



**EXAMPLES OF
SOCIAL DIALOGUE
IN INDONESIA
(2004-15) AND ITS
CONTRIBUTION TO
DEVELOPMENT**

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Labor Institute Indonesia



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ACRONYMS

APINDO	Asosiasi Pengusaha Indonesia (Indonesian Employers' Association)
CLA	Collective Labour Agreement
IJP	Indonesia Job Pact
DWCP	Decent Work Country Program
Bappenas	Badan Perencanaan Pembangunan Nasional (National Development Planning Board)
GDP	Gross Domestic Product
PPP	Purchasing Power Parity
ASEAN	Association of Southeast Asian Nations
BPS	Badan Pusat Statistik (Central Statistic Board)
NTB	National Tripartite Body
NWC	National Wage Council
NOSHC	National Occupational Safety and Health Council
PHIJSK	Pembinaan Hubungan Industrial dan Jaminan Sosial Tenagakerja (Development of industrial relations and Social security)
KADIN	Kamar Dagang dan Industri (Indonesian Chamber of Commerce)
FDI	Foreign Direct Investment
CR	Company Regulation
CBA	Collective Bargaining Agreement
DJSN	Dewan Jaminan Sosial Nasional (National Social Security Board)
BPJS	Badan penyelenggara Jaminan Sosial (Social Security Provider)
IRC	Industrial Relations Court
CSO	Civil Society Organization
NGO	Non-Governmental Organization
KSBSI	Konfederasi Serikat Buruh Sejahtera Indonesia (the Confederation of Indonesia Prosperity Trade Union)
KSPSI	Konfederasi Serikat Pekerja Seluruh Indonesia (the Confederation of All Indonesia workers' Union)
KSPI	Konfederasi Serikat Pekerja Indonesia (the Confederation of Indonesian Workers' Union)
FSPSI	Federasi Serikat Pekerja Seluruh Indonesia (Federation of All Indonesia Workers' Union)
SARBUMUSI	Serikat Buruh Muslim Indonesia (All Indonesia Muslim workers' Union)

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FOREWORD

This study covers the development of social dialogue in Indonesia from the end of the Suharto regime, in 1998, until 2015 and more specifically during the period that goes from 2004 to 2015.

It is aimed at analysing specific examples of social dialogue taking place in the period in question, and assessing how the results of this dialogue amongst social partners has contributed to socio-economic development in Indonesia. The purpose of the analysis is also to highlight the importance of the “conditions” in which social dialogue can flourish and can be effective for development. These conditions are based on the freedom of association, collective bargaining, the willingness of social partners to engage in dialogue, and the supporting role of the State. The latter are “enabling conditions” for social dialogue to be relevant for socio-economic development in every country.

The current study focuses its analysis on specific positive past experiences. However, it has to be noted that unfortunately the situation in Indonesia has recently changed dramatically. The country is experiencing a severe drawback in terms of respect of fundamental labour rights, resulting in a disruption of social dialogue. The International Labour Organisation’s (ILO) Convention No. 87 on Freedom of Association and Protection of the Right to Organise was ratified by Indonesia straight after the fall of the Suharto regime, and important progress was

made in the country in the years following the transition period. However, these rights are currently under threat as illustrated by the arbitrary arrests and detention of trade unionists, imprisonment and fines issued to workers taking part in peaceful strikes and an inadequate legislation on freedom of association for civil servants.¹

Other setbacks to social dialogue, over the last year, are those related to the minimum wage setting process. Until October 2015, minimum wages were negotiated through social dialogue. This changed following the introduction of a new law to calculate minimum wages through a formula based on inflation and GDP growth. The new law has undermined negotiations, rendering them superfluous, and threatens the remarkable progress achieved in the past years. It has also led to a number of protest actions by the Indonesian unions in a struggle to reinstall dialogue.²

This of course is undermining the positive achievements previously reached, putting at serious risk the whole developmental and democratic process in the country.

This study has therefore to be taken in its specific context as a snapshot of what social dialogue can achieve with the good will of its actors.

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1 See the Provisional Record of the Report of the Committee on the Application of Standards of the 105th Session of the International Labour Conference (2016) pp.50-55 http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_489124.pdf

2 The International Trade Union Confederation has recurrently manifested its support to the struggle of the Indonesian workers and has continuously denounced violations of their rights, reported in its Survey of Violations of Trade Union Rights: <http://survey.ituc-csi.org/Indonesia.html#tabs-3> As a result of the deterioration of rights, Indonesia has been downgraded, in the International Trade Union Confederation’s Survey of Violations of Trade Union Rights, from a rating of 4, which implies a situation of systematic violations of rights to a rating of 5, implying no guarantee of rights

INTRODUCTION

How constructive social dialogue can contribute to decent work standards in Indonesia

Solving social problems through dialogue has a long history in Indonesia. The traditional decision-making approach known as “musyawarah and mufakat” (deliberation and consensus) is a type of social dialogue which has been employed in Indonesia, including in determining socio-economic policy. Furthermore, consensual decision-making provides an institutional basis for democratic stability by giving all players an equal opportunity to express their interests.

The principle of making decisions through consensual agreement is enshrined in Indonesian ideology and expressly stated in the Indonesian constitution. The constitution guarantees a number of rights relevant to labour regulations: the right of every citizen to life and maintenance, to have employment and a decent life; the right to develop and to an education, every child has the right to live, grow and develop, and has the right to protection against violation and discrimination. The constitution further protects the freedom of assembly and expression.

