



INDONESIA

country study 2018

Wage update 2019



CONTENTS

Introduction	3
1. How to read this country study	5
2. General country information	6
2.1. Economic indicators	6
2.2. Social, political & governance indicators	7
2.3. Income and poverty	9
2.4. General human rights situation	10
3. Stakeholders	12
4. Garment industry	21
5. Industrial relations	26
6. Implementation of the FWF Code of Labour Practices	32
6.1. Employment is freely chosen	32
6.2. There is no discrimination in employment	34
6.3. No exploitation of child labour	38
6.4. Freedom of association and the right to collective bargaining	40
6.5. Payment of a living wage	44
6.6. No excessive working hours	50
6.7. Safe and healthy working conditions	52
6.8. Legally-binding employment relationship	56
7. Recommendations (only for SP countries)	59
Sources used in this country study	60
List of abbreviations	64
Legal country situation regarding the FWF Code of Labour Practices	65

INTRODUCTION

The garment industry is a significant contributor to Indonesia's large economy. In fact, it was the fifth greatest contributor to Indonesia's non-oil and gas manufacturing export figures from 2014 to 2017, growing at an average of 1.1 % during that period.¹ It is also an important source of employment, accounting for around 26.6 % of jobs in the manufacturing sector.² The industry is affected by changes to economic conditions in the US and Europe, the major destinations for its products. It also faces the challenge of competing with other garment-producing countries such as Vietnam and Bangladesh, with costs including labour, affecting competitiveness.

Another challenge for the garment industry lies in meeting international expectations about the treatment of workers. Conditions in garment factories vary considerably. They 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 industry has received a great deal of attention from international and local NGOs and trade unions, but there remains much to be done before the standards embedded in FWF Code of Labour Practice are fully met even in more compliant segments of the sector.

In terms of labour rights, Indonesia has signed key international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and all eight core International Labour Organization (ILO) conventions. However, the extent to which these commitments are reflected in Indonesian legislation and in its implementation, varies. Like many countries in the region, it also continues to experience serious problems in terms of the implementation of many aspects of its legal framework. This core problem has led to issues with freedom of association and the right to bargain collectively; 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 and will update this country study on a periodic basis in the future.

Fair Wear Foundation (FWF)

As of 2016, Indonesia is one of eleven countries where FWF has an active presence. Besides conducting audits, FWF provides factory training, and supports workers through the FWF Worker Helpline. On average, there are between ten and 15 FWF members sourcing from Indonesia, most of which are Germany-based brands that produce various items such as sportswear or outdoor pants, jackets and t-shirts. In total, these brands source from 20 to 25 factories. Most of these factories are located in Java, with a much smaller number in Bali.

1 Kementerian Perdagangan Republik Indonesia, 2015. Perkembangan Ekspor NonMigas (Sektor) Periode: 2013-2018. Available at: <http://www.kemendag.go.id/id/economic-profile/indonesia-export-import/growth-of-non-oil-and-gas-export-sectoral>.

2 Horne, R. & de M. C. Andrade, 2017. Gambaran beragam untuk sector garmen Indonesia. Bangkok: ILO. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_625194.pdf.

From the moment the FWF worker helpline became available in Indonesia, FWF has received 13 complaints from workers in five different factories. Most complaints were related to legally binding employment relationships, occupational health and safety and the payment of wages.

As part of the Workplace Education Programme (WEP), FWF began implementing the WEP Communication, a two-day training focused on improving worker-management dialogue in which workers learn to collect issues, prioritize and present their findings to management. As of 2019, the WEP basic will also become available in Indonesia.

Indonesia is one of the countries that is part of the Strategic Partnership (SP); a partnership between Mondiaal FNV and CNV Internationaal, funded by Dutch Ministry of Foreign Affairs. The focus within this partnership is on social dialogue, gender-based violence and living wages.

1. HOW TO READ THIS COUNTRY STUDY

This country study should provide a clear and concise picture of the industry, labour law, labour conditions and industrial relations within the textile/garment industry. The study is prepared through gathering information about national laws and local stakeholders' views 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 provides 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 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 presents an overview of the situation for the garment industry in Indonesia, including main areas of production, products and prospects.

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

Chapter 6 provides an assessment of the implementation of every standard included in the FWF 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 land mass of 1.9 million km² and a population of 261 million, Indonesia is by far the largest country in Southeast Asia. Indonesia's 2017 GDP of around \$1015.54 billion USD accounts for around 37 % of the region's economic activity.³ Indonesia's manufacturing sector generates 18 % of the country's GDP. The garment and textile industries represent just 6.2 % of the value derived from the sector.⁴ However, textiles and textile products are the fifth largest contributor to export figures of all non-oil and gas industrial products, and constitute a small but significant proportion of global export production.⁵

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 2016.⁶ Women's overall labour force participation rate has stayed at just over 50 % since the mid-1990s, while the participation rate for men is currently 83 %.⁷ However, in the garment and textile sectors, females accounted for around 60 % of the workforce in 2016.⁸

2.1. Economic indicators

Indonesia's GDP per capita is significantly higher than that of Bangladesh and Vietnam, two other key Asian garment-producing countries (Table 1).

Table 1. GDP Per Capita (current USD) in Selected Garment Producing Countries⁹

Country	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Bangladesh	616	681	758	836	856	952	1085	1210	1359	1517
Indonesia	2162	2254	3113	3634	3688	3621	3492	3335	3570	3847
Vietnam	1143	1211	1310	1515	1723	1871	2012	2065	2171	2343

3 World Bank, 2015. Indonesia. Available at: <http://www.worldbank.org/en/country/indonesia/gdp>.

4 BPS, 2018. Quarterly GDP at Current Market Prices by Industrial Origin (Billion Rupiah), 2014-2018. Available at: <http://www.bps.go.id/linkTableDinamis/view/id/826>.

5 Ibid

6 BPS, 2017. Females and Males in Indonesia 2016. Jakarta: BPS.

7 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. Available at: <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>.

BPS, 2018. Indikator Pasar Tenaga Kerja Indonesia: February, 2018. Jakarta: BPS

8 Huynh, P. 2017. Developing Asia's garment and footwear industry: Recent employment and wage trends. Bangkok: ILO.

9 Graph produced from data obtained from World Bank. 2018. GDP per Capita (Current US\$).

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

It also has a relatively high human development index (HDI) among this group of countries, driven primarily by years of schooling and gross national income (GNI) per capita (Table 2).

Table 2. Human Development Index in Selected Garment Producing Countries, 2015¹⁰

Country	HDI	Life Expectancy	Mean Years of Schooling	Expected Years of Schooling	GNI per Capita
Bangladesh	0.579	72.0	5.2	10.2	3,341
Indonesia	0.689	69.1	7.9	12.9	10,053
Vietnam	0.683	75.9	8.0	12.6	5,335

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 major 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 barely enough to provide a very basic living for their families.

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 on-going challenges, it performs relatively well on the Democracy Index in comparison to Bangladesh and Vietnam. On the Rule of Law and Control of Corruption and Government Effectiveness, Indonesia scores similarly to Vietnam, but significantly higher than Bangladesh. On the Gender Inequality Index, however, Indonesia scores worse than Vietnam and only slightly better than Cambodia and Bangladesh (see Table 3). Indonesia's control of corruption and gender inequality have improved over the last ten years. Its government effectiveness score has also improved, albeit with some fluctuations. There have been no major changes in its overall rule of law score. Notably, however, while Indonesia's position on the Democracy Index Score had been improving in recent years, this trend was reversed in 2017, when it fell twenty places to the 68th position as a consequence of a drop in its score from 6.97 down to 6.39. The fall was in part due to the use of blasphemy laws being used to limit freedom of expression, as in the case of Jakarta's incumbent governor, Basuki Tjahaja Purnama, who was arrested, tried and imprisoned for alleged blasphemy in that year.¹¹

¹⁰ UNDP, 2016. Human Development Report 2016: Human Development for Everyone. New York: UNDP, pp.199-200.

¹¹ Economist Intelligence Unit, 2018. Democracy Index 2017: Free Speech under Attack.

Available at: <http://www.eiu.com>

Table 3: Performance on Democracy, Governance and Gender Equality¹²

Country	Democracy Index Score (2017)	Rule of Law Score (2017-2018)	Control of Corruption Percentile Rank (2017)	Government Effectiveness Percentile Rank (2017)	Gender Inequality Index (2017)
Bangladesh	5.43	0.41	19.2	22.1	0.542
Indonesia	6.39	0.52	48.1	54.8	0.453
Vietnam	3.08	0.50	31.7	52.9	0.304

Note on scores: Democracy Index Score ranks countries on a scale of 0 to 10, with 10 being full democracy. Rule of Law Score range from 0 to 1, with 1 indicating strongest adherence to the rule of law. Control of Corruption Percentile Rank ranges from 0 to 100, with 100 being the highest rank. Government Effectiveness Percentile Rank ranges from 0 to 100, with 100 being the highest rank. The Gender Inequality Index ranges from 0, which represents full equality between men and women, to 1, where one gender (normally women) fares extremely poorly when compared to the other.

One of the most important changes in governance in the post-Suharto period for manufacturing workers 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 increased opportunities for trade unionists to engage in the political process, which helped them achieve better wage outcomes, as well as providing them with vital education regarding their rights as citizens.¹³ Attempts have been made by the central government to rein in some of these advances. These attempts have come in the form of both 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 – and consequently to a large extent from local politics. Although the former was ultimately unsuccessful, the changes in wage-setting from 2015 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.

In addition to the threat of union power, gender equality remains a concerning issue. As the Gender Inequality Index (GII) score indicates, gender-based discrimination occurs 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 have little respite from the economic practices and social norms that favour men over women. In the textile, garment and footwear industries, the gender pay gap is not as significant as in other industries, with

¹² Economist Intelligence Unit, 2018. Democracy Index 2017: Free Speech under Attack.

Available at: <http://www.eiu.com>;

WJP, 2018. WJP Rule of Law Index 2017-2018. Washington, D.C: World Justice Project.

World Bank, 2018. Worldwide Governance Indicators.

Available at: <http://databank.worldbank.org/data/source/worldwide-governance-indicators>;

UNDP, 2016. Human Development Report 2016: Human Development for Everyone. New York: UNDP.

¹³ Caraway, T. & M. Ford, 2014. *Labour 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).

women actually earning slightly higher than men in the same job.¹⁴ However, men tend to take home higher pay because of greater opportunities for promotion. Further, workers in the female-dominated garment industry work in relatively poor conditions and are relatively inadequately paid compared to some more male-dominated industries within the manufacturing sector.¹⁵

Gender-based violence also continues to be a problem in this and other sectors. A nationwide survey done in 2016, commissioned by Indonesia's Women's Empowerment and Child Protection Ministry with assistance from the UN, found that one in three Indonesian women have experienced physical and or sexual violence in their lifetime.¹⁶ A survey run in 2017 by Perempuan Mahardika in the Cakung KBN industrial area found that from the 737 respondents, around 56.6 % of the women workers had experienced some kind of physical or mental sexual harassment.¹⁷

2.3 Income and poverty

The proportion of people living under the poverty line in Indonesia has decreased substantially since the mid-1990s. Yet while Indonesia's poverty levels continue to fall, inequality remains high. For example, as Table 4 shows, Indonesia has far lower poverty levels than Bangladesh but greater inequality, as measured by the Gini Index.¹⁸ 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 not only in underdeveloped regions but also some more developed provinces, including Jakarta.¹⁹

Table 4. Poverty and Inequality

Country	Gini Index (2016)	Percentage of Population Below the International Poverty Line (2016)	Percentage of Population Below the National Poverty Line (2016)
Bangladesh	32.4	14.8	24.3
Indonesia	38.4	6.5	10.9
Vietnam	34.8	2.6	9.8

14 Huynh, P. 2016. Assessing the Gender Pay Gap in Asia's Garment Sector. Bangkok: ILO.

15 Normala, A. 2017. Gender Pay Gap Narrows in Indonesia. Jakarta Globe.

Available at: <http://insight.jakartaglobe.id/gender-pay-gap-narrows-indonesia/>

16 UNDP. 2017. Ending violence against women today.

Available at: <http://www.id.undp.org/content/indonesia/en/home/presscenter/articles/2017/12/08/ending-violence-against-women-today.html>

17 Tiba, Z. 2017. Cara buruh perempuan KBN Bendung Pelecahan Seksual. Berita Benar, 28 November.

Available at: <https://www.benarnews.org/indonesian/berita/pelecehan-seksual-buruh-11282017134605.html>

18 World Bank. 2018. Poverty & Equity Data Portal.

Available at: <http://povertydata.worldbank.org/poverty/home>

19 BPS. 2014b. Gini Ratio Provinsi 2002-2018.

Available at: <https://bps.go.id/linkTableDinamis/view/id/1116>

In an attempt to reduce poverty, successive governments have sought to increase the number of formal sector jobs in an economy that remains dominated by the informal sector. A national open unemployment rate of 5.13 % masks significant variation between provinces, from a low of 0.86 % in Bali to a high of 8.16 % in West Java, which is one of Indonesia's most industrialised provinces and a major site of garment and textile production.²⁰ 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, varied between a high of Rp. 3,605,272 (\$237.14 USD) in Karawang and just Rp. 1,337,645 (\$87.98 USD) in Yogyakarta. Not all garment workers are employed in the formal sector. Some work as homeworkers in piece work employment, generally below the minimum wage.

