

A Study Of Democratic Setting : The Shift Of Labor Policy in Indonesia's

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A Study of Democratic Setting: The Shift of Labor Policy in Indonesia's

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Abstract: In order to pursue stability and economic growth, during Suharto's authoritarian rule, laborers were suppressed and marginalized from the political landscape and policy making process in Indonesia. The government restricted their rights and restrained their movements and provisions of social protection for the laborer were limited. Since democratization, the Indonesian government has attempted to improve labor protection by enacting a number of regulations for governing employment practices and labor relations. It also has identified the rules and standards of employment. The laborers have considerable freedom to form associations. It is noteworthy, however, that the policies still do not provide equal access of protection for workers in both formal and informal sectors. Indonesia may also need to consider whether the current policies have met international standards of labor policy. With regard to the undergoing discussions on the labor policy, this paper aims to depict the shift of labor policy in Indonesia. It further attempts to examine and describe Indonesia's current labor policy responses in the context of democratic consolidation. The data of the paper were gathered through extensive research on several concerned institutions.

Keywords: Labor policy, social protection, welfare system, employment in Indonesia.

INTRODUCTION

Before 1998, during Suharto's authoritarian regime, Indonesia's industrial relations system was under strict control of the central government and labor protection was very limited, segregated, and non-obligatory. Employers could treat workers arbitrarily since the provision of workers' rights protection was inadequate. Labor force is important to increase regional economics (Zulham et al., 2019). Labor movement was restricted and unions had a weak position for representing workers when negotiating with their employers. The government sought to create homogeneity, uniformity, ideological unity, and a single interpretation of interests for all labor organizations (Zulham et al., 2019; Ahmad & Ahmad, 2019). With military reinforcement, the government imposed such measures to maintain national unity, political stability, and high economic growth. The military-backed economic oligarchism became a political platform that undermined the labor unions. Repression often led to torture or murder of labor activists.

One of the prominent examples of labor repression is the case of Marsinah. She was actively involved in the labor resistance movement, demanding a wage increase in her company. Her involvement in this activity resulted in her torture, disappearance, and death on May 8, 1993, a week after her demonstration in the Labor Day celebrations. Although no comprehensive investigation was done for this case, the public suspected that the killings were perpetrated by military personnel (see Zuhdan 2014). Therefore, the labor movement during Suharto's regime focused not only on demanding wage increases but also fighting civil-political rights for the existence of their organizations.

However, during the past two decades, following democratization and the fall of Suharto's regime, there have been considerable changes in labor policies in Indonesia. After the end of the authoritarian government and with the softening of political control, labor union organizations grew rapidly in Indonesia. The labor movement began to make real political efforts to fight for the interests of its members in the new social and political atmosphere. To pursue and gain popular support, the post-democratization governments responded to the demands by creating more favorable policies for workers. Along with decreasing political restrictions against labor organizations, the policies attempt to improve labor conditions by providing better protection for the workers. In 1998, the government began drafting a plan to reform labor legislation. The measures include ratification of ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize, the introduction of a new law on trade unions, a new law on labor, and the drafting of a new law on industrial dispute settlement.

The aim of this reform program is to improve working conditions and devise a modern system of industrial relations based on freedom of association that ensures the right of collective bargaining. This system is also supported by a mechanism of industrial relations settlement. Under the reform plan, the Indonesian government enacted Labor Law number 13/2003, which determines significant improvement on laborers' rights and welfares. Further, following this law, the government drafted a number of laws and regulations to provide wider protection and services that include all type of workers. Through these laws, the government provides social security assurance and sets better social norms of industrial relations for workers in both the formal and informal sectors. The process of drafting the new legislations involved substantial and meaningful tripartite and bipartite dialog, in stark contrast to the top-down approach adopted during Suharto's New Order.

Social Protection and Labor Issues: General Conception

Labor protection was a central issue for workers following the Industrial Revolution in the 17th century. At that time, the relationship between workers and employers changed because the workplace changed from small-scale production shops to large-scale factories. Employers sought a less expensive workforce primarily by providing low wages with poor work environments. Meanwhile, workers tried to find better working conditions by joining unions to obtain legally protected rights. Many countries that faced the negative consequences of the Industrial Revolution attempted to lay the foundation for a modern labor law that addressed aspects of poor working conditions in the 18th and 19th centuries (see Ewing, McColgan and Collins 2005).

