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Labour law and development in Indonesia

Tjandra, S.

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Author: Tjandra, Surya
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1 Historical background: evolution of Indonesia's labour law

Laws to regulate the exchange of personal services or other services for monetary remuneration, have no social and cultural basis in early Indonesian society. Paid labour as a means of subsistence does not fit with patterns of early Indonesian social relationships (Wertheim, 1959: 236). Labour was either a contribution to the collective, or a service to a traditional authority. As noted by Furnivall (1944: 184), the first experiment with paid labour, under Dutch colonial rule, only occurred in 1849, in association with harbour and defence work in Surabaya, East Java. This was considered by the government to be quite successful, and in 1851 the government ordered that all state buildings should be constructed with paid labour. In 1854 a Public Works Department was established, followed in 1857 by a policy that all government works, 'in the absence of express orders to the contrary', should use paid labour.

This first foray into paid labour was, however, a short-lived phenomenon. The intensive exploitation of colonial assets demanded more labour, which 'could most readily be met by using the available Javanese farmers for unpaid compulsory services under the traditional feudal system' (Wertheim, 1959: 242). For a long time afterwards, the Dutch colonial government relied upon and maintained the society's existing traditional and feudal labour relations systems[1] as the main source of labour. Despite the fact that the government had initiated the banning of public slaves in 1854, and had made first provisions for the gradual abolition of slavery in 1860, the government's economic interests appeared to remain dominant throughout the 18th and 19th centuries, until almost the end of the colonial era. Most labour legislation during this time was intended primarily to control labour, either in domestic service or industrial production, particularly on plantations such as those established on the eastern coast of Sumatra, which relied on imported labour from Java.

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1 In the Indonesian (Javanese) traditional feudal system this was called *pancen,* which basically meant a natural tax system in the form of labour (derived from the word *panic*, meaning 'part' or partial responsibility, see Wignjosoebroto, 1995: 95-6), and comprising obligatory house and garden works for the feudal chiefs. Other types of compulsory labour were *heerendiensten* for public works (Onghokham, 2003: 29), and *desadiensten* for the village (Furnivall, 1939: 182). Despite attempts to abolish this system in 1912, and its formal abolishment in 1917 (replaced by a head tax system), these compulsory services were retained informally by government agencies for many years later, particularly for public utility works such as work on roads, bridges and aquaducts; as well as work on private estates surrounding Batavia (Wertheim, 1959: 245).

That this early development of labour policy was directed towards the provision of labour can be seen in the provisions of the Civil Code (Burgerlijk Wetboek), which regulated employment contracts among the Europeans and, later, among all groups in society. By the early 20th century, heated debate about the Coolie Ordinances and the use and misuse of the penal sanction (poenale sanctie) forced the government to consider reforming its regulations, and according to Furnivall (1939: 354), this marked the start of the Netherlands Indies' evolution of labour policy towards protection of labour. However, the Coolie Ordinances, the poenale sanctie and the actual practice of using coolies were all only abolished near the end of the colonial era.

Meanwhile, trade union activities were also growing, particularly in the more modern fields of work such as mining, railways and harbours. The growing significance of trade unions within society, and most importantly their involvement in the struggle for the country's independence, put trade unions in a special position once Indonesia gained independence. This was reflected in the early legislation established by the new country, which was characterised by the notion of protection for labour. This legislative focus continued through the 1950s and 1960s, until the rise of the 'New Order' in the mid-1960s.

1 The colonial era – the law of the lords

During the Dutch colonial era, two different types of legislation regulated the labour-employer relationship. The first comprised an employment contract provision under the Netherlands Indies' Civil Code (*Burgerlijk Wetboek*), in particular three simple paragraphs 'on the hire of servants and workers' (the articles are known as '1601-1603 old' and were amended in 1926). The second was the Coolie Ordinance (*Koeli Ordonnantie*), which was designed to manage the contract coolie labour (*kuli kontrak*), and to reinforce the positions of European managers and assistants on large estates.

a The Civil Code (Burgerlijk Wetboek)

The three paragraphs of the Civil Code (*Burgerlijk Wetboek*) on the hire of servants and workers were originally only applied to Europeans (*Staatsblad 1847 No. 23*). From 1855 they were extended to include Foreign Orientals, and from 1879 natives were also included (*Staatsblad 1879, No. 256*; Hooker, 1978: 194).[2] The primary intention was to ensure the security of the European employers of native workers. However, the relevant sections of the

2 According to Article 131 *Indische Staatsregeling* (*Staatsblad 1925, No. 415*), all persons in the Netherlands East Indies were classified into one of three groups: Europeans, Natives and Foreign Orientals (Chinese, Arab and Indian inhabitants), with each group having their own law.

Code were generic enough to be applicable to labour contracts between non-Europeans as well – although initially this did not lead to implementation, as non-Europeans remained excluded from the system (Schiller, 1946: 176).

Using the Netherlands law of 1907 as their foundation, the colonial government in 1926 added a further 80 articles under the title '7A of the Civil Code'. Together these provided a comprehensive compilation of the law governing labour contracts, adapted to the Netherlands Indies conditions (articles 1600-1603z of the Civil Code). A provision was made for the future enactment of special legislation regarding labour contracts in agricultural or industrial enterprises, in rail, trams, general transport and other services (Schiller, 1946: 177). In addition, special provisions were also enacted later for maritime personnel and workers in industrial enterprises (up until 1941); however the new law did not modify the delegation of authority to enact special laws on plantation managers and assistants.

The new labour law contained several articles which stated that if a labour contract existed between an employer who fell within the scope of 7A of the Civil Code (on contract) and an employee who did not fall within the scope of 7A, then regardless of the intention of the two parties, that labour contract was nevertheless controlled by the provisions of 7A 'if the work is such as is usually performed by workers falling within the scope of the title' (i.e., Europeans) (Schiller, 1946: 177). Further, if an employer was not within the terms of 7A, and their employee was within the terms, their labour contract was always governed by the provisions of 7A (Schiller, 1946: 177). These provisions gave rise to extensive litigation, and the courts had difficulties differentiating work that was normally performed by Europeans from work that was not. The new labour law did, however, include clear rules for managing interracial labour contracts; and there were provisions for both parties to submit voluntarily to 7A even if the work was not of a kind usually performed by Europeans (Schiller, 1946: 177). Thus, although the new law was intended to apply to Europeans, in practice it could also cover labour contracts between and among natives and foreign orientals.[3]

3 Nonetheless, Schiller (1946: 177-178) also noted the complexity of the status of labour contracts when both parties were non-Europeans; for example when non-European employees for a European employer performed non-European work, which racially divided law might still apply to the oriental and native workers. As he summarised it: 'Race, nationality, the place where the work is performed, the type of work done, the person of the employer, the land of the employer, and recently the amount of wages paid, have all been decisive of the law to be applied.' (Schiller, 1946: 179).

b The Coolie Ordinances (Koeli-Ordonnanties)

Other important regulations were the Coolie Ordinances, which were designed to manage contract coolie labour (*koeli kontrak*) and to reinforce the European managers and assistants' positions on large estates. The first Coolie Ordinance was promulgated in 1880 (*Staatsblad 1880 No. 133*) to regulate labour relations, particularly on the plantations in East Sumatra.[4] This ordinance was later expanded to cover other regions of the Outer Islands, including mining operations on Bangka, Belitung (Billiton) and Singkep islands. Further ordinances in 1884 and 1893 gave employers more effective legal control over their indentured workers, who were brought particularly from Java.