2.4 The general human rights situation

Although Indonesia is now a relatively robust democracy, it has yet to address human rights abuses in several major areas. In May 2017, Indonesia underwent its Universal Periodic Review, a process undertaken by the UN Human Rights Council. Indonesia accepted 167 of the review's 227 recommendations, rejecting recommendations to investigate past human rights abuses and to repeal blasphemy provisions.²¹ Increasing religiosity has also resulted in further limitations on women's rights, especially in the province of Aceh, but also in several other provinces, as well as the rights of the LGBT community. For example, local regulations have been passed that prevent women from going out alone at night. In addition, there have been attempts to limit collective action. For example, in July 2017 President Joko Widodo signed a government regulation amending the Law on Mass Organisations, enabling the government to ban mass organisations – a law NGOs and trade unions fear could be used against them.

In terms of labour rights, Indonesia is a signatory to CEDAW and all eight of the ILO's core conventions. However, it 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. In East Java, for example, there were just 206 labour inspectors for over 39,000 companies in 2017.²² Employers confirm that labour inspectors seldom visit their factories. They also said that when they do pay a visit, inspections tend to focus on physical infrastructure rather than industrial relations practices.²³

20 BPS, 2018. Indonesian Employment Conditions February 2018 (p. 12). Jakarta: BPS.

21 Amnesty International, 2018. Indonesia 2017/2018.

Available at: <https://www.amnesty.org/en/countries/asia-and-the-pacific/indonesia/report-indonesia/>

22 Manpower office head cited in "Jumlah Pengawas Ketenagakerjaan Tak Sebanding Jumlah Perusahaan", *Suara Surabaya*, 9 March 2017.

Available at: <http://kelanakota.suarasurabaya.net/news/2017/185613-Jumlah-Pengawas-Ketenagakerjaan-Tak-Sebanding-Jumlah-Perusahaan>.

23 Focus Group Discussions, Jakarta and Bandung, July 2017.

In recognition of the compliance lacking within labour standards, the ILO has introduced several projects aimed at improving compliance. From 2012 to 2015, the Decent Work Programme in Indonesia focused on employment growth, forging sound industrial relations and promoting social protection.²⁴ The ILO since 2011 has also run the ILO Better Work Indonesia programme in partnership with the International Finance Corporation. Currently in its third phase, the program aims to improve compliance with labour standards at the workplace level.²⁵

Despite the fact that the Indonesian legal framework and the enforcement of legislative provisions is not yet in line with the UN Guiding Principles on Business and Human Rights, the government is taking steps to increase Indonesia's compliance with the UN Guiding Principles on Business and Human Rights. In 2014 the government appointed the National Commission on Human Rights (Komnas HAM) and the Institute for Policy Research and Advocacy (ELSHAM) to begin work on producing a National Action Plan on Business and Human Rights. The draft was formally handed to the Deputy Minister of Foreign Affairs in June 2017, but is yet to be adopted by the government.²⁶

24 ILO, 2015. The ILO in Indonesia. Jakarta: ILO.

25 ILO, 2018. ILO Better Work Indonesia – Phase III (Transition).

Available at: https://www.ilo.org/jakarta/whatwedo/projects/WCMS_180290/lang--en/index.htm

26 National Action Plans on Business and Human Rights. 2018. Indonesia.

Available at: <https://globalnaps.org/country/indonesia/>

3. STAKEHOLDERS

In this section a number of stakeholders active in the garment/textile industry in Indonesia are briefly presented. The focus is on stakeholders who are actively part of forming 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

The Ministry of National Development Planning (Bappenas)

Bappenas is responsible for formulating and establishing planning, budgeting, regulatory and institutional policies pertaining to national development and controlling the implementation of those programs. Bappenas includes The Sustainable Development Goals (SDGs) when developing policies. Its structure includes a directorate for the economy, which is responsible for trade and industry.

<https://www.bappenas.go.id/id/>

The National Commission on Human Rights (Komnas HAM)

Komnas HAM is tasked with the protection and promotion of human rights. As such, its responsibilities include the protection and promotion of labour rights.

<https://www.komnasham.go.id/>

Ministry of Manpower

The Ministry of Manpower is responsible for improving human resources, drafting laws, strengthening its institutions and procedures and ensuring that relevant laws are followed, including through inspections.

Relevant directorates within the ministry include the Directorate for Wages, the Directorate for Industrial Relations and the Directorate for Work Norms for Women and Children.

The **Directorate for Wages** oversees wage policy, including the mechanism for setting minimum wages, which has had a dramatic effect on unions' capacity to advocate for worker-friendly policy at the local level.

The **Directorate for Industrial Relations** oversees Indonesia's bipartite and tripartite committees and processes and the enforcement of provisions of labour law.

The **Directorate for Guidance and Oversight of Manpower and Occupational Safety and Health** is tasked with formulating policy on labour inspection, social security for workers as well as enforcing the law in these fields.

The **Directorate for Work Norms for Women and Children** is tasked with increasing awareness of the need for gender equality in the workplace and with identifying instances in which workplace practices do not meet legal requirements pertaining to gender equality.

<http://www.kemnaker.go.id>

The Ministry for Women's Empowerment and the Protection of Children

The Ministry for Women's Empowerment and the Protection of Children has three priority areas: violence against women and children, human trafficking and economic disadvantage. The latter focuses heavily on women entrepreneurs rather than women in waged work. There is, however, a sub-directorate dealing with women's rights at work under the Deputy Secretary for Protection of Women's Rights.

<https://www.kemenpppa.go.id/>

EMPLOYERS' ORGANISATIONS

Employers are expected to engage with worker representatives or unions in workplace negotiations and collective bargaining. They do so through APINDO and API.

Asosiasi Pengusaha Indonesia, APINDO (Indonesian Employers Association)

APINDO is the main body representing employers in the wage councils and in other tripartite committees. It joins unions and government in a range tripartite structures at the local and national levels, including local and regional wage councils and policy advisory bodies. It also provides ad hoc judges representing employers in Indonesia's industrial relations courts, alongside career judges and judges representing the unions.²⁷

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

Asosiasi Pertekstilan Indonesia, API (Indonesian Textile Association)

The Indonesian Textile Association is an industry association that represents producers of textiles and textile products. Besides producing the most up-to-date and detailed sources of data on these industries available, it is tasked with negotiating with unions on matters to do specifically with the textile and garment industries.

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

²⁷ For a detailed discussion of the industrial relations system, see , M. Ford and G. Sirait, 2016. The State, Democratic Transition and Employment Relations in Indonesia. *Journal of Industrial Relations* 58 (2).

The Korean Garment Manufacturers Association in Indonesia (Koga)

Koga is a country-based association of garment manufacturers, which has exerted significant influence on policy at the local level. It is also involved in CNV's Multi-Company CBA initiative.

<http://www.koga.co.id>

TRADE UNIONS

The basic building block of Indonesia's trade union movement is enterprise-based unions. Five or more enterprise unions can form a federation and at least three federations are needed to form a confederation, which usually exist to represent workers at the national level. In 2018 there were 14 confederations and 120 federations. Two of the three major confederations are affiliated to the International Trade Union Confederation. The majority of Global Union Federation (GUF) affiliates are members of these confederations. Among these are Serikat Pekerja Nasional (SPN) and Garteks, two of the major unions in the garment sector, which fall under the jurisdiction of IndustriALL, the GUF that represents manufacturing.

In industrial terms, Indonesia's 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. Union activity is concentrated in Indonesia's key industrial centres in Greater Jakarta, Greater Surabaya, Greater Medan and Batam, with a significant presence in smaller manufacturing hubs in West, Central and East Java.

Politically, the confederations (and in particular, KSPI) 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.²⁸ All three have backed candidates in the 2014 and 2019 presidential elections. 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.²⁹ No union has formal ties with a particular political party at this time, with electorally active unions preferring to run candidates for a range of parties in the absence of a purpose-specific labour party. Forming a purpose-specific labour party has proved difficult, as there are high barriers placed against registering new political parties.

28 For a discussion of the social security campaign, see R. Cole and M. Ford, 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.

29 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.

Table 5. 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 Garteks SBSI 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) Serikat Pekerja Nasional (SPN) Federasi Serikat Pekerja Farmasi dan Kesehatan (FARKES) – SPSI
ITF	Garuda Indonesia Flight Attendant Association Indonesia Railway Workers Union/Serikat Pekerja Kereta Api Kesatuan Pelaut Indonesia (KPI) Sekar Sejahtera (SS-ACS airline catering) Serikat Karyawan PT Garuda Indonesi Tbk (Sekarga) Serikat Pekerja Terminal Petikemas Koja Trade Union of Jakarta International Container Terminal
IUF	Federasi Serikat Pekerja Mandiri (FSPM) National Federation of Food and Beverage Workers (FSBMM) Serikat Pekerja Mandiri Arnott's Indonesia (SPMAI) Serikat Pekerja P.T. Sarihusada Generasi Mahardika (PERKASA)
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 Perjuangan PT PLN PERSERO (SPP PLN) Serikat Pekerja BPJS Ketenagakerjaan (SP BPJS TK) 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)

Konfederasi Serikat Pekerja Seluruh Indonesia (Confederation of All-Indonesian Workers Unions)

The Confederation of All-Indonesian Workers Unions is the legacy union of the Suharto period.³⁰ 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. KSPSI is not affiliated with the ITUC, nor is it affiliated with the GUFs, and it receives no international funding support.

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

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

Konfederasi Serikat Pekerja Indonesia (Indonesian Trade Union Confederation)

The Indonesian Trade Union Confederation 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. SPN has received significant funding over time from IndustriALL and its predecessor, the ITGWLF, as well as from bilateral SSOs.

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

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

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

KSBSI grew out of the largest and most established alternative union of the Suharto period and is supported by 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). KSBSI's garment, textile and footwear union is known as Garteks. In recent years, Garteks has received direct support from CNV Internationaal, targeted at increasing its reach and effectiveness.

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

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

³⁰ For a discussion of the Indonesian labour movement under Suharto and its reconstruction during Reformasi, see M. Ford, 2009. *Workers and Intellectuals: NGOs, Trade Unions and the Indonesian Labour Movement*. Singapore: National University of Singapore Press/Hawaii University Press/KITLV.

Gabungan Serikat Buruh Indonesia (Centre for Indonesian Labour Struggle)

GSBI is a small but militant organization with its roots in a regionally based federation of garment, textile and footwear unions in greater Jakarta and west Java. Its congress resolved in 2015 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). For many years, GSBI was supported by Oxfam.

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

Federasi Buruh Lintas Pabrik (Cross-Factory Labour Federation)

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 organization, 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, named after a prominent labour activist who was murdered by the military in 1993 as a consequence of her labour activism. FBLP is supported by Mondiaal FNV in its work on gender-based violence.

<http://www.marsinahfm.com>

LABOUR NGOS

A number of local NGOs have a long history of involvement in the garment industry in Indonesia. These include Akatiga, LBH Jakarta, Sedane and TURC. International NGOs include Oxfam, which until recently was the major player in relation to the garment industry, and the Clean Clothes Campaign (CCC), which has recently appointed an Indonesian representative.

Akatiga

Akatiga is a research NGO established in 1991, which 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. Akatiga has been an important player in labour research.

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

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. Activities in Indonesia include the convening of a People's Tribunal in June 2014, the recommendations of which included that government that it address its failure to monitor and address violations of the 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. In more recent times, AFWA has engaged with international discussions of gender-based violence, arguing that low levels of payment for women constitute a form of gender-based violence.