One of the important issues discussed in the formulation of employment law in many countries is the provision of social protection for workers. Social protection policies are an important tool for overcoming poverty and are part of a wider strategy for pursuing citizens' well-being. Roots of modern social protection systems can at least be found in late 19th century, when the Bismarckian social welfare system was introduced in Germany (Baldwin 1990; Ahmad & Ahmad, 2018). The policies require the holistic coordination of manpower planning, freedom protection, social assistance, social insurance, labor market governance, and care programs for citizens. Such policies could prevent ordinary people and their families from falling into deep poverty, promote access to basic services, contribute to economic growth by raising labor productivity, and strengthen social relations (Tessier et al., 2013).

Despite the long history of the system, only about 27% of the population worldwide can currently get adequate social protection schemes (ILO, 2014). The rest of the population, especially informal sector workers in low-income countries, remains uncovered (Holmes and Scott 2016: iv). Informal workers usually have less income than formal workers, making them unable to buy private insurance and pension or to pay tax for accessing government subsidies. Accordingly, they typically have little or no protection by labor standards (such as minimum wage) and rights (such as sick leave, health insurance, or unemployment insurance). They also lack organization and representation (Razavi et al., 2012; Tessier et al., 2013) and are excluded from social protection against the risks or uncertainties of work (such as late payments, work safety, etc.). They also have

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no arrangement to cope with the common contingencies of illness, disability, property loss, and death, even though jobs in the informal sector are often high risk ones in hazardous, precarious, and vulnerable environments (Ahmad & Sahar, 2019; Chen, 2012).

Therefore, the improvement of social welfare in less-developed countries generally focuses on developing wider social protections for workers. Brazil, for example, made a constitutional amendment in 2013 to guarantee labor rights for all workers. This law stipulates a provision whereby employers have to pay the equivalent of 8% of their monthly salary into a fund that will be used for compulsory redundancy, death, and other contingencies for their workers (ILO 2013). Similarly, other countries such as Indonesia, Namibia, Chile, South Africa, Rwanda, and Vietnam, have extended social insurance schemes to informal sector workers, which now entitle them to unemployment insurance and maternity provision (Cuevas, Mina, Barcenas, and Rosario 2009; Holmes and Scott 2016: 1–2).

Labor Conditions in Indonesia

Similar to other developing countries, Indonesia's labor conditions are characterized by inadequate employment opportunities, high unemployment, low skill capacity, low wages, and modest social security. With the poor availability of social protection and social security, workers in Indonesia can neither achieve reliable standard of living nor spend their entire time looking for more desirable jobs. By February 2017, Indonesia's labor force–participation rate (referring to those who are either employed or are actively looking for work in a certain period of time) reached 131.55 million (69.02%) (see Figure 1). Meanwhile, Indonesia's employment-to-population ratio by February 2017 was 62.90. This suggests that out of 100 people aged 15 years and older, there are only about 63 people who work.

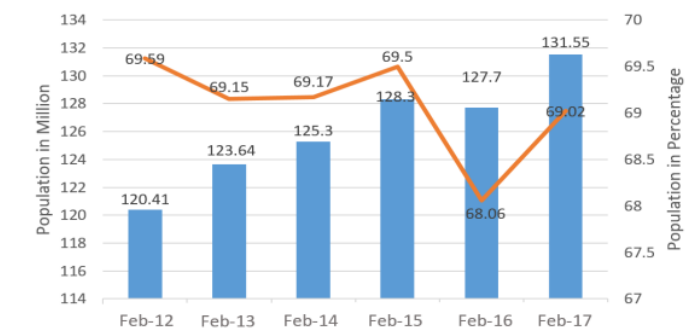


Figure 1. Indonesian work force and its participation rate, 2012–2017.
Source: compiled by author from www.bps.go.id.

Another issue is that there are many workers who are unable to obtain full-time jobs and are forced to work part-time or stay unemployed. The National Labor Survey (Sakernas) in February 2017 shows that the rate of part-time workers reached 22.53% (BPS 2017). This implies that out of 100 working people, there are 23 people who work less than 35 hours per week. This implication, of course, influences the ability of people to pay for social security contributions. Furthermore, job creation, particularly in the formal sector, was insufficient to accommodate the increasing amount of labor supply. This led to a large percentage of workers in the informal sector (see Figure 2).

