



# INDONESIA

country study 2016



# LIST OF ABBREVIATIONS

API	Indonesian Textile Association
APINDO	Indonesian Employers Association
BWI	Building and Woodworkers International
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
EI	Education International
EOI	Export-oriented Industrialisation
FSP-TSK	Federation of Textile, Garment and Footwear Unions
GSBI	Center For Indonesian Labour Struggle
Garteks	Garment, Textile and Footwear Union
GDP	Gross Domestic Product
GFA	Global Framework Agreement
GNI	Gross National Income
HDI	Human Development Index
IFJ	International Federation of Journalists
ILO	International Labour Organisation
ILRP	Indonesian Rights Project
ITF	International Transport Workers' Federation
ITUC	International Trade Union Confederation
IUF	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations
Kapal Perempuan	Women's Alternative Education Circle
KSBSI	Confederation of Indonesian Prosperous Labour Unions
KSPI	Confederation of Indonesian Trade Unions
KSPSI	Confederation of All-Indonesia Workers Unions
LGBT	Lesbian, gay, Bisexual, Transgender
LIPS	Sedane Labour Information Centre
PSI	Public Services International
SBGTS	Garment, Textile and Footwear Labour Union
SPN	National Workers Union
TURC	Trade Union Rights Center
Yasanti	The Independent Women's Foundation
UN	United Nations

# CONTENTS

Introduction	4
1. How to read this country study	5
2. General country information	6
2.1. Economic indicators	6
2.2. Social, political & governance indicators	8
2.3. Income and poverty	9
2.4. General human rights situation	10
3. Stakeholders	11
4. The garment industry	18
5. Industrial relations	21
6. Implementation of the FWF Code of Labour Practices	26
6.1. Employment is freely chosen	26
6.2. There is no discrimination in employment	27
6.3. No exploitation of child labour	30
6.4. Freedom of association and the right to collective bargaining	31
6.5. Payment of a living wage	33
6.6. No excessive working hours	36
6.7. Safe and healthy working conditions	37
6.8. Legally-binding employment relationship	39
Sources used in this country study	42

# INTRODUCTION

A significant contributor to Indonesia's large economy, the garment industry is an important employer of women in both the formal and informal sector. Conditions at factories vary considerably, and are generally much worse in medium and small enterprises, which do not attract the kinds of scrutiny that large suppliers to international brands are subjected to. The garment industry in Indonesia has received a great deal of attention from international and local NGOs and trade unions, but much remains to be done before the standards embedded in FWF Code of Labour Practice are fully met even in the more compliant segments of the sector.

In legal terms, Indonesia is highly compliant with ILO core conventions and other important human and labour rights instruments including CEDAW. Like many countries in the region, however, it continues to experience serious problems in terms of implementation of its legal framework. This has led to issues with freedom of association and the right to collective bargaining; working hours and conditions, including the right of women to be free of sexual harassment in the workplace; occupational health and safety; and the right to a living wage.

FWF will continue to provide updated information on Indonesia at [www.fairwear.org](http://www.fairwear.org) and will update this country study on a periodic basis in the future.

# 1. HOW TO READ THIS COUNTRY STUDY

This country study provides a concise picture of the industry, labour law, labour conditions and industrial relations within the textile/garment industry. The study was prepared after gathering information about national laws and local stakeholders' view on labour issues in the garment industry in Indonesia. If you would like to learn more on which stakeholders are interviewed for this study, please [click here](#).

**Chapter 2, *General country information***, describes the economic, social, political, and governance situation as well as the general human rights situation, using international indicators and comparing the country to other garment producing countries.

**Chapter 3, *Stakeholders***, lists the main stakeholders that have an impact on labour conditions in the garment/textile industry, or that play an active role in monitoring the situation for workers in the industry. This chapter serves as a reference point for stakeholders and brands that want to engage with or consult a local stakeholder to find further information or help concerning their activities in Indonesia.

**Chapter 4, *Garment industry***, presents an overview of the situation for the garment industry in Indonesia, including main areas of production, products and prospects.

**Chapter 5, *Industrial relations***, describes the trade union situation in general and specifically for the garment industry. This chapter provides important information for understanding how challenges regarding working conditions are handled through social dialogue.

**Chapter 6, *Implementation of the FWF Code of Labour Practices***, provides an assessment of the implementation of every standard included in FWF's Code of Labour Practices based on national laws and regulations, as well as different stakeholders' views on implementation. It also references official statistics on compliance where available.

## 2. GENERAL COUNTRY INFORMATION

With a GDP of around USD 889 billion in 2014, Indonesia is the largest economy in Southeast Asia, representing around 40% of the region's economic activity.<sup>1</sup> Indonesia's manufacturing sector generates around a fifth of the country's Gross Domestic Product (GDP). The garment and textile industries represent just 5.8% of the value derived from the sector.<sup>2</sup> However, textiles and textile products are the third largest contributor to export figures of all non-oil and gas industrial products, and constitute a small but significant proportion of global export production.<sup>3</sup> The garment and textile industry is also an important source of formal sector employment for Indonesian women, who accounted for 49.75% of the population in 2013.<sup>4</sup> Women's overall labour force participation rate has hovered at around 52.5% since the mid-1990s, which is over 30% below the labour participation rate for men.<sup>5</sup> However, women constitute around 80% of all workers in Indonesia's garment factories.<sup>6</sup>

### 2.1. Economic indicators

Since the mid-1980s, Indonesia has followed a policy of Export-oriented Industrialisation (EOI). Although its economy was hard hit by the Asian Financial Crisis of 1997-1998, its economic recovery has been remarkable in the decades since, with GDP increasing steadily in the 2000s. Its GDP per capita is significantly higher than that of other Asian garment-producing countries (Figure 1).

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1 World Bank. 2015. Indonesia. <http://www.worldbank.org/en/country/indonesia>

2 BPS. 2015. Quarterly GDP at Current Market Prices by Industrial Origin (Billion Rupiah), 2014-2015. <http://www.bps.go.id/linkTableDinamis/view/id/826>

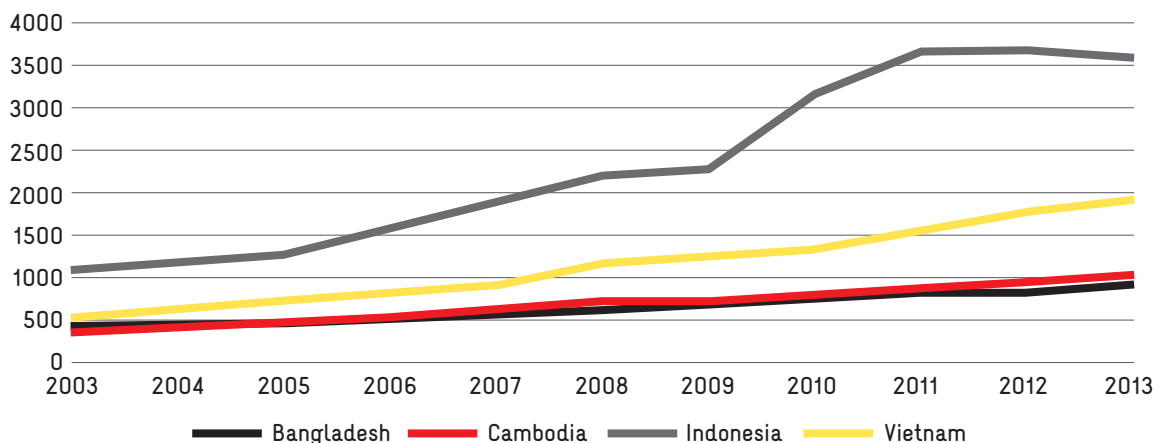
3 Kementerian Perdagangan Republik Indonesia. 2015. Perkembangan Ekspor NonMigas (Sektor) Periode: 2010-2015. <http://www.kemendag.go.id/id/economic-profile/indonesia-export-import/growth-of-non-oil-and-gas-export-sectoral>

4 BPS. 2016. Population Percentage by Province and Gender, 2009-2013. <http://www.bps.go.id/linkTabelStatis/view/id/1601>

5 ILO. 2014. Achieving Stronger Growth by Promoting a More Gender-Balanced Economy. Paper presented at the Report Prepared for the G20 Labour and Employment Ministerial Meeting, Melbourne, Australia. <http://www.oecd.org/g20/topics/employment-and-social-policy/ILO-IMF-OECD-WBG-Achieving-stronger-growth-by-promoting-a-more-gender-balanced-economy-G20.pdf>

6 ILO and IFC. 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO. <http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf>

Figure 1. GDP per capita (current USD) in Selected Garment Producing Countries<sup>7</sup>



Indonesia also has a relatively high human development index among this group of countries, driven primarily by the fact that children have relatively many years of schooling and Gross National Income per capita (Table 1).

Table 1. Human Development Index in selected garment producing countries, 2013<sup>8</sup>

Country	HDI	Life Expectancy	Mean Years of Schooling	Expected Years of Schooling	GNI per Capita
Bangladesh	0.558	70.7	5.1	10	2,713
Cambodia	0.584	71.9	5.8	10.9	2,805
Indonesia	0.684	70.8	7.5	12.7	8,970
Vietnam	0.638	75.9	5.5	11.9	4,892

It is important to remember, however, that levels of human development vary significantly across the archipelago, with many of the poorest Indonesians having little access to education or healthcare. There is also a great deal of inequality in the main cities, where the vast majority of wealthy Indonesians live. Garment and textile workers have a more reliable income than many of the country's urban poor, but their wages are often barely enough to provide a very basic living for their families.

<sup>7</sup> Graph produced from data obtained from World Bank. 2016. GDP per Capita (Current US\$).

<http://data.worldbank.org/indicator/NY.GDP.PCAP.CD/countries?display=default>

<sup>8</sup> UNDP. 2014. Human Development Report 2014: Sustaining Human Progress: Reducing Vulnerabilities and Building Resistance. New York: UNDP, pp.161-62.

## 2.2. Social, political & governance indicators

Indonesia is a large, complex democracy that emerged out of a 30 year period of authoritarian rule in 1998. Despite ongoing challenges, it performs relatively well on the Democracy Index (Table 2).

Table 2. Democracy Index in Selected Asian Garment Producing Countries, 2015<sup>9</sup>

	Rank	Score	Electoral Processes and Pluralism	Functioning of Government	Political Participation	Political Culture	Civil Liberties
Bangladesh	86	5.73	7.42	5.07	5.00	4.38	6.76
Cambodia	113	4.27	3.17	5.71	3.33	5.00	4.12
Indonesia	49	7.03	7.75	7.14	6.67	6.25	7.35
Vietnam	128	3.53	0.00	3.93	3.89	4.38	2.94

On the World Bank's Government Effectiveness Index, Indonesia scored 54.81 on a scale of 1–100 for 2014, just ahead of Vietnam at 52.40 and well ahead of Cambodia at 25.48 and Bangladesh at 21.63.<sup>10</sup> With a score of 0.52, it performs relatively well on the Rule of Law Index for its income bracket, at 52nd globally and sixth within the lower middle-income group in 2014. By way of comparison, Vietnam is rated 64th globally and 11th within the lower middle-income group; Bangladesh at 93rd globally and 11th within the low income group; and Cambodia at 99th globally and 13th within the low income group.<sup>11</sup> These figures notwithstanding, Indonesian authorities still struggle to guarantee citizens' civil liberties and good governance. On the Control of Corruption Index, Indonesia was ranked 34.13, behind Vietnam at 37.50 and ahead of Bangladesh at 18.75 and Cambodia at 12.50.<sup>12</sup>

For manufacturing workers, one of the most important changes in post-Suharto period, was the introduction of decentralisation in the early 2000s. As part of this process, many of the functions of government – including industrial relations – were devolved to the local level. This has resulted in increased opportunities for trade unionists to engage in the political process, which has helped them achieve better wage outcomes, and provided them with vital knowledge regarding their rights as citizens.<sup>13</sup> Collective action has also been important at the national level, where trade unionists have secured important changes in the legislative framework around social security.