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

Gajimu.com

Gajimu.com is the Indonesian branch of the WageIndicator Foundation. It has a website that includes information on wages, questions on other work-related topics and career tips. It also includes a special section for garment workers. At the time of writing this, Gajimu.com featured a survey that garment workers could fill in, as well as information about a small number of garment factories (including what unions are present and how well the factory complies with a range of labour-related conditions).

<https://gajimu.com/>

Lembaga Bantuan Hukum Jakarta (Jakarta Legal Aid Institute)

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. Although it is less influential than it was in previous decades, it has continued to engage in this area of 'structural legal aid', including through its reports on labour rights abuses and its involvement in initiatives such as the FoA protocol.

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

Lembaga Informasi Perburuhan Sedane (Sedane Labour Information Centre)

LIPS was established in 1992 as a labour-focused research and policy NGO by Fauzi Abdullah, formerly of LBH Jakarta. 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 Centre (TURC)

TURC was established in 2003 by activists from LBH Jakarta. TURC conducts research and provides legal and trade union training for members of various trade unions. TURC is arguably the most prominent labour NGO in contemporary Indonesia. It has received financial support from the Confederation of German Trade Unions (Deutsche Gewerkschaftsbund, DGB) and other international trade union donors including Mondiaal FNV.

<http://turc.or.id>

GENDER FOCUS/WOMEN GROUPS

Gender Network Platform

The 2017 Gender Forum in Vietnam where businesses, governments, NGOs and trade unions shared solutions to help put an end to gender-based violence in garment factories led to the establishment of a platform of Indonesian NGOs and ministries that combat gender-based violence and promote gender equality. Perempuan Mahardika, FBLP, FWF, ILO ILO Better Work and the Ministry of Manpower are part of this network that actively shares lessons learned and promotes collaboration.

Perempuan Mahardhika (Independent Women)

Perempuan Mahardika is a national, multi-sectorial mass organisation for women that has a commitment to the liberation of women, which focuses on research, campaigning and capacity building with a focus on gender-based violence. It works closely with FBLP on initiatives related to the working conditions of women, and has conducted research on sexual harassment and maternity-related rights for women workers in the industrial zone of Cakung, as well as worked with a variety of unions to increase their ability to handle cases of gender-based violence.

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

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

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 from the late 1980s. It currently has a focus on women porters, women home workers and women working in more formal sector industrial workplaces.

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

Institut Kapal Perempuan (Women's Alternative Education Circle)

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.

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

PRIVATE SECTOR INITIATIVES

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 making a change. Signatories to the protocol include Adidas, Nike, Puma, Pentland, New Balance and Asics, as well as Fair Wear Foundation members, Suit Supply, Kjus and Haglofs. The Protocol is supported 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.

In recent times, the Indonesian trade unions involved in the FOA Protocol's National Committee have been brought together in the Decent Work Working Group. The Decent Work Working Group provides a forum in which SPN, GSBI, Garteks, KASBI and FSPTSK Reformasi can caucus on strategic initiatives.

ILO Better Work Indonesia

ILO Better Work Indonesia is part of a global collaborative initiative involving the International Labour Organization 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. Its main services to its corporate members are assessments, advisory services and training.

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

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 in all parts 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.industriall-union.org/>

4. THE GARMENT INDUSTRY

Manufacturing as a whole is estimated to have contributed approximately 17.9 % of the GDP in 2017. Some \$10.3 billion USD, or 6.2 % of the value derived from manufacturing in that year, came from the garment and textile industries.³¹ While less important to Indonesia's economy than it has been in the past, the garment and textile industries remain a strategically important sector in the Indonesian economy.

ORGANISATION OF THE GARMENT INDUSTRY

Indonesia's garment and textile industries played a vital part in Indonesia's entry into export-oriented manufacturing from the 1980s.³² 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.³³ Indonesia has maintained a relatively steady proportion of the global value of textile and garment exports from 1.47 % in 1998 to 1.8 % in 2016.³⁴ As Table 5 shows, this percentage has improved somewhat in the years since 1998.

Table 6. Indonesia's Textile and Clothing Exports as a Percentage of the Global Value of Textiles and Clothing Exports, 1998-2013³⁵

Year	Textile and Clothing Exports (USD billion)	% Global Value of Textiles and Clothing Exports
1998	5.024	1.47
2003	7.051	1.66
2008	10.145	1.58
2013	12.680	1.66

31 BPS, 2018. Quarterly GDP at Current Market Prices by Sector (Billion Rupiah), 2014-2018.

Available at: <http://www.bps.go.id/linkTableDinamis/view/id/826>.

Note that there are discrepancies in the statistics. API claims that the export value of this industry reached USD 12.537 billion in 2017.

32 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.

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

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

Indonesia Investments, 2016. *Export Leader*.

Available at: <https://www.indonesia-investments.com/news/todays-headlines/textile-industry-indonesia-aims-to-become-global-export-leader/item7140?>

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

Garments and textiles were the fifth greatest contributor to Indonesia's non-oil and gas manufacturing export figures in 2014–2017, and the level of growth for the sector has averaged 1.1 % over the period 2013–2017.³⁶ In 2017 production volume of textiles and textile products was at 6.19 million tons, 2.225 million tons of which were exported. In the last five years, the total production volume has fluctuated, although the value of exports has been relatively stable.³⁷ In 2017 the total value of exports was \$12.5 billion USD. Of the total volume produced, 0.65 tons were ready-made garments, 0.44 million tons of which were for export at a value of \$7.882 billion USD.³⁸

The United States is by far the primary destination for Indonesian-produced garments, although exports to the United States 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 2013.³⁹ In 2017 Indonesian garment and textile exports to the US accounted for just under half of all Indonesian garment and textile exports (in terms of net weight) and more than half of the total FOB value, with Japan the next major destination, followed by Germany and South Korea.⁴⁰

MAIN EXPORTS FROM GARMENT INDUSTRY

In 2017 2.596 million pieces of clothing were produced, including 560.6 million pieces of women's and girls' apparel, 303.4 million pieces of men's and boys' apparel, 103.0 million pieces of sports and swimwear apparel, 676.2 million pieces of underwear, 355.1 million pieces of hosiery and 598.0 million pieces of clothing accessories and other accessories.⁴¹ Major export products are detailed in Table 6.

36 Kementerian Perdagangan Republik Indonesia, 2015. Perkembangan Ekspor NonMigas (Sektor) Periode: 2013-2018. Available at: <http://www.kemendag.go.id/id/economic-profile/indonesia-export-import/growth-of-non-oil-and-gas-export-sectoral>.

37 API., 2018. Industri TPT Indonesia. Document supplied to the author.

38 API, 2018. Strategi Optimalisasi Pasar Produk TPT Indonesia. Paper presented at Dialog Tekstil Nasional 2018, 5 September, Solo.

39 BPS, 2015. Statistik Indonesia / Statistical Yearbook of Indonesia 2015.

Available at: http://www.bps.go.id/website/pdf_publikasi/Statistik-Indonesia-2015.pdf.

40 BPS, 2018. Statistik Indonesia / Statistical Yearbook of Indonesia 2018 (p. 566). Jakarta: BPS. Note, however, that there is considerable disagreement on these figures. BWI's 2017 annual report states: 'In 2016, according to the Indonesian Textile Association (API), the total export of Indonesian Textile and Indonesian Textile Product was as much as \$11.83 billion USD to various international markets, with exports to the US accounting for 32.34 % of the total, followed by the European market with 14.97 % and Japan at 10.06 %' (BWI 2017: 7). According to a report written for the ILO in 2016, America accounted for 41 % of Indonesia's garment, textile and footwear exports, followed by the European Union at 24 % of garment, textile and footwear products. See Horne, R. & M. C. de Andrade, 2017. Gambaran beragam untuk sector garmen Indonesia. Bangkok: ILO.

Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_625194.pdf.

41 Statista, 2018. Apparel Indonesia.

Available at <https://www.statista.com/outlook/90000000/120/apparel/indonesia>.

Table 7. Value of Garment exports by Product Category in USD Million

Commodity	USD million
Knitted or Crocheted	
Coats – men’s or boys’	113
Coats – women’s or girls’	68
Suits, jackets, blazers, trousers, shorts etc. – men’s or boys’	328
Suits, jackets, dresses, skirts, trousers, shorts etc. – women’s or girls’	750
Shirts – men’s or boys’	127
Blouses, shirts and shirt-blouses – women’s or girls’	156
Underpants, briefs, nightshirts, pyjamas etc. – men’s or boys’	43
Slips, petticoats, briefs, panties, nightdresses etc. – women’s or girls’	142
T-shirts, singlets and other vests; knitted or crocheted	529
Jerseys, pullovers, cardigans, waistcoats and similar articles	883
Garments and clothing accessories – babies’	197
Track suits, ski suits and swimwear	153
Other knitted or crocheted garments	49
Hosiery; panty hose, tights, stockings, socks and other hosiery	132
Gloves, mittens and mitts	58
Knitted or crocheted clothing accessories	5
Not Knitted or Crocheted	
Suits, jackets, blazers, trousers, shorts etc. – men’s or boys’	724
Suits, jackets, dresses, skirts, trousers, shorts etc. – women’s or girls’	952
Underpants, briefs, nightshirts, pyjamas etc. – men’s or boys’	47
Slips, petticoats, briefs, panties, nightdresses etc. – women’s or girls’	50
Garments made up of felt, nonwoven, impregnated or coated, rubberized or otherwise impregnated fabrics	91
Track suits, swimwear and other garments	169
Shawls, scarves, mufflers, mantillas, veils and the like	2
Overcoats, car-coats, capes, cloaks, anoraks etc. – men’s or boys’	429
Overcoats, car coats, capes, cloaks, anoraks etc. – women’s or girls’	98
Shirts – men’s or boys’	437
Blouses, shirts and shirt-blouses – women’s or girls’	610
Garments and clothing accessories – babies’	105
Ties, bow ties and cravats	37
Gloves, mittens and mitts (not knitted or crocheted)	43
Clothing accessories not elsewhere covered	6
Brassieres, girdles, corsets, braces, suspenders, garters etc.	384

MAIN AREAS FOR GARMENT PRODUCTION

According to Statistics Indonesia, there were as many as 4,972 large and medium enterprises and 538,656 small and micro enterprises involved in textile and garment production in 2015.⁴² 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, Central Java, East Java, and Banten. Together, these regions accounted for more than 85 % of all garment, textile and footwear employment in 2016.⁴³

The garment, textile and footwear industry is a major employer in Indonesia, accounting for around 26.6 % of all employment in manufacturing.⁴⁴ Women comprised around 58 % of the 4,217,000 garment, textile and footwear workforce in 2016.⁴⁵ Only around 37 % of workers in the textile, garment and footwear sector are employed in large or medium enterprises according to a 2015 company survey, while 63 % are employed in small and micro enterprises.⁴⁶

SOCIAL COMPOSITION OF THE GARMENT WORKFORCE

Women are most concentrated in trade and hospitality services, as well as community, social and personal services but at 40.49 %, they also constitute a high proportion of the manufacturing workforce.⁴⁷ The percentage of women is much higher still in Indonesia's garment factories, where in 2016 women constituted some 60 % of the workforce.⁴⁸ At the end of 2016, of the 400,000 workers involved in the ILO Better Work Indonesia (BWI) programme in the Indonesian garment sector, 83 % were female.⁴⁹

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

BPS, 2015. Number of Establishments of Medium and Large Manufacturing Industry By SubSector (2 digit ISIC), 2000-2015. Available at <http://www.bps.go.id/linkTableDinamis/view/id/896>.

43 Horne, R., & M. C. de Andrade, 2017. Gambaran beragam untuk sector garmen Indonesia. Bangkok: ILO. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_625194.pdf.

44 Horne, R., & M. C. de Andrade, 2017. Gambaran beragam untuk sector garmen Indonesia. Bangkok: ILO. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_625194.pdf.

45 Huynh, P. 2017. Developing Asia's garment and footwear industry: Recent employment and wage trends. Bangkok: ILO. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_581466.pdf.

46 Horne, R., & M. C. de Andrade, 2017. Gambaran beragam untuk sector garmen Indonesia. Bangkok: ILO. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_625194.pdf.