The Coolie Ordinance was stricter than the normal regulations on employment contracts. It introduced contractual work based on 'free contract' and 'free labour' systems, and importantly it introduced the use of penal sanctions (*poenale sanctie*), and other types of punishment as ways to regulate labour in the Netherlands Indies (Wertheim, 1959: 250-1; see also Breman, 1989, Stoler, 1985, Erman, 1995). Plantation managers used these systems (see Middendorp, 1924),[5] as a means to keep their labourers; given the shortage of workers in the Outer Islands. If a coolie violated his contract, he was liable for punishment, so that, '[a] labourer running away from his plantation could be arrested by the police and, after undergoing a prison sentence, be forced to fulfil his contract to the end' (Wertheim, 1959: 251).

In order to prevent labourers from returning to their homelands at the end of their contracts, plantation managements employed various means of inducing the coolies to stay: 'By encouraging gambling on pay-day, saving on the

4 The Netherlands Indies' so-called 'plantation economy' developed mainly in the sparsely-populated Outer Islands (particularly Sumatra) between 1870 and 1942 (Thee, 1977). Due to the nature of the work, plantations required extensive labour; and this became a major problem for the industry. The shortage of labour was solved by recruiting contract labourers (coolies) from China, and later, from Java (see Breman, 1989: 14-74).

5 The *poenale sanctie* system itself had been in the colony for some time. In 1829 the Police Regulation for Surabaya (*Soerabajasch Politiereglement*) was declared, giving more legal power to people over their servants 'by imposing a penalty on the non-observance of agreements' (Furnivall, 1939: 181). In 1851 this *poenale sanctie* system was extended over most of Java and part of the Outer Islands (Thompson, 1947: 151). Later, the system was replaced by the Police Penal Regulation (*Algemeen Politiereglement voor Inlanders*) of 1872, with a clause penalising the breach of an agreement to work. Due to protests in the States-General, this *poenale sanctie* was repealed in 1879 (by *Staatsblad 1879 No. 203*), and a new article (article 328a) was added to the Penal Code (*Wetboek van Straftrecht*) (see Paulus *et al.*, 1917: 360-365). However, new labour control problems emerged as interest shifted from domestic service to industrial production with imported labour, especially in the tobacco plantations of East Sumatra (Furnivall, 1939: 181-182). In 1880 this led to the promulgation of the Coolie Ordinance, and similar ordinances for other regions in the Outer Islands.

part of the workers was hampered. The *mandur* [supervisor] saw to it that the labourer, when his contract was expired, was so deep in debt that he had no choice but to sign a new contract' (Wertheim, 1959: 251). Other scholars reported similar conditions (see, e.g. Breman, 1989; Stoler, 1995; Erman, 1995; Somes-Heidheus, 1992).[6] Plantation managers, to prevent workers from building solidarity, also used the existing racial tensions among the coolies: 'Foremen were played off against the common coolies, Javanese against Chinese, the indigenous Bataks and Malays against both groups. [Also] the penal sanction made strikes impossible and thus impeded the development of a trade union movement' (Wertheim, 1959: 252).

Various forms of severe punishment were used to respond to and prevent resistance by the coolies. These included actions which today would be considered torture; as noted by Breman (1989: 218), they included:

> [I]ncarceration without food and water, running the gauntlet, tying up in various positions (standing, sitting, laying on belly or back, crouching, hanging), standing in the sun for a fortnight (*didjemoer*, 'airing'), binding them hand and foot, water immersion, bastinado in crucified position, dragging them behind a horse with the hands tied, beating them with leaves that caused itching and then drenching them with water so that the body swelled, having slivers of bamboo driven under the fingernails, rubbing finely-ground pepper onto female sexual organs, hanging Chinese coolies by the pigtail so that the victim could barely touch the ground with his toes, and clubbing them to death.

The combination of feudalistic and paternalistic attitudes within the indigenous agrarian sphere, compounded by colonial coercion, led to severe exploitation of workers. It was apparent that coolies in plantations experienced conditions that in practice were often tantamount to slavery. The situation was well articulated by Tan Malaka, an Indonesian revolutionary, in his famous memoirs *Dari Pendjara ke Pendjara* (From Prison to Prison), during his visit to Deli (December 1919 – June 1921):

> *Inilah klas jang membanting tulang dari dini hari sampai malam, klas jang mendapat upah tjuma tjukup buat pengisi perut dan penutup punggung, klas jang tinggal dibangsal seperti kambing dalam kandangnya, jang sewaktu-waktu di-godverdom-i atau dipukul, klas jang sewaktu-waktu bisa kehilangan isteri atau anak gadisnja djika dikehendaki oleh 'ndoro-tuan… adalah klasnja bangsa Indonesia, terkenal sebagai kuli-kontrak.*[7]

6 The works of Breman (1989) and Stoler (1985) were important on this regard. These authors were among the early researchers to analyse the brutal colonial labour practices towards *koeli kontrak* in the Deli plantation on the east coast of Sumatra. Erman (1995) and Somers-Heidheus (1992) provide analyses of the cases of Belitung and Bangka respectively.

7 Malaka, 1939: 49-50; translated and cited by Harry Poeze (1976: 76): 'De klasse die zwoegt van vroeg tot laat; de klasse die loon krijgt juist genoeg om de maag te vullen; de klasse die woont in een schuur zoals geiten in hun stal; die ieder ogenblik geslagen of een "godverdomme" naar het hoofd geslingerd wordt; de klasse die ieder ogenblik hun vrouw of dochter kan verliezen als de blanke man haar begeert… dat is de klasse van Indonesiërs, bekend als contract-koelis.'

> [The class that toils from early until late; the class that gets wages just enough to fill the stomach and cover the back; the class that lives in a barn like goats in their stable; with frequent beating and 'goddamns' hurled at their head; the class that can lose at any time their wife or daughter if the white man desires her ... that is the class of Indonesians known as contract koelis.]

In 1902, Johannes van den Brand, a practicing lawyer, published his famous pamphlet *De Millioenen uit Deli* (the Millions from Deli), condemning the Coolie Ordinance and the practices it encouraged, on moral grounds (see Breman, 1987). As a response, in 1903, the Dutch colonial government ordered Public Prosecutor J.L.T. Rhemrev, a member of the Council of Justice in Batavia, to investigate the allegations. The Rhemrev Report revealed the extreme cruelty of many plantations practices. This report became 'lost' in the archives, and there has been speculation that it was deliberately hidden by the Minister of Colonies, to keep it from public scrutiny (justified on the grounds that there was no opportunity for the accused to defend themselves against the charges, and the government should focus not on the past but on the future (see Breman, 1989). It was not until the late 1980s that the report was first made public (Breman, 1989: 7).[8]

Due to growing concerns about the existing law, and particularly the practices described in the Rhemrev report, there were in fact some attempts by Dutch politicians to improve the legislation. In 1909, the penal clause was weakened (*Staatsblad 1909 No. 526*); and in 1911 'free' wage labour (hiring on a contract without penal sanction) was included in the ordinance (*Staatsblad 1911 No. 540*; *Staatsblad 1916 No. 616*) (Heijting, 1925: 21-2; Touwen, 2001: 115).[9] Rhemrev himself was appointed as a temporary Labour Inspector in East Sumatra in 1904. In 1908 the government also established the Labour Inspectorate (*Arbeidsinspectie*) for the whole Netherlands Indies (*Staatsblad*

8 Jan Breman, a Dutch scholar, made the report public for the first time with his monograph in 1987 (see Breman, 1987, Dutch version). Breman's chief criticism was that the report was deliberately never made public. However, Breman's claim has been questioned on several grounds. As noted by Touwen (2001: 113), some references to the report do exist in the earlier literature (e.g. Langeveld, 1978: 298; also Pelzer, 1978: 138-9), and Breman's criticism has also been challenged for failing to consider the temporal and geographical context. We will return to this issue later.