This historical and legal background has contributed to the acceptance of the concept of social dialogue in Indonesia, particularly at a time when it was facing an economic and political crisis. The social dialogue which took place during the Asian economic crisis in 1998 has proven to be an effective tool to resolve social and labour unrest. Less than a month after the fall of the military dictator-

ship, under president Habibie, Indonesia agreed to ratify ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise, and further ratified all ILO core conventions.³

The proceedings of ratification passed through a Tripartite Task Force, chaired by the Secretary General of the Ministry of Manpower, Suwanto. It had 36 members, including representatives from various ministries (including Manpower, Foreign Affairs, Home Affairs, Industry and Trade, Information, State/Cabinet Secretariat, Women’s Affairs, Promotion of State Enterprises, Justice, Education and Culture, Defense, and Security), employers (APINDO) and trade unions (including FSPSI, SPSI Reformasi, SBSI, PPMI, FSBDSI, SARBUMUSI, GASPERMINDO, KPNI and KBM).

The role of the task force was to:

- prepare the ratification of the three remaining fundamental ILO conventions;
- socialise the seven fundamental Conventions;⁴
- make an inventory of regulations not yet in line with the seven fundamental ILO conventions.

Furthermore, the intensification of tripartite cooperation between the government and the social partners stimulated the process of collective bargaining between unions and employers, which later contributed to an acceleration of economic recovery. Since 1998, global economic crises have

3 Initially, Indonesia had ratified four conventions, namely convention No. 29 on Forced or Compulsory Labour in 1930, convention No. 87 on Freedom of Association and Protection of the Right to Organise, convention No. 98 on the application of the principles of the Right to Organise and to Bargain Collectively in 1949 and convention No. 100 on Equal Remuneration for men and women workers for work of equal value in 1951. After the reform era, Indonesia ratified the remaining core conventions, such as No. 105, on the Abolition of Forced Labour, 1957, No. 111, on Discrimination (Employment and Occupation), 1958; and No. 138, on Minimum Age, 1973 by June 1999. The last convention ratified was convention No. 182 on the Elimination of the Worst Forms of Child Labour, 1999, in 2000.

4 Initially, there were seven core ILO conventions, but in 1999 a new convention was added, namely convention No. 182 on the Elimination of the Worst Forms of Child Labour. The eight ILO Conventions have been identified by the ILO’s governing body as being fundamental to the rights of human beings at work, irrespective of levels of development of individual member states. These rights are a precondition for all the others in that they provide for the necessary implements to strive for the improvement of individual and collective working conditions.

hampered the development of the country, but despite some challenges to the maintenance of social dialogue during this period, Indonesia was able to come up with a common response.

This was exemplified by the signature of the **Indonesia Job Pact (IJP)** by the representatives of the tripartite bodies in the national tripartite Cooperation Institution in 2011. The IJP is an international commitment adopted by the International Labour Conference in June 2009, which provides a framework designed to guide national and international policies and to stimulate economic recovery.

Another social dialogue breakthrough was the formulation of **Decent Work Country Programmes (DWCP)** over two terms, between 2006-2010 and 2012-2015. The DWCP were drafted through a series of consultations to refine and update the IJP priorities. This process involved high ranking government officials at the Ministry of Manpower and Transmigration and the National Development Planning Agency (Bappenas), members of the Em-

ployers' Association (APINDO), and leaders of the trade union confederation.

A further social dialogue achievement, although currently under threat, was the significant **increase in minimum wages**. All major industrial cities increased minimum wages above 100% over the past three years with the objective of gradually shifting the economy from low cost labour to a skilled workforce.

Finally, a **reform of social security law** in 2004 was achieved through social dialogue. This was a success story of how Indonesian social dialogue, in a context of global economic crisis, contributed to the expansion of social security to a wider population and, in so doing, acted as an autonomic stabiliser.

The above experiences demonstrate the effectiveness of social dialogue to counter economic crises and avoid prolonged social disputes. The following chapters will elaborate on the examples outlined above.

1. INDONESIA AS A NEWLY EMERGING ECONOMIC POWER: THE ECONOMIC AND EMPLOYMENT SITUATION

The Asian Financial crisis of the late 1990s was one of the greatest in Indonesian history. Starting out as a financial crisis it quickly expanded to also become a social and political one, which marked the end of Suharto's rule. The rapid change in the political and social situation did however lead the country to achieve remarkable progress in human rights and democratization in all aspects of people's lives. With regards to labour, the country put an end to the trade union monopoly system, expanding workers' rights to organise and bargain

collectively through the ratification of ILO Convention No. 87/1948 on Freedom of Association and Protection of the Right to Organise.

Indonesia is known as the fourth most populous country in the world, with a population of nearly 240 million. The nation had a GDP of \$868.3 billion in 2013 according to the World Bank. It ranked as the 16th largest economy in the world by nominal GDP, and 102nd largest GDP per capita based on purchasing power parity (PPP) in 2013. It is the largest economy in Southeast Asia and is considered an emerging market and a newly industrialised country. Indonesia's presence is increasingly felt at the international level, as a member of the G20 and as a driving force within the Association of Southeast Asian Nations (ASEAN).