47 BPS, 2016. Men and Women in Indonesia 2015. Jakarta: BPS.

48 Huynh, P. 2017. Developing Asia's garment and footwear industry: Recent employment and wage trends. Bangkok: ILO.

49 ILO Better Work Indonesia, 2017. Annual Report 2017: An Industry and Compliance Review. Geneva: ILO and IFC.

Traditionally, internal migrants – many of them young and female – found work in the garment industry.⁵⁰ 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 had broadened 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.⁵¹

Persistent violations that prevail in the Indonesian garment industry are in the areas of contracts, wages, overtime and health and safety. In its 2017 annual report, ILO ILO Better Work reports that in 50 % of the assessed factories, overtime was not paid correctly. In more than 40 % of the factories, chemicals and hazardous materials were not stored safely, no OHS committee existed, fire detection and alarm systems were not installed properly and emergency exits were not accessible.⁵² Especially in SMEs or at tier two suppliers, legal minimum wages are not provided to the workers. Excessive overtime happens regularly, especially during peak seasons. A final important feature of the industry is the 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. According to the ADB, job tenure in Indonesia tends to be shortest in the retail and trade sector, followed by the finance and manufacturing sectors.⁵³ Job insecurity also tends to be gendered. In the garment, textile and footwear industry, casualization was higher among female employees (8.1 %) compared to male employees (3.5 %) in 2016.⁵⁴

50 For discussion of the demographic characteristics and experiences of garment workers in the late 1990s, see Pangestu, M. and Hendyio, 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.

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

52 ILO Better Work Indonesia. 2017. *Annual Report 2017: An Industry and Compliance Review*. Geneva: ILO and IFC.

53 Allen, E. 2016. *Analysis on trends and challenges in the Indonesian labor market*. Manila: ADB.

54 Horne, R., & M. C. de Andrade, 2017. *Gambaran beragam untuk sector garmen Indonesia*. Bangkok: ILO. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_625194.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. In addition, it continues to struggle 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 five because it provides 'no guarantee of rights', which means that 'while the legislation may spell out certain rights, workers have effectively no access to these rights and are therefore exposed to autocratic regimes and unfair labour practices'.⁵⁵

Several recent developments have resulted in Indonesia's downgrading. President Joko Widodo introduced the new wage formula in 2015, weakening unions' ability to influence annual minimum wage increases. Under pressure from unions, some provincial governments initially continued to set the minimum wage above the formulated figure, but the regulation has succeeded in its intended effect of reining in wage increases. In 2013 the minimum wage for Jakarta was increased by 43.88 % when mass union mobilizations were able to strengthen the unions' position in the then tripartite negotiation wage-setting mechanism. In contrast, in 2018 under the new wage-setting mechanism based on inflation and GDP growth, the minimum wage in Jakarta was increased on the previous years' wage by only 8.71 %. The securitization of labour has also re-emerged, with the signing of an MOU (memorandum of understanding) on 23 January 2018 between the army and national police, making the role of the army official in suppressing labour disputes and demonstrations. The government has also designated several industrial estates as 'national vital objects' in which industrial action is banned. The government has eliminated the annual negotiations over minimum wage increases.⁵⁶

It has not been government regulation alone, however, that has weakened the position of unions, but also internal divisions within the union movement. Following the 2014 elections, Indonesia's three largest union confederations began discussions to establish a labour party but efforts have stalled.⁵⁷ In the 2017 Jakarta gubernatorial election, divisions re-emerged in the movement when the Indonesian Union Confederation (KSPI) supported the candidate pair, Anies Baswedan and Sandiaga Uno, while two other major union confederations, KSPSI and KSBSI, announced their support for Basuki Tjahaja Purnama and Djarot Saiful Hidayat. These political divisions have continued, with KSPI supporting Prabowo in the 2019 presidential elections, while KSPSI and KSBSI are supporting the incumbent Widodo. These divisions have affected unions' ability to cooperate on pushing for policy reform, where in the past united action has had some success particularly around social security, wage increases and limiting outsourcing.

55 ITUC, 2018. ITUC Global Rights Index: The World's Worst Countries for Workers. Brussels: ITUC. Available at: <https://www.ituc-csi.org/IMG/pdf/ituc-global-rights-index-2018-en-final-2.pdf>

56 ITUC, 2018. ITUC Global Rights Index: The World's Worst Countries for Workers. Brussels: ITUC. Available at: <https://www.ituc-csi.org/IMG/pdf/ituc-global-rights-index-2018-en-final-2.pdf>

57 Caraway, T. & M. Ford, 2017. Institutions and Collective Action in Divided Labour Movements: Evidence from Indonesia. *Journal of Industrial Relations*, 59(4), 444-464.

ORGANISATION OF EMPLOYERS IN THE GARMENT SECTOR

In addition to APINDO, employers in the textile, garment and footwear sector are represented by API, the industry-level employer association. API was established in the 1960s as part of a country-wide attempt to form industry-level employers' associations, several of which pertained to the garment, textile and footwear sectors. It was consolidated in its current form in 1974 in the early years of the Suharto era, and has branches throughout Java, and also in some locations in Bali, West Nusa Tenggara and Sumatra.

ORGANISATION OF TRADE UNIONS IN THE GARMENT SECTOR

The garment sector is relatively well-represented in the trade union movement. The sector was organised early with support from international allies, and has remained a keystone in the Indonesian labour movement, despite the fact that its unions lack the strength and influence of their counterparts in the metals and chemicals sectors. In terms of membership, SPN had an internally recorded a total of 294,000 members as of September 2018 – a total considerably lower than the 501,321 members claimed in 2003, when the union was at its height.⁵⁸ The significantly smaller Garteks has a total membership of 66,616, the majority of whom are in sectors other than textiles, garments and footwear.⁵⁹ FBLP is much smaller, with a total membership of 1,000 across three factories in the Cakung Bonded Zone. 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 SPN is concentrated in the provinces of Banten and West Java, which account for the majority of its total membership.

UNION DENSITY IN COUNTRY

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.

According to the Minister of Manpower, union density has declined drastically from an estimated 3.4 million in 2007 down to an estimated 2.7 million in 2017.⁶⁰ With a workforce of around 134 million in early 2018, union density is just above two %. From the 230,000 existing companies, only some 7,000 have unions.⁶¹

58 SPN, 2005. Country Report: Serikat Pekerja Nasional (SPN).

Available at: <https://www.google.com.au/>

59 This development in Garteks, by which members are increasingly recruited outside its core sectoral base, is evident in several other sectoral unions, including SPN and GSBI.

60 Kardi, D. 2018. Menaker: Jumlah serikat pekerja menurun signifikan. CNN Indonesia, 29 March.

Available at: <https://www.cnnindonesia.com/nasional/20180328143824-20-286542/menaker-jumlah-serikat-pekerja-menurun-signifikan>

Importantly, however, these unions are highly concentrated in terms of their geographic location. With the exception of 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. Union membership density is also concentrated in the manufacturing, education and public administration sectors.⁶²

COLLECTIVE BARGAINING AGREEMENT COVERAGE IN COUNTRY

Although there has been a significant increase in the number of registered collective labour agreements since 1998, active agreements covered just 14 % of waged workers and only four % of the total employed workforce in 2009.⁶³ In 2017, the number of companies with an agreement reached 13,829, which is just around six % of companies.⁶⁴ 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 they are simply restated conditions provided for in the national regulatory framework, with some even containing provisions that violate it.

COLLECTIVE BARGAINING AGREEMENT COVERAGE IN THE 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. SPN has workplace units in some 600 companies, close to 70 of which are in garments and another ten % 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, just 14 had signed collective bargaining agreements. 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

61 Lukihardianti, A. 2018. Menaker: Jumlah serikat pekerja kian menurun. Republika, 28 March.

Available at: <https://www.republika.co.id/berita/nasional/umum/18/03/28/p6b2f2377-menaker-jumlah-serikat-pekerja-kian-menurun>.

62 Allen, E., & R. Kyloh, 2016. Labour reforms in Indonesia: An agenda for greater equity and efficiency.

Available at: https://www.ictu.ie/download/pdf/labour_reforms_in_indonesia_an_agenda_for_greater_equity_and_efficiency_november2016.pdf

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

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. The 2017 ILO Better Work Indonesia report found that 22 % of the factories in its program were non-compliant with collective bargaining, and that 18 % of factories 'have CBAs with provisions less favourable to workers than the prevailing law and regulations' (p. 19).⁶⁵ 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.⁶⁶

A recent development has been the initiative of multi-company agreements. In August 2017, the first Indonesian Multi-Company Collective Bargaining Agreement was signed in the sector, covering some 17,000 garment workers in Subang. Such agreements are a step towards industry-wide bargaining. The agreement, which was reached between seven garment unions and ten companies, with the support of CNV International,⁶⁷ included improved arrangements for pregnant staff and longer paid maternity leave.⁶⁸ CNV International is now aiming to get similar agreements signed in other textile dense industrial areas.⁶⁹ Through the ILO Labour Standards in Global Supply Chains, six companies also made a commitment in 2018 to renegotiate and reformulate collective bargaining agreements at the company level to improve labour relations in the garment supply chain. In the previous phase of the program, seven companies participated, with four of them successfully renegotiating and reformulating their collective bargaining agreements.⁷⁰

The global union, IndustriALL, also has global framework agreements with H&M and Inditex, which cover garment workers in Indonesia. IndustriALL provides training to its affiliates in Indonesia aimed at helping them to ensure implementation of the agreements.⁷¹ Global Framework Agreements (GFAs), also sometimes referred to as International Framework Agreements (IFAs), are negotiated between multinational corporations and global unions. They generally affirm core labour standards on freedom of association and collective bargaining, and some also secure better working conditions, wages and safety standards. The effectiveness of the agreements vary. In many instances, the GFAs are unknown or poorly understood at the local level. Some GUFs are seeking to improve the effectiveness through monitoring of compliance.⁷²

64 Thea, A. 2018. Idealnya, setiap perusahaan punya perjanjian kerja bersama. Berita, 11 April.

Available at: <http://www.hukumonline.com/berita/baca/lt5acd58388748f/idealnya--setiap-perusahaan-punya-perjanjian-kerja-bersama>

65 BWI, 2017. Annual report 2017: An industry and compliance review Indonesia. Geneva: ILO.

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

67 Gajimu, 2017. Perjanjian Kerja Bersama multi-perusahaan garmen – Subang.

Available at: https://gajimu.com/pekerjaan-yanglayak/perjanjian-kerja-bersama-basis-data/perjanjian-kerja-bersama-multi-perusahaan-garmen-subang---2017#Pasal_67_-:_Masa_Berlakunya_Perjanjian_Kerja_Bersama_Multi_Perusahaan

68 CNV International, 2017. First multi-company collective bargaining agreement for Indonesian textile sector.

Available at: <https://www.cnvinternationaal.nl/en/our-work/news/2017/august/first-multi-company-collective-bargaining-agreement-for-indonesian-textile-sector>

69 CNV International, 2017. First multi-company collective bargaining agreement for Indonesian textile sector.

70 Available at: <https://www.cnvinternationaal.nl/en/our-work/news/2017/august/first-multi-company-collective-bargaining-agreement-for-indonesian-textile-sector>

71 ILO, 2018. Collective bargaining agreements benefited both workers and employers.

Available at: https://www.ilo.org/jakarta/info/public/fs/WCMS_622984/lang--en/index.htm

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, including formal mediation. Unions and employers can 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.

Workers and trade unions often do not 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.⁷³ In 2012 there were just 118 ad hoc judges serving in labour courts across the country.⁷⁴ According to Ministry of Manpower statistics, the labour courts dealt with 2,753 industrial disputes in that year.⁷⁵ Trade unions increasingly lobby their cases by seeking brand pressure, for example through ILO ILO Better Work or the FWF Complaints System.

In the economic zone of Cakung, the trade union FBLP and Prembuan Mahardika set up a complaints office for harassment and gender-based violence complaints. As factories are moving from Cakung to Central Java, the organisations are setting up a similar complaint system in Central Java.

STATE ROLE IN INDUSTRIAL RELATIONS

The state's role is divided between the Ministry of Manpower, which has the responsibility of developing legal and policy frameworks and overseeing national processes, and the local manpower offices, which are responsible for on-the-ground engagement with employers and unions on matters of industrial relations, including mediation. If matters cannot be resolved through these processes, they can be taken to purpose-specific industrial courts.

The effectiveness of this system is seriously limited by a lack of capacity for labour inspection and inadequate sanctions. At the end of 2016, there were just 1,923 labour inspectors

72 Ford, M., & M. Gillan, 2015. The global union federations in international industrial relations: A critical review. *Journal of Industrial Relations*, 57(3), 456-475.