9 This resulted in coolies falling into one of three categories: either contract coolies; 'free' coolies (*vrije arbeiders*) or casual workers (*losse arbeiders*). As noted by Houben (1999: 17): '[a] contract coolie was a person who had concluded [obtained] a contract on the basis of [the] Coolie Ordinance, i.e. a contract including the penal clause. "Free" coolies were labourers from outside the region who had concluded a contract without a penal clause on [the] basis of the amendments to the Ordinance […] Casual workers were coolies from the region itself who worked for an unspecified period of time at an enterprise but did not fall under any kind of Coolie Ordinance … [whose] position was regulated by the Civil Code and *adat* [customary] law'. Houben also noted that the word 'free' was in fact a misnomer, 'since it does not mean that a "free" coolie was one without a written contract at all but rather one working under a different type of contract'.

1908 No. 400) (Heijting, 1925: 79). This inspectorate operated as a branch of the Department of Justice, and was intended to provide protection for workers.

In 1921 a Labour Office (*Kantoor van Arbeid*) was created within the Department of Justice (based on *Staatsblad 1921 No. 813*) in Batavia, consisting of three divisions: labour legislation and statistics (in Java); the Labour Inspectorate, which was effectively included from 1923 (by *Staatsblad 1923 No. 336*); and labour unions. This Office was responsible for all matters concerning government involvement with labour issues (Houben, 1999: 16; Heijting, 1925: 79-82). However, the powers of the Office were restricted. As noted by Houben (1999: 16), the Labour Inspectorate was tasked: 'to make an official report of any irregularities which came to its notice and to initiate a criminal investigation', yet 'its function was largely preventive since the punishment of offences was left to the judiciary'. This means that the inspectorate could not impose administrative sanctions on violators, unlike their contemporary counterpart in the Netherlands. Breman (1989: xiv) also criticised the effectiveness of the Labour Inspectorate, which, in his opinion, had actually become 'an instrument with which the coolies were conditioned in accordance with the wishes and needs of their employers'. Moreover, following heavy pressure and lobbying from planters and employers, the coercive and penal conditions included in the Coolie Ordinance remained in force until almost the end of colonial rule (Breman, 1989: 273; also Stoler, 1985).

2 Labour disputes, emergence of unions, and their laws

During this time there were some other developments towards a measure of freedom for workers in Indonesia, particularly in the more recently-established industries such as mining, industry and transport. Under the considerable influence of left-wing Dutch political groups, Indonesian railway workers started the modern trade union movement with the establishment of the first labour union in Java in 1905; the State Railway Workers Union (*Staatsspoor Bond*) in Bandung, West Java.[10] European workers dominated this union though, with few members who were native Indonesians,[11] yet an 'embryonic class consciousness' was growing in the colony (Ingleson, 1981:

10 The organization's status as a 'legal person' (*rechtspersoon*) was already recognised in 1905 with Governor General Decision (*Besluit*) No. 25 of 19 October 1905; and they were able to get the organization's statute recognised in 1910, with Governor General Decision (*Besluit*) No. 28 of 14 June 1910 (see *Soewara S.S. Bond*, 8 July 1910).

11 The union's early officials, who were mainly European, were aware of this situation, and campaigned to persuade the indigenous workers to join the union. The official publication *Soewara S.S. Bond* was published in the Malay language, with the clear intention of encouraging indigenous workers to join the union (see e.g. *Soewara S.S. Bond*, 8 April 1910, which discusses the meaning of the word 'bond' [union]).

485; 499).[12] Labour unions grew significantly in the 1910s and 1920s, in support of groups of workers including teachers, railway workers, chauffeurs, dockworkers and domestic servants. The efforts of these unions to improve not only wages but also working and living conditions for their members were often successful.

The emergence of labour unions was not an entirely peaceful process. Well before the formation of labour unions, it was reported that hundreds of labour disputes had broken out spontaneously in Java – although these disputes were referred to by the Operations Manager of the *Semarang-Joana Stoomtram Maatschappij* as 'a storm in a tea cup'. It was also noted that between 1901 and 1905, the average number of strikes in the colony was 120.6 per year, rising to 137 per year in the five years from 1906 to 1910. It was further estimated that 11,882 people went on strike each year between 1901 and 1906, with an average of 7,841 people per year over the next five years (Ingleson, 1986: 62-3; see also *Locomotief*, 4 January 1913).

As Ingleson (1986: 63) has further described:

> Given the smallness of the urban workforce and the probability that the Bureau of Statistics received information from larger employers only, these figures represent a significant level of direct action by Indonesian workers. As far as can be ascertained, they were all short-lived spontaneous protests by small group of workers whose dissatisfaction with their lot was brought to the surface by some minor immediate grievance. In many cases aggrieved workers sought redress from their foremen or from European supervisors, often directly confronting European managers as a group, sometimes with their foremen as spokesmen. While successful negotiations have gone unrecorded, presumably workers were often able to resolve their grievances this way. However, when employers rejected or ignored workers' petitions, they often responded by simply walking off the job. Few of these strikes lasted beyond two or three days; many were resolved in a matter of hours.

Labour disputes during this time were marked by a lack of communication between European managers and their workers; with a lack of any concept of industrial relations. The usual response by European managers to protest actions by the workers was to inform the local Assistant Regent (called *patih* or *wedana*), who would then visit the workplace and talk to the workers: 'Usually these officials sternly lectured strikers on the serious consequences of not returning to work immediately, but as well they often acted

12 Ingleson, however, also noted that this 'embryonic class consciousness' never developed into a fully fledged class consciousness' since 'it all too easily slid into the alternative of *race* consciousness' (Ingleson, 1986). Compared to China and India, for instance, in Indonesia there was no significant indigenous capitalist class. Most of the modern sectors of the economy were predominantly in the hands of European managers or supervisors, in the service of the European capitalist class. The remainder of the economy was controlled by the Chinese (particularly the *batik* [traditional clothes] industry), or for some industries, by Arab immigrants. For Indonesian workers, the Chinese and Arab managers and supervisors were as alien as the Europeans (Ingleson, 1986: 7).