9 Economist Intelligence Unit. 2014. Democracy Index 2015: Democracy in an Age of Anxiety. [www.eiu.com](http://www.eiu.com)

10 World Bank. 2015. Government Effectiveness Index 1996–2014.

<http://info.worldbank.org/governance/wgi/index.aspx#home>

11 World Justice Project. 2015. Rule of Law Index 2015.

[http://worldjusticeproject.org/sites/default/files/roli\\_2015\\_0.pdf](http://worldjusticeproject.org/sites/default/files/roli_2015_0.pdf)

12 World Bank. 2015. Control of Corruption Index 1996–2014.

<http://info.worldbank.org/governance/wgi/index.aspx#home>

13 Caraway, T., Ford, M. 2014. Labor and Politics under Oligarchy. In Michele Ford and Thomas Pepinsky (eds.), Beyond Oligarchy: Wealth, Power, and Contemporary Indonesian Politics. (pp. 139–155). Ithaca, New York: Cornell Southeast Asia Program (SEAP).



Attempts have been made by central government to rein in some of these advances, through government edicts that seek to depoliticise local executive elections by returning them to an indirect system and by imposing a central wage formula that effectively removes trade unions from the wage-setting process. Although the former was ultimately unsuccessful, the latter remains one of the most serious threats to union power in contemporary Indonesia, and thus to wages and conditions in the textile, garment and footwear sector.

## 2.3. Income and poverty

In an attempt to reduce poverty, successive governments have sought to increase the number of formal sector jobs in an economy that remains predominantly informal. A national open unemployment rate of 5.9% masks significant variation between provinces, from a low of 1.8% in Central Kalimantan to a high of 10.1% in Banten, which is one of Indonesia's most industrialised provinces and a major site of garment and textile production.<sup>14</sup> Unemployment rates are artificially low because of low levels of labour market participation and high levels of underemployment. Monthly minimum wages, which are set at the local or provincial level and only apply to formal sector workers, were set at just Rp.2,700,000 (USD 203) in 2015 for Jakarta.

The proportion of people living under the poverty line in Indonesia has decreased substantially since the mid-1990s.<sup>15</sup> However, as many as 40% of Indonesians continue to live on under USD 2 a day, a figure that is comparable to that in Vietnam, although significantly better than that for Bangladesh.<sup>16</sup> Indonesia has struggled with providing a safety net for its poor, a problem that has been exacerbated by increasing income inequality. Although most poor Indonesians live in rural settings, increased inequality is apparent in both underdeveloped provinces such as Papua but also some more developed provinces, including Jakarta.<sup>17</sup> In 2012, Indonesia's Gini Ratio (a scale on which 100 represents perfect inequality) was 41, while Cambodia's was 31 and Vietnam's 39.<sup>18</sup>

Many garment workers also experience gender-based discrimination at home, in the community and in the workplace. While middle-class women are relatively sheltered from the worst forms of gender-based discrimination, working-class women are forced to struggle with social norms and economic practices that favour men over women. Increasing religiosity and the resurgence of traditional cultural values in some provinces as a consequence of decentralisation have also brought new challenges for champions of gender equality in recent years. This is reflected in Indonesia's position on the Gender Inequality Index, which at 103 is better than that of Bangladesh (115) and Cambodia (105), but well below that of Vietnam, which ranks 58th.<sup>19</sup>

14 BPS. 2014. Unemployment Rate by Province, 2002-2013. Jakarta: BPS.

15 ADB. 2014. Key Indicators for Asia and the Pacific 2014.

<http://www.adb.org/publications/key-indicators-asia-and-pacific-2014>

16 Aji, P. 2015. Summary of Indonesia's Policy Analysis. ADB Papers on Indonesia No.4.

<http://www.adb.org/sites/default/files/publication/177017/ino-paper-04-2015.pdf>

17 BPS. 2014b. Gini Ratio Menurut Provinsi Tahun 1996, 1999, 2002, 2005, 2007-2013.

<http://www.bps.go.id/webbeta/frontend/linkTabelStatis/view/id/1493>

18 BPS. 2016. Gini Ratio by Province, 1996, 1999, 2002, 2005, 2007-2013.

<http://www.bps.go.id/linkTabelStatis/view/id/1493>

World Bank. 2016. GINI Index.

<http://data.worldbank.org/indicator/SI.POV.GINI>

19 UNDP. 2014. Human Development Report 2014: Sustaining Human Progress: Reducing Vulnerabilities and Building Resistance. New York: UNDP, pp.173-74

Nevertheless, according to a comparative gender gap analysis prepared by the ILO for the G20 Summit in 2014, Indonesia performs relatively well. The country's overall gender pay gap at 16.6% is proportional to that of Australia and Germany and is relatively small among senior managers.<sup>20</sup> At the same time, however, the number of women in the ranks of senior management is low: women account for just 19% of managers and only 4% of employers in Indonesia.<sup>21</sup> Anecdotal evidence suggests that the gender pay gap is not significant within the garment industry itself, but workers in this female-dominated industry often work in poor conditions and are relatively poorly paid compared to some more male-dominated industries within the manufacturing sector.

## 2.4. General human rights situation

Although Indonesia is now a relatively robust democracy, it has yet to address human rights abuses in several major areas. Freedom of expression remains an issue and the state has failed to protect religious minorities from violence by Islamist militants, and government ministers and other officials have engaged in inflammatory commentary about LGBT Indonesians. In addition, there are ongoing reports of human rights violations by police and military and actions have been taken against groups seeking reparations for past human rights abuses. There has also been increased use of the death penalty for drug-trafficking offences in recent years.<sup>22</sup>

In terms of labour rights, Indonesia has signed key international human rights instruments, including CEDAW and all eight core ILO conventions. However, its record is patchy both in regard to the extent to which they are reflected in Indonesian legislation and how well they are implemented.

Indonesia also struggles with the broader decent work agenda not only because of high levels of unemployment and informal employment but because of the government's failure to enforce legislative provisions in formal sector workplaces. As a consequence of the latter, the Indonesian state's work contravenes the UN Guiding Principles on Business and Human Rights. In June 2015, however, it was reported that the Indonesian National Commission for Human Rights is in the process of preparing a National Action Plan on Human Rights, in response to reports of human rights abuses by business groups.<sup>23</sup>

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20 OECD, ILO, IMF and World Bank. 2014. Achieving Stronger Growth by Promoting a More Gender-Balanced Economy: Report Prepared for the G20 Labour and Employment Ministerial Meeting Melbourne, Australia, 10-11 September 2014. <http://www.oecd.org/g20/topics/employment-and-social-policy/ILO-IMF-OECD-WBG-Achieving-stronger-growth-by-promoting-a-more-gender-balanced-economy-G20.pdf>

21 Ministry of Manpower. 2014. Penduduk yang bekerja menurut jenis pekerjaan/jabatan dan jenis kelamin. [http://pusdatinaker.balitfo.depnakertrans.go.id/kunasional/pyb/PENDUDUK\\_YANG\\_BEKERJA\\_MENURUT\\_JENIS\\_PEKERJAAN2FJABATAN\\_DAN\\_JENIS\\_KELAMINsmry.php?sv\\_tahun=2014&sv\\_bulan=Februari&Submit=Search](http://pusdatinaker.balitfo.depnakertrans.go.id/kunasional/pyb/PENDUDUK_YANG_BEKERJA_MENURUT_JENIS_PEKERJAAN2FJABATAN_DAN_JENIS_KELAMINsmry.php?sv_tahun=2014&sv_bulan=Februari&Submit=Search); Ministry of Manpower. 2014. Penduduk yang bekerja menurut status pekerjaan dan jenis kelamin di Indonesia bulan Februari tahun 2014. [http://pusdatinaker.balitfo.depnakertrans.go.id/kunasional/pyb/PENDUDUK\\_YANG\\_BEKERJA\\_MENURUT\\_STATUS\\_PEKERJAAN\\_DAN\\_JENIS\\_KELAMINsmry.php](http://pusdatinaker.balitfo.depnakertrans.go.id/kunasional/pyb/PENDUDUK_YANG_BEKERJA_MENURUT_STATUS_PEKERJAAN_DAN_JENIS_KELAMINsmry.php).

22 This overview draws on Amnesty International. 2016. Amnesty International Report 2015/16: The State of the World's Human Rights. London: Amnesty International; Human Rights Watch. 2015. World Report 2015: Indonesia, Events of 2014. <https://www.hrw.org/world-report/2015/country-chapters/indonesia>

23 Jakarta Post. 2015. Human Rights Guidelines Prepared for Business. 20 June. <http://www.thejakartapost.com/news/2015/06/20/human-rights-guidelines-prepared-businesses.html#sthash.43zGYsba.dpuf>

# 3. STAKEHOLDERS

*In this section a number of stakeholder active in the garment and textile industry in Indonesia are briefly presented. The focus is on stakeholders who are actively part of shaping the labour conditions or monitoring the situation for workers in the industry.*

*Do you want to know which stakeholders we consulted for this country study? [Click here.](#)*

## GOVERNMENTAL INSTITUTIONS

### Ministry of Manpower and Transmigration

The Ministry of Manpower and Transmigration has a labour portfolio which includes responsibility for improving human resources, drafting laws related to its areas of responsibilities, strengthening its institutions and procedures, and ensuring that relevant laws are followed, including through inspections.

<http://naker.go.id/>

## EMPLOYERS ORGANISATIONS

### Indonesian Employers Association (Asosiasi Pengusaha Indonesia, APINDO)

APINDO is the main body representing employers in the wage councils and in other tripartite committees.

<http://apindo.or.id/id>

### Indonesian Textile Association (Asosiasi Pertekstilan Indonesia, API)

The Indonesian Textile Association is an industry associate that represents producers of textiles and textile products.

[http://www.ipteknesia.com/ristek/index.php?option=com\\_content&view=article&id=343:api&catid=99&Itemid=498](http://www.ipteknesia.com/ristek/index.php?option=com_content&view=article&id=343:api&catid=99&Itemid=498)

## TRADE UNIONS

### Confederation of All-Indonesia Workers Unions (Konfederasi Serikat Pekerja Seluruh Indonesia, KSPSI)

The Confederation of All-Indonesia Workers Unions is the legacy union of the Suharto period.<sup>24</sup> There are currently two splinters of the organisation, one headed by Yorrys Raweyai and the other by Andi Gani. Each claims the affiliation of the Federation of Textile, Garment and Footwear Unions (Federasi Tekstil, Sandang, Sepatu, FSP TSK-KSPSI), one of the largest unions in the sector.

<http://kspsi.com/> (Yorrys Raweyai)

<http://dpp-kspsi.blogspot.co.id/> (Andi Gani)

### Confederation of Indonesian Trade Unions (Konfederasi Serikat Pekerja Indonesia, KSPI)

KSPI was established by reformists within the Suharto-era union, with the support of the international labour movement. Its affiliates include the National Workers Union (Serikat Pekerja Nasional, SPN), which focuses predominantly on textiles, garments and footwear. KSPI is affiliated to the International Trade Union Confederation (ITUC) and some of its federations have benefited from international assistance directly from Solidarity Support Organisations and through the Global Union Federations.