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

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

Available at: <http://pusdatinaker.balitfo.depnakertrans.go.id/viewpdf.php?id=317>.

75 Ministry of Manpower, 2013. *Kasus Perselisihan Hubungan Industrial di Indonesia menurut Provinsi Tahun 2011 – 2013*.

Available at: <http://pusdatinaker.balitfo.depnakertrans.go.id/viewpdf.php?id=143>.

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.

nationwide, making the ratio of inspectors to companies 1: 11,228. In response to a shortage of labour inspectors, a decree was passed in 2014 making it mandatory for factories with more than 100 workers to have a certified labour norms expert, who are usually company managers trained in labour norms. In 2016 there were 444 labour norm experts, many of whom were in the garment and footwear industries.⁷⁶

MECHANISMS FOR SOCIAL DIALOGUE (NATIONAL/SECTORIAL)

Indonesia has a series of bipartite and tripartite consultative mechanisms. In recent years there has been increasing emphasis on plant-level bipartite consultative committees, 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 as well as 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 have prompted the establishment of a range of private regulatory initiatives including ILO Better Work Indonesia, the Freedom of Association Protocol, and the Asia Floor Wage, all of which seek to leverage international brands' concerns about reputational risk to improve conditions in Indonesia's garment factories.

⁷⁶ ILO. 2017. Factsheet on labour inspection in Indonesia.

Available at: http://www.oit.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_549704.pdf.

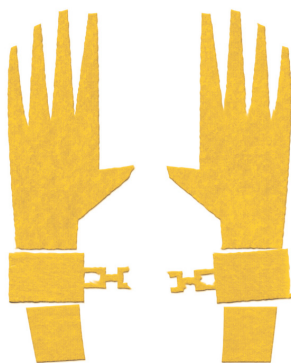
6. IMPLEMENTATION OF THE FWF CODE OF LABOUR PRACTICES

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

In the Indonesian context, there is much to be done regarding several elements of the FWF Code of Labour Practices. Most urgent among these is implementing more systematically the laws already in place in terms of freedom of association, payment of a living wage, excessive working hours and legally binding employment. The need to update and better implement existing legislation in terms of 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 bearing gender-specific burdens associated with reproductive health and workplace harassment.⁷⁷

From 2016 to 2018, FWF was able to audit almost all the factories where a FWF member was active. In these 16 audits, FWF often found that there was a lack of communication about the FWF Code of Labour Practices and relevant national or local legislation. Combined with the workers' lack of knowledge of their labour rights and the fact that internal grievance mechanisms were often not fully operational, leaves workers prone to labour violations. Workers from five factories filed 13 complaints through the FWF worker helpline.

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 it is seriously inadequate.

OFFICIAL STATISTICS ON COMPLIANCE

There are no government statistics available on compliance with this standard. BWI's 2017 annual report found no instances of non-compliance amongst the factories they assessed.

⁷⁷ For a comparison of non-compliance rates on several of these measures between countries involved in the ILO's ILO Better Work Programme, see ILO, 2014. Wages and Working Hours in the Textiles, Clothing, Leather and Footwear Industries. Geneva: ILO.

'None of the assessed factories were found restricting workers' movement, denying workers access to their personal documents or using bonded/prison labour'.⁷⁸

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, having given 30 days' notice, a worker may resign 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.

STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Representatives of government, employers and the union movement agree that forced labour is not an identifiable problem in formal-sector workplaces. They acknowledge, however, that it is possible that some workers in home-based industries are not entirely free to choose their employment. Trade unionists did describe excessive working hours as a form of forced labour, especially when it is unpaid labour on the grounds that targets have not been met, a common practice in an industry which works on targets. According to the ILO, the imposition of overtime only constitutes forced labour if it exceeds the limits permitted by national legislation or collective bargaining. However, it does note that workers may be vulnerable to undue pressure in cases where a decision not to comply could result in a failure to earn the minimum wage or maintain their jobs.

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

There was only one finding related to this labour standard. In one factory, workers were not allowed to leave the factory during lunch break without written approval.

WORKER COMPLAINTS, RELATED TO 'EMPLOYMENT IS FREELY CHOSEN'

FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the affiliate(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.

FWF received no complaints related to this labour standard in the last three years.

⁷⁸ BWI, 2017. Annual Report 2017: An Industry and Compliance Review. Geneva: ILO.

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)

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. While difficult to document, there may also be (positive or negative) discrimination on the basis of ethnicity, towards different groups of internal migrants, for example. Age discrimination is widespread, with many published job advertisements specifying a maximum age for applicants. Despite affirmative action on people with disabilities, employment rates are very low.⁷⁹

Gender discrimination is not widely reported in terms of recruitment to the garment factories; 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.⁸⁰ For example, an analysis of data from Indonesian Family Life Survey 1996–2007 found that work interruption is common among women in Indonesia.⁸¹ Like many countries in the region, Indonesia has extremely poor availability of institutional child care facilities.⁸² Female garment workers are now more likely than before 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. Observational evidence suggests, however, that they are under-represented in supervisory positions.

OFFICIAL STATISTICS ON COMPLIANCE

There are no government statistics available on compliance with this standard. According to international studies, Indonesia performs relatively well on wage equality for similar work, but less well on the gender development index and the gender gap index.

79 ILO, 2017. Final Report – Mapping Persons with Disabilities (PWD) in Indonesia Labor Market. Jakarta: International Labor Organization.

80 For more details on the challenges women face in balancing work and care, see M. Ford, and Nurchayati. In press. Indonesia: Middle-Class Complicity and State Failure to Provide Care. In Baird, M. Ford, M. and Hill, E. (eds). *Women, Work and Care in the Asia-Pacific*. Abingdon and New York: Routledge.

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

82 See M. Ford, and Nurchayati. In press. Indonesia: Middle-Class Complicity and State Failure to Provide Care. In Baird, M. Ford, M. and Hill, E. (eds). *Women, Work and Care in the Asia-Pacific*. Abingdon and New York: Routledge.

Table 8:

Country	Gender Development Index Score (2015)	Gender Development Index Group (2015)	Gender Gap Index Rating (2017)	Wage Equality for Similar Work Rank (2017)
Bangladesh	0.927	3	47	104
Indonesia	0.926	3	84	35
Vietnam	1.010	1	69	68

Note: GDI shows the female HDI as a percentage of the male HDI. Countries are divided into five groups for GDI, with one indicating higher gender parity. The rank for Wage The Gender Gap Index Rating and the rating for Equality for Similar Work are between one and 144, where one represents the best performance.

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.

Under Law No.13/2003, female employees are entitled to one and a half months of fully paid maternity leave before giving birth, and one and a half 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.

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.

Employers are also 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

When asked about discrimination in employment, stakeholders are most likely to refer to gender discrimination, although under-representation of women within trade union leadership teams means that 'women's issues' are seldom at the top of the agenda.⁸³ Even when pressed, they are unlikely to mention other identity-based forms of discrimination in employment. In large formal-sector workplaces, men and women generally earn the same wages for the same jobs in large formal-sector workplaces, though women tend to be clustered in particular types of positions, for example sewing, which may be paid less well than positions that are mostly held by men. Workplaces generally do not meet their legal requirements with regard to the employment of people with disabilities.

There is a difference of opinion among stakeholders as to whether gender-based discrimination occurs in the context of the hiring process, though statements of age and gender requirements remain common in job advertisements and examples exist of discrimination against pregnant, married or older women at the time of hiring. According to stakeholders, women are not overtly discriminated against in promotions procedures, though observational data suggests that they are under-represented in supervisory positions.

ILO ILO Better Work reports that although sexual harassment issues are not reported during its assessments, one impact assessment did show high levels of concern among workers. Cases of sexual harassment are very difficult to determine, with victims often not daring to speak out.⁸⁴

Stakeholders suggest that there are also on-going 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 one 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. 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.⁸⁵

The severity of anti-union behaviour also depends on the extent to which unionists are happy to comply with management's agenda. More serious problems are often encountered by trade unionists in workplaces where a conflicting relationship with management exists. One stakeholder reported that his union had experienced many cases where members were accused of committing criminal acts. Others pointed to sub-contractors and producers' widespread use of short-term contracts for the domestic market, causing workers to be increasingly fearful that joining a union would cause their contract to simply not be renewed.⁸⁶

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 needed to provide adequate facilities for lactating women

83 For a discussion of this issue during an earlier period, see M. Ford, 2008. Indonesia: Separate Organising within Trade Unions. In K. Broadbent and M. Ford (eds). *Women and Labour Organizing in Asia: Diversity, Autonomy and Activism*. London and New York: Routledge, pp.15-33.

84 ILO Better Work Indonesia, 2017. Annual Report 2017: An Industry and Compliance Review. Geneva: ILO and IFC.

85 Ford, M. 2008. Indonesia: Separate Organising within Trade Unions. In K. Broadbent and M. Ford (eds). *Women and Labour Organizing in Asia: Diversity, Autonomy and Activism*. London and New York: Routledge, pp.15-33.

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

or onsite child care. Stakeholders report that female workers continue to have difficulty accessing their menstruation and maternity leave. In some cases, it is reportedly common for pregnant women to be sacked.

These findings are supported by the Cakung study, which reported that women sometimes conceal early pregnancies for fear that contracts would not be extended.⁸⁷ Three-quarters of women who had given birth while employed had been granted the statutory three months maternity leave. Although over half the workers were employed at factories that provided a lactation room, 90 % of those women had not used their breastfeeding leave. The study also concluded that a majority of pregnant workers are not afforded the work modifications required for a safe pregnancy, including having to undertake overtime, failure to provide adequate rest times or additional equipment, such as a chair.⁸⁸ All the garment unions interviewed in 2018 claimed to be lobbying for better implementation of women's reproduction-related workplace rights, such as better access to menstruation and maternity leave and better facilities for breastfeeding.

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

The FWF audits confirm the views of stakeholders. In most cases, an insufficient number of disabled workers were hired. Gender-based violence is very difficult to establish, and like other stakeholders, FWF encounters difficulties during its audits to find such violations. Often workers are not aware that certain behaviour is not allowed or they are afraid to speak out. In 2018 FWF auditors and the FWF complaints handler were trained on gender-based Violence which should help in detecting violations during the audit.

WORKER COMPLAINTS, RELATED TO 'NO DISCRIMINATION IN EMPLOYMENT'

FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the affiliate(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.

FWF has received three complaints related to discrimination. In two cases, workers complained about the mistreatment of line supervisors and the fact that the line supervisors received different punishment based on race. The factory is revising its Standard Operating Procedure to prevent future cases of harassment and different punishments. In another case, several workers were not able to access the social security system. At the time of writing of this country study, FWF has investigated and confirmed the complaint, while the FWF member was starting remediation.

87 Perempuan Mahardhika, 2017. Pelecehan Seksual dan Pengabaian Hak Maternitas pada Buruh Garmen: Kajian Kekerasan berbasis Gender di KBN Cakung. Jakarta: Perempuan Mahardhika.

88 Perempuan Mahardhika, 2017. Pelecehan Seksual dan Pengabaian Hak Maternitas pada Buruh Garmen: Kajian Kekerasan berbasis Gender di KBN Cakung. Jakarta: Perempuan Mahardhika.

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, though 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.

OFFICIAL STATISTICS ON COMPLIANCE

There are no government statistics available on compliance with this standard. In the most recent BWI report, there were no children under the age of 15 found to be working in BWI-registered factories. However, there were three instances of workers under 18 working in an environment considered hazardous, three cases of workers under 18 working overtime or at night, and five cases of improper documentation of workers under the age of 18.⁸⁹

LAWS AND REGULATIONS

Law No.13/2003 forbids the employment of children except in very particular circumstances. As noted above, 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 work space 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 in order to develop a talent or hobby.

⁸⁹ BWI, 2017. Annual report 2017: An industry and compliance review. Geneva: ILO.

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, a category that accounted for five % of all employed men.⁹⁰

Stakeholders confirm that child labour is not a concern in factories, though 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, though 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.

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

FWF found no child labour during its audits.

WORKER COMPLAINTS, RELATED TO 'NO EXPLOITATION OF CHILD LABOUR'

FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the affiliate(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.

FWF did not receive any complaints related to this labour standard.

⁹⁰ Statistics Indonesia, 2014. Population 15 Years of Age and Over by Sex and Educational Attainment, 2013.
Available at: http://www.bps.go.id/eng/tab_sub/view.php?kat=1&tabel=1&daftar=1&id_subyek=40¬ab=10.



