Labour law and development in Indonesia

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Title: Labour law and development in Indonesia
Issue Date: 2016-02-04

2 The New Order era: 'rule by (labour) law' (1965 – 1998)

Most developing countries have identified industrialisation as the most important step towards economic development after their independence from colonial rule. For this reason, in many cases, the state has played an important role in fashioning major industrialisation programmes to improve the economy (Jilberto & Mommen, 1996). The state's intervention in industrialisation inevitably leads to its involvement in the industrial relations system. Thus, in the Third World the government's control over the industrial relations system is closely related to the interests of economic development of the country (Siddique, 1989: 386). This chapter examines the ways in which the changing economic strategies of the New Order state were reflected in corresponding labour policies, and the responses of workers to those policies. It will be shown that the authoritarian New Order state played an influential political and economic role during its rule, by providing the conditions for the development of industrial capitalism and the disciplining of low-wage labour; and that the Indonesian labour movement appears to have been unable to challenge these strategies effectively. Since this chapter is based on the argument that the authoritarianism of the New Order regime was closely related to its choice of economic and industrial strategies, the chapter will look at this important link between industrialisation and authoritarianism, particularly in the late industrialising countries, in order to help understand the case of Indonesia during the New Order era.

1 The political economy of labour and development: 1965 – 1998

Post-independence, the economic history of Indonesia has been characterised by the strong role, which the state has played in economic life. Since the early days of the Republic, in the absence of a significant domestic bourgeoisie capable of replacing the former Dutch entrepeneurs or forming a new industrialisation system after the take-over in 1949, the Indonesian state has been deeply involved in economic activities (Robison, 1986: Chapter 2). The nationalisation of former Dutch firms in 1957 added to the state's influence over economic life. Although the initial efforts to support these firms were from the labour movement, most of these companies eventually became military-run companies. The 'Guided Economy' of President Soekarno, introduced in 1960, further entrenched the centralisation of economic planning in the state's hands. At that point the political and economic power of the ABRI (*Angkatan Bersenjata Republik Indonesia*, Indonesian Armed Forces) had also increased considerably (Crouch, 1988: 47). From then on, the army, as an integral part of the New Order state, dominated modern Indonesian political and economic life.

1.1 Industrialisation and the authoritarian state

It has been argued that there is a relationship between the timing of a country's industrialisation and the emergence of a strong state. The later a country has industrialised (relative to the industrial revolution in England) the more likely it is that a strong state will have emerged. Gerschenkron (1962), for example, in his study of six major countries in Europe, argued that the state achieved greater dominance in the 'late industrialiser' countries than in those that industrialised earlier. Hirschman (1968) extended this theory to Latin American countries, which he called 'the late-late industrialisers', and reported a similar pattern (see Kurth, 1979: 321-6; also Robison *et al.*, 1993: 25).

Gerschenkron observed that for the 'late industrialisers', the state's greater involvement was required to direct the industrialisation, due to the more complex technologies used in later industrialisation, and thus the need for more capital to industrialize. Moreover, as noted by Kurth (1979: 325): 'Of the three sources of entrepreneurs and capital – private domestic corporations, state corporations, and multinational corporations – the late-late industrialisers have depended heavily upon the second and the third'. When multinational corporations have invested their capital, it has usually been on the condition that the state is strong enough to settle problems such as political unrests, which could threaten the corporation's assets. In other words, a strong state has been considered a necessity to the development of a capitalist state in late industrialising countries.

At this point some will refer to the 'bureaucratic-authoritarian state' model developed by O'Donnell (1979; see also Budiman, 1991). O'Donnell argued that the *bureaucratic-authoritarian* state emerges during times of economic crisis, particularly during a country's transition from *import-substituting industrialisation* (ISI) to *export-oriented industrialisation* (EOI). In the ISI strategy, the state works together with domestic entrepreneurs, using domestic capital to develop the domestic market. Although there is foreign capital, this is not significant. The 'popular sector' (*lo popular*), specifically 'the urban and rural lower class and lower middle class' (Collier, 1979: 401) benefit since they can earn sufficient income through the government's income distribution programmes (for example, minimum wages) to enable them to spend money to buy domestic products; which further supports the national industries.