According to the Central Statistics Board of Indonesia (BPS), February 2015 data showed that there were 7.45 million unemployed out of a total workforce of 128.3 million. This means that the unemployment rate stood at 5.81%. However, only 38% of Indonesians were employed in the formal sector, while 62% of people work in the informal economy, often for low pay, with hazardous working conditions and no social security.

Thanks to its abundant natural resources and relative self-sufficiency, Indonesia largely avoided the consequences of the global recession in 2008.

However, its economy has been experiencing a slowdown of its growth for the last four years. Agriculture still makes up an enormous portion of the economy, accounting for 14.3% of GDP in 2013 – much higher than in most industrialised nations. Industry now accounts for 46.6% of the economy and services for 39.1%. The nation still battles problems connected to the informal economy, inequality, and inflation which hamper its growth. Foreign investment however has recently grown. The Indonesian economy is expected to expand by 5.1% in 2015 and 5.7% by the end of 2016.

2. SOCIAL DIALOGUE: INSTITUTIONS AND ACTORS

2.1. ACTORS OF SOCIAL DIALOGUE

Government

The primary state body involved in social dialogue is the Ministry of Manpower.

The role of the Ministry of Manpower is divided into four tasks:

- regulator – issuing regulations, including ministerial decrees, after consultation with relevant parties;
- facilitator – creating structures for social dialogue and mechanisms for dispute resolution;
- mediator – providing official mediation in the settlement of disputes; and
- patron – ensuring a supply of efficient and capable human resources.

A number of other ministries also take part in the tripartite structures, holding one seat on the National Tripartite Council, such as the Department of Home Affairs, the Department of Trade and the Department of Industry.

Employers' organizations

In contrast to the multiplicity of unions, there is only one employers' organization: the Indonesian Employers' Association, known as APINDO. Independent industry associations – in for example the textile, shoe, garment, and toy industries – are beginning to speak up on labour issues. The Indonesian Chamber of Commerce (KADIN) also deals with economic issues and general interests of employers.

Following a memorandum of understanding between the Chamber of Commerce and APINDO, it was determined that APINDO alone would deal with labour relations and industrial relations. Overall, APINDO is recognised as not being highly representative of employers in Indonesia, as only 10,000 of the 179,000 registered employers in Indonesia – less than 6% of all employers – are members of APINDO.⁵

⁵ Despite its shortcomings, APINDO remains the only organization representing employers which deals with labour policy. In fact, many of the larger Indonesian employers are members of APINDO, and the association provides them with considerable help in dealing with labour issues. On the other hand, medium and small enterprises are less likely to be members of APINDO. Likewise, only a few foreign direct investors are members of APINDO.

Trade unions

With the ratification of ILO Convention No. 87 on the Freedom of Association, a new chapter was opened for organizations focusing on labour in Indonesia. The ratification laid down a solid foundation for the democratization of the workers' movement.

As one of the reform steps in the area of industrial relations, and in accordance with the ratification of the ILO Convention, the Indonesian government enacted Act No. 21 in the year 2000 concerning Workers and Labour Unions. The act states that a trade union can be established in any company by a minimum of ten workers who work in the said company. The act provides for three levels of union organization: enterprise, federation and confederation. Workers have the right to form and become members of a workers' or labour union.

To date, there are 94 trade unions at national level, with a total of 3.4 million members. The composition of the national tripartite dialogue is as follows: 30 government representatives, 15 employers' organizations representatives, and 15 union representatives. The trade unions sitting in the national tripartite body at present are the Confederation of SPSP (KSP), Confederation of KSP, Confederation of KSBSI, Federation of Sarbumusi, Federation of SPN, Federation of plantation and the Federation of state enterprises.

Before the dictatorship (1945-1966), trade union affiliation stood at 18 million, but this was reduced when the military regime forced union merger, establishing a yellow union. After the fall of the dictatorship, trade unions represented 12.5 million workers, which was further reduced in subsequent years as workers were still scared to join unions after a long period of repression.

2.2 SOCIAL DIALOGUE AT THE TRIPARTITE LEVEL

Tripartite consultations are generally held at national, provincial and district levels. They may also take place on a sectoral basis and in institutions such as the Industrial Relations Dispute Settlement Court, the Wage Council, the Employment Council, the Occupational Safety and Health Council, the Training Council, the Productivity Council, etc. In every province, region and district in Indonesia, tripartite institutions have been established to deal with industrial relations issues. At the regional level there are usually tripartite institutions for employment, minimum wages and occupational safety and health. The organizational structure of tripartite institutions is flexible and established in accordance with their specific characteristics and the regional requirements. The number of participants in tripartite institutions in provinces also depends on the local needs.

National Tripartite Body

The National Tripartite Body (NTB) is composed of 45 representatives, with equal numbers from trade unions, the employers' association and the government.

National Wage Council

The National Wage Council (NWC) is composed of representatives of the employers, trade unions and of related government ministries, as well as experts from universities and research institutions. The total number of people in this body is 23, with the following composition: 10 from the government, 5 from the unions, 5 from the employers and 3 independent experts. The main function of the NWC is to advise the Minister of Manpower on wage policy and to review the wage components.