as mediators, convincing managers of the genuineness of workers' grievances and the need for them to be redressed' (Ingleson, 1986: 63). With the strikers' leadership mainly comprising older workers or foremen, and with no involvement by outsiders, these early strikes had many similarities to the peasant protest movements and uprisings. Referring to Ravanjiv Kumar (1971), Ingleson (1986: 63-4) has argued that: 'Like peasants protests, early urban strikes occurred spontaneously, were sudden outbursts of pent-up frustrations and longstanding grievances, and lacked class-consciousness, class organization or even formal leadership. Their goals were limited to redressing immediate and local grievances, with no sense of being part of a wider social movement'.[13]

The situation started to change after the establishment of the nationalist organizations *Boedi Oetomo* in 1908 and *Sarekat Islam* in 1912. Indonesians employed in private undertakings, as well as agricultural and factory workers, started to form similar organizations (Thompson, 1947: 158). Although *Sarekat Islam* did not begin to organise urban workers directly until 1917, the communists' growing influence within *Sarekat Islam* led to an increasing sense among workers that they had support. As noted by Ingleson (1986: 64): '*Sarekat Islam* offered a sense of comradeship and purpose. Urban workers, especially the skilled and the literate, flocked to the *Sarekat Islam* branches where they discussed social and economic issues, including, of course, those issues which affected them directly – wages and conditions in the workplaces.'

The local *Sarekat Islam* leaders began to involve themselves in labour disputes, 'initially as advisers and mediators, but very quickly as providers of the outside leadership which urban workers had hitherto lacked' (Ingleson, 1986: 64). Eventually, the difficult economic situation in the Netherlands Indies during and after World War I, along with the growing influence of

13 The ineffectiveness of the labour movement, according to Virginia Thompson (1947), was one of the two major 'labour problems' (the other one was labour supply) in Indonesia and Southeast Asia in general during the colonial era. Wilfrid Benson, in the preface of Thompson's book, summarised the situation: 'In Java, the maximum number of organised workers appears to have been reached in 1941 when the membership of trade unions was estimated at 123,500. […] There was little unity or continuity among the unions which existed. The Western government feared the political interests of the labour movements. The seasonal character of much of the employment, labour migration and, in some cases, the racial diversity of the labour force, were other factors making trade union organization difficult.' Something that arguably still is the main characteristic of the Indonesian labour movement today.

the communists, drove *Sarekat Islam* in a more radical direction.[14] The *Sarekat Islam*'s growing influence in urban areas was demonstrated by its successful initiatives, such as persuading employers to allow workers time off on Fridays for Muslim prayers; and persuading workers to stay at home for one day of the year (the group demanded that the prophet Muhammad's birthday in late February 1913 should be a rest day).[15] This influence at times aroused tension and panic among the Europeans in Java, as illustrated by the widespread rumours, in early August 1913, of a plan by native people to undertake mass murder of Europeans on 24 and 25 August.[16]

These tensions, and the belief that the *Sarekat Islam* was behind plans to organise a strike in 1913 by workers at the East Java Steamtram Company (*Oost Java Stoomtram Maatschappij*; the OJS), led to the company's Head of Operations, along with the Chief Representative (*Hoofdvertegenwoordiger*) of *Samarang-Joana Stoomtram Maatschappij* (the SJS; of which the OJS was an operating company), to contact the Commandant of Java's Second Military Division on 26 June 1913 and 5 July 1913, to discuss the possibility of military assistance in the event of a strike.[17] This may be the first recorded formal communication between a company and military authorities concerning labour issues; and the first clear invitation of military intervention in labour disputes. Meanwhile, government concerns were also growing regarding the possibility of a general strike in the railway industry; an industry that was crucial to the transport of export crops from the hinterland of Java, and on which the finances and the prosperity of Dutch economic interests depended.

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14 The initial programme of *Sarekat Islam* itself was very moderate politically. The the main purpose of the organization was to further the interests of Islam in Indonesia and to work for the social and economic advancement of the people in co-operation with the colonial government's Ethical welfare programme. As Tjokroaminoto, the founder of the organization, once stressed in his speech at its congress in 1916: 'Our objective is the unification of the Indies and the Netherlands, to become citizens of the self-governing "State of the Indies". We do not want to cry out: "Down with the government!" On the contrary, our motto is: "Together with the government and in support of the government to go in the right direction…' (in Penders, 1977: 257).

15 Its well-known publication, *Oetoesan Hindia*, became a useful tool for spreading the organization's propaganda to the members.

16 The *Java Bode*, a Dutch language newspaper, even felt it necessary to inform its readers that: '[t]he feelings of the natives, fired by religious frenzy, will burst out in the mass murder of Europeans. The rabble, taking advantage of the fanaticism of their fellow men and hiding behind *Sarekat Islam*, will send murder parties to their targets' (cited in Ingleson, 1986: 70).

17 See Chief Representative (*Hoofdvertegenwoordiger*) of *Samarang-Joana Stoomtram Maatschappij* to the Directors (*Directie*), 5 July 1913, *Nederlandsch-Indische Spoorwegmaatschappij en Tramwegmaatschappij NV Gemeenschappelijk Archief, 1880-1975*, *Dossier* 745b, 'Maatregelen bij Werkstakingen, 1913-1925'. See also Ingleson, 1986: 70. As we will see in Chapter 3, this became one of the main characteristics of the New Order labour practice.

According to Ingleson, this led to the issuance of an Ordinance in September 1914, which allowed 'the use of military on civil functions for the preservation of public order or the maintenance of essential services in the public or private sectors' (1986: 71).[18] Although the initial intention was merely to keep the railways functioning in the event of a strike, the new law was equally useful as a means of preventing strikes in any industry in the colony. 'This was the first major change in the colony's laws specifically designed to control urban workers', concluded Ingleson[19]:

> Strikes were neither prohibited nor restricted, and beyond bureaucratic registration rules there was nothing to stop combination [unionisation] by workers in individual industries or on a colony wide basis. The control of urban labour was primarily through administrative measures and the wide provisions of the Penal Code under which swift action could be taken against anything deemed a threat to 'tranquillity and order'. In such cases, Residents, local officials and the police had wide powers of arrest and detention. Moreover, controls over Indonesian press and ordinances controlling public speaking ensured that any Indonesian, or for that matter any European, could be arrested and hauled before the Courts for an inflammatory speech or article. … Many hundreds of journalists, editors and political activists were jailed or fined under these provisions.

Without providing details, Ingleson pointed out that between 1921 and 1926, a series of repressive laws was enacted which made it difficult for even the most moderate labour unions to remain active. As noted by Thompson (1947: 160-161), the colonial government did not favour joint negotiations by employers and employees regarding the regulation of working conditions, and regarded collective agreements as matters merely for the parties concerned. On 11 May 1923, the Penal Code of the Netherlands Indies was amended with article 161 bis, by which inciting others to strike was a crime

18 As we will see in later Chapters, the term 'essential services' was used repeatedly in the history of Indonesian labour regulations, as a means of legitimising the need to avoid strikes..