<http://www.kspi.or.id/>

<http://spn.or.id/>

### Confederation of Indonesian Prosperous Labour Unions (Konfederasi Serikat Buruh Seluruh Indonesia, KSBSI)

KSBSI grew out of the largest and most established alternative union in the Suharto period and is supported by Christian unions in Belgium and the Netherlands. Formerly affiliated with the World Confederation of Labour (WCL), it has been a member of the ITUC since WCL's amalgamation of the International Confederation of Free Trade Unions (ICFTU). Its affiliates are now also affiliated to the Global Union Federations. KSBSI's garment, textile and footwear union is known as Garteks.

<http://www.ksbsi.org/>

<http://www.ksbsi.org/index.php/page/link/116/116>

### Centre for Indonesian Labour Struggle (Gabungan Serikat Buruh Indonesia, GSBI)

GSBI is a small but militant organisation with its roots in a regionally based federation of garment, textile and footwear unions in Greater Jakarta and West Java. In 2015, its congress resolved to broaden its base in an attempt to rival the established confederations. Under its new structure, unions in the textile, garment and footwear sectors are grouped within the Garment, Textile and Footwear Labour Union (Serikat Buruh Garmen, Tekstil dan Sepatu, SBGTS).

<http://www.infogsbi.org/>

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<sup>24</sup> For a discussion of the Indonesian labour movement under Suharto and its reconstruction during Reformasi, see Ford, M. 2009. *Workers and Intellectuals: NGOs, Trade Unions and the Indonesian Labour Movement*. Singapore: National University of Singapore Press/Hawaii University Press/KITLV.

## The Cross-Factory Labour Federation (Federasi Buruh Lintas Pabrik, FBLP)

FBLP is a small but militant geographically-based federation in a bonded production zone in North Jakarta, which is a major site for garment production in the city. The organisation, which was initially established as an inter-factory union forum in 2009, has a particular focus on the needs of women workers, who dominate the industry. It also runs a radio station for workers called Marsinah FM, after a prominent labour activist murdered by the military in 1993 as a consequence of her labour activism.

<http://www.marsinahfm.com>

## Unions' International Links

As noted above, KSPI and KSBSI are affiliated to the International Trade Union Confederation. The majority of Global Union Federation (GUF) affiliates are members of KSPI or KSBSI (see Table 4). This number grew significantly after the KSBSI federations formerly affiliated with the latter joined those within KSPI as members of their respective GUFs.

**Table 4. Indonesian Affiliates of the Global Union Federations**

GUF	Affiliates
BWI	Serikat Pekerja Perkayuan dan Perhutanan Indonesia (SP Kahutindo) Building and Public Works Workers' Union (BPWWU) Federasi Konstruksi Umum dan Informal (FKUI) – SBSI Federasi Serikat Buruh Hutan, Kayu dan Pertanian (FSB HUKATAN) – SBSI
EI	Federasi Serikat Pendidikan, Pelatihan dan Pegawai Republik Indonesia (FESDIKARI SBSI) Persatuan Guru Republik Indonesia (PGRI)
IFJ	Aliansi Jurnalis Independen (AJI)
IndustriALL	Serikat Buruh Kimia dan Kesehatan (KIKES) – KSBSI Chemical, Energy and Mine Workers Union (CEMWU) – SPSI <b>Garteks SBSI</b> Federasi Serikat Pekerja Kimia, Energi, Pertambangan, Minyak Gas Bumi dan Umum (FSP KEP) Federasi Serikat Pekerja Industri Semen Indonesia (F SP ISI) Federasi Serikat Pekerja Pulp dan Kertas Indonesia (FSP2KI) Federasi Serikat Buruh Logam, Metal dan Elektronik (LOMENIK- SBSI ) Federasi Pertambangan dan Energi (FPE – SBSI) Serikat Pekerja Metal Indonesia (FSPMI) <b>Serikat Pekerja Nasional (SPN)</b> Federasi Serikat Pekerja Farmasi dan Kesehatan (FARKES) – SPSI
ITF	Ikatan Awak Kabin Garuda Indonesia Serikat Pekerja Kereta Api Kesatuan Pelaut Indonesia Serikat Pekerja Terminal Petikemas Koja Trade Union of Jakarta International Container Terminal

GUF	Affiliates
IUF	Federasi Serikat Buruh Nestle Indonesia (FSBNI) Federasi Serikat Pekerja Mandiri (FSPM) Serikat Buruh Mandiri Sugar Labinta (SPMSL) Serikat Buruh Mandiri Umas Jaya (SBMUJ) Serikat Buruh Nestle Indonesia Karawang Factory Serikat Buruh Philip Seafood Indonesia (SBPSI) Serikat Pekerja Kirin Miwon Foods Serikat Pekerja Mandiri Arnott's Indonesia (SPMAI) Serikat Pekerja Mandiri Kecap Bango (SPMBK) Serikat Pekerja Mandiri MP Evans Serikat Pekerja P.T. Sarihusada Generasi Mahardika
PSI	Persatuan Pegawai PT Indonesia Power Tingkat Pusat (PPIP) Pharmaceutical and Health Workers Union (PHWU) Serikat Pekerja Perusahaan Daerah Air Minum Jakarta (SP PDAM Jkt) Serikat Pekerja PT PLN PERSERO (SP PLN) Serikat Pekerja PT (PERSERO) Angkasa Pura I (SP AP1) Serikat Pekerja PT. PJB (SP PJB)
UNI	Asosiasi Serikat Pekerja Indonesia (ASPEK-ID) Telekom Indonesia Union (Sekar Telkom-ID)

## LABOUR NGOS

### Akatiga

Akatiga is a research NGO established in 1991 that initially specialised on industrial labour, small business and land issues. It undertakes fieldwork-based research projects; maintains a research library; publishes a semi-academic journal; and participates in national-level advocacy campaigns. It is currently a partner in the Australian government-funded Knowledge Sector Initiative. Other partners include the Friedrich-Ebert-Stiftung, Oxfam, the ILO, the Ford Foundation and the Asia Foundation.

<http://www.akatiga.org/>

### Jakarta Legal Aid Institute (Lembaga Bantuan Hukum Jakarta, LBH Jakarta)

LBH Jakarta, established in 1969, was one of several of a network of legal aid institutes to take a proactive role on industrial labour in the late New Order under President Suharto. It has continued to engage in this area of 'structural legal aid', including through its reports on labour rights abuses and involvement in initiatives such as the FOA protocol (see below).

<http://en.bantuanhukum.or.id/>

### **Sedane Labour Information Centre (Lembaga Informasi Perburuhan Sedane, LIPS)**

LIPS was established in 1992 as a labour-focused research and policy NGO by Fauzi Abdullah, formerly of the Indonesian Legal Aid Foundation. After the fall of Suharto, it began publishing a quarterly update on labour issues and an Indonesian-language labour journal, as well as conducting research for foreign NGOs. While continuing its research work and clipping service, LIPS activists are currently heavily involved in training activities for local trade unions.

<https://sedanelips.wordpress.com/>

### **Trade Union Rights Center (TURC)**

TURC was established in 2003 by activists from LBH Jakarta. It receives financial support from the Confederation of German Trade Unions (Deutsche Gewerkschaftsbund, DGB) and other international trade union donors including Mondiaal FNV. TURC conducts research and provides legal and trade union training for members of trade unions across Indonesia. It is also the Indonesian hub for Asia Floor Wage.

<http://turc.or.id>

## **GENDER FOCUS AND WOMEN'S GROUPS**

### **Independent Women (Perempuan Mahardhika)**

Established in 2006 after a three year period of preparation, Independent Women describes itself as a national, multi-sectoral mass organisation for women, with a commitment to the liberation of women. It works closely with FBLP.

### **Independent Women's Foundation (Yayasan Annisa Swasti, Yasanti)**

Established in 1982, Yasanti began working with rural women in 'traditional' development activities. While continuing to support informal workers, it shifted its focus to female industrial workers in the late 1980s. Yasanti is a partner in the Australian government-funded MAMPU program, which focuses on the empowerment of women and has received funding from other sources including the Ford Foundation.

<http://www.yasanti.or.id/index.php?>

### **Women's Alternative Education Circle (Institut Kapal Perempuan)**

Established in 2000, Kapal Perempuan focuses on a wide range of issues pertaining to women's empowerment, including issues relating to women workers. It serves primarily as a resource and training centre. Kapal Perempuan has received support from a wide range of international donors and is currently part of the Australian government-funded MAMPU program.

<http://www.kapalperempuan.org/>

## BRANDS AND FACTORIES

### Indonesian Labour Rights Project (ILRP)

The Indonesia Labour Rights Project was run by Oxfam Australia from 1997 to 2013. It focused on capacity building, encouraging discussion between suppliers and workers, and worked to draw international attention to individual cases of labour abuse. Oxfam Indonesia continues to pursue labour rights through its economic justice program, one of the aims of which is to achieve “access to markets, more equitable terms of trade, greater private sector accountability and increased opportunities to engage in decent work.”

<http://oxfamblogs.org/indonesia/>

### FOA Protocol

The Freedom of Association Protocol, signed in June 2011, promotes the rights of women and men producing for global brands in Indonesia to join unions and bargain collectively for better working conditions. Signatories to the protocol include Adidas, Nike, Puma, Pentland, New Balance and Asics. The Protocol is supported by Oxfam Indonesia and at a global level by Play Fair, a global network of NGOs and trade unions that campaigns for workers' rights in factories that produce sportswear.

<http://www.play-fair.org/media/index.php/workers-rights/foa-protocol/>

### Better Work Indonesia

Better Work Indonesia is part of a global collaborative initiative involving the International Labour Organisation and the International Finance Corporation. Beginning in 2011, the five-year program aims to include compliance with labour standards and promote competitiveness in the Indonesian garment industry through the provision of market incentives.

<http://betterwork.org/indonesia/>

### Asia Floor Wage Alliance

The Asia Floor Wage Alliance is a global coalition of NGOs and trade unions advocating for a standard wage, calculated on Purchasing Power Parity, to be applied across Asia. The main activity to date in Indonesia has been the convening of a People's Tribunal in June 2014, which among its recommendations included that the Indonesian government address its failure to monitor and remedy violations of labour law; that brands ensure transparency around their auditing practices; that unions should coordinate their efforts to improve conditions in the garment industry; and that NGOs work together to maximise the effectiveness and transparency of auditing and monitoring activities.<sup>25</sup>

<http://asia.floorwage.org/>

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<sup>25</sup> Indonesian People's Tribunal. 2014. Living Wage And Decent Working Condition For Garment Workers As Fundamental Rights. Jakarta, Indonesia, 21-24 June 2014.