National Occupational Safety and Health Council

The National Occupational Safety and Health Council (NOSHC) consists of employer, trade union, government ministry representatives as well as experts from universities and research institutions. Its composition is similar to that of other tripartite bodies: 20 representatives from various governmental institutions, 10 from unions and 10 from the employers. The main function of the NOSHC is to advise the Minister of Manpower in the field of occupational safety and health. The NOSHC also facilitates safety audits and conducts a safety campaign.

Tripartite bodies at the regional level

Since 2000, with the implementation of the Autonomy Law, the functions of the Department of Labour are incorporated into the structure of provincial and district governments. There is no uniform structure of tripartite dialogue in all provinces and districts – it depends on the local needs of each local government. In most cases however, there are three tripartite bodies: the wages body, the occupational safety and health body, and the general tripartite body.

Number of tripartite cooperation institutions

NO.	Year	TRIPARTITE	
		PROVINCES	CITY/REGION
1.	2013	33	301
2.	2014	33	323

January-April 2015 Dit. PHUSK

2.3 SOCIAL DIALOGUE AT ENTERPRISE LEVEL

As stipulated by law, Collective Labour Agreements (CLA) are formulated based on the negotiation between the employer and one or more registered trade unions in the company. The negotiation shall be conducted in good faith and at the free will and good intention of both parties. Every employer should agree to the trade union request to negotiate a CLA provided that the trade union has been registered at the government office of Manpower Service and is supported by over 50 % of the workers. If there is more than one trade union in a company, individual unions must have more than 50 % of the workers as members in order to be eligible to conduct negotiations. If the members of the unions are less than 50% of the workers, individual unions must seek a coalition with other workers' unions. If needed, union membership can be verified by a committee consisting of the representatives of employers and of the unions. Negotiation for a CLA is conducted by a negotiation team consisting of not more than nine representatives of both the employers and the trade unions. Negotiations start after agreeing to the negotiation rules.

3. EXAMPLES ON THE CONTRIBUTION OF SOCIAL DIALOGUE TO DECENT WORK IN INDONESIA

Although social dialogue practices are often confronted to challenges such as lack of trust, frequent strikes, disagreement in regulations, etc., it is obvious that the role of social dialogue is important to narrow down the difference in position of the respective parties, to reach a solution and boost sound industrial peace and harmony. Four significant success stories on how social dialogue impacts the formulation of employment policy in Indonesia are detailed below.

3.1. FORMULATION OF THE INDONESIA DECENT WORK COUNTRY PROGRAMMES (DWCP) – 2006-2015

Indonesia is the first country in Asia that was able to rapidly formulate a Decent Work Country Programme (DWCP) through social dialogue at the national level. Furthermore, Indonesia has succeeded

in formulating a DWCP twice, first for 2006-2010 and then for 2012-2015. The main objective of the DWCPs is to promote decent work as a key component of national development strategies. Tripartism and social dialogue have been central to planning and implementing the programme. The contents of DWCPs have been organised around a few priorities and outcomes identified by the social partners. Through the elaboration of a DWCP, national constituents jointly undertook a situation and needs analysis and set out priorities for achieving decent work standards in the country.

In the 2012-2015 DWCP, Indonesia reaffirmed employment creation, industrial relations and social protection as its priority areas for action, reflecting the country's current socio-economic context and national priorities.⁶

The cross-cutting themes within the program were gender equality, tripartism and social dialogue. International labour standards were mainstreamed throughout the DWCP priorities. Participation of the tripartite constituents through social dialogue was encouraged at all stages.

CASE STUDY: USING "PROTOCOL ON FOA" FOR SOUND BIPARTITE RELATIONS BETWEEN INTERNATIONAL SHOE FACTORIES AND TRADE UNIONS.

A special case of bipartite negotiation, dubbed the Protocol on Freedom of Association (FoA protocol), took place within the sport shoes industry, between management and existing unions. The protocol contributed to industrial conflict reduction and to improving relations between management and unions. The Freedom of Association Protocol supports the rights of women and men who work in production for global brands in Indonesia to join unions and bargain collectively for better working conditions. This protocol was signed on 7 June 2011 by Indonesian trade unions, employers and multinational sportswear brands including Adidas, Nike, Puma, Pentland, New Balance and Asics. The Freedom of Association protocol gives

⁶ See Indonesia Decent Work Country Program at: www.ilo.org/jakarta

companies a practical set of guidelines on how to uphold and respect the rights of workers to unify to achieve decent pay and better working conditions. Play Fair calls on all footwear and garment brands sourcing from Indonesia to endorse and sign the protocol. The unions that signed the protocol – Garteks KSBSI, KASBI, SPN, GSBI – worked together for over 18 months on its drafting and negotiation. In December 2011, the SPTSK KSPSI union also became a signatory. Collectively, these unions represent over 700,000 factory workers in Indonesia. The unions continue to work together to monitor implementation of the protocol and ensure factory workers can access its benefits.

3.2. THE ACHIEVEMENTS OF SOCIAL DIALOGUE IN INCREASING MINIMUM WAGES – 2012-2015

Minimum wages are set every year at the provincial and local level and are usually followed up by bipartite negotiations at enterprise level to set wages for workers with over one year of work service.⁷

Traditionally, the government – particularly during the dictatorial regime – used very low minimum wages to attract foreign direct investment. It is only recently that trade unions have been able to lobby the government to change this trend, increasing the minimum wage in almost all cities. The minimum wage increases also applied at sectoral level, 5% higher than provincial minimum wages.