19 Ingleson referred to the 'Ordinance of 14 September 1914' or '*Staatsblad 1914 No. 614*', which seems an error as that particular Ordinance does not refer to the use of the military on civil activities as Ingleson describes. A check of the original archives (accessed at the National Archive in Den Haag, the Netherlands) shows that he may have quoted from a letter from the Chief Representative (*Hoofdvertegenwoordiger*) of *Samarang-Joana Stoomtram Maatschappij* to the Directors (*Directie*), dated 13 October 1914, which erroneously mentioned '614' when the number was instead meant to be '612', as can be seen in its appendix. The *staatsblad* discussed was actually *Staatsblad 1914 No. 612* concerning 'Regeling van de verhouding en de samenwerking tusschen de burgerlijke en militaire autoriteiten' [Regulation of the relationship and cooperation between the civil and military authorities], which amended *Staatsblad 1907 No. 261* with article 8a. See also *Nederlandsch-Indische Spoorwegmaatschappij en Tramwegmaatschappij NV Gemeenschappelijk Archief, 1880-1975*, *Dossier* 745b, 'Maatregelen bij Werkstakingen, 1913-1925'.

with a maximum sentence of 5 years in prison.[20] Through this formal adoption of provisions limiting the right to strike, any agitation which disturbed 'public order' or contravened the labour contract was liable to be penalised. This new provision, together with other penalty initiatives in some regions, effectively halted the organization of strikes. In one case study, J.E. Jasper, the Resident of Pekalongan, released a technical briefing to his staff on 12 May 1923 regarding the handling of security by the military, field and *dessa* police in the event of a strike in Pekalongan. Jasper was responding to the promulgation of *Staatsblad 1923 No. 227* the day before, which declared that article 8a of *Staatsblad 1919 No. 562* (jo. *Staatsblad 1919 No. 27*) be applied throughout Pekalongan, with public gatherings prohibited unless with prior notice.[21]

In a clear example of the lack of recognition of collective negotiations between management and employees, there was no reference to strikes in the Netherlands Indies' early labour laws. Nor were any public institutions tasked to deal with disputes between management and labour. Before 1926, the law covered only individual contracts with no provisions made for collective agreements, other than those falling within the competence of the Coolie Ordinances. Further, agreements between native employers and employees were governed by their customary laws, which in fact were not part of the central government's realm. When the Civil Code was amended in 1926, the validity of collective bargaining was finally recognised, but it was only applicable to Europeans. The official statistics below indicate how effective the provisions were: in the 1930s, strikes were few, affecting only a small number of companies and, on average, involving only a quarter of the company's workers (see table 1.1).

Table 1.1: Number of NEI Workers on Strike, 1936 – 40

Year	Number of establishments involved	Number of strikers	Percentage of strikers to total workers	Days of work lost
1936	6	872	33.7	4
1937	22	1,357	15.0	100
1938	15	741	20.8	40
1939	18	1,628	13.8	36
1940	42	2,115	22.6	32

Source: Thompson, 1947: 160

20 The article was later annulled by the independent Indonesia's transitional government, through Penal Code Act No. 1 of 1946 (see article 8). The act also repealed all the penal laws implemented by the highest military command of the Netherlands Indies or 'Verordeningen van het Militair Gezag' (see article 2 of the Act No. 1 year 1946).

21 *Nederlandsch-Indische Spoorwegmaatschappij en Tramwegmaatschappij NV Gemeenschappelijk Archief, 1880-1975, Dossier* 745I, 'Werkstakingen, 1923'.

It is important to note that until the last phase of the Dutch colonial era, there was no official machinery set up for the settlement of labour disputes. The only way workers could settle their grievances was through the regular courts, whose decisions were final. Conciliation procedures were first established in 1926; specifically, for disputes in the railway industry in Java and Madura. This so-called 'tripartite' labour dispute settlement mechanism, comprising representatives from unions, employers, and the government, was introduced by Government Regulation No. 3x of 1926 (*Staatsblad 1926 No. 224*, 12 June 1926), slightly revised in 1929 by Government Regulation No. 1x of 1929 (*Staatsblad 1929 No. 456*, 16 November 1929).[22] In November 1937 the regulation was expanded to cover the whole of the Netherlands Indies (*Staatsblad 1937 No. 624*), and in July 1939, it was expanded to include other industries.

The 1937 law provided mechanisms for government intervention in disputes, and also for voluntary settlement before cases progressed to courts. This was considered particularly important for cases involving the public interest' (see also Thompson, 1947: 161). In such cases, a committee comprising representatives from each group was established, which would attempt to arrive at a voluntary settlement, and was required to report its findings to government. From 1939, a committee comprised of officials chosen by the Director of the Justice Department, and tasked to attempt to reach voluntary settlement and to report on its actions could investigate all disputes.[23]

Following the banning of the *Perserikatan Komunis Hindia Belanda* (Netherlands Indies Communist Party)[24] after their unsuccessful uprising in November 1926 and January 1927, unions were also banned by the Dutch colonial administration in 1927 (Ingleson, 1981: 501). Despite this ban, labour unions continued to play an important role (albeit without legal protection) in

22 *Nederlandsch-Indische Spoorwegmaatschappij en Tramwegmaatschappij NV Gemeenschappelijk Archief, 1880-1975*, *Dossier* 745c, 'Regeling Verzoeningsraad, 1920-1927'; also *Dossier 745d*, 'Maatregelen tot voorkoming van arbeidsgeschillen (Verzoeningsraad), 1920-1925'.

23 As noted by Thompson (1947: 161), in the last phase of colonial rule, the Netherlands Indies government responded to the outbreak of war in Europe by enacting a labour relations law on 16 Dec 1940, which was founded on an arbitral system. Through this law, the government was entitled to involve itself in labour disputes arising out of wartime conditions, including the dismissal of workers, changes in working conditions, pension payments, and allowances. A Commission of Labour Affairs was established to hear and decide cases, and to advise the Governor General on labour matters. Firms whose output was connected with the war effort and which had more than twenty employees were obliged to obtain approval from this commission before making any changes to working conditions; and in enterprises with fewer than twenty persons, workers had the right to appeal to the commission in regard to changes in working conditions. When the disputing parties were not able to reach agreement, the Director of Justice had the final authority.

24 The Netherlands Indies Communist Party was founded in 1920, and later became the Indonesian Communist Party (*Partai Komunis Indonesia*, PKI).

increasing workers' wages; representing their grievances to employers and forcing the colonial government to pressure employers to improve wages and conditions (Ingleson, 2001). Indeed, as political parties at the time functioned relatively ineffectively, labour unions became central to the development of political consciousness, by providing places for organizational skills to develop, and by becoming involved in the emerging nationalist independence movement. As noted by Trimurti (1980), following the proclamation of independence, the so-called 'lasykar buruh' (labour brigade) was directly involved in defending workplaces against the Dutch forces, and also seized foreign-owned production facilities in the nationalist cause. Ingleson (2001: 100) concluded:

> In 1941, on the eve of the Japanese occupation, labour unions were among the strongest Indonesian organizations in the colonial towns and cities. In the aftermath of independence in August 1945 labour unions were quickly re-formed and, freed from many of the restrictions of the colonial state, recruited large numbers of urban workers. The successes and failures of the colonial labour movement were part of the collective memory of many leaders and members, influencing the direction of post-independence activities.

Although Indonesia proclaimed its independence on 17 August 1945, there were four more years of armed struggle before the Indonesian government officially took over sovereignty from the Dutch in December 1949. The labour movement participated actively in this struggle, including through revolutionary fighting, and their contribution to the gaining of independence ensured their place in post-colonial Indonesia (Hadiz, 1997).

