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UNDERSTANDING WORKERS' LAW REFORM IN INDONESIA 1998-2004

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Most developing countries have identified industrialisation as the most important step in their economic development. For this reason, in many cases, the state has played an important role in fashioning massive industrialisation programs to improve the economy (Jilberto and Mommen 1996). The state's intervention in industrialisation inevitably leads to its involvement in the industrial relations system. The purpose and the degree of the involvement may vary, however, the government's control over the industrial relations system is closely related to the interests of economic development of the country (Siddique 1989:386).

As in other developing countries contexts, the economic history of post-independence Indonesia has been characterised by strong state intervention. In the early phase of the Republic, the Indonesian state was deeply involved in economic activities due to the absence of a significant domestic bourgeoisie capable of replacing the structures of the colonial Dutch economy or of guiding industrialisation after 1949 (Robison 1986). The subsequent nationalisation of the former Dutch firms in 1957 and the rise of the authoritarian 'New Order' state in 1965 under President Suharto further strengthened state domination of economic life. The result was corporatist industrial relations with a strong state behind it, which contained the workers within the economic development framework (see Tjandra 2002; Caraway 2004; Ford 1999; Fox 1997).

The state's role changed dramatically when the Asian financial crisis hit Indonesia in 1997. The crisis fractured the foundations of the New Order state, and gave birth to Reformasi (reform) in 1998. Changes in labour law since then are part of a broader push to liberalise Indonesian economic and political life. Having been relatively untouched for more than three decades under the New Order, Indonesian labour law has been transformed from a corporatist model, backed by a strong and powerful state, to the one that is mainly based on market principles.

Although the development of market-based economy began in early 1980s (Feridhanusetyawan and Pangestu 2003; Lee 2003), it is only in a few years since Reformasi that the law had been significantly changed. By this time the developmentalist state had significantly weakened, and the economy had shifted from guided or state-led development to market-oriented reform and external liberalisation (see Rosser 2002).

Teri Caraway (2004) has argued that the Indonesian unions took advantage of the labour reform, successfully defending their rights through the labour reform process. Caraway's argument is based upon a claim that the 'protective aspects' of the labour legislation inherited from the New Order period were preserved under the reform process. Combined with international pressure and institutional design, Caraway argued, this protective legacy provided an 'unexpected source of strength for weak labour unions'. This article challenges Caraway's conclusion arguing that even though some protective aspects of the old legal system were preserved under the labour law reform program, a high degree of flexibility has been built into the new laws, which limits both the scope of protection available and the capacity to implement what protection is mandated in the new framework. The article begins with an examination of the historical development of labour law in Indonesia since its independence in 1945 before showing the package of three new labour laws enacted between 2000 and 2004 that diminished the protective aspects of Indonesia's framework of labour law and enacted the more liberal labour law model.

Developments After Independence

An examination of labour law since reformasi requires some understanding of the evolution of Indonesian labour law, particularly since Independence in 1945. This section briefly explores this historical background and its legacy for contemporary labour law.

After proclaiming independence from the Dutch on 17 August 1945, Indonesia engaged in armed struggle for another four years. Various social groups, including labour groups, participated actively in the campaign. The so-called *lasykar buruh* (labour brigade) were involved in defending workplaces against the Dutch forces, and seized foreign-owned production facilities in the nationalist cause (Trimurti 1980). After the Indonesian government officially assumed sovereignty from the Dutch in December 1949, labour's contribution to the struggle for independence, especially in the revolutionary period between 1945 and 1949, ensured organised labour movement a place in the post-colonial Indonesian life (Hadiz 1997). The emergence of strong labour unions was also influential in the enactment of a series of labour laws, at the time including the regulation of industrial accident compensation procedures, labour inspection and annual leave.¹

Labour's influence was evident particularly in policy-making related to the improvement of wages and salaries. There were several new labour laws that could be considered 'progressive', in the sense that they were based on the strong notion of protection for the workers. In 1947, a Safety at Workplace Law (No.33) was promulgated by the provisional government of Amir Sjarifuddin's Cabinet. This law signalled a significant shift in the basic labour policy of the new country which was previously regulated under Articles 1601-1603 of the Colonial Civil Code (*Burgerlijk Wetboek*), which was more concerned with 'private' contracts between parties based on the liberal notion of 'no work no pay'. In 1948, two other laws, namely the Workers' Protection Law (No.12) and the Labour Inspectorate Law (No.23), were passed.