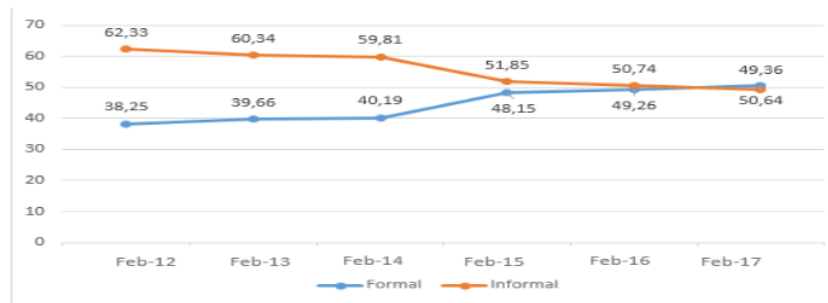


Figure 2. Percentage of formal and informal workers in Indonesia.

Source: compiled by author from www.bps.go.id.

Labor Protection Policy

As mentioned above, during the last two decades, the government of Indonesia has attempted to develop better employment conditions to protect and ensure the well-being of workers. In this manner, the government has strengthened relations with industrial workers, expanded its social protection scheme, and recognized the role of labor unions.

At an early stage, the government ratified the ILO Convention No. 87 and enacted Law no. 21/2000 on Labor Unions, which resulted in significant progress in freedom of association. Workers enjoy the new freedom to join and form unions of their own choice and many workers have exercised this right. At both the national and local levels, many new union organizations have been established. As a consequence, the number of national trade union federations has grown rapidly. Currently, according to data from the Ministry of Labor, there are 14 confederations, 120 federations, and 7,000 company-level worker organizations in Indonesia. The organizations embrace approximately 2.7 million worker members (*Republika*, March 28, 2018). Evidently, this is a very significant progress, since during Suharto's era, the government only allowed a single organization for all workers, namely, Serikat Pekerja Seluruh Indonesia (SPSI—Workers Union throughout Indonesia), which was regarded as a mere tool for accommodating the interests of employers rather than fulfilling the aspirations of its members.

Next, the government enacted Law 13/2003 to ensure basic rights of workers. The new law provides a legal framework concerning wages, social security, occupational safety and health, working hours, and holidays. The drafting of this law was influenced by the debate over industrial relations, which is dominated by two main issues, both at the national and workplace levels. The first relates to the minimum wage that is widely used to establish the real wage rate in the absence of effective collective bargaining. In the early years of the democratic era, there was pressure from workers unions to reform the minimum wage system and to undertake discussions to determine the options. The unions emphasized the importance of strengthening the mechanism for voluntary collective bargaining. The second issue concerns job security and covers matters relating to the nature of the contract of employment, the setting of termination, and severance pay. Particularly, the absence of any form of unemployment insurance in Indonesia has caused problems that lead to wider welfare issues. In this regard, there is evidence of an increasingly large proportion of workers employed under unsecured contracts and without obtaining benefits such as sick benefits and social security protection. Law 13/2003 basically addresses the provision of a deliberate mechanism for determining the minimum wage by ensuring the participation of laborers' representatives as well as the provision of social protection for the laborers.

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In accordance with Law 13/2003, the government also issued Law 40/2004 on the national social security system. The law stimulates the provision of social security, through three state-owned companies, namely, PT. Jamsostek (Workers' Social Security Company), PT. Taspen, Ltd. (Saving Insurance Pension Company), and PT. Asabri, Ltd. (Military-Police Insurance Company). The government assured the normative rights of workers and their families by providing four protection programs, including work accident insurance, death insurance, retirement insurance, and health care insurance (Hasoloan 2006: 7).

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Further, in 2011, the government issued Law 24/2011 on the social security provider agency (Badan Penyelenggara Jaminan Sosial—BPJS). The implementation, among others, includes the amalgamation of the all social insurance companies into a single public legal entity, namely, BPJS Ketenagakerjaan (BPJS Laborers); the reformation of pension schemes; and the rearrangement of dues contributions (Muliati 2013: 5). The BPJS is now appointed as a single institution for providing social protection and collecting contributions from workers, employers, and the government in order to finance promised benefits. The contributions are arranged in separate social insurance funds for each program. Workers and their employers are obligated to make contributions as a percentage of wages, and the government makes contributions for the poor.