3 The early independence – protective legislation (1945-1949)

Given the influence and prestige of its role in the independence struggle, Indonesia's labour movement was in a strong position to influence the new nation's labour laws, particularly the policies related to the improvement of wages and salaries. It is not surprising that in early independent Indonesia there were several new labour laws that could be considered 'progressive', in the sense that they were based on the notion of protection for workers. As we will see, many provisions were actually transplanted from abroad, as early political leaders became inspired by international policies while formulating new systems for their new nation. The concept of labour protection by law had been promoted in the colony since 1920, with the establishment of PPKB (*Persatuan Pergerakan Kaum Buruh*, United Labour Movement) by union leaders, including several (such as PPKB's chair Semaoen, vice chair Surjopranoto, secretary Agus Salim and assistant Alimin) who were to become well-known figures in the labour and independence movement (Trimurti (2007: 143-4). PPKB fought, among other issues, for minimum wages, maximum working hours (8 hours during the day, 6 hours at night), annual holidays of 14 days, formal recognition of labour unions in the work-

place, and the establishment of a tripartite council for labour dispute settlement, pensions and social security schemes. Although the PPKB itself did not survive long, with differences among the leadership causing its dissolution in 1921, its chair Semaoen and other leftists including Tan Malaka and Bergsma immediately formed a new federation, RV (*Revolutionaire Vakcentrale*, Union Federation), and by 1922 they had re-joined other ex-PPKB leaders to form PVH (*Persatuan Vakbond Hindies*, Indies United Unions). In 1927 PVH became a victim of the failed coup by the Netherlands Indies Communist Party, however, with some of its leading figures gaoled.

In the early years after Indonesia's proclamation of independence, the Ministry of Social Affairs handled labour issues. Then, on 3 July 1947, under the provisional government of Prime Minister Amir Sjarifuddin,[25] a special Ministry of Labour was established, whose main functions were to handle labour issues in general, including protection of workers and job opportunities, social security, labour disputes, workers' organizations and representatives, and unemployment (based on Government Regulation No. 3/1947 on 25 July 1947). The first Minister of Labour appointed was Soerastri Karma Trimurti (known as S.K. Trimurti).[26] As noted by Nasution (1996: 33), many of these early leaders were committed strongly to the popular aspirations of the new Republic and its people, while also realizing the importance of making a good impression internationally, to gain support for the new country. Their commitment was reflected in the enactment of laws, which were considered 'pro-people', and with respect to labour laws, Trimurti and in particular Soetomo Martopradoto (head of the legal drafting department within the Ministry) played important roles in ensuring the enactment of protective labour legislation during this time.

25 Amir Sjarifuddin was a socialist and a leading figure in the new Republic. Born into Sumatran aristocracy in the city of Medan, he was educated in Haarlem and Leiden in the Netherlands before gaining a law degree in Batavia (now Jakarta) (Vickers, 2005). In the Netherlands he studied Eastern and Western philosophy. He succeeded Sjahrir's parliamentary cabinet after the proclamation of independence. He was later executed in 1948 by Indonesian Republican officers following his involvement in a Communist revolt, the so-called 'Madiun Affair,' in Madiun, Central Java.

26 S.K. Trimurti was a well-known journalist, leader of the Labour Party and war heroine in the struggle for independence since the 1930s. She had been arrested by the Dutch colonial government in 1936 due to her political activism, and later became a journalist and closely involved in the struggle for independence. Although she was a founder of 'Gerwis' (later 'Gerwani'; a women's organization associated with the PKI or Indonesian Communist Party) – she survived the 1965 atrocities with the killings and arrests of the PKI supporters because she had left Gerwis just before. She later became a strong critic of the authoritarian New Order government, by joining the 'Petisi 50' ('Petition 50'), which comprised 50 leading political figures including Abdurrachman Wahid and Ali Sadikin. She died in 2008 at the age of 96 and was buried at the Heroes Cemetery in Jakarta (see Henky et al., 2007; also Blackburn, 2004: 176).

On 18 October 1947, just two years after the proclamation of independence, the *Safety at Workplace Law* was promulated (Law No. 33/1947).[27] This law signalled a significant shift in the labour policy of the new country. Previously the regulations concerning relationships between employers and employees were ruled by Articles 1601-1603 of the colonial Civil Code, which was more concerned with 'private' contracts between parties, including the liberal notion of 'no work no pay'. The new focus on workers' rights continued in 1948 with two further Laws: the *Workers' Protection Law* (No. 12)[28] and the *Labour Inspectorate Law* (No. 23). Law No. 12 covered many aspects of labour issues including the prohibition of discrimination at work; 40-hour and six-day working weeks[29]; employers' obligations to provide housing for workers, and an article prohibiting the employment of children under the age of fourteen. It also guaranteed women the right to take menstruation leave (two days per month) and three months' maternity leave, as well as a strict restriction of night work for women. Law No. 12/1948 became the prime labour law of the time, setting the tone for labour regulations and protection in the new nation.

As noted by Iskandar Tedjasukmana (1961), this protective notion of labour originated from abroad. As he pointed out (1961: 10):

> To a great extent – especially with regard to the rights of workers, labour protection, social security, and workers' participation in management – the elements of Indonesian public labour policy were derived from the ideas, experiences, and achievements in Western countries, or from international sources, either directly, or through the intermediary of Indonesian social movements of which are mentioned here the pre-war nationalist movement, and the Republican labour movement and political parties.

These international sources were acknowledged by Soetomo Martopradoto,[30] the head of the Ministry of Labour's legal drafting department in 1946-47 under Minister Trimurti, who initiated and drafted the Law. Martopradoto explained that his law combined various policies from other countries, as well as a number of existing protective provisions from the Dutch colonial period. The menstruation leave for women workers provision,

27 Declared applicable throughout Indonesia through Law No. 2/1951.

28 Declared applicable throughout Indonesia through Law No. 1/1951.

29 Or it may also be a five-day, eight-hour working week. According to Manning (1998: 202), the 40-hour working week was shorter than the common prescription in many countries in the region at that time, which was either 44 or 48 hours.

30 For this information, the author is indebted to Dr. Kosuke Mizuno of the University of Kyoto, Japan, who shared his interview with Soetomo Martopradoto on 12 November 2001. Martopradoto was not affiliated with any political party, however he had strong leanings towards labour. Later he became Minister of Labour under President Soekarno (1964-66). When Soekarno was ousted by the military under the leadership of General Soeharto, Martopradoto was imprisoned for his alleged close ties to the PKI.

for example, was adopted from the regulations in plantations.[31] Provisions concerning working hours were originally set at 44 hours per week, but were amended by parliament to eight hours per day and 40 hours per week. The intention was that if the parties involved – employers and unions – wanted to adjust these hours to meet individual company requirements, they could make these adjustments through collective bargaining agreements. Thus, while protecting labour through the law, there was also a clear intention to empower unions, which were believed by Martopradoto and others to be an important institution to balance the power of the employers and to develop sound industrial relations in the new country.[32] Although there are no records of enforcement levels of these laws during the Revolution (1945-1949), and although fighting against the Dutch may have made these ambitious new laws almost impossible to implement during that time, these laws have become the foundation of Indonesia's labour law, eliminating the old colonial labour laws and policies and providing the legal basis for labour protection in modern Indonesia.