Law No.12 of 1948 became the primary labour law of the time, setting the tone on labour regulation and protection in the new nation. It covered many aspects of labour protection, such as the prohibition of discrimination in the workplace, the 40-hour and six-day working week,² the obligation of employers to provide workers' housing, and the prohibition of the employment of children under the age of fourteen. It also guaranteed women the right to take menstruation leave (two days per month) and three months maternity leave, as well as restricting night work. There are no records regarding the enforcement of these laws during the revolutionary period (1945-1949), but they became the foundation of modern Indonesian labour law, eliminating the old colonial labour law and labour policy, and providing the legal basis for labour protection in Indonesia.

With regard to the regulation of industrial conflict, Collective Bargaining Law No.21 of 1954 further strengthened labour unions' legal position by providing for direct negotiation between the unions and the employers, and restricting the rights of employers to dismiss workers without prior approval from the government. Two years later, in 1956, the Indonesian government ratified the International Labour Organisation (ILO) Convention No.98 on the Application of the Principles of the Right to Organise and to Bargain Collectively, which guaranteed trade unions' legal status. In 1957, the Labour Dispute Settlement Law (No.22) was enacted, replacing the Emergency Law No.16 of 1951, which introduced compulsory arbitration system through tripartite mechanisms.³ The Termination of Employment in Private Undertakings Law No.12 of 1964 followed this. These two laws required employers to apply for permission to dismiss workers, without which a dismissal was null and void. The second Basic Law

promulgated in 1969 (No.14), reaffirmed Law No.12 of 1948, and further guaranteed the rights of workers to join unions, engage in collective bargaining and achieve basic labour standards on occupational health and safety and workers' compensation. These laws remained the pillars of the legislative protection for the Indonesian workers, even in the authoritarian New Order period. On coming to power in 1965, the Suharto New Order regime faced the difficult task of rebuilding a rapidly decaying economy inherited from the previous government. The crisis presented a serious problem for the new regime, but also offered an opportunity to establish legitimacy, which it sought through a promise of future economic development. As noted by Dwight King (1962), the major labour policies of the New Order were thus strongly influenced by its economic goals:

The economic stabilisation program launched in 1966 required wage restraint and the contraction of credit which inhibited the expansion of domestic business and curtailed the creation of new employment. In addition, the government policy of rationalisation of the bureaucracy, which called for steady across the board salary increase for civil servants, assumed smaller increments in the private sector, which caused wage 'pressures' there. Finally the door had been reopened to foreign investors further adding the potential for labour unrest. No doubt each of these factors contributed to the government sense that a controlled labour force was more important than ever (cited in Hadiz 1996:4).

This emphasis on economic stability required tighter labour control. The unions were effectively tamed after Sentral Organisasi Buruh Seluruh Indonesia (SOBSI), the largest union of the pre-New Order period, was caught up in the destruction of the Partai Komunis Indonesia, Indonesian Communist Party (PKI) in 1965-66. Later, in 1973 the remaining unions were encouraged to establish the Federasi Buruh Seluruh Indonesia (FBSI) (All-Indonesia Labour Federation) as the sole, state-sanctioned labour union federation, while government employees were contained in Korps Pegawai Republik Indonesia (KORPRI) (Indonesian Government's Employees Corps), a 'functional group' rather than a union (see Ford 1999). At the same time the new organisations were directed towards the socio-economic realm and not politics (Hadiz 1996:7-8). In 1985 the government-controlled FBSI was restructured into an even more centralised, hierarchical, and therefore, easily controlled single union called SPSI (All-Indonesia Workers' Union) (Hadiz 1997). The Pancasila Industrial Relations concept was refashioned by the hard-line Minister of Manpower, Admiral Sudomo, who released several ministerial regulations legitimising military involvement in labour disputes, which reached its peak in the murder of Marsinah in 1993 (Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI) 1994).

