Workplace health and safety equipment 43. Inspection of workplace health and safety equipment 44. Work uniforms	Chapter VIII. Permission to leave work/leave/days off 51. Permission to leave work with pay 52. Rights for leave/days off 53. Additional leave

Bogor	Bekasi	Bandung
Chapter IX. Company Codes of Conduct 71. Workers obligations 72. Workers restrictions 73. Codes of conduct for superiors when dealing with subordinates 74. Codes of conduct for subordinates when dealing with their superiors 75. Sanctions 76. Letters of warning regarding violation of regulations 77. First letter of warning regarding violation of regulations 78. Second letter of warning regarding violation of regulations 79. Final letter of warning regarding violation of regulations 80. Violation of codes of conduct leading to employment termination 81. Absence without notice 82. Suspension	Chapter IX. Social Security and Workers' Welfare 45. Jamsostek 46. Prayer room 47. Sport 48. Recreation 49. Cooperatives 50. Cafeteria 51. Contributions for weddings, births and deaths 52. Pensions and life insurance	Chapter IX. Sanctions for Employment Termination 54. Sanctions 55. Employment termination 56. Voluntary resignation 57. Conduct that may cause employment termination 58. Permission to terminate employment 59. Severance pay 60. Long service pay
Chapter X. Supervision and Employment Termination 83. Principles on the provision of supervision 84. Employment termination 85. Employment termination due to death 86. Employment termination due to undisciplined conduct 87. Retrenchment due to prolonged sick leave and total disability 88. Retrenchment due to retirement 89. Retrenchment due to company streamlining 90. Retrenchment due to transfer of management 91. Consequences of retrenchment	Chapter X. Skills Improvement Programs 53. Education and training	Chapter X. Guidance for Employees 61. Education and training 62. Sports, recreational activities and religious guidance
Chapter XI. Bonuses and Incentives 92. Settlement of bonuses 93. Settlement of incentives for workers	Chapter XI. Work Codes 54. Regulations 55. Temporary suspension	Chapter XI. Workers' Grievances and Resolution 63. Workers' grievances 64. Grievance resolution

Bogor	Bekasi	Bandung
Chapter XII. Workers' Grievances 94. Settlement of grievances Chapter XIII. Consultation, Bargaining, and Deliberation 95. Consultation 96. Bargaining and deliberation Chapter XIV. Implementation of Agreements 97. Implementation of workplace agreements 98. Dissemination of workplace agreements 99. Transitional provisions 100. General provisions Chapter XV. Length of Agreements, Amendments, and Extension of Agreements 101. Length of agreements 102. Amendments and extension of agreements Chapter XVI. Closing Provisions 103. Closing Remarks	Chapter XII. Complaint Resolution 56. Procedures of grievance resolution Chapter XIII. Employment Termination 57. General 58. Causes of employment termination 59. Severance pay and long service pay 60. Employee's debts to the firm Chapter XIV. Length of Agreements, Extensions and Amendments 61. Length of agreements 62. Amendments Chapter XV. Closing Provisions 63. Closing Remarks	Chapter XII. Membership in government institutions and guidance in industrial relations 65. Memberships in government institutions 66. Efforts to boost Pancasila Industrial Relations Chapter XIII. Dissemination of Workplace Contracts and Closing Provisions 67. Dissemination and distribution 68. Closing Provisions

Appendix 10. The Number of Disputes arising in Response to Law No.22/1957 and Law No.12/1964, and the Resolution of these disputes through the Regional Government Committee at the Provincial Level in East Java, Year 2000 - 2001

Month	Disputes and Resolutions	Law No.22/1957				Law No. 12/1964			
		Disputes		Number of workers		Disputes		Number of workers	
		2000	2001	2000	2001	2000	2001	2000	2001
January	New Disputes	3				65	57	78	190
	Resolved		2		1,180		34		2
February	New Disputes	3				51	2	57	2
	Resolved	3				59	2	75	2
March	New Disputes	2	7		81	34	47	38	77
	Resolved	4	15		5,125	78	83	99	106
April	New Disputes	12	7	2,183	81	174	47	203	77
	Resolved	5	15	845	5,125	49	83	59	106
May	New Disputes	14	4	6,322	655	174	54	207	70
	Resolved	7	2	3,686	915	87	55	99	81
June	New Disputes	18	6	12,346	506	150	53	183	76
	Resolved	10	1	7,335	450	43	2	55	2
July	New Disputes	13	5	9,064	87	147	38	190	56
	Resolved	5	2	4,643	1,706	36	53	38	67
August	New Disputes	12	5	6,993	393	162	41	223	69
	Resolved	0	15	-	1,370	1	100	1	144
September	New Disputes	19	n.a	9,347	n.a	195	n.a	264	n.a
	Resolved	10	n.a	7,782	n.a	87	n.a	125	n.a
October	New Disputes	16	n.a	2,477	n.a	165	n.a	207	n.a
	Resolved	3	n.a	63	n.a	63	n.a	83	n.a
November	New Disputes	24	n.a	3,558	n.a	140	n.a	184	n.a
	Resolved	1	n.a	20	n.a	13	n.a	13	n.a
December	New Disputes	27	n.a	3,541	n.a	174	n.a	226	n.a
	Resolved	12	n.a	1,889	n.a	68	n.a	87	n.a

Source: Labor Force Information Book, Regional Office of The Province of East Java, Ministry of Manpower, January 2000 – December 2001(based on data from the Secretariat of The Regional Government Committee in the Province of East Java.