The ISI strategy, however, according to the model often reaches a limit. The domestic market becomes surfeited, while industry needs to continue to expand, to avoid stagnating the economy. The country's way out of this challenge is to export. Thus, the government needs to change its strategy from

ISI to EOI, and industrial production is expanded beyond consumer goods to include the intermediate and capital goods used in the production process (O'Donnell called this: 'the deepening of industrialisation'; see also Collier, 1979: 400). For this, foreign capital is a must, and foreign investors will only come in if a state can guarantee political stability. One of the most significant effects of such changes to the world economy has been an increase in the 'structural' power of capital (Strange, 1988). The enhanced mobility of productive and financial capital has greatly increased its power, relative to predominantly immobile labour forces and national governments. As noted by Beeson and Hadiz (1998: 292): 'Not only does footloose capital have the opportunity to play off one state against another, but it has the potential to demand "favourable investment climates," which in many cases has meant disciplining or placing restrictions on the activities of labour.'

In the case of developing countries such as Indonesia, there is another challenge: the chronic over-supply of labour, which makes it difficult to develop an effective labour movement. Indeed, the attractiveness of many developing countries to transnational capitalists lies in their cheap labour and relatively unorganised labour forces; any changes to these conditions could simply result in the capitalists' relocation to another country. This further highlights the importance of timing in the industrialisation process, particularly in the context of developing countries such as Indonesia:

> While industrialization unfolded in the North [of the world], most of the rest of the world either was excluded or took part as colonized suppliers of raw materials or consumers of imported goods. This arrangement not only fueled the wealth of the North but also permitted labour to struggle against capital over the surplus from production (not to mention reshaping the broader political-legal milieu) without having to contend with direct competition from an almost endless supply of workers in the colonies who were far poorer and had no hope of gaining wider political leverage. Colonies and colonizers were deeply intertwined and yet in important respects were quite insulated from each other. The great strides northern labourers made both economically and politically were promoted by this insulation.
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> (Winters 1996: 218-9, also cited in Beeson and Hadiz 1998: 293)

Such a situation, faced by the labour sector and other popular sectors, has led to political and social exclusion, amounting to 'consistent governmental refusal to meet the political demands made by the leaders of [the popular] sector… [and denial] to this sector and its leaders [of] access to positions of political power from where they can have direct influence on national policy decisions' (cited in Collier, 1979: 401; see also Budiman, 1991: 7). Arguably, this is what happened during the authoritarian New Order.

Based on the above discussion, we may propose at least three theoretical consequences. First, the change in economic strategies, notably from ISI to EOI, is usually characterised by the emergence of a bureaucratic authoritarian state, in which the state strengthens its power to refute the political and social demands of the people, especially the labour sector. Second, foreign investors are in a position to encourage local governments to impose wage and union controls as a condition for further investment. And third, the legitimacy of the regime is based largely on its capacity to deliver economic growth and development; if this evaporates, so does the legitimacy of the regime. Such considerations are useful to keep in mind when examining the relationship between labour and development in Indonesia during the authoritarian New Order regime.

1.2 Economic agenda of the early New Order[1]

Coming to power in 1965, Soeharto's New Order regime faced the difficult task of rebuilding a rapidly decaying economy. Inflation was as high as 600-1000 percent, foreign exchange reserves were at an all-time low, and the agricultural/rural sector was collapsing leading to food shortages among other major economic issues (Budiman, 1991: 47-8). The crisis presented a serious problem for the New Order regime, but it also offered an opportunity to establish its legitimacy. In fact, by resolving the immediate problems, the new regime sought to compare favourably with the previous government (Crouch, 1988). Soeharto was not formally installed as the second president of Indonesia until 1968; nevertheless, during 1965-1967 he introduced reforms to address domestic and international political issues. He declared martial law and outlawed the PKI and Marxist-Leninist teachings, and thus removed the main obstacle to a private propertied class, capitalist markets and foreign investment (Robison, 1986). He then took rapid steps to reintegrate the Indonesian economy with the West. He cut diplomatic ties with China and the Soviet Union, while strengthening the country's ties with the US and other Western nations.

Following the advice of a group of Indonesian technocrats trained in America, known as the 'Berkeley Mafia' (from the University of California), Indonesia rejoined the World Bank and the IMF (International Monetary Fund).[2] Moreover, the Foreign Capital Investment Law was enacted in January 1967,

1 The works of Robison (1986; 1997) have been particularly useful for this section and the subsequent ones. See also MacIntyre, 1990, Hill, 1996, and Schwarz, 1994.