[http://www.cleanclothes.org/livingwage/afw/resources/tribunal-verdicts/JakartaPT\\_FINALVERSION.pdf](http://www.cleanclothes.org/livingwage/afw/resources/tribunal-verdicts/JakartaPT_FINALVERSION.pdf)



## Global Framework Agreements

Global Framework Agreements (GFAs) are agreements signed by a multinational corporation and one or more Global Union Federations that aim to protect the rights and interests of workers employed at all levels of that corporation. IndustriALL, the Global Union Federation that has responsibility for the garment industry, has signed GFAs with Inditex and H&M, both of which have operations in Indonesia

<http://www.industrialunion.org/>

## 4. THE GARMENT INDUSTRY

Manufacturing as a whole is estimated to have contributed approximately 21.5% of GDP in 2015.<sup>26</sup> Some USD 10.5 billion, or 5.8% of the value derived from manufacturing in that year, came from the garment and textile industries.<sup>27</sup>

### ORGANISATION OF THE GARMENT INDUSTRY

Indonesia's garment and textile industries played a vital part in its entry into export-oriented manufacturing as of the 1980s.<sup>28</sup> These industries have been significant ever since, making a larger contribution to the Indonesian economy than is the case in the Philippines and Thailand, though considerably less than those of Vietnam, and especially Cambodia.<sup>29</sup> Indonesia has maintained a relatively steady proportion of the global value of textile and garment exports since 1998, ranging from 1.47% in 1998 to 1.66% in 2013.<sup>30</sup>

The United States is by far the primary destination for Indonesian-produced garments, although exports have declined since 2011. This decline has been partially offset by increases in garment exports to Japan, which overtook Germany to become the second most important destination for Indonesian garment exports in 2013.<sup>31</sup>

Yet although garments and textiles were the third greatest contributor to Indonesia's export figures of all non-oil and gas industrial products in 2012–2014, levels of growth in the sector – at just 1.53% – were just over one-quarter of those in non-oil and gas manufacturing as a whole in that year.<sup>32</sup>

### MAIN EXPORTS FROM GARMENT INDUSTRY

Worth approximately USD 7.4 billion in 2013, garments comprise over half of the total value of Indonesia's textile and garment exports, with the second largest category being man-made fibres and filaments.<sup>33</sup>

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26 BPS. 2015. Quarterly GDP at Current Market Prices by Industrial Origin (Billion Rupiah), 2014–2015.

<http://www.bps.go.id/LinkTableDinamis/view/id/826>

27 BPS. 2015. Quarterly GDP at Current Market Prices by Industrial Origin (Billion Rupiah), 2014–2015.

<http://www.bps.go.id/LinkTableDinamis/view/id/826>

28 For a discussion of the early development of the industry, see Hill, H. 1992. *Indonesia's Textile and Garment Industries: Developments in an Asian Perspective*. Singapore: ISEAS.

29 ILO/ADB. 2014. *ASEAN Community 2015: Managing Integration for Better Jobs and Shared Prosperity*. Bangkok: ILO and ADB, p.33.

30 Table generated from data available at <http://comtrade.un.org/data/>

31 BPS. 2015. *Statistik Indonesia / Statistical Yearbook of Indonesia 2015*.

[http://www.bps.go.id/website/pdf\\_publikasi/Statistik-Indonesia-2015.pdf](http://www.bps.go.id/website/pdf_publikasi/Statistik-Indonesia-2015.pdf)

32 Kementerian Perdagangan Republik Indonesia. 2015. *Perkembangan Ekspor NonMigas (Sektor) Periode: 2010–2015*.

<http://www.kemendag.go.id/id/economic-profile/indonesia-export-import/growth-of-non-oil-and-gas-export-sectoral>

33 Data obtained from BPS. 2015. *Statistik Indonesia / Statistical Yearbook of Indonesia 2015*.

[http://www.bps.go.id/website/pdf\\_publikasi/Statistik-Indonesia-2015.pdf](http://www.bps.go.id/website/pdf_publikasi/Statistik-Indonesia-2015.pdf)

## MAIN AREAS FOR GARMENT PRODUCTION

According to Statistics Indonesia, there were as many as 4 362 large and medium enterprises and 506 331 small and micro enterprises involved in textiles and garment production as of 2013.<sup>34</sup> Although statistics are not readily available on the proportion of these involved in export production, it can be expected that a significant proportion of large and medium enterprises are in some way involved in international supply chains. The vast majority of textile and garment factories are located on the island of Java. The garment industry is particularly concentrated in West Java, Greater Jakarta and Batam.<sup>35</sup>

## PERCENTAGE EMPLOYED IN GARMENT INDUSTRY

Up-to-date sex-differentiated data on employment in the textile, garment and footwear sectors are not publicly available, but women comprised a significant proportion of the more than two and a half million workers employed in the industry in 2013. Only 41% of textile workers and just 15% of garment workers are employed in large or medium enterprises.<sup>36</sup>

## SOCIAL COMPOSITION OF THE GARMENT WORKFORCE

Women are most concentrated in trade and hospitality, and community, social and personal services but, at 41.2%, they constitute a higher proportion of the manufacturing workforce than of the labour force as a whole (Table 8). The percentage of women is close to double again in Indonesia's garment factories, where in 2008 women constituted some 78% of the workforce.<sup>37</sup>

Traditionally, internal migrants – many of them young and female – have found work in the garment industry.<sup>38</sup> While internal migrants continue to comprise a significant percentage of the industry in some locations, many have since settled long-term, if not permanently, in the industrial regions in which they work. The age distribution of workers in medium-large enterprises has as a consequence increased. While all but 21 of the 918 garment workers surveyed by ILO Better Work in 42 garment factories in 2011–12 were under the age of 40, 63% were over the age of 25. Over 80% of these workers lived with their families, and only 3.5% resided in a factory dormitory.<sup>39</sup>

34 BPS. 2015. Number of Establishments of Micro and Small Manufacturing Industry By 2-digit ISIC Code, 2010-2015. <http://www.bps.go.id/linkTableDinamis/view/id/1011>;

BPS. 2015. Number of Establishments of Medium and Large Manufacturing Industry By 2-digit ISIC Code, 2010-2014. <http://www.bps.go.id/linkTableDinamis/view/id/896>

35 Better Work Indonesia Industry Profile. [http://betterwork.org/indonesia/?page\\_id=45](http://betterwork.org/indonesia/?page_id=45)

36 Statistics Indonesia. 2016. Jumlah Tenaga Kerja Industri Besar dan Sedang Menurut Sub Sektor, 2008-2013.

<http://www.bps.go.id/linkTabelStatis/view/id/1063>;

Statistics Indonesia. 2016. Tenaga Kerja Industri Mikro Kecil Menurut 2-digit KBLI, 2010-2014.

<http://www.bps.go.id/linkTabelStatis/view/id/1073>

37 ILO and IFC. 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO.

<http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf> More recent figures were unavailable.

38 For discussion of the demographic characteristics and experiences of garment workers in the late 1990s, see Pangestu, M. and Hendytio, M. 1999. Survey Responses from Women Workers in Indonesia's Textile, Garment and Footwear

39 Industries. World Bank Policy Research Working Paper No.1755. Washington: World Bank.

ILO and IFC. 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO.

<http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf>

While garment workers have enjoyed fewer years of formal education than manufacturing workers in some other sectors, the majority of those employed in medium to large enterprises have at least a junior high school education. The Better Work survey found that 82% of workers had at least a junior high school education, with almost half of this number having graduated from high school.<sup>40</sup> These statistics compare favourably with levels of education for manufacturing as a whole, where 64.3% of workers have a junior high school education or higher. Manufacturing workers, in turn, have a significantly higher level of education than that of the workforce as a whole, which is 45.7%.<sup>41</sup>

A final important feature of the industry is the increasing use of short-term contract and outsourced workers on mainstream production lines. This practice has been the focus of considerable controversy in Indonesia for some years. Global statistics are not available, but among the workers surveyed by Better Work – who are employed in large factories that are arguably less likely to flout national regulations than other workplaces – only 27.8% of respondents were in permanent positions.<sup>42</sup>

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40 ILO and IFC. 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO.  
<http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf>

41 BPS. 2016. Penduduk Berumur 15 Tahun Ke Atas yang Bekerja Selama Seminggu yang Lalu Menurut Lapangan Pekerjaan Utama dan Pendidikan Tertinggi yang Ditamatkan, 2000-2014.  
<http://www.bps.go.id/linkTabelStatis/view/id/978>

42 ILO and IFC. 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO.  
<http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf>

## 5. INDUSTRIAL RELATIONS

Indonesia has ratified all the core ILO conventions, but continues to struggle to comply with international standards regarding freedom of association and the right to collective bargaining, as well as with the more general implementation of its industrial relations framework in a fair and effective way. On the ITUC Global Rights Index, Indonesia was awarded a rating of 4 because of its 'systematic violation of rights', which means that 'the government and/or companies are engaged in serious efforts to crush the collective voice of workers putting fundamental rights under threat'.<sup>43</sup>

### ORGANISATION OF EMPLOYERS AND TRADE UNIONS IN THE GARMENT SECTOR

Workers and employers are encouraged under prevailing legislation to form associations for the purpose of bipartite and tripartite processes. The basic building block of Indonesia's trade union movement are enterprise-based unions, most of which are affiliated to a national union, which may in turn be affiliated to a national centre. However, most working Indonesians do not have access to a union, in part because of the size of the informal sector but also in part because of the lack of penetration of trade unions beyond select large and medium size enterprises, a significant proportion of which are tied in some way to global supply chains.

Employers are expected to engage with worker representatives or unions in workplace negotiations and collective bargaining, and Employer Associations join unions and government in a range of tripartite structures at the local and national levels, including local and regional wage councils and policy advisory bodies. They also provide ad hoc judges for Indonesia's industrial relations courts.<sup>44</sup> In industrial terms, however, the trade union confederations are relatively weak, with much of the power at the national level residing in the KSPI-affiliated federations, and some of the federations associated with KSPSI. Politically, the confederations have taken a proactive role on the national stage, in some cases very successfully, on issues like social security, but campaigns are sporadic and incidental.<sup>45</sup> Some of the federations have also taken advantage of the opportunities offered by decentralisation to supplement their factory-based activities with strategic lobbying as part of the local electoral cycle.<sup>46</sup>

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43 The ranking is compiled on the basis of answers provided by 328 national unions in 162 countries regarding violations of workers' rights, complemented by regional meetings with human and trade union rights experts and analysis of each country's legal framework. See ITUC. 2015. 2015 ITUC Global Rights Index: The World's Worst Countries for Workers. Brussels: ITUC. <http://www.ituc-csi.org/ituc-global-rights-index-2015>

44 For a detailed discussion of the industrial relations system, see Ford, M. and Sirait, G. 2016. The State, Democratic Transition and Employment Relations in Indonesia. *Journal of Industrial Relations* 58 (2).

45 For a discussion of the social security campaign, see Cole, R. and Ford, M. 2014. The KAJIS Campaign for Social Security Reform in Indonesia: Lessons for Coalitions for Social Change. Singapore: Friedrich-Ebert-Stiftung and Tjandra, S. 2014. The Indonesian Trade Union Movement: A Clash of Paradigms. In *Worker Activism after Reformasi 1998: A New Phase for Indonesian Unions?*, edited by J. Suryomenggolo, 45-65. Hong Kong: Asia Monitor Resource Centre.

46 Caraway, T. and M. Ford. 2014. Labor and Politics under Oligarchy. In *Beyond Oligarchy: Wealth, Power and Contemporary Indonesian Politics*, edited by M. Ford and T. Pepinsky, 139-155. Ithaca: Cornell Southeast Asia Program.

## UNION DENSITY

According to the most recent official data available from the Ministry of Manpower and Transmigration, union membership has decreased substantially since it was last verified in 2005, down from 3,414,455 to just 1,678,364.<sup>47</sup> Official registration figures are, however, notoriously unreliable, and the ministry itself questions the 2015 verification exercise, estimating that in fact there are at least 2.5 million union members across Indonesia.<sup>48</sup> If the latter estimate is used, union density is low, at approximately 15% of the industrial workforce but just over 2% of the workforce as a whole. Importantly, however, unions are highly concentrated in terms of their geographic location. With the exception of those in sectors like mining and forestry, they are concentrated in a small number of industrial centres around the country, the most significant of which are located near the capital, Jakarta, around the East Javanese city of Surabaya, and in the industrial cities of Medan and Batam on the island of Sumatra.