Members of tripartite wage bodies include representatives of local government, local universities, employers, and trade unions. Up until October 2015, the mechanism of setting minimum wages involved conducting a market price survey, discussing it within the body and providing recommendations to the governor or local government to determine the new minimum wages. In the last four years (2012-2015) unions were able to increase minimum wages by nearly 100%.⁸ This is the highest minimum wage increase obtained through social dialogue in the last 40 years. No comparable increases have been experienced in the ASEAN region. This situation changed in October 2015, when the government introduced a new regulation on wage determination, to handle minimum wage adjustments through an automatic calculation on the basis of an inflation/GDP formula, thus leaving social dialogue out of the process.

Level of Minimum Wage, 2012-2015, in Rupiah Currency

No	Region/Province	2012	2013	2014	2015
1	Jakarta	1,529,150	2,200,000	2,441,301	2,700,000
2	Batam	1,402,000	2,040,000	2,422,092	2,685,302
3	Bogor	1,174,200	2,002,000	2,352,350	2,711,000
4	Bekasi	1,849,000	2,100,000	2,441,954	2,840,000
5	Tangerang	1,529,000	2,203,000	2,442,000	2,730,000

⁷ Since 1970, Indonesia has used minimum wages as the basis of the wage for an unmarried worker with under one year of work service.

⁸ In 2016, the minimum wage in Jakarta reached RP 3,1 million (equal to US\$ 226).

3.3. THE ACHIEVEMENTS OF SOCIAL DIALOGUE IN REFORMING SOCIAL SECURITY LAWS 1997-2004

Millions of workers from all over Indonesia were involved in the unions' struggles to reform the social security law. A large number of rallies, meetings, and lobbying activities were organised.

As a result, in what many identify as a milestone for Indonesia's labour movement, trade unions were placed on the tripartite supervisory body in charge of implementing the social security system. Through their participation, the unions have access to a daily formal information channel to make sure that the system is run as effectively as possible.

Development of social security for all

Prior to the 1997-98 Asian economic crisis, the lack of formal social protection for the majority of the population had not been a political priority for Indonesian governments, despite the country's constitution providing for the development of social security coverage for the population. High rates of economic growth during the majority of the period of the Suharto regime had provided expanded economic opportunities for many people. The issue of social security had been put aside, apart from the expansion of contributory social insurance for part of the population engaged in the formal economy. Even in the formal economy, coverage was partial, because many small enterprises were either not legally required to or simply did not enroll their employees in social insurance schemes.

The impact of the 1997-98 Asian economic crisis on Indonesia was severe. Output dropped an estimated 13.7% in 1998, and it took four or five years for total output to recover to pre-crisis levels.

Unemployment rose sharply, and had continued its upwards trend, exceeding 10 million, or nearly 10% of the labour force, by 2004. Involuntary under-employment involved a further 13% of the labour force. Many business enterprises collapsed, and poverty levels rose sharply. The longer-term downwards trend in the national estimate of poverty reversed, and evidence of hardship was multiplied. Many former formal sector employees who lost their jobs withdrew their retirement fund balances from Jamsostek⁹ to cover income deficiencies. Many displaced workers returned to rural villages or sought to set up micro businesses in the informal economy. Others moved abroad to seek employment.

Faced with a poverty and livelihood crisis, the government moved to set up a variety of social assistance schemes which were collectively known as the Social Safety Net. Initially much of the cost was funded by external assistance and loans. Subsequently, the costs were met from the government budget, particularly from funds redeployed by reducing the fuel price subsidies. Also associated with the Social Safety Net program were a number of other initiatives, including subsidised employment schemes, grants to schools, and rural development grants.

As of 2000, the Indonesian economy resumed a moderate expansion path, with a real GDP growth rate of 4 to 5% per year. However, these growth rates have not been sufficient to absorb the growing labour force. Unemployment has trended upwards, and is now at nearly 10% of the labour force, which is twice the pre-crisis level. For a significant part of the recovery period, there has been a marked shift from formal to informal employment.

⁹ Jamsostek is PT. Jaminan Sosial Tenaga Kerja/The Workers Social Security Programs (WSSP) is a mandatory scheme under the 1992 Law No. 3 to protect workers against occupational accidents, premature death, sickness and old age. The WSSP called "Jaminan Sosial Tenagakerja" (Jamsostek) provides workers and their families with occupational accident insurance, primary health insurance, death benefits, and old age allowance.

Challenges to social security in Indonesia prior to the reform of the system in 2004

The analysis of the state of social security in Indonesia demonstrated a number of key challenges:

(1) Limited coverage: Lack of adequate social security represents one of the greatest challenges facing Indonesia. Social security coverage is limited to a small fraction of workers in the formal employment sector; a large majority of workers in the informal economy are left outside the scope of the system. Currently, the safety net, if existent at all, is provided by extended family and communities. Across society, this leads to enhanced poverty, ill health and mortality levels.

(2) Limited scope and low level of benefits: The scope and level of social security benefits are inadequate. While civil servants and members of the armed forces enjoy a full package of social benefits, private sector employees can only access a limited array, with benefits such as maternity and unemployment pay being under employers' discretion. Furthermore, the level of benefits provided by the existing schemes is not sufficient to ensure adequate protection for workers and their families.