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To this effect, the government issued Government Regulation (GR) 45/2015, the Management of the Pension Security Program and GR 46/2015, the Management of the Old Age Security Program. These regulations introduce a brand new protection and pension security scheme. The regulations obligate all employees of firms with 10 or more workers or a monthly payroll of at least Rp. 1 million to enroll as BPJS members. The GRs emphasize the benefits of becoming a BPJS member; these include the coverage of wide range compensations to meet the basic needs for participants and their family members when dealing with life-changing events such as illness, work accidents, retirement, or death. In short, the arrangement is designed to help the laborer live well, despite negative circumstances. The coverage of the Employment Social Security program includes the following:

- 1) *Work-injury/ work-Related Accident Benefit*—provides protection from the risks of accidents occurring within the work environment, as well as diseases caused by work
- 2) *Provident Fund Benefit*—provides a guaranteed allowance which is paid at once and/or periodically when laborers reach the age of 56 years or fulfill the requirements
- 3) *Pension Benefit*—provides income after the participants have either reached retirement age, suffered permanent total disability, or deceased
- 4) *Death Benefit*—provides cash money to the participant's beneficiary when the participant has deceased because of accident or injury unrelated to work.

Policy Review

The new legislations offer general guidelines of the new arrangement of labor protection in Indonesia. The regulations have provided a better assurance of freedom of association and social protection, and have given a better scheme for the well-being of workers in Indonesia. The laws, however, have not been perfect. Since the introduction of Law 21/2000, for example, there have been several complaints by unions regarding difficulties in the registration process, especially for new unions. In some regencies, it is reported that Manpower Agency refused to accept the registration of a local branch of the teachers union (PGRI—Persatuan Guru Republik Indonesia), on the grounds that PGRI members are civil servants and therefore must become members of the civil service organization of the Indonesian Civil Servants Corps (KORPRI). Entrepreneurs as well as some trade unions are concerned about the provision that allows any group of 10 workers to form unions. They are worried that this

provision will lead to the emergence of too many unions in one workplace. However, this problem also occurs in the internal labor through acquiring benefit from the law. For example, because the legislation allows the presence of more than one trade union per company, disputes and competition often emerge among labor organizations themselves, and it is also important to note that each organization usually has certain connections and affiliations with political parties.

In addition to these challenges, attempts to provide reliable social protection for laborers in Indonesia also remains piecemeal. Insurance coverage is still relatively limited in comparison to those plans in advance countries. To begin with, the current systems generally still emphasize services and protections exclusively for formal workers leaving informal workers unprotected, or at best only partially protected. The pension program, for example, is mandatory for the formal sector only. This scheme makes informal sector workers ineligible to participate and receive a monthly lifetime pension benefits when they are retire, so that universal coverage for all citizens remains elusive.

Furthermore, unemployment benefits do not exist, leaving general citizens helpless if they have no income. In some countries, benefits are funded by a compulsory governmental insurance system, not taxes on individual citizens. Although generally those sums may be small, covering only basic needs, it may compensate the lost time proportionally to the previous earned salary.

The BPJS law itself still requires the issuance of a number of separate regulations and decrees. Moreover, the system provides too much authority to BPJS. The union handles all social security programs and has made it impossible to opt out from its social insurance program. This may lead to the abuse or mishandling of services. It may also discourage employers who want to set up a voluntary pension program, as well as force private insurance companies into bankruptcy. The BPJS monopoly may also lead to high rates for pensions—costs, which are difficult for employers to bear.

CONCLUSION

Democratization in Indonesia since 1999 has stimulated the government to provide better protection policies for laborers. The policies are designed to extend the protections of workers and expand social security schemes. However, while the enactment of the policies is a significant step toward pursuing labor social welfare, many problems remain to be surmounted. The government needs to embrace all citizens, including those who work in the informal sector, by making it possible for them to participate in all the available social security programs. Its success in extending the coverage of social protections will be more certain if it is able to draw on the experience of more advanced countries in their efforts to protect laborers.

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