Although workers' and trade unions' rights were legally recognised in Indonesia under the New Order, in reality it was ministerial-level regulations that determined labour outcomes. During the 1980s several Minister of Manpower regulations were released, under which trade union rights were severely restricted. There were some new unions established due to the relaxation in government policy in the 1990s and growing criticism from international Non Governmental Organisations (NGOs) and other states, in particular the United States through the Generalised System of Preference (see Human Rights Watch/Asia 1994, Glasius 1999). However, these unions could not operate properly due to the continuous strict policies and repressions from the government. After 1994, no new unions were established, and the number of collective labour agreements remained low. This situation continued for the rest of the decade, relatively without significant challenges from labour, until the economic crisis hit Indonesia in July 1998.

Labour Law Under Reformasi

As noted earlier, the legitimacy of the authoritarian New Order regime was developed mainly upon its capacity to deliver economic growth and development. When its capacity to do so evaporated, so did its legitimacy. By May 1998 economic growth dropped to minus 7 per cent, unemployment reached 12 per cent, interest rates climbed to 75 per cent and the US dollar exchange rate slumped from Indonesian Rupiah 2,440 in the first week of July 1997 (Subiyantoro and Riphath 2004) to 6,000 and then to a catastrophic 18,000 in the peak of the crisis several weeks later (Godement 1999:12). The poverty rate tripled from 22.5 million in 1996 to 79.1 million in June 1998, almost 40 per cent of the total population (Kontan 7 December 1998). Economic growth of 7 per cent a year since the 1970s was wiped out within days, fracturing the legitimacy of the New Order regime.

The crisis led to the growing unrest throughout the country. Students and middle-class protests, united under the slogan reformasi (reform), had given way to rioting and looting in the capital, which eventually forced Suharto to resign on 21 May 1998. On ending his 32 years in power, Suharto appointed his deputy and close associate, Habibie, as the new president. Habibie immediately initiated a range of reforms in order to change the authoritarian image of the New Order. In regards to labour policy, in June 1998 one month after Habibie's appointment, Habibie made an executive decision to ratify the ILO Convention No.87 concerning Freedom of Association and Protection of the Right to Organise with a Presidential Decree, rather than using the normal parliamentary procedure. Prior to this, Habibie's Minister of Manpower, Fahmi Idris, released a regulation concerning Trade Union Registration, which gave more freedom to workers to establish unions. Muchtar Pakpahan of the Indonesian Prosperity Labour Union, Serikat Buruh Sejahtera Indonesia (SBSI), was released from prison on 25 May 1998, and Dita Indah Sari of the Centre for Indonesian Labour Struggle, Pusat Perjuangan Buruh Indonesia (PPBI,) was released on 4 July 1999.

It appeared that Habibie was trying to distract attention from labour practices under the New Order in the hope of impressing international observers. However, despite these reforms, the legislative framework of industrial relations remained essentially unchanged. The Reformasi regime continued the New Order's efforts to shift the whole system of labour law from a protective framework towards a more flexible and market-friendly one, as initial talk of change began as early as 1996. Prior to the economic crisis, in 1996 a World Bank evaluation of the Indonesian labour law had stated that 'the [Indonesian] workers are overly protected', and that 'the government should stay out of industrial disputes' (Jakarta Post 4 April 1996; see also World Bank 1996). This statement was released in an effort to overcome the increasing level of labour unrest, which in the World Bank's opinion was not favourable for business and investment. Partly forced by the financial problems it faced at that time, the Indonesian government responded to this 'warning' by introducing a new draft on Manpower Law in the parliament, designed to replace all previous labour laws and labour regulations. It later became Law No.25 of 1997, passed in October 1997. The new law came under strong criticism from many labour groups and NGOs for being anti-worker (YLBHI 1997). They argued that its provisions were just 'legalisation' of the New Order's labour practices. The law, which had been drafted and approved after secret meetings without sufficient consultation with unions and workers, was passed with many outstanding issues. Later, the law was postponed several times under pressure from the international community and the need to change the image inherited from the New Order.