2 Soekarno had announced Indonesia's withdrawal from the IMF and World Bank in August 1964 and declared that the coming year would be 'a year of self-reliance'. As a gesture to such liberalisation steps, Soeharto granted $174 million in ad hoc funds to tide Indonesia over the crisis, and arranged for rescheduling of debts through the 'Paris Club' members (US, UK, Japan, Australia, France, West Germany, Italy, the Netherlands, World Bank, OECD and IMF). Another source of aid was the IGGI (Inter-Governmental Group on Indonesia), which was formed in 1967, favoured by the US to persuade capitalist nations to share the aid burden, which would be calculated proportionately to the benefits in investment and trade that these countries would derive from the host country Indonesia (see Lobo, 2004: 123-161; also Posthumus, 1971).

and one of its main provisions was 'a guarantee that there is no intention to nationalise foreign assets and a guarantee of compensation payments if nationalisation does occur' (Balassa, 1991: 125). The government also provided foreign firms with an exemption from import duties, and free transfer of profits. Indonesia became the founder of the Association of South-East Asian Nations (ASEAN) in 1967, diffusing the long-running tensions with Malaysia. One of the main tasks of the New Order in its early years was to reverse the economic deterioration and stagnancy prevalent during Soekarno's Guided Democracy. Indeed, Soeharto's government based its legitimacy on its promise of future economic development. Understandably, as noted by Dwight King (1986), the labour policies of the New Order were driven strongly by its economic goals:

> The economic stabilisation program launched in 1966 required wage restraint and the contraction of credit, which inhibited the expansion of domestic business, and curtailed the creation of new employment. In addition, the government policy of rationalisation of the bureaucracy, which called for steady across the board salary increase for civil servants, assumed smaller increments in the private sector, which caused wage 'pressures' there. Finally, the door had been reopened to foreign investors further adding to the potential for labour unrest. No doubt each of these factors contributed to the government's sense that a controlled labour force was more important than ever (cited in Hadiz, 1996: 4).

Job creation became one of the objectives of the government's economic policies, based on import-substituting industrialisation, by encouraging private enterprise from both domestic and foreign investors. This emphasis on economic stability required tighter labour control. Moreover, since the army had earlier assumed managerial functions over state enterprises, it had developed a vested interest in the maintenance of industrial peace. At the same time, the unions were effectively tamed; since the biggest union prior to the New Order, SOBSI (*Sentral Organisasi Buruh Seluruh Indonesia*, All-Indonesia Central Labour Organization) – a union close to the Indonesian Communist Party (PKI) – was caught up in the destruction of the PKI in 1965-66. The control of Indonesia's labour movement became an important objective of the New Order government, to ensure its economic development could continue as planned. In 1973, the remaining labour organizations were goaded into establishing the FBSI (*Federasi Buruh Seluruh Indonesia*, All-Indonesia Labour Federation) as the sole, state-sanctioned labour organization, to replace the MPBI (*Majelis Permusyawaratan Buruh Indonesia*, Indonesian Labour Consultative Council) – the non-communist unions' alliance. Meanwhile, government employees were contained within the KORPRI (Indonesian Government's Employees Corps), which was a 'functional group' rather than a union. These new organizations were directed towards more 'socio and economic' realms, instead of politics (Hadiz, 1996: 7-8).

The bipartite and tripartite[3] dispute resolution systems under the 1957 Labour Dispute Settlement Law, inherited from the Soekarno era, were further institutionalised and used to draw unions closer to government policy objectives. In 1974, the *Pancasila* [the Five Principles] Industrial Relations system was introduced, as a further effort to contain the labour movement under state corporatism. The government's efforts seemed quite successful. Interestingly, as reported by Hadiz (1997: 35), some labour leaders were even optimistic that a relatively independent labour movement could be developed within the New Order framework. A belief that was later proved wrong.

The state's strengthening of its industrial powers and corresponding labour policies continued until the end of the 1970s, facilitated by the country's strengthening economy, in association with the boom in world oil prices. Also apparent was the growing integration of the political interests of the New Order's bureaucrats (so called 'politico-bureaucrats') with the country's economic policies (Robison, 1986: 164-9; Crouch, 1988). Although there was a brief crisis in the mid-1970s, stemming from the failure of the state-owned oil company *Pertamina* to meet certain foreign obligations and its embroilment in a corruption scandal, the government resolved the crisis rapidly by dismissing the Director of *Pertamina*, General Ibnu Sutowo, an old ally of Soeharto (Liddle, 1991: 420). The country's economic situation changed dramatically, however, in the early 1980s, in association with the collapse of world oil prices.