In the garment sector, unions have struggled to maintain their membership. The National Workers Union, for example, has an internally recorded a total of 330 987 members – a total considerably lower than the 501,321 members claimed in 2003, when the union was at its height.<sup>49</sup> Garteks, which is significantly smaller, estimates its total membership at around 48,000, around half of whom regularly pay dues. The density of these unions in different locations follows the distribution of the industry itself. For example, Garteks has active branches in the provinces of Banten, Jakarta, West Java, Central Java, Kepulauan Riau, North Sumatra and Riau, the most active of which is in Banten. Similarly, the membership of the National Workers Union is concentrated in the provinces of Banten and West Java, which account for 69.4% of its total membership.

## COLLECTIVE BARGAINING AGREEMENT COVERAGE IN COUNTRY

Although there has been a significant increase in the number of registered collective labour agreements since the post-Suharto Reformasi period, active agreements covered just 14% of wage perceiving workers and only 4% of the total employed workforce in 2009.<sup>50</sup> In manufacturing, collective bargaining agreements are generally found in large and medium enterprises, and within this category predominantly in firms that are integrated into high-profile global supply chains.

Where they exist, many collective bargaining agreements continue to be of poor quality, in many cases simply restating conditions provided for in the national regulatory framework and in some even containing provisions that violate it. Of 658 workplaces surveyed for the

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47 Ministry of Manpower. 2013. Organisasi Pekerja/Buruh di Indonesia.

<http://pusdatinaker.balitfo.depnakertrans.go.id/viewpdf.php?id=318;>

Hukumonline. 2015. Inilah Data Serikat Pekerja di Indonesia.

<http://www.hukumonline.com/berita/baca/lt55b8691e26785/inilah-data-serikat-pekerja-di-indonesia>

48 Hukumonline. 2015. Inilah Data Serikat Pekerja di Indonesia.

<http://www.hukumonline.com/berita/baca/lt55b8691e26785/inilah-data-serikat-pekerja-di-indonesia>

49 SPN. 2005. Country Report: Serikat Pekerja Nasional (SPN).

<http://www.itcilo.org/en/the-centre/programmes/workers-activities>

50 Hayter S. and Stoevska V. 2011. Social Dialogue Indicators: International Statistical Inquiry 2008-09. Geneva: ILO Department of Statistics.

Solidarity Center in 2009, only 61% had a collective bargaining agreement in place. Of these, 42% simply replicated the provisions of national labour laws while 5% violated national laws in some way.<sup>51</sup>

## COLLECTIVE BARGAINING AGREEMENT COVERAGE IN GARMENT INDUSTRY

There are no reliable official statistics available on collective bargaining agreement coverage in the garment industry; however, it can be assumed to be low given the predominance of small and medium enterprises. Data provided by key unions in the garment and textile industry suggests that this is the case even in unionised factories. The National Workers Union has workplace units in some 600 companies, close to 70 of which are in garments and another 10% in textiles. Close to 300 of its workplace units have negotiated collective bargaining agreements, but most of these simply restate conditions provided under law. Of the 128 companies affiliated to Garteks as of early 2016, collective bargaining agreements had been signed in just 14. Organisers report that all of the collective bargaining agreements signed by the union incorporate conditions that are above normative requirements, such as payment of bonuses, access to company facilities or additional leave.

The negotiation of collective labour agreements is complicated by the existence of multiple unions in some workplaces, which makes it difficult for any single union to meet the criteria to represent workers in collective bargaining. A significant number of employers remain reluctant to enter into a collective labour agreement at all, relying heavily on company regulations which are unilaterally determined by management. An equally serious problem is the problem of implementation where agreements have been reached. Better Work Indonesia recorded a 30% non-compliance rate among member companies in regard to collective bargaining in 2013. Infractions involved low levels of implementation; conditions that did not meet minimum legislated requirements; or a failure to inform workers of the content of the agreements.<sup>52</sup>

## LOCAL GRIEVANCE MECHANISMS FOR WORKERS

Local grievance mechanisms focus on bipartite negotiations at the firm level, supported by higher-level processes including arbitration or conciliation, formal mediation, and ultimately recourse to an industrial relations court presided over by a magistrate and two ad hoc judges, one nominated by employers and the other nominated by unions. Parties to the dispute may access the industrial court 30 days after other processes have failed. If either party is dissatisfied with the court's ruling, appeals against rights and termination disputes can be brought before the Supreme Court.

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51 Solidarity Center. 2010. Core Labor Rights in Indonesia 2010: A Survey of Violations in the Formal Sector. Jakarta: Solidarity Center.

52 ILO/IFC. 2013. Better Work Indonesia: Garment Industry 3rd Compliance Synthesis Report. Geneva: ILO.

Of the 35% of workplaces surveyed in 2009 for the Solidarity Center where there had been one or more industrial disputes over the previous two years, only one third opted to use the court system. Reasons nominated for avoiding the courts included the lengthiness, expense and complexity of the process, as well the distance between the workplace and the court, and a sense that judgments tended to favour employers. Holding out for an industrial court settlement thus offers employers a very viable strategy of containment in their negotiations with union officials, who are only too aware of the obstacles imposed by a court case.<sup>53</sup>

## STATE ROLE IN INDUSTRIAL RELATIONS

The state's role is divided between the national Ministry of Manpower and Transmigration, which has responsibility for developing legal and policy frameworks and overseeing national processes, and local manpower offices, which have responsibility for on-the-ground engagement with employers and unions on matters of industrial relations. Local parliaments also have the capacity to pass regulations pertaining to industrial relations so long as they do not conflict with national legislation.

The effectiveness of this system is seriously limited by a lack of capacity for labour inspection and inadequate sanctions. In 2012, there were just 1,638 labour inspectors nationwide, only 10% of whom had qualifications and experience in labour and industrial relations.<sup>54</sup> In the same year, there were just 118 ad hoc judges serving in labour courts across the country.<sup>55</sup> According to Ministry of Manpower statistics, the labour courts dealt with 2,753 industrial disputes in that year.<sup>56</sup>

Industrial relations courts are notoriously inconsistent in their decisions. A detailed analysis of 1,096 cases lodged in 2009-10 in four jurisdictions indicates that rulings favoured the trade unions in around 20% of cases and employers in approximately the same number, though in all but one of the four jurisdictions examined, courts ruled more often for employers. The remainder of cases had mixed results or were dismissed, though a significant proportion was settled by the parties before a verdict had been reached.<sup>57</sup> Even if verdicts are made in favour of labour, there is no guarantee that they will be implemented and few consequences for employers if they are not.

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53 Solidarity Center. 2010. Core Labor Rights in Indonesia 2010: A Survey of Violations in the Formal Sector. Jakarta: Solidarity Center.

54 Ministry of Manpower. 2012. Pengawas dan PPNS Ketenagakerjaan di Indonesia menurut Provinsi tahun 2012.

55 Ministry of Manpower. 2013. Pegawai Penyelesaian Perselisihan Hubungan Industrial di Indonesia (Orang) menurut Provinsi Tahun 2012-2013.

56 Ministry of Manpower. 2013. Kasus Perselisihan Hubungan Industrial di Indonesia menurut Provinsi Tahun 2011 – 2013. These figures are clearly under-reported, as the Ministry of Manpower reported none were handled in that year in key industrial areas including Banten and the Riau Islands.

57 Caraway T. 2011. Labor Courts in Indonesia. Jakarta: Solidarity Center.



## MECHANISMS FOR SOCIAL DIALOGUE (NATIONAL/SECTORAL)

Indonesia has a series of bipartite and tripartite consultative mechanisms. In recent years, there has been increasing emphasis on plant-level bipartite consultative committees, which are tasked with improving communication between workers and management. There are also tripartite consultative committees at the local, provincial and national levels, which are tasked with sharing information, engaging in dialogue and reaching joint decisions pertaining to industrial relations but also broader socio-economic issues. Some of these committees are sector-specific. Until the passing of Government Regulation No.78/2015, tripartite wage committees at the local and provincial level played a determining role in wage-setting.

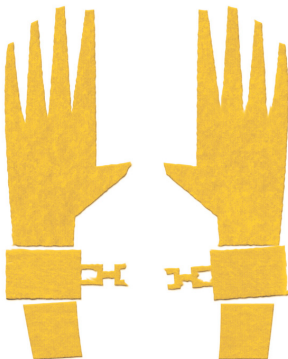
The shortcomings of government-mandated bipartite and tripartite structures has prompted the establishment of a range of private regulatory initiatives including Better Work Indonesia, the Freedom of Association Protocol, and the Asia Floor Wage, all of which seek to leverage international brands' concern about reputational risk to improve conditions in Indonesia's garment factories.

## 6. IMPLEMENTATION OF THE FWF CODE OF LABOUR PRACTICES

In this chapter the implementation of every part of the FWF Code of Labour Practices [LINK] is examined by looking at official statistics on compliance (where available), laws and regulations, as well as different stakeholders' opinion and analysis on implementation on implementation. Each section starts with quoting the FWF Code of Labour Practices. Text in italics is quotes from relevant conventions.

In the Indonesian context, there is much to be done on several elements of the Fair Wear Foundation Code. Most urgent among these is more systematic implementation of laws already in place on freedom of association, payment of a living wage, excessive working hours, and legally binding employment. The need to update and better implement legislation on occupational health and safety is also pressing. Finally, it is clear that women workers, who constitute the majority of production workers in the garment industry, bear the brunt of its failure to uphold core labour standards in addition to gender-specific burdens associated with reproductive health and workplace harassment.<sup>58</sup>

### 6.1. Employment is freely chosen



*"There shall be no use of forced, including bonded or prison, labour"*  
(ILO Conventions 29 and 105)"

Indonesia has signed both of the relevant ILO Conventions, and there are no major deficits in the regulation of forced labour. However, as is the case with all other aspects of labour law, the inspection regime only applies to formal sector workplaces, and even there is seriously inadequate.

#### LAWS AND REGULATIONS

As they pertain to the garment industry, ILO Conventions No.29 on Forced Labour and No. 105 on the Abolition of Forced Labour are accommodated in Law No.13/2003 on Manpower. Under Law No.13/2003, a worker may resign, having given 30 days' notice, unless he or she is bound by a contract to work for/serve the enterprise for a certain period of time in return for the training/ education provided to him or her and paid by the enterprise to enable him or her to have the required qualifications to carry out his or her job at the enterprise.

<sup>58</sup> For a comparison of non-compliance rates on several of these measures between countries involved in the ILO's Better Work Program, see ILO, 2014. Wages and Working Hours in the Textiles, Clothing, Leather and Footwear Industries. Geneva: ILO.

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

It is possible that some workers in home-based industries are not entirely free to choose their employment, but the stakeholders consulted for this report do not believe that forced labour is a concern in garment factories. Some did note, however, that excessive working hours are in effect a form of forced labour, especially when it is not paid on the grounds that targets have not been met.

### 6.2. There is no discrimination in employment



*"In recruitment, wage policy, admittance to training programs, employee promotion policy, policies of employment termination, retirement, and any other aspect of the employment relationship shall be based on the principle of equal opportunities, regardless of race, colour, sex, religion, political affiliation, union membership, nationality, social origin, deficiencies, or handicaps".*  
(ILO Conventions 100 and 111)(ILO Conventions 100 and 111)

Indonesia has signed ILO Conventions No.100 and No.111 and discrimination in employment on the basis of race, colour, sex, religion, political affiliation, union membership, nationality, social origin, deficiencies or handicaps is illegal. In practice, however, many occupations are defined along gender lines. In addition, the absence of a supportive workplace culture has a measurable effect on women's decisions about whether or not to engage in paid work when their children are young.<sup>59</sup> For example, an analysis of data from Indonesian Family Life Survey 1996–2007 found that work interruption is common among women in Indonesia.<sup>60</sup> As noted above, female garment workers are now more likely to continue working after starting a family, but in the absence of better care infrastructure, this decision forces them to rely on relatives and neighbours for child care.