The economic crisis that gripped Indonesia in 1997 simply accelerated this process. In 1998, the government formally started the 'labour law reform program' (see Suryomenggolo in this edition).

In August 1998, the Indonesian government welcomed the 'Direct Contact Mission' of the ILO whose purpose was to evaluate the Indonesian labour law and draft a program on labour law reform (ILO Jakarta Press Release 25 August 1998). According to one ILO Report, the labour law reform program sought to reformulate Indonesian labour laws 'with a view to modernising and making them more relevant to and in step with the changing times and requirements of a free market economy' (1999:19). Iftikhar Ahmed, the Director of the ILO Jakarta Office, confirmed this:

The ILO stands ready to provide technical assistance requested by the Government in redrafting its labour legislation... We will provide whatever support we can to help create a sound labour relations framework that will promote economic development while giving effect to ILO Conventions ratified by Indonesia. (ILO Jakarta, Press Release 28 August 1998)

By December 1998 the Labour Law Reform Program had become the formal working agenda of the Department of Manpower with the signing of a Letter of Intent between the Department of Manpower and the ILO, under which the ILO would provide technical assistance (ILO Jakarta, Press Release 23 December 1998).⁴ The process was to be funded by the US Department of Labour through the ILO/USA Declaration Project, which began in 2001. Under the program, which was designed to finish in August 2006 (www.usembassyjakarta.org n.d.), the government drafted three new laws: the Trade Union Law (No.21 of 2000), the Manpower Law (No.13 of 2003), and the Industrial Relations Dispute Settlement Law (No.2 of 2004). The main idea behind the reform was to make the Indonesian labour law system more flexible so as to favour business interests. As Bappenas (the National Development Planning Body) had noted, one crucial problem for the Indonesian economy was the high rate of unemployment. To tackle this problem, Bappenas argued, there should be a 'trade off between job security and job opportunities'.⁵ It is clear then, that 'economic development' in the context of 'free market economy' had become the dominant idea in labour law reform in Indonesia.

The first labour law passed after the fall of Suharto was the Trade Union Law No.21 of 2000. There are some improvements in this law compared to the previous ministerial-level regulations on trade unions. For example, it allows any group of ten workers to form a new trade union, and workers of one enterprise may associate with other workers in supporting industrial actions. The law does not use the word 'registration' but 'recording' to refer to the legal requirement for trade unions to inform the Department of Manpower and Transmigration of their existence. This is probably due to the fact that the word 'registration' was misused in the New Order era to deny registration and operation of free trade unions. The law, however, still limits trade unions rights. For instance, unions are still required to adopt Pancasila as their official ideology in order to be 'recorded' and thus be able to operate legally. Civil servants are still excluded in its provisions and their position is unclear,⁶ and the police and the military are explicitly forbidden to establish unions. This regulation is even extended to private security guards trained by the police, or in some cases the military, which also are forbidden to form unions based on a 'telegram letter' of the Head of National Police.

The second law enacted, Manpower Law No.13 of 2003, was intended as a substitute for the Manpower Law No.25 of 1997. It covers a number of labour issues, before, during and after the employment period. These issues range from regulation for working children to regulation of collective labour agreement negotiations concerning representatives of the unions. The law also includes a requirement to establish 'bipartite cooperation institutions' in enterprises employing 50 or more workers, and 'tripartite cooperation institutions' at the national, provincial, and district (kabupaten/kota) level. Moreover, it provides for the right to strike as a 'last resort', meaning that unions are required to attempt to reach a consensus in a bipartite forum before a mediator is called in to settle the conflict. If these efforts remain unsuccessful, a 'peaceful' and 'disciplined' strike is permissible, provided notice of the intention to strike is communicated to the Minister of Manpower in advance. One of the most important features about the Manpower Law is that it marked the intrusion of the concept of labour market flexibility into the labour law system. By legalising contractual and agency (outsourcing) labour, the law gave legal standing to the shift of risks associated with business fluctuations from employers onto workers, and therefore, diminished the notion of protection within the Indonesian labour law system. For workers, the new law brought insecurity, fluctuations in pay and unpredictability, whereas for the government it was a necessary as a trade off for increasing job opportunities (see Bappenas 2004).⁷ Although the practice of contractual workers and outsourcing was already occurring, the inclusion of the provisions into the law level provided an even stronger legal basis for more widespread outsourcing practices. As some have argued, the inclusion of provisions concerning contractual work and outsourcing directly attacked workers' bargaining power (see Tjandraningsih and Nugroho in this collection).