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 recognised.” (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 1998 fall of the New Order regime, led by President Suharto. At the same time, trade unionists continue to be confronted by numerous difficulties in trying to exercise their right, 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.

OFFICIAL STATISTICS ON COMPLIANCE

There are no official statistics pertaining to compliance with ILO Conventions No.87 and No.98, or with related national laws. However, the ILO Conference Committee on the Application of Standards in 2016 made several observations addressed to Indonesia on cases relating to Convention No. 87 on Freedom of Association and Protection of the Right to Organise. The worker members to the committee claimed progress on freedom of association that had been made in the post-Suharto period had ‘come to an abrupt end with the advent of the Widodo administration’. They detailed cases of police beatings, use of paramilitary organisations to break up labour demonstrations, banning of demonstrations by local authorities in several regions, misuse of the Penal Code on instigation. In addition, unpleasant actions were made in order to obtain the arrest and detention of trade unionists, and the 2013 Law on Mass Organisations was adopted, which unions fear could be used to curtail freedom of association.⁹¹

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

⁹¹ ILO, 2016. Conference Committee on the application of standards: Extracts from the Proceedings. Geneva: ILO.

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 seven 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 also 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 ten % 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

While the ability to form an independent union continues to be a problem in some workplaces, the main areas of concern in factories within global supply chains focus on trade unions' capacity to freely represent their members in workplace-level processes, including collective bargaining rather than the right to form a union per se.

Stakeholders reported that it is less common now for employers to prevent workers from establishing a union, especially in tier one garment factories. One initiative that has helped achieve this outcome is the Freedom of Association (FOA) Protocol. This initiative brought brands, suppliers and garment unions together in Hong Kong in 2008 in a multi-stakeholder dialogue to discuss labour conditions in the sportswear and garment sectors. Indonesia was identified as the site for a pilot project, which began the following year. In the initial meeting in Indonesia, freedom of association, wages and job security were identified as key issues. It was agreed that freedom of association would be dealt with first, and a taskforce was established to draft what became known as the FOA Protocol. Initial sign-off was achieved in 2011 but it took two more years to negotiate the details.

An assessment of the initiative revealed that the protocol did establish better conditions for unions in supplier factories, including access to space for a secretariat and other support for union activities, which in turn led to improved freedom of association in participating factories. However, despite pressure from the unions, suppliers and brands have to date resisted establishing similar protocols relating to security of employment or a living wage. More generally, however, there are 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, and 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.

An even more common issue is the reluctance of management to negotiate with unions where they exist. 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 unionism, 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, whereas 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.

Trade unions that succeed in negotiating a Collective Bargaining Agreement (CBA) on a factory level, regularly agree with provisions that are less favourable to workers than the prevailing law and regulations. Both ILO ILO Better Work and the trade unions that were involved in the development of the Multi-Company Collective Bargaining Agreements reported a failure to exceed legally mandated minimums, problems with legal recognition, the risk of disempowering plant-level unionists, not providing workers with already agreed-benefits or compensation establishing the non-payment of overtime for work on public holiday or weekly rest days—because of work-off-day substitution.⁹²

92 ILO ILO Better Work, Annual Report 2017: An Industry and Compliance Review Indonesia, Geneva, ILO, 2017.

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

In all factories, workers were free to establish a union without interference from management. In one case, an office for the union was not provided. More regularly, FWF finds that management does not discuss working conditions with unions or negotiate a Collective Bargaining Agreement.

WORKER COMPLAINTS, RELATED TO 'FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING'

FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the affiliate(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.

Three complaints were related to this labour standard. In all of these cases, it involved the dismissal of trade unionists. In one case, FWF determined that the trade unionist was illegally dismissed. The FWF member is actively working to remediate the situation. In another case, the trade unionist accepted compensation with the promise that she would be re-hired again in the event her position opened up again. Until today, she has not been hired despite several attempts to be rehired. In the last case, 11 out of 12 trade unionist were satisfied with the compensation offered by the factory.

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”.

Until late 2015, minimum wages were 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, these negotiations around the minimum wage was very important industrially.⁹³ They 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. They replaced it instead with a centrally-determined formula, which came into force during the negotiation round in late 2015. The new formula for determining the annual minimum wage is previous minimum wage + previous minimum wage x (% annual inflation rate during the year + % GDP annual increase during the year). While the Minister of Manpower claimed the new formula would protect workers against low wages and unemployment by providing certainty to business, major union confederations rejected the regulation because it removed the right of unions to negotiate wages and failed to offset a drop in workers’ purchasing power.⁹⁴ More than 35,000 workers demonstrated in Jakarta on 30 October 2015 to protest the regulation. Police dispersed the protestors using water cannons and tear gas and arrested 23 of the workers, causing the ITUC to file a complaint with the ILO. The ILO Committee on Freedom of Association noted that it was ‘deeply concerned by the excessive force used ... and the arrests that followed’ and recommended that the charges against the 23 workers be dropped, which they subsequently were in November 2016.⁹⁵ Under pressure from labour, governors in some provinces initially set wages higher than the formulated amount allowed. The Ministry of Manpower reported that in setting the minimum wages for 2016, 17 provinces did not conform to the new wage regulations.⁹⁶ In October 2017, ahead of the 2018 minimum wage setting, the Minister of Manpower ensured

93 ILO, 2015. *Labour and Social Trends in Indonesia 2014–2015: Strengthening Competitiveness and Productivity through Decent Work*. Jakarta: ILO.

94 Jakarta Post. 2015. New minimum wage formula comes into effect. Jakarta Post, 27 October. Available at: <http://www.thejakartapost.com/news/2015/10/27/new-minimum-wage-formula-comes-effect.html>

95 ILO, 2016. Report in which the committee requests to be kept informed of development – Report No 380, October 2016. Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO:P50002_COMPLAINT_TEXT_ID:3302071

96 Allen, E., & R. Kyloh, 2016. Labour reforms in Indonesia: An agenda for greater equity and efficiency. Available at: <https://www.ictu.ie/download/pdf/labour-reforms-in-indonesia-an-agenda-for-greater-equity-and-efficiency-november2016.pdf>

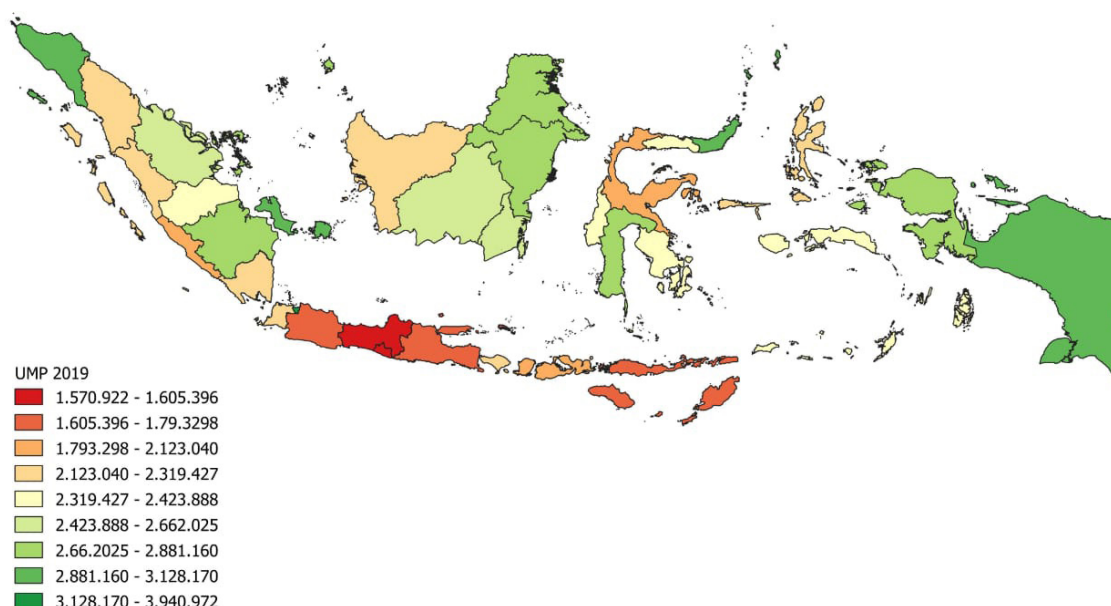
greater compliance by issuing a circular reminding governors of their obligation to set the minimum wages based on the 2015 government regulation.⁹⁷

The textile and garment factories are concentrated in provinces with among the lowest minimum wage in Indonesia, and non-permanent workers in the industry in general receive only 35 % the income of the average permanent worker.⁹⁸ Minimum wage rates, which as designed to take into account the different cost of living in different areas, are well above the national poverty line, which as of March 2017 sat at Rp. 374,500 per capita per month,⁹⁹ and also above the UN-defined poverty line of \$2 USD per day.

However, workers argue that wages are inadequate. KSPI responded to a government-mandated increase of 8.3 % for the 2018 round with demands for an increase of 20-25 % based on a survey of needs for a decent living standard in Jakarta, Bekasi and Tangerang.¹⁰⁰

The Ministry of Manpower has set provincial level regional minimum wage increases in 2019 at 8.03%.¹⁰¹

Picture : distribution of 2019 provincial minimum wages throughout Indonesia¹⁰²



It can be seen from the distribution of provincial minimum wages that the garment industry areas such as West Java Province, Central Java, and DI Yogyakarta are regions with the red category, the lowest minimum wages in Indonesia.

97 Deny, S. 2017. Gubernur diminta tetapkan UMP 2018 sesuai PP Pengupahan. Liputan6, 25 October. Available at: <https://www.liputan6.com/bisnis/read/3140501/gubernur-diminta-tetapkan-ump-2018-sesuai-pp-pengupahan>

98 Horne, R., & M. C. de Andrade, 2017. Gambaran beragam untuk sector garmen Indonesia. Bangkok: ILO. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_625194.pdf.

99 https://www.unescap.org/sites/default/files/Stats_Brief_Oct2017_Issue_15_Understanding_poverty_and_poverty_data_in_Indonesia.pdf

100 KSPI President Said Iqbal quoted in "Pro Kontra Tuntutan Upah Buruh Naik 25%", DetikFinance, 19 October 2018. Available at: <https://finance.detik.com/berita-ekonomi-bisnis/d-4263452/pro-kontra-tuntutan-upah-buruh-naik-25/3>

101 https://jdih.kemnaker.go.id/data_puu/Permen_15_2018.pdf

102 Picture by puniki menawi kasayubin

Table 9: 2019 Legal minimum wages for 4 provinces that producing garment and textile.¹⁰³

No	Province	Minimum Wage
1	DKI Jakarta	IDR. 3.940.972
2	West Java	IDR 1.668.372
3	Central Java	IDR 1.605.396
4	Yogyakarta	IDR 1.570.922

Table 10. Legal minimum wages in the top 10 garment producing regions in 2019¹⁰⁴

West Java Province	
Sukabumi Regency	IDR 2.791.016
Karawang Regency	IDR 4.234.010
Bandung City	IDR 3.339.580
Bandung Barat (West) Regency	IDR 2.898.744
Bandung Regency	IDR 2.893.074
Bogor Regency	IDR 3.763.405
Purwakarta Regency	IDR 3.722.299
Subang Regency	IDR 2.732.899
Jakarta City	
Jakarta City	IDR 3.940.973.036
Central Java Province	
Semarang City	IDR 2.498.587
Semarang Regency	IDR 2.055.000
Boyolali Regency	IDR 1.790.000
Sukoharjo	IDR 1.783.500
Special Region of Yogyakarta Province	
Bantul Regency	IDR 1.571.000

Increase in regional minimum wages in 2019 - 8.03% - is deemed inadequate to support workers' lives according to trade unions. The Confederation of Indonesian Workers' Unions (KSPI) demand that the government to set a provincial minimum wage increase or 2019 UMP of 20-25 percent, as much as Rp. 4.3 million, this figure is based on survey results that consider the decent living needs (KHL) 62 items, especially the DKI Jakarta area.¹⁰⁵

103 <http://www.tribunnews.com/section/2018/11/16/berikut-daftar-ump-per-provinsi-2019-naik-hingga-803-persen?page=all>

104 <https://economy.okezone.com/read/2018/11/28/320/1984046/daftar-upah-minimum-kota-2019-di-pulau-jawa-karawang-paling-tinggi-rp4-23-juta>

105 https://www.liputan6.com/bisnis/read/3671798/tuntut-ump-2019-naik-25-persen-begini-hitung-hitungan-buruh?related=dable&utm_expid=.9Z4i5yp6QeGiS7w9arwTvQ.1&utm_referrer=https%3A%2F%2Fwww.google.com%2F

Table 11. Living wage estimates by stakeholders

Average monthly wage in manufacturing	Wageindicator.org Monthly living wage for standard family	Oxfam Monthly living wage	Asia Floor Wage Monthly living wage	Anker / Global living wage coalition
Rp. 2,636,846	Rp 2,872,100	Rp 2,988,884	Rp. 5,886,112	Not yet available for Indonesia

A further barrier to decent wages is the exemption from paying the minimum wage that is granted to many garment companies who claim they cannot afford the minimum wage increases. In 2017 the government even allowed the garment sectorial wage to be set lower than the minimum wage in four districts in West Java.¹⁰⁶ Recently, internship programs have also been introduced which have been criticised by unions for undermining labour standards as employers of interns are not required to pay interns the minimum wage.¹⁰⁷

OFFICIAL STATISTICS ON COMPLIANCE

An estimated 39.1 % of employees in the Indonesian garment sector earn less than the minimum wage. This is very high, particularly when compared to 6.6 % non-compliance in Vietnam and 25.6 % in Cambodia.¹⁰⁸ An ILO-sponsored report suggests that close to 40 % of Indonesian garment workers are being paid below minimum wage, with around 50 % paid more than 120 % of the minimum wage.¹⁰⁹

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, the setting of the minimum wage is reflected in the local or provincial minimum wage. This regulation also allows for the setting of sectorial 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 has 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 take position, length of

¹⁰⁶ Fikri, A. 2018. Perusahaan padat karya di Jawa Barat minta pengangguhan upah. Tempo, 23 January.