(3) Problems with legal status and governance: Poor governance poses a major problem as social security organizations suffer from inefficiency, operational difficulties and investment failure. Social security organizations in Indonesia are run by profit-oriented, state-owned, limited-liability companies exempt from audits. As the sole shareholder, part of the contributions and income from investment is paid as dividends to the government. Furthermore, as inspection to social security organizations is not made, effective enforcement of the social security laws is inhibited.

(4) Lack of policy coordination: While the National Social Security System law is a major milestone in the development of a comprehensive social security system, its implementation faces significant delays. The fragmented responsibility for the different elements of the present system, spread between different ministries and public organizations, has resulted in policy inconsistency as well as uncertainty about the availability of funding budget to cover medical care for the entire population. A greater policy coherence between the central and local levels of governance must therefore be developed.¹⁰

Mapping these challenges encouraged Indonesia to carry out a mayor reform of social security, often praised as a remarkable achievement of social dialogue, at the beginning of the 2000s. Despite the global economic crisis affecting Indonesia, the reforms continued, with the government pursuing its path of investing in social welfare projects. As Indonesia relies on consumption for most of its economic growth, it was believed that the population should continue to have purchasing power to keep the economy running. As a result, Indonesia's economic growth remained relatively high (7%) at the time of the global economic crisis.

The reform was pursued through social dialogue, with the social partners striving for an extension of health coverage to the entire population, adding a new pension scheme for private workers and extending social security to informal workers. Since its amendment in 2002, the Indonesian Constitution recognises the right to social security for all and the responsibility of the government in the development of social security policy. Though existing social protection schemes tend to be fragmented and scattered, progress towards a more comprehensive provision of social protection coverage is finally taking place.

¹⁰ See: *International Labour Organization "Social Security in Indonesia: Advancing the Development Agenda" Jakarta, International Labour Organization 2008.*

In 2004, Indonesia introduced the National Social Security Law which mandates the extension of social security coverage to the whole population. It relates specifically to health, work injuries, old age, and death of the breadwinner and introduces non-contributory schemes for the poor, contributory schemes for the self-employed (within the informal economy) and statutory social security schemes for workers within the formal employment sector.

The law elaborating the implementation of the National Social Security System, plans for universal health insurance coverage to commence in July 2014, while work injury, old age, and death insurance are anticipated to start in July 2015. The Social Health Insurance Provider is officially in operation since 1 January 2014. Health Insurance coverage, through contributory and non-contributory schemes, is expected to gradually be extended to reach the whole population by 2019.

Until the National Social Security System is fully operational, the social protection system principally comprises statutory social security schemes for formal workers, and a tax-financed social assistance system (public welfare) as part of a broader set of antipoverty programs and government subsidies. Alongside the development of the National Social Security System, an extension to the social assistance system is being put in place that aims to improve coverage among the poorest and most vulnerable. Various national and local-level social protection programs for different target groups exist in the country.

3.4. EXTENSION OF SOCIAL SECURITY TO WORKERS IN THE INFORMAL ECONOMY (2006-2010)

There are around 70 million informal workers in Indonesia. Meanwhile, the number of active formal workers contributing to social security in 2013 was only 17 million. This number is still far below the total of 44 million formal workers. However, since the new law foresees a number of fines for enterprises that do not comply, it is expected that the situation will improve in the coming years.

The Jamsostek pilot program for informal economy workers launched in 2006 offers benefits in four areas: health, work injury, death, and old age. The total membership amounts to approximately 400,000 persons, but since members can enter and exit the program at any time, the number of members at a given point in time varies widely. The program targets informal economy workers earning at least the minimum wage, which amounts to approximately US\$ 93 per month (the exact amount varies between provinces). The contribution for health care benefits is set at 3% of income for workers without dependents and 6% of income for workers with dependents.

However, it was found that limited administrative and human resource capacities along with workers' lack of awareness or inability to pay contributions on a regular basis have kept participation rates at a low level (see report of Jamsostek, 2010). The characteristics of jobs in the informal economy also make registration, compliance with payment of contributions and record keeping challenging. There is a need to further explore payment mechanisms and administrative methods that are more adapted to the constraints of informal economy workers as well as to design a benefit package that is more adapted to their needs.

4. SOCIAL DIALOGUE CHALLENGES DURING THE PERIOD OF REFORMS

From the institutional point of view, important challenges to social dialogue in Indonesia during the described reforms period also came from the following considerations:

1. *The majority of Indonesian enterprises are small or medium-sized enterprises (SMEs):* Most SMEs have less than ten employees, a fact which places constraints on the creation and development of unions. For instance, trade unions can only register in enterprises if they have a minimum membership of 10 workers.

Number of enterprises in Indonesia till March 2015¹¹

Year	Number of enterprises	Small	Middle	Large
2014	274,491	186,405	56,983	31,403
2015	221,161	150,460	48,030	22,665

Source: Directorate General of Ministry of Manpower

2. Prolonged Industrial conflict resolution

As certain labour conflict resolutions can take over four years, employers prefer to take legal action instead of negotiating, which is not conducive to the development of social dialogue. This might be due to the fact that it is better to look for quick solutions instead of facing prolonged uncertainty.

Number of strikes 2013-2015

NO	Year	Number of cases	Workers involved
1	2013	239	32,209 persons
2	2014	193	48,212 persons
3	2015	25	

Source: General Directorate of Manpower Ministry Office, October 2015.