The third law, the Industrial Relations Dispute Settlement Law No.2 of 2004 essentially transfers the labour dispute settlement mechanism from the Regional and Central Labour Dispute Settlement Committees under the Department of Manpower to an Industrial Relations Court (see Mizuno in this collection). Under the law, the dispute settlement process is entirely subject to the procedures of the civil court. With the abolition of the Committees, the requirement that employers seek permission to dismiss workers under the Labour Dispute Settlement Law of 1957 was also abolished. Workers' and employers' organisations are accommodated through the introduction of the 'ad hoc judges' (associate judges) system, representing workers' and employers' interests.

Under these new laws, most grievances will first be handled in bipartite negotiations (see Article 106 of Law No.13 of 2003 and Article 3 Law No.2 of 2004). The creation of this alternative channel for individuals to redress their grievances tends to reduce the need for trade union representation (see Tjandra and Suryomenggolo 2004). Although the law covers disputes between unions and employers, unlike before, there is no clear obligation upon employers to recognise or bargain with a trade union. On the other hand, the introduction of an Industrial Relations Court may create more problems than solutions, due to corrupt judiciaries and lack of fairness in Indonesian civil courts (Tjandra 2003; see also Pompe 2004⁸). Moreover, the tendency in practice to use the 'pure' civil litigation procedures in the Industrial Relations Court further limits workers' access because of their lack of court litigation skills (see Tjandra 2007). As these provisions suggest, the right to strike is still limited in enterprises that serve the 'public interest' and/or enterprises 'whose types of activities will lead to the endangerment of human lives'. The law decrees that strikes shall be 'arranged in such a way so as not to disrupt public interests and/or endanger the safety of other people', a provision which in Indonesia's experience is likely to be applied in such a way as to constitute a complete prohibition of strikes. Meanwhile, as the

Pancasila ideology is still dominant in the law, although the possibility of differences in interests is much better recognised in post-New Order laws than those in the 1980s and 1990s, conflict by law is still seen as 'inappropriate', and thus tends to be avoided.⁹

Some unions, with assistance from labour lawyers at the Jakarta Legal Aid Institute,¹⁰ did try to use opportunities provided by Reformasi to challenge the current reform processes (see Suryomenggolo in this collection). In June 2003, 37 union federations filed a judicial review against Manpower Law No.13 of 2003 with the Constitutional Court of Indonesia. Their argument was that the law had violated the citizens' basic rights guaranteed by the 1945 Constitution through the flexibilisation, specifically the promotion of contract-based work as well as outsourcing, which has undermined Indonesian workers' livelihood. The hearings started in November 2003, and the Constitutional Judges reached a decision in October 2004. However, the result was not as they expected. The Constitutional Court overruled most of the unions' demands and only accepted some minor revisions to the law (www.turc.or.id). Two judges of the panel of nine judges wrote a dissenting opinion, arguing that the labour law reform through the Manpower Law No.13 of 2003 was 'unfriendly to humanity and offered less protection, especially towards labour' (see Constitutional Court Decision No.012/PUU-1/2003 on 28 October 2004). Nevertheless, most of the provisions of the law challenged by labour were maintained. Thus the labour law reform program formally succeeded in diminishing the notion of protection within the Indonesian labour law system, with the intrusion of the labour market flexibility concept.