Available at: <https://bisnis.tempo.co/read/1053356/perusahaan-padat-karya-di-jawa-barat-minta-penangguhan-upah/full&view=ok>

¹⁰⁷ Allen, E., & R. Kyloh, 2016. Labour reforms in Indonesia: An agenda for greater equity and efficiency.

Available at: https://www.ictu.ie/download/pdf/labour_reforms_in_indonesia_an_agenda_for_greater_equity_and_efficiency_november2016.pdf

¹⁰⁸ Cowgill, M., & Huynh, P. 2016. Weak minimum wage compliance in Asia's garment industry. Bangkok: ILO

¹⁰⁹ Cowgill, M., & Huynh, P. 2016. Weak minimum wage compliance in Asia's garment industry. Bangkok: ILO

service, education and competence into account. 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.

Government Regulation No.78/2015 on wage-setting restates the purpose of wage-setting as the achievement of a reasonable standard of living for all workers based upon 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. Those who apply 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, although concrete data is impossible to obtain, 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 finding was confirmed in focus group discussions involving managers and owners of small companies conducted for the ILO in 2017. All informants interviewed in 2018 pointed to the laxity of government inspections and enforcement of minimum wages.

ILO ILO Better Work found that 64 % of the factories were not complaint concerning overtime wages, mostly concerning the payment of overtime on public holidays and weekly rest days. The use of 'all-in' contracts which provides workers with a flat-rate is not allowed for cutting operators, sample operators, production administrators or security guards. Working overtime on regular working days while not paid correctly was found in 50 % of the factories, also due to the use of all-in contracts.

Business representatives and unionists confirmed that Ministerial Regulation No.78/2015 had had a significant effect on both the wage-setting process and on future wage outcomes in the garment industry. Businesses welcomed the predictability of the formula, and the subsequent decrease in industrial action, but criticised it for not taking into account the different

inflation and productivity rates of different regions. APINDO also believes that the formula allows for double dipping because it takes account of both growth and inflation. Employers noted that in formal terms it delivered higher rates of pay than the old system, but also 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.

Trade unionists pointed to the impact of the formula in newly established industrial areas, which have no way of achieving the kinds of wage levels possible in more established industrial areas. They were also concerned about the potential introduction of a sectorial wage in labour intensive industries set below the minimum wage, a strategy attempted in 2017 in a number of districts but then put on hold. 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.¹¹⁰ This has led to a reduction in union campaigning at the local level and had serious implications for unions' engagement in local politics.

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

None of the factories has of yet provided a living wage. FWF found the same practice of the illegal use of 'all in'-contracts, non-payment of legally required leave and benefits, the non-payment of the last salary to terminated workers who did not receive a pay slip.

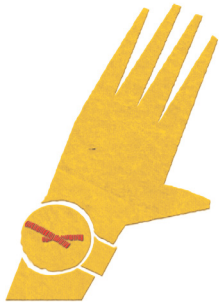
WORKER COMPLAINTS, RELATED TO 'PAYMENT OF A LIVING WAGE'

FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the affiliate(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.

FWF received three complaints related to this labour standard. The closure of the Jaba Garmino factory left many workers without severance pay. In this complaints report, it is explained which steps Jack Wolfskin took to mitigate the situation and paid compensation. Until today, workers fight to receive full severance pay. Two other cases dealt with the non-payment of the legal minimum wage. In one case, workers were immediately compensated. In the other case, the factory has begun compensating the 2013 legal minimum wage deficit to workers while taking steps to find the workers that no longer worked for the factory.

¹¹⁰ For a discussion of this issue, see Caraway, T. and Ford, M. 201). 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 seven-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, even when that overtime is excessive. There are many reports, however, of instances in which workers are required to take on overtime without being paid.

OFFICIAL STATISTICS ON COMPLIANCE

There are no reliable official statistics on compliance. However, an ILO factsheet states that the average working hours in the textile, garment and footwear industry in 2016 were around 43 hours per week, which was the same for manufacturing more generally. In the same year, nearly 60 % of workers in the industry worked overtime (i.e. worked more than 48 hours in a week).¹¹¹ BWI's 2017 report, meanwhile, found that 64 % of BWI-registered factories were non-compliant on overtime wages and 71 % of factories do not meet the daily and weekly overtime limit.¹¹²

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.

¹¹¹ Horne, R., & M. C. de Andrade, 2017. Gambaran beragam untuk sector garmen Indonesia. Bangkok: ILO. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_625194.pdf

¹¹² BWI, 2017. *Annual report 2017: An industry and compliance review*. Geneva: ILO.

Law No.13/2003 also imposes specific conditions on women's hours of work. Women under the age of 18 may not work between 11pm and 7am. 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 11pm and 5am.

STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Excessive overtime is a well-recognised, but complicated feature of Indonesia's garment industry. One respondent described it as an issue that 'haunts' the industry. From the perspective of employers, overtime is an unavoidable response to the rhythms of an industry driven by seasonality, unpredictable orders and expectations of a fast turn-around. From the perspective of workers, it is a necessary evil, as low rates of pay drive them to actively seek out opportunities for overtime.

On the other, as noted above, a target-driven system means that workers are often forced to undertake unpaid overtime facilitated through the practice of scoring, where if a line does not reach its target workers are required to continue working without being paid. 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. Women also reported being required to complete overtime when pregnant: a quarter of 773 women worker respondents in a study conducted in the Cakung Bonded Zone by Perempuan Mahardhika in 2017, had been required to continue with (unpaid) overtime while pregnant when they had failed to meet their target.¹¹³

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

In seven factories, FWF could not verify working hours due to unreliable time records. In three factories, FWF established that excessive overtime was taking place.

WORKER COMPLAINTS, RELATED TO 'REASONABLE HOUR OF WORK'

FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the affiliate(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.

FWF did not receive any complaints related to this labour standard.

¹¹³ Perempuan Mahardhika, 2017. Pelecehan Seksual dan Pengabaian Hak Maternitas pada Buruh Garmen: Kajian Kekerasan berbasis Gender di KBN Cakung. Jakarta: Perempuan Mahardhika.

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.

OFFICIAL STATISTICS ON COMPLIANCE

There are no official figures on compliance. The 2017 BWI report found amongst its registered factories 46 % non-compliance on safe storage of chemicals and hazardous substances; 44 % non-compliance on existence of OSH committees; 43 % non-compliance on fire detection and alarm systems; and 42 % non-compliance on accessibility of emergency exits.¹¹⁴

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 that 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.

¹¹⁴ BWI, 2017. *Annual Report 2017: An Industry and Compliance Review*. Geneva: ILO.

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 % of wages for the first four months, then 75 % for the second four 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. ILO 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 2010.¹¹⁵ Given low levels of inspection, these numbers are likely to be seriously under-reported.

Everyday working conditions are also poor even in better-managed factories in the industry. In the ILO 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.¹¹⁶ 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.

¹¹⁵ ILO and IFC, 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO. Available at: <http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf>.

¹¹⁶ ILO and IFC, 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO. Available at: <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 ILO ILO Better Work program confirm stakeholders' reports that sexual harassment is another on-going problem, with as many as 85.2 % of respondents reporting concerns. Widespread workplace violence was also widely reported.¹¹⁷ Among the 773 women workers in the Cakung study, 56.5 % had experienced sexual harassment in the workplace, the majority of whom had been subjected to verbal and physical harassment.¹¹⁸ Among these, 290 women had received unwanted touching, among whom 123 had been pinned against something, 49 had had their bottoms or breasts squeezed, 13 had been hugged or carried against their will, five had been kissed, two had been forced to remove their clothes and four had been forced to have sex. Forms of physical harassment that did not involve touching included 'naughty' looks, or having been spied upon while in the bathroom. Verbal harassment included wolf-whistles, invitations to have sex or other sexual comments, or unpleasant comments about their physical appearance. In addition to sexual harassment, workers in the Cakung study reported other forms of violent behaviour including being yelled at, being disparaged in front of workmates, having things thrown at them, even being hit.¹¹⁹

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.

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

Critical health and safety issues are often found during FWF audits. In terms of fire and building safety, FWF found that no fire alarms and sprinklers were present, and that factories had not obtained the recently required building permit and inspection. Hazardous and toxic chemicals and waste were not stored and treated correctly, with limited access to clean water for eye washing. Temperatures in factories can get as high as 42 degree Celsius, causing headaches, dehydration and fatigue.

¹¹⁷ ILO and IFC, 2012. Indonesia Baseline Report: Worker Perspectives from the Factory and Beyond. Geneva: ILO.
Available at: <http://betterwork.org/global/wp-content/uploads/Impact-Research-Indonesia-Baseline-Report-Worker-Perspectives-from-the-Factory-and-Beyond.pdf>.

¹¹⁸ Perempuan Mahardhika. 2017. Pelecehan Seksual dan Pengabaian Hak Maternitas pada Buruh Garmen: Kajian Kekerasan berbasis Gender di KBN Cakung. Jakarta: Perempuan Mahardhika.

¹¹⁹ Perempuan Mahardhika. 2017. Pelecehan Seksual dan Pengabaian Hak Maternitas pada Buruh Garmen: Kajian Kekerasan berbasis Gender di KBN Cakung. Jakarta: Perempuan Mahardhika.

WORKER COMPLAINTS, RELATED TO 'SAFE AND HEALTHY WORKING CONDITIONS'

FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the affiliate(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.

Out of the 13 complaints FWF received, five related to Occupational Health and Safety. One of these cases is the Jaba Garmino case which can be found under 6.5. In one case, not all workers were provided with social security, which was confirmed during a FWF-audit. This complaint is still under remediation. Three cases of harassment and physical abuse were reported to FWF and are still under investigation and remediation. Updates of the complaints can be found [here](#) and [here](#).

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”.

More than half of Indonesian workers do not have access to a legally-binding employment relationship. As of February 2018, 58.22 % of the Indonesian workforce (73.97 million people) worked in the informal sector.¹²⁰ Informal employment is also significant in the garment sector: as of 2015, 28.4 % of employment in manufacturing was in the informal sector.¹²¹

Even in the formal sector, 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 one 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.

OFFICIAL STATISTICS ON COMPLIANCE

There are no official statistics available on compliance with regulations around contract work and other forms of precarity within the formal sector. According to BWI's 2017 report, half of the factories covered by the initiative did not comply with limits concerning the use of non-permanent workers, and 15 % of factories did not comply with requirements concerning sub-contracted workers.¹²²

LAWS AND REGULATIONS

Under Law No.13/2003 on Manpower, 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.

¹²⁰ BPS, 2018. Indikator Pasar Tenaga Kerja Indonesia Februari 2018. Jakarta: BPS.

¹²¹ Winarsih, W., & Lisna, V. 2015. Statistics on informality in Indonesia.