4 Parliamentarian democracy and 'guided democracy' – the beginning of a conflict (1949-1965)

After the official take-over from the Dutch in 1949, Indonesia's labour unions continued to grow. By the mid-1950s the union movement was significant, with an estimated membership of around 2 million in 13 different federations, predominantly in the formal employment sector. Union density (the proportion of employees in unions) reached around 20 percent, which was high for developing countries' standards (Manning, 1998: 203). The unions also maintained close links with political parties, assisted by the prevailing political climate in which the emerging political parties were built generally on mass support; with labour unions able to act as effective tools to gain this support.[33] The largest union federation was SOBSI (*Sentral Organisasi Buruh*

31 He referred to Staatsblad 1911 No. 540 of the Coolie Ordinance, the latest revision of the original Coolie Ordinance of 1889 (Staatsblad 1889 No. 138), which abolished the penal sanction provisions from the ordinance.

32 Martopradoto explained that when he visited workers, he always encouraged them to form unions whenever possible. These views were shared by a large number of staff within the Ministry, many of whom had been labour activists before joining the Ministry.

33 The Indonesian political system at that time (1949 – 1957) is considered to have been democratic in the real sense, with strong respect for the constitution ('constitutional democracy'). During this time (in 1955), Indonesia held its first general elections following independence, which it stated were 'fair, free and secret'. Four major political parties emerged: the PNI (*Partai National Indonesia*, Indonesian National Party); the Masjumi (*Majelis Syuro Muslimin Indonesia,* Modernist Muslim Party); the NU (*Nahdlatul Ulama,* Islamic Scholar Party); and the PKI (*Partai Komunis Indonesia,* Indonesian Communist Party). See Feith, 1962: 434-5.

Seluruh Indonesia, All-Indonesia Central Labour Organization),[34] a left-wing union with close ties to the PKI (*Partai Komunis Indonesia*, Indonesian Communist Party), which claimed half the country's formal-sector workers as its members (Manning, 1998: 203).

Although raising tensions in some areas of government and business, the emergence of strong labour unions was so closely tied to the enactment of labour laws during this time that the government had no choice but to accept the unions. These new laws included the regulation of industrial accident compensation procedures, labour inspections, and annual leave. Industrial conflict was regulated through the *Collective Bargaining Law* No. 21, which was promulgated in 1954 and gave labour unions a stronger legal position when dealing with employers. This law provided for direct negotiation between unions and employers, and also included restrictions on the rights of employers to dismiss workers without prior approval from the government. Two years later, in 1956, the Indonesia government ratified ILO (International Labour Organization) Convention No. 98 on the right to organise; which gave trade unions an even stronger legal status.

In 1957, the government enacted Law No. 22/1957 on Labour Dispute Settlement, which replaced Emergency Law No. 16/1951 on the same subject, and introduced a compulsory arbitration system through the tripartite mechanism managed by either the Regional or Central Labour Dispute Settlement Committee (*Panitia Penyelesaian Perselisihan Perburuhan*).[35] Law No. 12/1964 on Termination of Employment in Private Undertakings complemented this Law. In 1969 Law No. 14/1969 on Basic Labour was enacted, reaffirming Law No. 12/1948 which guaranteed the rights of workers to join unions, as well as bringing about collective agreements and achieving basic labour standards in both health and safety and workers' compensation. These laws remained the pillars of the legislative protection for Indonesian workers, even during the New Order period (although then usually without implementation in practice).

During this time, although collective bargaining had been legally recognised since at least 1956 as a means of determining wages and working conditions, in practice its application was limited. According to Richardson (1958: 68) this may have been due to the unions' legacy before independence, in that most labour union activists were 'agitators' who regarded strikes and threats of strike – rather than negotiations and agreements – as the way to achieve their goals. This approach led to labour unrest, reflected in large-

34 Founded in 1946, SOBSI became the largest union in the new country by taking a militant approach in organising and campaigning for the interests of working people. This approach attracted many workers to join, especially from the plantations (see SOBSI, 1962).

35 Law No. 22 of 1957, however, incorporated many of the features of the 1951 Emergency Law; the main differences were on the tripartite structures of the Committees, which consisted of government officials and unions' and employers' representatives.

scale strikes, particularly on plantations; and it raised the tension between the labour movement and the early Indonesian governments, contributing eventually to the changing policy of labour relations in Indonesia in general.

The government found it difficult to reconcile union freedoms and industrial disputes with the goals of economic stability and growth. Strike activity was frequent in the post-independent period. The number of strikes has been estimated at 400 during 1951 to 1956, involving 5 per cent of all wage employees and close to 20 per cent of regular employees, and targeting foreign companies (mainly Dutch) as well as some state-owned enterprises (Richardson, 1958: 67-9; Manning, 1998: 204). In 1956 alone it was reported that 144 strikes were registered, involving more than 3 million workers and over one million days of lost work (Hess, 1997: 40-1). As noted by Hess (1997: 41), this labour unrest represented 'cries for help' from a workforce seeking their government's attention to redress grievances, rather than a 'full-scale assault' on employers or state authority. The government, however, saw the unrest as a threat to economic stability and the economic outlook of the new country. This view drove the government to establish stricter anti-worker regulations for industrial conflict.

The growing anxiety within government and some parts of society (notably the urban middle-class) regarding labour unrest led to strong support for the government to prevent or end strikes as soon as possible (Richardson, 1958: 69). The government achieved this primarily through the arbitration committees provided by the 1957 *Labour Dispute Settlement Law*. Richardson (1958: 72) notes that these committees were largely effective – many disputes brought to them could be settled by mediation and arbitration without strikes. As Richardson notes 'In this, the government has had considerable success, though often by awarding the workers many of their demands. Often the arbitration committees have awarded substantial increases in money wages to offset the consequences of inflation' (1958: 69). The law indeed gave power for the government to intervene in labour disputes; nevertheless, soon after the enactment of the law, the military authority issued an additional regulation, reintroducing anti-strike measures for 'essential' industries (1958: 72).

This intervention by the military was probably driven by its interest in establishing peaceful industrial relations, given that so many military personnel had assumed senior management positions in the former Dutch industries after nationalisation (Hadiz, 1997: Chapter 4). It was also likely influenced by their conflict with the union SOBSI,[36] which was campaigning strongly

36 As we will see, this conflict between the military and the SOBSI became a conflict between the military and the PKI, with roots in the so-called 'Madiun affair' of 1948, when military forces loyal to Soekarno–Hatta (the country's first President and Vice President) annihilated the PKI, whose leader, Musso, had challenged their authority (Hadiz, 1997).

in the late 1950s for the nationalisation of foreign enterprises such as oil and plantation companies (which were likely considered essential industries by the military). The initial idea was that these companies would be run by worker-led councils; however, they became military-run enterprises, at which point the military became a large employer in its own right, with a vested interest of peaceful industrial relations.

