



Targeted Surveys on application of core labour standards Indonesia

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This report has been developed to provide a picture of the application of core labour standards in Indonesia. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders.

Progress

- Active promotion of social dialogue and collective bargaining
- Bolstering labour inspection
- Adoption of new law on Indonesian migrant workers, and capacity development of BNP2TKI
- Tackling discrimination at the workplace (relating to workers with disabilities)

Challenges

- Increasing use of non-standard and precarious form of employment
- Rising concerns about sexual harassment in the workplace
- Antagonistic industrial relations climate
- Entrenched gender norms /stereotypes
- No recent data on child labour

Key context

Indonesia has overseen a wide range of reforms in recent years, including far-reaching decentralisation. Reforms have affected various labour governance functions, including labour inspection, which was effectively decentralised (although it has since been brought back under closer control of provincial and central authorities). The transition to a more democratic political system has also accompanied fundamental labour market reforms, including an overhaul of the labour law and industrial relations environment. The industrial relations climate remains fractious, partly in anticipation of a general election scheduled for 2019. Notable efforts have been made in recent years to boost the effectiveness of labour standards enforcement. However, there remain specific concerns about workers' access remedy through formal labour dispute settlement mechanisms.

Indonesia has made significant gains in relation to reducing poverty, nearly halving the poverty rate since 2000. Although rapid urbanisation has spurred jobs growth, Indonesia faces a major demographic challenge, with 1.7 million young people joining the labour market each year. Progress in creating decent work opportunities has been mixed and – although legal protections have recently been enhanced for migrant and domestic workers – many workers remain vulnerable. Women workers remain significantly over-represented in low-paying, less protected parts of the economy. Non-standard forms of employment are common, and it is estimated that informal employment accounts for more than three quarters of all employment in Indonesia. Overall, employment quality remains a major issue in Indonesia. Youth unemployment – at 15.6% – as well as skills shortages and skills mismatches are also persistent challenges.

Freedom of association and collective bargaining

The legal framework on freedom of association and collective bargaining is broadly adequate, although there are specific concerns relating to legal provisions on: the right of civil servants to organise; employer non-interference in trade union activities; and the implications for the right to strike of the classification of enterprises and economic zone as 'vital objects' whereby industrial disputes may be subject to security force intervention.

In practice, key issues raised by stakeholders relate to issues of enforcement, harassment of both trade union members and employers, and concerns regarding the capacities of social partners to negotiate effectively. In the absence of experience, there is generally a low level of capacity to entertain negotiation and social dialogue on the part of both workers and employers. Government has overseen recent and renewed efforts to build these skills, however, not least through a series of training and awareness-raising initiatives. Current government efforts to promote enterprise-level collective bargaining take place in the context of a marked decline in union membership in the past decade. Stakeholders note that broader economic patterns – notably the prevalence of MSMEs and increasing use of non-standard forms of employment – may militate against organisation necessary for effective representation.

Forced labour

The legal framework surrounding forced labour is adequate. The law prohibits all forms of forced labour, although Indonesia has not yet ratified P29. Key issues reported by stakeholders relate to aspects of enforcement, including insufficient penalties for trafficking and forced labour.

In practice, there are reports of forced labour within Indonesian jurisdiction in domestic work as well as in the mining, fisheries and agricultural sectors – specifically, on palm oil plantations. While (registered) labour emigration has been in rapid decline over the past decade, Indonesia is a major source country for women, children and men subject to trafficking, including for the purposes of forced labour. Reports indicate that Indonesians are subject to forced labour and debt bondage in several sectors abroad, including domestic service, construction, factories and manufacturing, mainly in Asia and the Middle East.

Key reforms have been made to the governance of labour migration. In November 2017 the government introduced a new law on the Protection of Indonesian Migrant Workers. The Migrant Worker Protection and Placement Agency (BNP2TKI) has worked with a number of partners, including the ILO, to reduce risks of abuse and exploitation of Indonesian migrant workers. The government is committed to a number of activities to eliminate forced labour under the National Action Plan on Combating Trafficking in Human Beings (RAN PTPPO).

Child labour

The legal framework surrounding child labour is strong. Stakeholder concerns mostly pertain to enforcement of child labour laws.