¹²² Available at: http://www.unsiap.or.jp/e-learning/eL_material/PSS/1507_Informal/cr/Indonesia_cp1.pdf

BWI, 2017. *Annual report 2017: An industry and compliance review*. Geneva: ILO.

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 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. The former is a universal program for all Indonesians, while the latter is compulsory for waged workers. It provides insurance for workplace accidents, pensions and old-age benefits and death insurance.¹²³

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.¹²⁴ However, with the exception of tier one 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.

As noted above, outsourcing and short-term contracts are both permitted by law. However, 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 as a whole 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. Perempuan Mahardhika found not only that contract employment constituted the 'dominant' form of employment in the Cakung Bonded Zone (67 % of workers participating in the study were employed on contracts), but that employers failed to meet the legal requirement that workers who had been employed on contracts for more than three years were not made permanent.¹²⁵

123 Panduan BPJS, 2016. Perbedaan BPJS Kesehatan dan BPJS Ketenagakerjaan.

Available at: <https://www.panduanbpjs.com/perbedaan-bpjs-kesehatan-dan-bpjs-ketenagakerjaan/>

124 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.

125 Perempuan Mahardhika, 2017. Pelecehan Seksual dan Pengabaian Hak Maternitas pada Buruh Garmen: Kajian Kekerasan berbasis Gender di KBN Cakung. Jakarta: Perempuan Mahardhika, p.7.

Employers acknowledge the widespread use of contract workers. 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.

Unions involved in the FOA Protocol initiative have been pushing for a second protocol on security of employment to address concerns, including the impact of short-term contract work on workers not only in terms of their ability to support themselves and their families, but also their ability to access their labour rights in the workplace. They are also rightly concerned that short-term employment undermines the strength of trade unions in a context where contract workers are reluctant to become union members. But while they have been pursuing this agenda for some years now, they have had little success in convincing the suppliers and brands involved to move ahead.

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

In four factories, FWF found that workers who were entitled to a permanent contract, were still hired as a contractual worker. In two factories, legal procedures to terminate absent workers were not followed correctly. In one case, FWF found that social security fees were paid based on the legal minimum wage instead of the actual monthly wage.

WORKER COMPLAINTS, RELATED TO 'LEGALLY BINDING EMPLOYMENT RELATIONSHIP'

FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the affiliate(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.

Out of 11 complaints, eight related to this labour standard. Most of the cases have been described above. In one complaint case, a worker was dismissed in accordance with the CBA after she was caught stealing. In another complaints case, an HR manager should have received a permanent contract, but his contract was stopped without clear notice. The HR manager and the factory dealt with the case through mediation.

7. RECOMMENDATIONS (ONLY FOR STRATEGIC PARTNERSHIP COUNTRIES)

Recommendations for future interventions of the Strategic Partnership (SP),¹ with special reference to steps possible considering social dialogue, gender-based violence and living wage:

- *With regard to social dialogue, comments made by stakeholders suggest that the Multi-Company CBA strategy should be revisited to ensure that it does not inadvertently cement poor workplace conditions or poor bargaining practices and/or disempower workplace trade unionists.*
- *With regard to gender-based violence, the production of evidence independent of audit findings is an important contribution. Further steps could be taken to socialise findings with relevant ministries and to lobby for better detection of poor workplace practices and increased penalties for perpetrators.*
- *With regard to living wages, the current policy environment – in which unions can no longer make a substantive contribution to minimum wage-setting – means strong local unions and effective workplace bargaining is more important than ever. These policy settings should be kept in mind when designing future interventions.*

Recommendations regarding possible partner organisations and service providers:

- *The high-quality report produced by Perempuan Mahardhika provides a useful, independent evidence base. It may be fruitful to commission further work in different settings or on related topics.*
- *It may be helpful to conduct an independent evaluation of the progress made by trade union partners as a consequence of the current project in terms of changes to workplace-level union practices and the position of women within unions themselves.*

Recommendation for further research: in case necessary data is not available, please recommend FWF and the readers to conduct further research in the following areas:

- *Data on many aspects of Indonesia's industrial relations system and of practices in the garment industry is patchy and unreliable. While data collection at the macro-level is beyond the scope of the SP, additional quality studies on firm-level and regional social dialogue practices, gender equality (or lack thereof) in the workplace and union initiatives to secure a living wage in garment-producing regions help fill the gap in the evidence base.*

SOURCES USED IN THIS COUNTRY STUDY

With the exception of sections pertaining to FWF audit results, the information has been gathered by Professor Michele Ford, Director of the Sydney Southeast Asia Centre at the University of Sydney, Australia. The study is prepared through gathering information about national laws and local stakeholders' views on labour issues in the garment industry in Indonesia. In addition to this, information has been collated from internationally recognized sources on the economic, social, political and human rights situation in the country.

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

I. GOVERNMENT/PUBLIC AUTHORITIES

Name of the organisation plus website. No persons/ e-mail/ phone. Aim and principal activities and activities related to labour.

II. EMPLOYERS

Association of Indonesian Employers (APINDO)

The main body representing employers in the wage councils and in other tripartite committees pertaining to industrial relations.

No people: 1
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. Collects data on the industry, advocates for employers' interests and engages with unions.

No people: 1
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

PT Green Textile

Company producing for international brands, including one associated with Fair Wear Foundation.

No people: 1

Tel: 021 4483 0538

Email: vivi_cr@greentextile.co.id

PT Yongjin Javasuka Garment

Company producing for international brands, including one associated with Fair Wear Foundation.

No people: 1

Tel: 0266 731 444

Email: tangguh.karsa@yongjin.co.id

III. TRADE UNIONS

Cross-Factory Labour Federation (FBLP)

Small geographically based federation with a strong footprint in textile, garment, textile and footwear industries, with a particular focus on women workers.

No people: 1

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.

No people: 1

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.

No people: 3

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.

No people: 1
Tel: +62 21 7981233
Email: dpp_spn@yahoo.com
Website: <http://spn.or.id/>

IV. LABOUR RELATED NGOS

Perempuan Mahardika

Feminist NGO with a focus on women workers.

No people: 1
Email: mahardhika.kita@gmail.com
Website: <https://perempuanmahardhika.wordpress.com/>

Trade Union Rights Centre (TURC)

Labour NGO with a long history of engagement with trade unions.

No people: 1
Tel: +62 21 5744655
Email: andriko.otang@gmail.com
Website: <http://turc.or.id>

V. INTERNATIONAL STAKEHOLDERS

Asia Floor Wage Association

International initiative involving NGOs and trade unions with an interest in establishing a portable living wage across Asia.

No people: 1
Email: info@lips.or.id (South East Asia Secretariat)
Website: <https://asia.floorwage.org>

ILO Better Work Indonesia

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

No people: 1
Tel: +62 21 391 3112
Email: indonesia@betterwork.org
Website: <http://betterwork.org/indonesia/>

Clean Clothes Campaign

Currently supporting the Decent Work Working Group, and through it the FOA Protocol.

No people: 1
Tel: +31 2041 22785
Email: info@cleanclothes.org
Website: <https://cleanclothes.org>

IndustriALL

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

No people: 1
Tel: +65 63464303
Email: seao@industrialall-union.org
Website: <http://www.industrialall-union.org/>

LIST OF ABBREVIATIONS

AFWA	Asia Floor Wage Alliance
API	Indonesian Textile Association
APINDO	Indonesian Employers Association
Bappenas	The Ministry of National Development Planning
BWI	ILO Better Work Indonesia
CBA	Collective Bargaining Agreement
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
FOA Protocol	Freedom of Association Protocol
FWF	Fair Wear Foundation
ELSHAM	Institute for Policy Research and Advocacy
FBLP	Cross-Factory Labour Federation
GDI	Gender Development Index
GDP	Gross Domestic Product
GFA	Global Framework Agreement
GSBI	Centre for Indonesian Labour Struggle
HDI	Human Development Index
ITUC	International Trade Union Confederation
Koga	Korean Garment Manufacturers Association in Indonesia
Komnas HAM	National Commission on Human Rights
KSBSI	Confederation of Indonesian Prosperous Labour Unions
KSPI	Confederation of Indonesian Trade Unions
KSPSI	Confederation of All-Indonesia Workers Unions
LBH Jakarta	Jakarta Legal Aid Institute
LIPS	Sedane Labour Information Centre
ILO	International Labour Organization
NGO	Non-governmental organisation
SPN	National Workers Union
TURC	Trade Union Rights Centre
UN	United Nations
USD	United States Dollars
YASANTI	Independent Women's Foundation

LEGAL COUNTRY SITUATION REGARDING THE FWF CODE OF LABOUR PRACTICES

FWF Standard	Relevant Legal Provisions
6.1. Employment is freely chosen	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> 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.
6.2. There is no discrimination in employment	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> All people seeking work have an equal opportunity to obtain work and have the right to be treated in a non-discriminatory way by management. Employers must provide reasonable accommodation to workers with a disability. <p>Law No.4/1997:</p> <ul style="list-style-type: none"> Companies must hire one appropriately qualified person with a disability for every 100 employees. <p>Law No.13/2003:</p> <ul style="list-style-type: none"> Female employees are entitled to 1.5 months of fully paid maternity leave before giving birth, and 1.5 months after. Women are eligible for leave on the first and second day of their period. It is illegal to make women redundant on the grounds of pregnancy, birth, miscarriage or breastfeeding. Women must be provided with facilities and time to breastfeed if needed during work time under the law <p>Ministerial Decision No.224/2003:</p> <ul style="list-style-type: none"> Includes provisions for well-lit separate bathroom facilities for men and women
6.3. No exploitation of child labour	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> Forbids the employment of children except in very particular circumstances. Children between the ages 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.

FWF Standard	Relevant Legal Provisions
6.4. Freedom of association and the right to collective bargaining	<p>Law No. 21/2000 and Law No.13/2003:</p> <ul style="list-style-type: none"> • As few as ten workers can form a union and multiple unions are permitted to operate in a single workplace. • The law 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. • Forbids anti-union activities. • Seven days' notice must be provided of the intention to strike. • For a union to have the right to bargain, union members must constitute more than 50% of employees or have the support of more than 50% of employees. If multiple unions are present, they may enter a coalition to reach the more than 50% requirement. • Collective bargaining agreements are valid for a maximum of two years, but can be extended for a third year. • 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. <p>Ministerial Decision No.187/2004:</p> <ul style="list-style-type: none"> • Outlines administrative requirements for trade unions. <p>Ministerial Decision No.232/2003:</p> <ul style="list-style-type: none"> • 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. <p>Ministerial Decision No. 620/2012:</p> <ul style="list-style-type: none"> • Restricts capacity of workers to strike within industrial parks that are classified as National Vital Objects.

FWF Standard	Relevant Legal Provisions
6.5. Payment of a living wage	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> • Every worker has the right to a living wage. • 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. <p>Government Regulation No.78/2015:</p> <ul style="list-style-type: none"> • Minimum wage set on a formula that uses a decent living rate set every five years alongside the inflation rate and GDP. • Makes establishment of a wage scale mandatory. • Requires employers to provide proof of payment to workers that includes a detailed account of the wages received at the time they are paid. <p>Ministerial Regulation No.22/2009:</p> <ul style="list-style-type: none"> • Apprenticeships are available to job-seekers, students in training institutions or workers who wish to increase their skills. They are not paid a wage, but must be paid an honorarium and a transport allowance.
6.6 No excessive working hours	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> • Limits workings 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. • Women under the age of 18 may not work between 11pm and 7am. • Employers are required to provide transport to and from the workplace for women who finish work between 11pm and 5am. <p>Ministerial Decree No.102/2004:</p> <ul style="list-style-type: none"> • All overtime must be paid at specified multiples of normal hourly wages unless the employee concerned is engaged in a professional position. • There must be a written agreement between the employer and the worker concerned agreeing to overtime. • Employers must provide workers completing three or more hours of overtime with a meal.

FWF Standard	Relevant Legal Provisions
6.7. Safe and healthy working conditions	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> • Occupational health and safety needs of every worker must be guaranteed by the employer. • A worker may not be fired for being ill, as long as the illness does not exceed 12 months. • Workers who have developed a permanent disability or chronic illness as a result of a work-related incident must be paid 100% for the first four months, then 75% for the second four months, 50% for the third four months and 25% for the remaining time until the employer ceases the employment relationship.
6.8. Legally-binding employment relationship	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> • 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. <p>Ministerial Regulation No.19/2012:</p> <ul style="list-style-type: none"> • Outsourcing of work is permitted but only in a limited number of non-core activities.

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