The situation changed again as Soekarno's 'Guided Democracy' came into effect in July 1959. Arguing that Western liberalism during the 'Parliamentary Democracy' (1955 – 1959) had been 'not satisfying Indonesian society' (cited in Nasution, 1996: 39), Soekarno, with support from the military, urged a form of corporatism to unify the major political forces at the time – nationalists, religious groups and communists – into a central, cooperative decision-making process. Though never directly stated, Soekarno based his idea on the ideology of an organic state, as developed by the Javanese nationalist aristocrat intellectual Soepomo; the notion of the organic, 'integralist' state became a way to legitimatize Soekarno's authoritarianism.[37]

While the Soekarno government sought greater control over Indonesian society, the political and economic situation became increasingly worse. Conflict between the army and the PKI escalated. Although Soekarno's power enabled him to manage the conflicting interests between the two major forces and prevent open conflict, both the PKI and the military continued to consolidate themselves behind the scenes.[38] The Indonesian people also realised that their domestic economy was deteriorating. By the mid-1960s, foreign investment was fleeing Indonesia and domestic income and taxes were declining, at the same time as the government was facing increasing deficits to cover its foreign military expenditures (with Malaysia), and inflation was soaring to over 600 per cent per year (Budiman, 1991: 47). Soekarno himself called 1965 'a year of living dangerously' (*vivere pericoloso*), a premonition perhaps of his loss of power only a few months later.

37 After reinstating the 1945 Constitution, which gave more power to the President than the 1950 Constitution had provided, Soekarno dissolved the national parliament in 1960 and formed a new parliament whose members were appointed by him. Under this new system, political power was confined to Soekarno and the military, and political parties (which had been the dominant players during the 'parliamentary democracy') were ousted and scapegoated as the causes of the national economic problems (Vatikiotis, 1993: 105; Nasution, 1996: 46-8).

38 As noted by Budiman (1991: 34-40), the PKI consolidated itself through mobilisation and radicalisation of marginalized people such as peasants and workers, mainly through its BTI (*Barisan Tani Indonesia*, Indonesian Peasants Front) and SOBSI; whereas the military developed links with the Islamic groups who had been involved in conflict with the PKI/BTI due to their campaigns on land-reforms, and with the ousted 'parliamentary democracy' politicians who were disadvantaged by Guided Democracy.

These problems generated high levels of dissatisfaction within Indonesian society, and eventually brought an end to Soekarno's Guided Democracy and his rule. On 30 September 1965, some factions in the military, (particularly *Tjakrabirawa*, the President's guards), reportedly kidnapped and killed six leading generals accused of conspiring against Soekarno, while some supporters of the military claimed that the PKI was behind the kidnappings (see Notosusanto and Saleh, 1989). The military, under the leadership of Major General Soeharto – a US-trained Chief Commander of the KOSTRAD (*Komando Strategis Angkatan Darat*, the Army Strategic Reserve Command) – then took charge. In a few hours, he assumed control of the army and crushed the 'coup'.[39] He declared a state of emergency and immediately banned the PKI and its affiliates, including the SOBSI and all other leftist groups, whether or not they were related to the PKI. Their leaders were killed or gaoled without trial. In the purges that followed, estimates of the number of people killed range from 100,000 to 1 million.[40] General Soeharto took full power on 11 March 1966, forcing Soekarno to sign the *Supersemar* Decree (*Surat Perintah Sebelas Maret*, Letter of Instruction of 11 March), by which Soekarno transferred full presidential authority for the restoration of security and government control to General Soeharto.

The forces that supported General Soeharto (predominantly from the Islamic/religious groups and urban mercantile capitalists) then established the so-called 'New Order' regime, with the army as the dominant player.[41] During the New Order, the previously quite active and political labour movement was heavily curtailed. The bloodbath which accompanied the establishment of the New Order made it possible for state planners to be insulated from the demands of organised labour, when charting development strategies (Hadiz, 1997).[42] We will discuss this further in subsequent chapters.

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39 Whether there was in fact a coup is highly debatable, with questions in particular surrounding the role and whereabouts of General Soeharto himself during the hours when the *Tjakrabirawa* kidnapped and killed the generals (e.g. Crouch, 1988; Anderson and McVey, 1971; see also Roosa, 2006 for a recent account).

40 Cribb (1990) estimated that half a million people were killed in the first six months after 30 September 1965.

41 Indeed, the term 'New Order' (*Orde Baru*) came from an army seminar in 1966, which referred to the new regime by this label to distinguish it from the 'Old Order' (*Orde Lama*) of Soekarno's 'Guided Democracy' era (1959–1965).

42 In a comparison between Latin American and East Asian countries, Deyo (1987) suggests that in Latin America, states pursued import substitution industries that fostered broad populist coalitions – including organised labour – because the states confronted strong labour movements that could not be easily repressed. In contrast, the East Asian developmentalist states – Singapore, South Korea, and Taiwan – were insulated from the need to accommodate worker demands, because organised labour was already effectively subordinated and repressed before these countries embarked on export-led development strategies based on low-wage manufacturers. This was apparently also the case with Indonesia under the New Order (see also Hadiz 1997, Beeson and Hadiz 1998).

5 Summary

The setting of labour standards through legislation has been the main mechanism by which the Indonesian government has sought to safeguard the welfare of paid labour. From the early evolution of Indonesia's labour legislation during the Dutch colonial era, to the periods after independence in 1945 and through to the rise of the New Order regime in the mid-1960s, this approach has been dominant. Such an approach does not fit with the pattern of early Indonesian social relationships; and as described above, for many years the Dutch colonial government continued to rely upon and maintain the existing traditional and feudal system of labour relations in Indonesian society. The colonial government's labour legislation during the 18th and 19th centuries also reflected its principal economic interests, with legislation intended primarily to control labour in both domestic service and industrial production on plantations. The shift towards labour policy aimed at protection of labour began in the early 20th century, triggered by debates over the use and misuse of the penal sanction (*poenale sanctie*) under the Coolie Ordinances, forcing government to make some effort to reform those regulations. However, the *poenale sanctie* – and the coolie practice in general – continued until almost the end of the colonial era.

Gradually the more modern industries and fields of work, including mining, railways and harbours, became fertile grounds for the development of trade unions as important social groups. Their later involvement with the struggle for the country's independence put trade unions in a special position in the newly-independent Indonesia, as reflected in the country's early labour legislation, which was characterised strongly by the notion of protection for labour. Inspired and then transplanted into domestic legislation by leading figures in the independence movement, strong protection through legislation became the main feature of Indonesian labour laws. However, growing labour unrest in the 1950s, mainly on the plantations, raised tensions between the labour movement and early Indonesian governments, which found it difficult to reconcile union freedoms and industrial disputes with the desire to achieve economic stability and growth.

These concerns contributed eventually to the changing policy of labour relations in Indonesia in general; most importantly with the introduction of compulsory arbitration through the Labour Dispute Settlement Committee. The military also acquired a direct interest in labour policy, after senior military personnel assumed key management positions in the former Dutch industries following nationalisation; positioning the military in direct conflict with the largest trade union of the time, SOBSI, an affiliate to the Indonesian Communist Party. This led, during the early New Order period, to the destruction of what had been an active and political labour movement; and the purge accompanying the early New Order days made it possible to insulate industrial relations policies from the demands of organised labour.

This situation became the root of labour law and labour relations during the New Order, as we will discuss further in the next chapter.