While difficult to document, there may also be (positive or negative) discrimination on the basis of ethnicity, and despite affirmative action on people with disabilities, employment rates are very low. Age discrimination is widespread, with many published job advertisements specifying a maximum age for applicants.

<sup>59</sup> For more details on the challenges women face in balancing work and care, see Ford, M. and Nurchayati. In press. Indonesia: Middle-Class Complicity and State Failure to Provide Care. In Baird, M. Ford, M. and Hill, E. (eds). Women,

<sup>60</sup> Work and Care in the Asia-Pacific. Abingdon and New York: Routledge.

Setyonaluri, D. 2014. Women Interrupted: Determinants of Women's Employment Exit and Return in Indonesia. Bulletin of Indonesian Economic Studies 50 (3): 485-486

## LAWS AND REGULATIONS

Law No.13/2003 states that all people seeking work have an equal opportunity to obtain work and that all have the right to be treated in a non-discriminatory way by management. It also requires that employers must provide reasonable accommodation to workers with a disability. More detail on employment of people with disabilities is given in Law No.4/1997 on People with Disabilities, which requires companies to hire one appropriately qualified person with a disability for every 100 employees.

Legally, there is no discrimination on the basis of gender with regard to who should receive the family allowance mandated under Law No.13/2003 on Manpower; however, interview data with manufacturing workers suggests that it has proven difficult for women in that sector to obtain benefits for their families, including health insurance coverage, as a consequence of legal recognition of men's position as head of the household under Law No.1/1974 on Marriage.

Under Law No.13/2003, female employees are entitled to 1.5 months of fully paid maternity leave before giving birth, and 1.5 months after. Women are also eligible for leave on the first and second day of their period. It is also illegal to make women redundant on the grounds of pregnancy, birth, miscarriage or breastfeeding. Women must also be provided with facilities and time to breastfeed if needed during work time under the law. In addition, Ministerial Decision No.224/2003 includes provisions for well-lit separate bathroom facilities for men and women.

Employers are required to provide adequate opportunity and space for employees to carry out their religious duties under Law No.13/2003. They are also not allowed to dismiss an employee for carrying out their religious duties.

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Some stakeholders do not consider discrimination in the context of the hiring process to be a major problem, though they acknowledge that statements of age and gender requirements remain common in job advertisements. Others point to discrimination against pregnant, married or older women at the time of hiring. One example was given where pregnancy tests were compulsory upon hiring. In large formal-sector workplaces, men and women generally earn the same wages for the same jobs, though occupational segregation is quite common. Workplaces generally do not meet their legal requirements with regard to the employment of people with disabilities. Survey data collected in factories participating in the Better Work Indonesia program suggests that there was little sense among respondents that discrimination – on the basis of gender, religion, ethnic or family responsibilities – was a barrier to promotion.<sup>61</sup>

There is far greater concern about the failure of companies to meet their obligations with regard to women's reproductive health and child-rearing. Stakeholders reported that few workplaces meet the requirements to provide adequate facilities for lactating women or provide childcare onsite. Recent data is not available, but a survey of female factory workers conducted by Pangestu and Hendytio in the late 1990s found that only 6% of factories surveyed provided

61 ILO and IFC. 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO.  
<http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf>

the required breastfeeding facilities.<sup>62</sup> Another, conducted by the Women's Committee of a major financial sector union, concluded that there was unmet demand for breastfeeding and childcare facilities, as well as other forms of family-friendly practice such as flexibility to take time off to care of a sick child.<sup>63</sup> In addition, stakeholders report that female workers continue to have difficulty accessing their menstruation and maternity leave. In one case, the Korean owner of a factory that produces garments for a major United States brand requires female employees to forgo maternity benefits if they wish to be re-employed after they give birth. In some other cases, it is reportedly common for pregnant women to be sacked.

Input from stakeholders and earlier survey data suggest that there are also ongoing problems in relation to trade union activities. In some cases, unionists' capacity to carry out their duties is compromised by employers' refusal to allow them to attend union training and other union-related events. Interview data suggested that tier 1 suppliers in the garment industry generally respected the rights of union leaders to attend meetings but problems were more likely to be encountered in other parts of the sector. The research conducted for the Solidarity Center also found that most employers did not interfere with union leaders' attendance at meetings and training activities. However, anecdotal evidence suggests that it is more difficult for ordinary members, especially those employed on production lines (many of them women), to obtain leave for union activities.<sup>64</sup>

The severity of anti-union behaviour also depends on the extent to which unionists are happy to go along with management's agenda. More serious problems are often encountered by trade unionists in workplaces where a conflictual relationship with management exists. In the research conducted for the Solidarity Center, 32% of the 597 cases of workplace violations identified in focus group discussions with higher-level union officials involved discriminatory acts against unionists. In 108 of these cases, activists had lost their jobs. One stakeholder reported that his union had experienced many cases where members were accused of committing criminal acts. Others pointed to the fact that widespread use of short-term contracts in sub-contractors and producers for the domestic market meant that workers were increasingly fearful of joining a union because their lack of job security meant that their contract could simply be not renewed.<sup>65</sup>

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62 Pangestu, M. and Hendytio, M. 1999. Survey Responses from Women Workers in Indonesia's Textile, Garment and Footwear Industries. World Bank Policy Research Working Paper No.1755. Washington: World Bank.

63 Reerink, A. 2006. Report on a Survey of Women and Gender Issues in Trade Union Organisations in Indonesia. Jakarta: ILO.

64 Ford, M. 2008. Indonesia: Separate Organising within Trade Unions. In K. Broadbent and M. Ford (eds). Women and

65 Labour Organizing in Asia: Diversity, Autonomy and Activism. London and New York: Routledge, pp.15-33.

Solidarity Center. 2010. Core Labor Rights in Indonesia 2010: A Survey of Violations in the Formal Sector. Jakarta: Solidarity Center.

## 6.3. No exploitation of child labour



*'There shall be no use of child labour. The age for admission to employment shall not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years.'* (ILO Convention 138) *'There shall be no forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour. [...] Children [under the age of 18] shall not perform work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals'* (ILO Convention 182).

Child labour is not common in Indonesia's formal sector, although children may be employed in home industry. Indonesia has signed ILO Conventions 138 and 182, and under Indonesian law, children are permitted to work for a maximum of three hours per day under conditions that do not interfere with their schooling or their physical, mental or moral development. As in other areas, Indonesia has little capacity to monitor adherence to these requirements.

### LAWS AND REGULATIONS

Law No.13/2003 forbids the employment of children except in very particular circumstances. Children between the age of 13 and 15 may undertake light work as long as it does not interfere with their physical, mental or social health. In such cases, the employer must have written permission from a parent or guardian and a work contract between the employer and the parent or guardian, and work may last for a maximum of three hours of daytime at a time that does not interfere with the child's schooling. If work takes place in a workplace that employs adults, a separate workspace must be provided. A formal work contract is not required if the child is employed in a family business. Children aged over 14 may also undertake work experience or to develop a talent or hobby. Specific reference is made to the illegality of employing children as sex workers, in the production of pornography or in situations that expose them to the production or sale of alcohol, drugs or other morally detrimental occupations

### STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Attitudes towards girls differ significantly between Indonesia's many hundreds of ethnic groups, but in most cases girls are welcomed by parents. They are much more likely to be expected to assist with household chores than their brothers, but nevertheless have relatively equal access to education and other life opportunities. Although around 51.47% of Indonesian women of working age have a primary school education or less, this is also true for 44.68% of men in the same age group. Indeed, women outnumber men among those with post-school qualifications – a statistic reflected in occupational spread. For example, females represented almost 54% of employees in professional or technical occupations in 2013.<sup>66</sup>

66 Statistics Indonesia. 2014. Population 15 Years of Age and Over by Sex and Educational Attainment, 2013.  
[http://www.bps.go.id/eng/tab\\_sub/view.php?kat=1&tabel=1&daftar=1&id\\_subjek=406&notab=10](http://www.bps.go.id/eng/tab_sub/view.php?kat=1&tabel=1&daftar=1&id_subjek=406&notab=10)

Stakeholders confirm that child labour is not a concern in factories, although it is possible that children may be required to work in home industries. It should be noted, however, that the law requires that workers engaged in full-time paid employment to be at least 18 years of age. Many workers or their agents falsify documents to allow them to seek employment earlier, but it is unlikely that many would be able to do so if they were significantly underage. It was reported by one stakeholder that factories relocating to cheaper areas in Java have sought informal permission to hire fresh graduates from junior high school from local manpower offices because of the difficulties they have experienced recruiting sufficient workers.



## 6.4. Freedom of association and the right to collective bargaining

*"The right of all workers to form and join trade unions and bargain collectively shall be recognized" (ILO Conventions 87 and 98). "Workers' representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to carry out their representation functions" (ILO Convention 135 and Recommendation 143) .*

Indonesia has made significant advances on freedom of association since the May 1998 fall of the authoritarian New Order regime led by President Suharto. At the same time, unionists continue to be confronted by numerous difficulties in trying to exercise their rights, many of which stem from the systemic failure of state institutions to uphold the law. There are insufficient protections for workers forming a union; insufficient protections against discriminatory acts; and court decisions on reinstatement are difficult to implement in cases of wrongful dismissal. Many employers seek ways to avoid their obligation to engage in collective bargaining, and regulations like Ministerial Decision No. 620/M-IND/Kep/12/2012 on National Vital Objects in Industry threaten the right to strike. Indonesia has signed ILO Conventions No.87 and 98 but has yet to sign Convention No.135.

## LAWS AND REGULATIONS

Under Law No. 21/2000 on Trade Unions, as few as ten workers can form a union and multiple unions are permitted to operate in a single workplace. The law also allows for multiple union federations and confederations and permits enterprise-level unions to affiliate with any union federation or confederation at the regional or national level, marking a radical departure from the single-union model that had characterised the New Order. These provisions were reconfirmed in Law No.13/2003. The trade union law also forbids anti-union activities such as intimidation, campaigning against the formation of a union, termination or temporary suspension of



employment, demotion or transfer and withholding or reducing payment. The administrative requirements for trade unions are outlined in Ministerial Decision No.187/2004 on Trade Union Dues and Membership.

With the exception of core services, the right to strike is guaranteed under Law No.13/2003. However 7 days' notice must be provided of the intention to strike. Under Ministerial Decision No.232/2003 on the Results of Illegal Strikes, strikes are only permitted after the failure of negotiations, which is defined as the failure of the employer to respond to two written notifications from the union over a period of 14 days. Strikes that do not meet these requirements are treated as a failure to attend work. Workers may be prevented from striking in the vicinity of the company if this requirement is not followed. As noted above, Ministerial Decision No. 620 /2012 on National Vital Objects in Industry restricts the capacity of workers to strike within industrial parks that have been classified as National Vital Objects, which severely limits the potential impact of strikes.

The right to engage in collective bargaining is guaranteed under Law No.13/2003, which states that union members must constitute more than 50% of employees or have the support of more than 50% of employees, for a union to have the right to bargain. If multiple unions are present, they may enter a coalition to reach the more than 50% requirement or form a team with proportional representation from each of the unions. Collective bargaining agreements are valid for a maximum of two years, but can be extended for a third year subject to written agreement from the parties. Negotiation of a future collective bargaining agreement can only start three months before the expiry of the existing agreement. If no agreement is reached before that date, the existing agreement is automatically extended for a period of up to one year. If an agreement cannot be reached, the parties are deemed to be engaged in an industrial dispute.