In practice, child labour, including its worst forms, persists. The most recent Ministry of Manpower estimates suggest that in 2015 there were some 1.6 million children in situations characterised as child labour in Indonesia. Child labour reportedly occurs

mostly in informal, unregulated activities, such as street vending and in the agricultural and domestic sector. The US Department of Labour lists seven goods from Indonesia as produced by child labour: fish, footwear, gold, palm oil, rubber, tin and tobacco.

The government is currently implementing the 2nd phase (2017–2019) of the Roadmap Towards A Child Labour-Free Indonesia in 2022, and the ILO has recently concluded a programme in cooperation with the government to address child domestic work. On the legislative front, the government has adopted Manpower Decree No. 2/2015 on the Protection of Domestic Workers, Art.4 of which sets the minimum age of employment for domestic workers at 18 years. However, a number of factors impede further progress: allocation of resources for effective enforcement of child labour laws; supply-side 'push factors' potentially requiring broader social protection measures; lack of comprehensive and recent data on child labour; and limits on access to schooling.

Discrimination

Indonesia does not have an overarching anti-discrimination law, but anti-discrimination provisions are embedded in different laws and regulations. Social partners consider the legal framework relating to anti-discrimination adequate, although other stakeholders note a number of legal gaps around the grounds for discrimination covered in law: discrimination based on sexual orientation, national origin, citizenship, language, age, and HIV status and other diseases is not explicitly prohibited in secondary legislation.

The government is committed to creating decent work for women and is pursuing several national approaches towards promotion of equality of opportunity and non-discrimination. In 2016, the government adopted a new 'Law on the Rights of People with Disabilities', though the impact of the legislation to date is reportedly modest.

In practice, most reports of discrimination in employment relate to gender. There is a high degree of both vertical and horizontal occupational segregation, and women's labour force participation lags significantly behind men's – both likely explained to some degree by allocation of unpaid care responsibilities and stereotypes relating to women's economic activity. Stakeholders report discrimination of women in all areas of employment, including pay and benefits, career development, job security and hiring, with rising concerns about sexual harassment in the workplace.

Status of ratification and reporting

Indonesia has ratified all ILO fundamental (core) labour conventions without reservations and maintains their ratification. Indonesia has ratified two out of four ILO governance (priority) conventions (C81 and C144). Indonesia is up-to-date with all of its reporting obligations to the monitoring bodies of the ILO in relation to all these conventions.

		Application issues - latest ILO CEACR observations and direct requests on core conventions
Freedom of association & collective bargaining	C87	(2018): Noted ongoing discussion within govt on implementing regulation on the right of civil servants to organise. Requested the government to ensure that sections the Penal Code – on "instigation" and "unpleasant acts" against employers - are not applied to abstract trade union activities. Noted trade union claims that legal provisions on protection of 'national vital objects' may be used in practice to

		suppress freedom of association.
	C98	(2018): Noted indications by govt that it will amend Manpower Act, which requires employer presence during enterprise vote to determine trade union representation for collective bargaining. Requested govt to review Industrial Relations Dispute Settlement - allowing for only one party to file a petition to the Industrial Relations Court – as this does not promote voluntary collective bargaining.
Forced Labour	C29	(2017): Urged the government to strengthen efforts to protect migrant workers from abusive practices and conditions amounting to forced labour. Requested the government to take measures to improve functioning of Task Force.
	C105	(2017): Urged the government to amend sections of Criminal Code which provide for: compulsory labour for certain acts of public expression, and requested amendment to Manpower Act, which provides for compulsory labour for illegal participation in strikes.
Child labour	C138	(2016): Requested the government to amend law to prescribe obligations of employers to keep registers of children in all economic activities. Noted with concern that majority of children under minimum age engaged in self-employment or working without clear wage relationship are not covered by Manpower Act.
	C182	(2016): Noted reports that there is no legal protection for child domestic workers under the age of 18. Requested the government to ensure application of effective and dissuasive penalties for employing children in hazardous work.
Discrimination	C100	(2017): Requested the government to consider amending legislation to reflect the broad definition of 'remuneration' under the Convention. Urged the government to ensure that women do not face direct or indirect discrimination with respect to family allowances and employment-related benefits. Encouraged the government to consider amending Manpower Act to reflect principle of equal remuneration for work of equal value.
	C111	(2017): Requested the government to carry out review of discrimination in employment and occupation based on all grounds. Requested the government to consider revising Manpower Act to expand benefits related to night work to male workers. Requested the government to ensure that civil servants are not discriminated against based on political opinion.

References

ILO CEACR, [Observations and Direct Requests for Indonesia.](#)