A similar situation is demonstrated in the number of dismissal cases, which has declined over the last three years, despite more workers becoming victims. However, a greater tendency towards negotiation, rather than taking legal action, can be observed.

Number of cases of industrial conflict

NO	Cases	Number of cases		
		2013	2014	2015
1	Complaint case	2,861	2,628	241
2	Solved	2,468	2,270	174
3	unsettled cases	393	358	67

Source: General Directorate of Manpower Ministry Office, October 2015.

3. *High number of informal economy workers and independent workers* or workers without an employer (64%) which causes difficulties for unions to recruit and keep workers in the union, particularly as the majority of informal workers operate in the rural and agricultural sector.

4. *Low trade union and employer density:* according to the Ministry of Manpower and Transmigration, there are six national confederations for workers, 94 national-level unions and more than 45,000 regional and sectoral unions registered. The three

¹¹ Small enterprises are defined as those with fewer than 25 workers; middle-size, as those with between 50 to 99 workers; large, as those with over 100 workers.

4. SOCIAL DIALOGUE CHALLENGES DURING THE PERIOD OF REFORMS

biggest actors are the Confederation of Indonesia Prosperity Trade Union (KSBSI), the Confederation of All Indonesia Workers' Union (KSPSI) and the Confederation of Indonesian Workers' Union (KSPI). Despite this diversity, Indonesia's unions nevertheless manage to find common ground on certain issues.

5. Low Collective Bargaining Agreements (CBA) coverage. Despite minimum wages, and occupational safety and health standards being applied to all workers irrespective of whether they are members of a union, the number of CBAs is still very low. Employers, particularly SMEs, prefer to continue using company regulations instead of CBAs, as demonstrated by the data below.

Number of company regulations (CR) and collective bargaining agreements (CBA) till May 2015

NO	Year	CR	CBA
1	2013	51,895	12,113
2	2014	5,086	649
3	2015	2,950	352

Source: General Directorate of Manpower Ministry Office, October 2015.

6. Unclear verification in determining tripartite body seat allocation. Union membership verification must be ensured so as to avoid unclear arrangement of tripartite body representation, particularly in the national tripartite body. Given the fact that only a few provincial governments provided the data required by the Ministry of Manpower, data collection on union membership is sometimes lacking.

7. Lack of trust both in bipartite and tripartite labour relations. This is due to the fact that many employers still neglect labour laws and regulations, even with regards to compliance with minimum wages.

8. Need for capacity building of actors. The capacity of tripartite actors needs to be improved, especially in dealing with macro-economic issues and global economic trends.

9. Increased segmentation of the labour market. The increasing division of labour markets into segments with different characteristics and rules poses further challenges to social dialogue institutions. This segmentation implies increasing complexities in contractual arrangements (e.g. "regular" versus "non-standard" employment), their enforcement (in the case of informality) and category of workers concerned (e.g. migrant, domestic or temporary agency workers).

5. EXTENSION OF THE NUMBER OF TRIPARTITE BODIES IN OTHER INSTITUTIONS

There is a tripartite plus structure in place at both the national and regional levels, with representatives from academia and professionals such as lawyers and doctors participating in the tripartite forums.

Tripartite in the National Social Security System (DJSN)

This new body has the mandate to formulate general policies and synchronise the implementation of the National Social Security System. The board is composed by representatives of unions, government, employers and independents and is accountable directly to the President.

Social Security Providers

The new social security law transformed the four state-owned insurance companies into two non-profit public entities – BPJS *Kesehatan* (Health) and BPJS *Ketenagakerjaan* (Employment), working directly under the President's supervision. To support the implementation of the law on health insurance, a working group of relevant stakeholders was estab-

lished to develop a roadmap for the achievement of universal health care coverage in Indonesia.

Industrial Relations Court (IRC)

The Industrial Relations Court shall now have jurisdiction over industrial dispute settlement, which used to be settled by the Committees of Labour Dispute Settlement. This implies that an Industrial Relations Court will be established as part of the state court in every district. Its function will be to investigate and adjudicate labour disputes regarding civil law proceedings in relation to workers' rights, workers' interests, employment termination, and disputes between trade unions.

The IRC decisions on disputes over rights and over employment termination can be appealed directly to the Panel of Appellate Justices at the Supreme Court. However, the IRC decisions on disputes over interests and disputes among trade unions are final and cannot be appealed to the Supreme Court. These imply that the new IRC system will provide a much shorter legal process than the previous system.

However, the IRC may only investigate civil law violations in the field of industrial relations while criminal violation should be investigated and adjudicated by the General District Court.

6. INVOLVEMENT OF CIVIL SOCIETY

Civil society organizations normally cooperate with unions through awareness raising and information campaigns, advocacy and proposing draft laws and policies as well as through raising issues of the development agenda (such as the Millennium Development Goals and now the Sustainable Development Goals). This collaboration is primarily driven by human rights groups, environmental groups and academics.

Civil society organizations have been actively involved in the labour law reform process, with legal aid foundations in particular being brought in for their legal expertise, which supplements the knowledge on the employers' and unions' side. Women's groups, migrant workers' associations, and NGOs dealing with child labour issues were also included in the process.