Impact of the New Laws

Reformasi did bring many changes. Within the labour law context, it is now very easy for workers to form a union legally with only ten workers supporting it, and there are now almost 100 national union federations registered at the Department of Manpower, as well as numerous local and regional federations and small and independent unions in many places in the country. However, as we have seen above, this has been counteracted by the intrusion of the flexible labour market concept into the labour law system, which directly attacked unions. As many have argued in other contexts (see for example Bronstein 1997) labour reforms have been marked by a decline in unions' power, as more liberal and flexible labour markets are implemented. As noted in the Introduction, Caraway has argued that the Indonesian case is different because of the 'protective repression' character of labour relations system inherited from the New Order period, which was a 'blessing in disguise' for the Indonesian workers. According to Caraway, while the reform challenged the repressive aspects of the law, it maintained its protective elements, which then 'created a favorable starting point and a strategic edge for unions in the ensuing battles over labour reform' (2004:32). However, an analysis of the contents of the new labour laws shows that the protective elements are much weaker than Caraway suggests, because provisions promoting labour market flexibility limit their scope.

The Manpower Law limits contract-based employment to a period of no longer than 2 years, with an extension for no longer than one year. With regards to outsourcing, the law provided 'minimum requirements', that it must be separated from the core business, and limited to supporting operations. The law also rules that when such requirement is not fulfilled, the worker has to become a permanent employee. However, in practice, there are massive violations of the law. Since regional autonomy devolved responsibility for labour issues from the national to the district levels (*kabupaten/kotamadya*), the problems of weak labour inspection has been exacerbated, and unions are not in a position to demand that the conditions of the law be fulfilled.

An investigation by the Forum Pendamping Buruh Nasional (FPBN) and Komite Buruh Cisdane (KBC) in 2003¹¹ demonstrated the impact of the implementation of the flexible labour market concept on workers and unions. Within only a few months of the implementation of the Manpower Law, in the regions they investigated (Serang, Tangerang and Jakarta) there had been a significant increase in the number of contract workers, while the number of permanent workers had fallen drastically. FPBN and KBC also found that the practice of unfair dismissal was widespread, with dismissals often combined with intimidation.¹² Another recent study conducted by Akatiga, Trade Union Rights Centre, and LabSosio UI (2006) shows that the direct consequence of the implementation of the flexible labour market for workers is the widespread phenomenon of 'indecent work' in the two regions studied (Tangerang Banten province and Pasuruan East Java province). With no job security, workers face indefinite on-off contracts of employment, with salaries often lower than legally-mandated minimum wage.

There is strong connection between the growing numbers of contract and agency labour and the deterioration of unions' collective power (see Mather 2004). Evidence of the impact of the flexible labour market policy upon unions is perhaps best illustrated by the case of the National Workers Union Serikat Pekerja Nasional (SPN), as described by Darlina Sihombing, an activist from that union. She explained that the growing numbers of contractual and agency (outsourcing) workers had significantly decreased the membership of her union, and impacted upon the ability of the union to function properly. Within only three years, between 2003 and 2006, SPN lost at least 150,000 members, or one-third of its total membership. No new collective labour agreements were established in this time, since any time the union initiated bargaining procedures, companies simply closed the factory.

Conclusion

As the examples described above suggest, the legalisation of contract and agency labour under the law has increased the insecurity and unpredictability experienced by workers and undermined their opportunities for permanency. As permanent workers represent the core constituency of unions, this in turn has limited unions' opportunities to develop their membership and defend workers' rights in the factory as the SPN case demonstrates. In short, flexibility has become the greatest obstacle for the future development of strong unionism in Indonesia. This suggests that Caraway's argument, that Indonesian workers unions were able to take advantage of the labour law reform process underestimated the impact of the flexible labour market concept. A closer examination of the provisions of the laws and workers' experiences under them, suggests that the implementation of the 'protective aspects' of the labour law inherited from the New Order period, preserved under the reform process, is limited by the high degree of flexibility built into the new labour law framework.