These conditions are restated and elaborated upon in Ministerial Decision No.48/2004 on the Making and Registering of Collective Bargaining Agreements and Ministerial Regulation No.28/2014. The latter imposes the additional requirement that a maximum of three unions with a minimum of 10% each of workers as members may engage in collective bargaining. Employers may request verification of union membership before entering into collective bargaining

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Stakeholders reported that it is less common now for employers to prevent workers from establishing a union, especially in tier 1 garment companies. However, there were also reports of cases at the sub-contracting level where management had pre-empted the establishment of an independent union by encouraging the establishment of a yellow union at the enterprise level. There were also reports of cases where companies had been encouraged by the local manpower office to establish a bipartite cooperative committee in place of a union, or where company rules were simply rebadged as a Collective Labour Agreement. A broader issue was the reluctance of management to negotiate with unions where they existed. Stakeholders also acknowledged, however, that in some cases many workers, including union members, may not see the need to engage in collective bargaining. Another barrier to effective negotiation is multiple trade unions at the same location, even where all of the unions are bona fide, as management can play unions off against one another.



There were also reports of cases where employers had interfered with unions' right to strike. As noted above, workers are required to give seven days' notice after the breakdown of negotiations before striking, where the breakdown of negotiations is defined as a written statement signed by the two parties to that effect or the employer's refusal to meet after two written requests over a period of 14 days. The Solidarity Center report noted that employers can draw out the process by refusing to sign a written statement that negotiations have failed, thus forcing the union to wait for a period of some weeks before striking. Such situations put great pressure on unions internally by forcing them to contain their membership or engage in an illegal strike, which at worst exposes the union to punitive legal sanctions that may ultimately threaten its very existence, and at the very least exposes its members to police intimidation.<sup>67</sup>

## 6.5. Payment of a living wage



*"Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income" (ILO Conventions 26 and 131, the Universal Declaration of Human Rights, art 23(3) and art 25(1)). "Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted. Deductions shall never constitute an amount that will lead the employee to receive less than the minimum wage. Employees shall be adequately and clearly informed about the specifications of their wages including wage rates and pay period".*

The payment of a living wage is primarily achieved through the minimum wage mechanism. Minimum wages were until recently determined through an annual process led by local tripartite wage boards, which estimated the income needed for workers to achieve a "minimum decent standard of living" for a particular province or district. Their recommendations were put first to the mayor or local district head and then signed off on by the governor. In some areas, provincial minimum wages were set instead of district wages. In a context where enterprise-based collective bargaining is weak, the minimum wage has been very important industrially.<sup>68</sup> Its negotiation also created significant political space for unions at the local level. Indeed, so successful were unions at leveraging this process in key industrial areas that the Employers' Association successfully lobbied for the passing of a government regulation to take the power away from the local committees, replacing it instead with a centrally-determined formula, which came into force during the negotiation round in late 2015.

<sup>67</sup> Solidarity Center. 2010. Core Labor Rights in Indonesia 2010: A Survey of Violations in the Formal Sector. Jakarta: Solidarity Center.

<sup>68</sup> ILO. 2015. Labour and Social Trends in Indonesia 2014-2015: Strengthening Competitiveness and Productivity through Decent Work. Jakarta: ILO.

## LAWS AND REGULATIONS

Law No.13/2003 stipulates that every worker has the right to a living wage, which under Presidential Instruction No.7/2013 on the Setting of the Minimum Wage is reflected in the local or provincial minimum wage. The regulation also allowed for the setting of sectoral wages where appropriate, though these are reportedly not common in the garment industry.

Under Law No.13/2003, wages agreed to by employers and employees are not be set at a rate that is lower than the applicable minimum wage unless an employer had successfully applied for a suspension on the grounds that they are incapable of paying that minimum wage. Employers are also encouraged to establish a wage scale that took into account position, length of service, education and competence. Under the same law, employers must continue to pay the wages of workers who are sick, attending a wedding, circumcision ceremony, baptism, birth or death, religious need or because they have been asked to carry out a duty for the nation.

Processes for wage-setting were, however, radically altered in late 2015 with the passing of Government Regulation No.78/2015 on Wage-Setting. The regulation restates the purpose of wage-setting to be the achievement of a reasonable standard of living for all workers, and the principle of equal pay for equal work. It also recognises the role of enterprise-level collective bargaining. Where it differs is in the setting of the minimum wage, which is no longer to be negotiated by tripartite wage councils, but rather set on a formula that uses a decent living rate set every five years instead of annually, alongside the inflation rate and GDP. The regulation also makes the establishment of a wage scale mandatory, and requires employers to provide proof of payment to workers that includes a detailed account of the wages received at the time they are paid.

Apprenticeships are regulated under Ministerial Regulation No.22/2009 on Apprenticeships within Indonesia. Apprenticeships are available to job-seekers, students in training institutions or workers who wish to increase their skills. They must be at least 18 years of age, must sign a formal agreement, and must be engaged for a maximum of one year. They are not paid a wage, but must be paid an honorarium and a transport allowance.

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Two main issues are evident in regard to payment of a living wage in Indonesia. The first is that the minimum wage functions as a normative goal rather than a safety net. The second is the impact of Ministerial Regulation No.78/2015 on the process used to determine the minimum wage.

With regard to the former, concrete data is impossible to obtain but it is an open secret that many employers in the garment sector do not pay the minimum wage. According to a business association representative, large garment producers generally comply but many medium enterprises and virtually all small enterprises do not. This may occur legally under a provision that allows companies to delay the implementation of minimum wage decisions or illegally through a decision simply not to pay the minimum wage. All informants pointed to the laxity of government inspections and enforcement of minimum wages. The Better Work survey,

meanwhile, identified significant concern among respondents concerning wages, with over three quarters complaining about wage rates, excessive pay deductions and broken punch clocks. Questions about the contents of payslips revealed that while a majority of respondents received payslips that included the date, their ID number, wage rate, regular hours and overtime hours, very few included information about bonuses or deductions.<sup>69</sup>

With regard to the latter, business representatives and unionists agreed that Ministerial Regulation No.78/2015 had a significant effect on both the wage-setting process and on future wage outcomes in the garment industry. Business welcomed the predictability of the formula but criticised it for not taking into account the different inflation and productivity rates of different regions. They noted that in formal terms it delivered higher rates of pay than the old system but acknowledged that the elimination of what was effectively a form of pattern bargaining at district level in industrial areas meant that outcomes were likely to be lower in those areas. The APINDO representative cited a study conducted by the organisation that demonstrated that minimum wage levels only had a peripheral impact, if any, on real wages because of a lack of compliance in much of the sector.

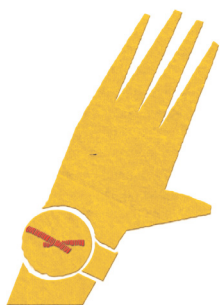
Unionists pointed to the risk of newly established industrial areas not being able to achieve the kinds of wage levels now in place in more established industrial areas as a consequence of the current gap between the minimum wage in established and newly industrialised areas, and the cap on annual wage rises. They were also concerned with the change in the frequency of the calculation of decent living standards from one year to five. On the other hand, some reported a decrease in the number of companies seeking to delay the implementation of the minimum wage in the 2015 round. A less direct effect of the change has been the erosion of the political capital unions had built up in key industrial areas through the minimum wage-setting process.<sup>70</sup> This has serious implications for unions' engagement in local politics.

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69 ILO and IFC. 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO.  
<http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf>

70 For a discussion of this issue, see Caraway, T. and Ford, M. 2011). Labor and Politics under Oligarchy. In Michele Ford and Thomas Pepinsky (Eds.), Beyond Oligarchy: Wealth, Power, and Contemporary Indonesian Politics. (pp. 139-155). Ithaca, New York: Cornell Southeast Asia Program (SEAP).

## 6.6. No excessive working hours



*"Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7-day period. Overtime shall be voluntary, shall not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate".*  
(ILO Convention 1)

Indonesia is a signatory to ILO Convention No.1, and normal hours of work are formally capped at 40 hours per week over five or six days. However, excessive overtime is a serious problem in Indonesia's labour-intensive industries, including the garment industry. Where it is properly recompensed, workers are often happy to take on extra work to supplement their wages. There are many reports, however, of instances in which workers are required to take on overtime without being paid.

### LAWS AND REGULATIONS

Law No.13/2003 limits working hours to 40 hours per week over five or six days unless stipulated under a sector-specific regulation. Workers must agree to reasonable requests to do overtime, which is subject to legal limits of three hours per day or 14 hours per week. Ministerial Decree No.102/2004 on Overtime and the Payment of Wages for Overtime reinforces these provisions and further stipulates that all overtime must be paid at specified multiples of normal hourly wages unless the employee concerned is engaged in a professional position. It also stipulates that there must be a written agreement between the employer and the worker concerned agreeing to overtime. A number of other provisions are outlined, including a requirement to provide workers completing three or more hours of overtime with a meal.

Law No.13/2003 also imposes specific conditions on women's hours of work. Women under the age of 18 may not work between 11 pm and 7 am. The same condition is imposed for pregnant women who have received advice from a doctor that it would not be advisable for them to work at night. Employers are also required to provide transport to and from the workplace for women who finish work between 11 pm and 5 am.

### STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Better Work reports that women appear to work less overtime than men in the Indonesian workforce as a whole, with 77.6% of male and 66.8% of female regular employees working more than 40 hours per week in 2010. Their own survey found that a significant percentage of workers in female-dominated garment factories were regularly undertaking overtime.<sup>71</sup> More broadly, stakeholders reported that many workers sought overtime hours to supplement their salaries.

<sup>71</sup> ILO and IFC. 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO.  
<http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf>

Of concern, however, was the prevalence of unpaid overtime in parts of the garment industry, most recently facilitated through the practice of scoring, where if a line does not reach its target workers are required to continue working without being paid the overtime. Practices were also reported where workers were paid for excessive overtime, but in cash and without legal penalty rates, so that company records did not incriminate management.

## 6.7. Safe and healthy working conditions



*“A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Appropriate attention shall be paid to occupational hazards specific to this branch of the industry and assure that a safe and hygienic work environment is provided for. Effective regulations shall be implemented to prevent accidents and minimize health risks as much as possible” (following ILO Convention 155). “Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer are strictly prohibited”.*

Occupational health and safety continues to be a major problem in the Indonesian garment industry, where employers and employees alike are most commonly not attentive with regard to work-related hazards.