CONCLUSIONS

Social dialogue plays a critical role in achieving the ILO's objective of advancing opportunities for women and men to obtain decent and productive work in conditions of freedom, equality, security and human dignity. Successful social dialogue structures and processes have the potential to address important economic and social issues, encourage good governance, advance social and industrial peace and stability and boost economic progress. The search for solutions leading to social justice through social dialogue has become even more urgent in light of the effects of the global financial crisis and the inequality which persists in the country. Fair terms of employment, decent working conditions and development for the benefit of all cannot be achieved without the active involvement of workers, employers and governments, and moreover include a broad-based effort by all of them.

A satisfactory process of social dialogue should be carried out in conditions of freedom and equality. It requires an environment of open communication and discussion, in which social actors can meet, build mutual trust, share information and consult one another. Social dialogue involves a transparent, non-authoritarian process with jointly devised rules of the game to facilitate reasoned actions of the parties. Moreover, a free and plural press, in a context of freedom of expression, is indispensable for strengthening and promoting a universal culture for social dialogue in all countries. Tripartite actors need to make social dialogue inclusive, covering those in non-standard employment, SMEs, the rural economy, migrant workers and other vulnerable and unorganised groups. This may require building the capacities of social partners at different levels to allow them to organise their diverse potential constituencies.

The ratification of ILO fundamental conventions created an enabling environment for trade unions and the conditions for them to participate in a dialogue, which in its turn led to better conditions and opportunities to implement the decent work agenda, as formulated in the Indonesia Decent Work Country Program (DWCP). Two DWCPs have been formulated through tripartite dialogue and assistance of the ILO office in Jakarta.

As shown throughout this study, social dialogue is relevant for social and economic development, reducing social unrest during economic crises, boosting sound industrial relations, minimizing strikes and contributing to stabilizing the Indonesian economy.

Despite the positive achievements described in this analysis, the current situation in Indonesia has now dramatically changed, characterised by a major drawback of the government in terms of fundamental labour rights protection and engagement in social dialogue. As the representative of the Indonesian workers at the 2016 International Labour Conference of the International Labour Organisation said, "the Government should be working with workers and unions to address these serious concerns, rather than resorting to the use of tear gas and the baton."¹²

This is particularly true with regard to the process of wage setting. The current government has introduced a new law to adjust minimum wages automatically without negotiation. In addition, violations of the right to freedom of association have been increasing. Trade unionists have suffered attacks and arbitrary arrest and detention, and the right to peaceful assembly and strike have been undermined.

¹² Provisional Record of the Report of the Committee on the Application of Standards of the 105th Session of the International Labour Conference (2016) p.55 at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_489124.pdf

This current climate of conflict is a stark illustration of how the respect of rights such as freedom of assembly, collective bargaining, and the right to organise are at the very roots of any process of dialogue amongst the socio-economic actors in a given country.

It is a vivid reminder that social dialogue should not be taken for granted. Like any form of dialogue, it

can be broken at any moment and the progress made through the years can shift undone due to a change in government or in the attitudes of the actors involved. The best way to guarantee the contribution of social dialogue to a country's development is by institutionalising it, however even then it is not exempt from obstacles.

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Ratification of international labour standards

Until the end of 2005, Indonesia has ratified seventeen (17) ILO Conventions including the eight (8) ILO Core Conventions and two (2) Priority Conventions:

Core Conventions

Convention No.87 concerning Freedom of Association and Protection of the Rights to Organise

Convention No.98 concerning Right to Organise and Collective Bargaining

Convention No.29 concerning Forced or Compulsory Labour

Convention No. 88 Institute for Employment Service

Convention No.105 concerning Abolition of Forced Labour

Convention No.100 concerning Remuneration for men and Women Workers for Work of Equal Value

Convention No. 144 on Tripartite Consultations to Promote the Implementation of International Labour Standards

Convention No.111 concerning Discrimination in Respect of Employment and Occupation

Convention No.100 concerning Remuneration for men and Women Workers for Work of Equal Value

Convention No.111 concerning Discrimination in Respect of Employment and Occupation

Convention No.138 concerning Minimum Age for Admission to Employment

Convention No.182 concerning Prohibition and Immediate Action for the Elimination of Worst Forms of Child Labour

Convention No: 185 Seafarers' Identity Documents

Priority Conventions

Convention No.81 concerning Labour Inspection

Convention No.144 concerning Tripartite Consultations to Promote the Implementation of International Labour Standards

Act No. 21 of 2,000 Concerning Trade Unions

The right to become a member of and or to establish a trade union is a fundamental right of any worker that is guaranteed under Article 28 of the Indonesian Constitution. This right is also a central theme of the ILO Constitution and various Conventions.

Act No. 21 of 2,000 concerning Trade Unions is key for the trade union movement in Indonesia because it contains the basic principles of Indonesian law and the ILO Constitutions as well as the principles of two fundamental ILO Conventions, namely No. 87 of 1948 and No. 98 of 1949.

Act No. 21 of 2,000 states that a trade union in a company can be established by a minimum of ten workers in the said company. It can be established based on the business sector, type of occupation or other categories. Freedom of association makes it possible to form more than one trade union in a company. Each union may have a hierarchical structure, starting from the company or enterprise level going up to district, provincial and national levels. A minimum of five such trade unions may establish a federation of trade unions, and a minimum of three federations may establish a confederation of trade unions.

A registered trade union is entitled to negotiate and make a collective labour agreement with the employer provided that its members represent more than 50% of workers. A trade union shall also represent its members in a bipartite body and in other institutions.