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Notes

- 1 By the mid-1950s, the union movement had a membership of around 2 million in 13 different federations. Union density (the share of employees in unions) reached around 20 per cent, which was high by developing country standards at that time. Most unions had close links with the political parties due to the political climate at that time, and labour unions had become effective tools to gain people's support. The largest union federation was SOBSI (*Sentral Organisasi Buruh Seluruh Indonesia*, All-Indonesia Central Labour Organisation), a left-wing union with close ties to the PKI (*Partai Komunis Indonesia*, Indonesian Communist Party), which claimed half of the country's workers as its members (Manning 1998: 203). See Ingleson (2001), and Elliott (1997) for a full-length study of the development of unions at the time.
- 2 A five-day, eight-hour working week was offered as an alternative. As Manning has noted, the 40-hour working week was shorter than the common prescription in many countries in the region at that time, which was either 44 or 48 hours (1998: 202).
- 3 However, Law No.22 of 1957 incorporated many of the features of the 1951 Emergency Law. The main differences were on the tripartite structures of the committees, which consisted of government officials and unions' and employers' representatives.
- 4 On 23 December 1998, the ILO and the Department of Manpower, witnessed by President Habibie, signed a Letter of Intent regarding the commitment of the Indonesia government to ratify the remaining three core ILO Conventions (and made Indonesia the first country in Asia-Pacific to ratify all eight of the ILO's core conventions), ILO technical assistance; and the establishment of 'the Tripartite Indonesian Task Force' as follow-up to the agreement. As noted by Iftikhar Ahmed, Director of ILO Jakarta Office, 'the immediate ILO technical assistance [was to] focus on national legislation on labour law reform, awareness raising on the fundamental human rights conventions of the ILO and their compliance in practice'.
- 5 The study is titled *Labour Market Analysis: Employment Friendly Labour Policy (2003)*, or the 'White Book' as they preferred to call it.
- 6 State Owned Enterprises (BUMN) employees have been much freer to organise, as seen in the establishment of BUMN Union in 2004 which around 92 of 164 BUMN in all Indonesia belong to this union (*Tempo Interaktif* 17 Juni 2004). The teachers, many of whom are civil servants united in the United Teachers of the Republic of Indonesia (PGRI), however, still face difficulties for their union to be notified by the Department of Manpower office, since the officials consider them not to be 'workers' (*Pikiran Rakyat* 4 March 2005).
- 7 As seen in the survey result report published in the early 2004 by the International Finance Cooperation, a private sector arm of the World Bank, there was strong consensus among the

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- private sector in Indonesia in relations with the Manpower Law, that they demanded more flexibility within the industrial relations in Indonesia. (Cited in Prasetyantoko 2004).
- 8 Pompe argues that the newly established Commercial Court had in fact helped create unemployment in Indonesia as a result of its failure to provide reliable services due to its inefficiency and ineffectiveness because of corruption. Interestingly, Pompe was also one of the main drafters of the Commercial Court Law, as part of his job as the IMF Resident Legal Advisor in Jakarta, Indonesia. Based on the information provided by those who participated in the formulation of Manpower Law No.13 of 2003, the Commercial Court was their model when discussing the Industrial Relations Court (see Suryomenggolo 2004).
 - 9 The very first sentence in the preamble of Law No.2 of 2004 on Industrial Relations Dispute Settlement is: 'That harmonious, dynamic, and fair industrial relations need to be put into practice in an optimal manner in accordance with Pancasila values'.
 - 10 The lawyers, all from the Labour Division of the Legal Aid Institute of Jakarta, facilitated the initial meetings of the plan to file the review, collected signatures for the file, drafted the legal argument and filed the case to the Constitutional Court, as well as representing the union leaders at the Court's hearings.
 - 11 *Forum Pendamping Buruh Nasional* in Jakarta is a network organisation for workers' facilitators that have links with the Catholic church of Indonesia. In 2007 FPBN has at least 11 organisations affiliated from 11 dioceses around Indonesia. *Komite Buruh Cisadane* is an independent workers' forum based in Tangerang, Banten Province.
 - 12 TURC has reported that many dismissals were closely related to the anti-union sentiment of the employers, so that dismissal for the sake of efficiency was in fact a camouflage for the cleansing of the union activists from the company (see Saptorini and Tjandra 2005).