## LAWS AND REGULATIONS

Law No.13/2003 states that the occupational health and safety needs of every worker must be guaranteed by the employer, and occupational health and safety must be integrated within the management systems of companies. Detailed requirements are to be regulated through ministerial decisions and other instruments; however the most up to date information available suggests that none have been issued on the topic since the time the law was passed. Indeed, Law No.1/1970 on Work Safety remains the primary regulatory instrument specific to the topic, supplemented by Law No.23/1992 on Health, which requires that companies must not endanger a worker's health. Most of the regulations on matters such as machine safety, material safety, chemical safety and so on date back to the Suharto period. Exceptions to this are a number of ministerial decisions and regulations passed from 1999. These include:

- *Ministerial Regulation No.3/1999 on Occupational Health and Safety for the Transport of People and Goods*
- *Ministerial Decision No.51/1999 on Physical Factors in the Workplace*
- *Ministerial Decision No.186/1999 on Fires in the Workplace*
- *Ministerial Decision No.197/1999 on Handling Dangerous Chemicals*
- *Ministerial Decision No.75/2002 on the Implementation of International Standards on Electrical Installations in Workplaces*

With regard to the protection of workers' rights in the case of sickness or injury, Law No.13/2003 states that a worker may not be fired for being ill, as long as the illness does not exceed 12 months. This includes workers who have developed a permanent disability or chronic illness as a result of a work-related incident. During that time, workers must be paid 100% for the first four months, then 75% for the second 4 months, 50% for the third four months and 25% for the remaining time until the employer ceases the employment relationship. Harassment and violence are also forbidden under the Law No.13/2003, which specifically outlaws "immoral acts" and "attacks, mistreatment, threats or intimidation" against the employer or fellow workers

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Stakeholders acknowledge that occupational health and safety remains a serious challenge for Indonesia's garment industry, and one that receives little attention from employers and employees alike. In some cases, safety equipment provided was sub-standard or its use not enforced. Cases were also reported where safety equipment was produced only when the factory was inspected. Better Work reports high levels of occupational health and safety violations in the country as a whole, with close to 13,000 factories receiving warning or sanctions in 2011, and 98,711 work accidents recorded in 2010.<sup>72</sup> Given low levels of inspection, these numbers are likely to be seriously under-reported.

Everyday working conditions are also poor even in better factories in the industry. In the Better Work survey, more than half of all workers reported experiencing serious thirst every day. Close to half reported experiencing excessive heat in the factories, and many also reported severe fatigue; head, back or neck ache; or dizziness. They also complained about dusty or polluted air, bad chemical smells and noise levels.<sup>73</sup> Since the factories associated with the program supply to global brands and are subject to periodic auditing, it is reasonable to assume that conditions are worse in the industry as a whole. Stakeholders confirmed that these problems were a common experience.

72 ILO and IFC. 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO.  
<http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf>

73 ILO and IFC. 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO.  
<http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf>



Survey data collected in factories participating in the Better Work program confirm stakeholders' reports that sexual harassment is another ongoing problem, with as many as 85.2% of respondents reporting concerns. Widespread workplace violence was also widely reported.<sup>74</sup> Stakeholders reported that it was also common for companies not to meet the requirement to provide women with transport when working late at night. This potentially represents a serious hazard to their well-being in areas poorly serviced by public transport.

## 6.8. Legally-binding employment relationship



*"Working relationships shall be legally binding, and all obligations to employees under labour or social security laws and regulations shall be respected."*

The legally binding nature of working relationships has been a point of great contention in Indonesia over the last decade because of the increasing reliance on contract and outsourced labour. In the garment industry these practices are reportedly

not common in tier 1 suppliers to international brands but deeply entrenched in the lower tiers of international supply chains as well as in many producers for the local market.

## LAWS AND REGULATIONS

Under Law No.13/2003, at a minimum, letters of appointment must include the name and address of the worker, the date that they are to commence work, the type of work expected of them and the wages they are to be paid. The assumed norm is permanent and direct employment on an indefinite term contract, although fixed-term contracting is possible in certain circumstances (seasonal work, new products, and temporary assignments). Ministerial Decree No.100/2004 on the Guidelines for the Implementation of Fixed-Term Contracts stipulates that the working conditions of contract employees must meet the requirements of the existing laws. The outsourcing of work is permitted under the law and under Ministerial Regulation No.19/2012, but only in a limited number of non-core activities. The law includes a long list of prohibitions on the dismissal of workers, which meet international standards.

Indonesia also has relatively generous separation provisions, developed historically to compensate for the absence of universal social security. Under Law No.13/2003, all workers and their families have the right to workplace social security, and companies are required to provide welfare-related facilities in line with their capacity. There was a significant shift in

<sup>74</sup> ILO and IFC. 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO.  
<http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf>

the social security system with the implementation of the national social security system as mandated by Law No.40/2004 on the National Social Security System, which addresses areas including health, workplace injuries, pensions, and funeral benefits. Law No. 24/2011 on Social Security Providers created two public entities were created to manage the system, one for health and one for employment-related social security.

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Most (and in many cases all) union members have permanent employment. The unions represented at the European-owned factories surveyed in the mid-2000s consisted entirely of permanent workers, as did 70% of the workplace unions surveyed for the Solidarity Centre at the end of that decade.<sup>75</sup> However, with the exception of tier 1 suppliers, which are reported to have high levels of permanent employment, many garment workers are employed on a much more precarious basis. The exact numbers are unknown, in part because not all companies meet their reporting requirements and in part because of a failure on the part of government to systematically collect data related to employment practices.

According to industry sources, contract employment and outsourcing are necessary both as a consequence of the nature of the industry, the labour demands of which ebb and flow with the placement of orders, and because of the high costs of compliance associated with permanent employment. One of the chief elements of this is the cost associated with dismissals and redundancies, which in part reflect the absence of a state-led system of social security. Laws No. 40/2004 and 24/2011 have attempted to set out an architecture for a broader social security system with regard to healthcare and to rework existing arrangements for work-related social security.

As noted above, outsourcing and short-term contracts are both permitted by law. Unionists claim that in practice the legal limits of both practices are widely exceeded through the employment of outsourced workers in the core production process and the use of short-term contracts in situations where work is not truly seasonal. There is no firm data from the garment industry on the extent of outsourced and contract employment but one of the unions reported that 67% of workers in 16 companies surveyed at the end of last decade were employed on short-term contracts. A representative from another union estimated that up to 60% of workers are on short-term contracts in factories where the union has a presence.

These estimates are supported by the more general studies available such as the one undertaken in European-owned factories in the mid-2000s in which it was found that five of the eight firms surveyed employed outsourced workers or workers with contracts lasting for periods of between four and six months in duration. In one of these firms, 896 workers were employed on short-term contracts and only 697 on a permanent basis. At another, which had 521 permanent workers, the number of outsourced workers fluctuated between 200 and 400.<sup>76</sup>

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75 Akatiga, TURC, & Lab Sosio UI. 2006. Promoting Fair Labour Regulations in Indonesia: A Study and Advocacy in Improving Local Level Investment Environment in Tangerang and Pasuruan. Bandung: Akatiga; Solidarity Center. 2010. Core Labor Rights in Indonesia 2010: A Survey of Violations in the Formal Sector. Jakarta: Solidarity Center.

76 Akatiga, TURC, & Lab Sosio UI. 2006. Promoting Fair Labour Regulations in Indonesia: A Study and Advocacy in Improving Local Level Investment Environment in Tangerang and Pasuruan. Bandung: Akatiga.



Similarly, 69% the firms surveyed for the Solidarity Center employed contract workers and 43% used outsourcing companies. Contract workers comprised over 25% of the workforce in 40% of the companies using that mode of employment while outsourced workers comprised over 25% of the workforce in 30% of the companies that used outsourced labour.<sup>77</sup>

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<sup>77</sup> ILO. 2015. Labour and Social Trends in Indonesia 2014–2015: Strengthening Competitiveness and Productivity through Decent Work. Jakarta: ILO.

# SOURCES USED IN THIS COUNTRY STUDY

*The information has been gathered by Professor Michele Ford, Director of the Sydney Southeast Asia Centre at the University of Sydney, Australia, who has been writing about Indonesian labour relations since 1995. The study was prepared by gathering information about national laws and local stakeholders' view on labour issues in the garment industry in Indonesia as well as internationally recognised sources on the economic, social, political and human rights situation in the country.*

The following stakeholders representing employers, trade unions and NGOs were consulted in writing this country study:

## I. EMPLOYERS

### Association of Indonesian Employers (APINDO)

The main body representing employers in the wage councils and in other tripartite committees. One person participated.

Tel: +62 21 83780824  
E-mail: sekretariat@apindo.or.id  
Website: <http://apindo.or.id/id>

### Indonesian Textile Association (API)

The main employers' association in the garment and textile industries. One person participated.

Tel: +62 21 5272171  
Email: sekretariat@bpnapi.org, callcenter@bpnapi.org  
Website: [http://www.ipteknesia.com/ristek/index.php?option=com\\_content&view=article&id=343:api&catid=99&Itemid=498](http://www.ipteknesia.com/ristek/index.php?option=com_content&view=article&id=343:api&catid=99&Itemid=498)

## II. TRADE UNIONS

### Cross-Factory Labour Federation (FBLP)

Small geographically based federation with a strong footprint in textile, garment, textile and footwear industries. One person participated.

Tel: +62 214414419  
E-mail: buruhlintaspabrik@gmail.com  
Website: <http://www.marsinahfm.com>

### **Centre for Indonesian Labour Struggle (GSBI)**

Small national federation with a strong footprint in textile, garment, textile and footwear industries. One person participated.

Tel: +62 21 4223824  
Email: gsbi\_pusat@yahoo.com  
Website: <http://www.infogsbi.org/>

### **Garteks**

KSBSI's affiliate for the textile, garment and footwear industries. Two people participated.

Tel: +62 21 85903319  
Email: Garteks\_SBSI@hotmail.com  
Website: <http://www.ksbsi.org/index.php/page/link/116/116>

### **National Workers Union (SPN)**

KSPI affiliate for the textile, garment and footwear industries. One person participated.

Tel: +62 21 7981233  
Email: dpp\_spn@yahoo.com  
Website: <http://spn.or.id/>

## **III. LABOUR RELATED NGOS**

### **The Jakarta Legal Aid Institute (LBH Jakarta)**

Legal aid institute with a long-standing interest in labour and a key player in the FOA Protocol process. One person participated (former staff member).

Tel: +62 21 3145518  
Email: lbhjakarta@bantuanhukum.or.id  
Website: <http://en.bantuanhukum.or.id/>

### **Sedane Labour Information Centre (LIPS)**

Labour NGO with a strong focus on documenting the Indonesian labour movement and on training for trade unionist. One person participated (former staff member r).

Tel: +62 251 8344473  
Email: perburuhan.sedane@gmail.com  
Website: <https://sedanelips.wordpress.com/>

## **Trade Union Rights Center (TURC)**

Labour NGO and hub for the Asia Floor Wage. Two people participated.

Tel: +62 21 5744655  
Email: andriko.otang@gmail.com  
Website: <http://turc.or.id>

## **IV. INTERNATIONAL STAKEHOLDERS**

### **Better Work Indonesia**

ILO program involving government, international brands, and textile and garment unions. Two people participated.

Tel: +62 21 391 3112  
Email: indonesia@betterwork.org  
Website: <http://betterwork.org/indonesia/>

### **IndustriALL**

IndustriALL is the Global Union Federation with responsibility for the garment and textile sector. One person participated.

Tel: +65 63464303  
Email: seao@industrialall-union.org  
Website: <http://www.industrialall-union.org/>

### **International Labour Organisation**

The ILO has taken a strong interest in the legal framework of industrial relations and trade union development in Indonesia. One person participated.

Tel: +62 21 391 3112  
Email: jakarta@ilo.org  
Website: <http://www.ilo.org/jakarta/lang--en/index.htm>

### **Oxfam Indonesia**

Long engagement in labour rights in Indonesia, provides support for FOA Protocol. One person participated.

Tel: +62 21 7811827  
Email: CWangkay@oxfam.org.uk  
Website: <http://oxfamblogs.org/indonesia/>

## Solidarity Center

Long engagement in labour rights in Indonesia. One person participated.

Tel: +62 21 3193 6635

Email: [Information@solidaritycenter.org](mailto:Information@solidaritycenter.org)

Website: <http://www.solidaritycenter.org/where-we-work/asia/1051-2/>

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Government of the Netherlands

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