1.3 Collapse of oil-prices and export-oriented industrialisation

During the first two decades of the New Order, sustained economic growth was established, and tens of millions of Indonesian were lifted out of at least the worst extremes of poverty, without international aid (Henley, 2008: 2-3). The most important economic changes were those in the agricultural sector. These changes, known as Indonesia's 'green revolution', involved small farmers and the mediation of trade using market mechanisms and strong private sector involvement, with the state setting the economic goals and providing the agricultural technologies and investments to reach those goals. In total, government spending was more than 30 times higher in real terms than it had been during the late colonial period (van der Eng, 1996: 160). Such strategies were made possible not through rural taxation, which remained low, but through revenues from oil and, to some extent, aid, whereby oil and gas provided about half of all government revenues and foreign aid around 20 percent (van der Eng, 1996: 162, Henley, 2008: 4).

Thus, the 1970s' surging oil-prices and consequent boom in state revenues had enabled the state to finance ambitious programmes of industrialisation,

3 Bipartite refers to union and employer (association) cooperation; tripartite refers to government, employer and union cooperation.

and to further integrate its political, ideological and economic goals (Robison, 1986). In 1982, however, oil prices plunged from about $35 a barrel to a low of $12 (in 1986), resulting in a fall in export earnings from oil and gas by almost 70 percent from 1981 to 1985 (MacIntyre, 1990: 57). In response, Soeharto again called on the technocrats for advice. The government then began a wide-ranging programme of reform and deregulation, including tax reform to increase revenue and trade, and financial market liberalisation to attract foreign investors to replace state investment as the engine of economic growth. The industrialisation strategy was also switched from import-substituting industrialisation (ISI) to export-oriented industrialisation (EOI). The purpose of these changes was to substitute oil as a source of state revenue, with a focus on maintaining previous levels of development rather than alleviating poverty (Henley, 2008: 4-5). The government also opened the way for foreign investment in areas long regarded as strategically sensitive, such as power generation, telecommunication, ports and roads (Robison, 1997: 34). This shift toward a less protected national economy integrated Indonesia more closely into the world market. The implementation of the EOI strategy attracted more foreign investments, particularly in low-wage export production, as well as some mega-projects in large upstream industrial projects (Robison, 1997). Indonesia thus entrenched itself more deeply in the position adopted by many Third World countries, within the neo-liberal and the 'new international division of labour' frameworks (Fröbel *et al.*, 1980).

These structural adjustments by the New Order government led to even more severe policies toward labour issues, including greater involvement by the military. Military interventions in labour matters during the 1980s and 1990s can be explained by the military's efforts to maintain its political influence and economic benefits from government structures, which seemed threatened by the collapse of oil prices. Between 1979-1984, less than half the annual government revenue from oil and gas was used to finance development projects (MacIntyre, 1990). The larger portion of revenue, especially that which came from state-owned oil and gas enterprise *Pertamina*, was allocated to the military and its individual generals. It was reported that the official military budget was only one-third or one-half of its actual spending; the rest of its cash came mainly from this oil revenue. As noted by Irwan (1989: 406): 'The reason for this was the necessity of giving the impression that the government's priority was economic development, not the military'. After the collapse of *Pertamina*, the government and the army saw a need to remain in control and exercise greater influence over possible sources of opposition, especially labour.

In this context, the Political Party Law was promulgated in 1983, requiring all political parties (there were actually only three, including one state-party: the GOLKAR) to adopt *Pancasila* as their sole ideological basis (known as '*asas tunggal*' or 'one foundation' doctrine). Additional legislation was enacted in 1985, in which the *asas tunggal* principle was extended to all non-governmental organizations, including trade unions, under the term of '*organisasi kemasyarakatan*' or community organizations (Lubis, 1993: 166-72). Further, with regard to labour unions, in 1985 the government-controlled union FBSI was restructured into an even more centralised, hierarchical and therefore easily controlled organization, the SPSI (*Serikat Pekerja Seluruh Indonesia*, All-Indonesia Workers' Union) (Hadiz, 1997). The *Pancasila* Industrial Relations concept was also brought into effect by a newly-appointed hard-line Minister of Manpower, Admiral Sudomo,[4] who released several ministerial regulations legitimising military involvement in labour disputes. Military intervention reached a peak in 1993 with the murder of Marsinah, a woman labour activist who was raped and killed while involved in a workers' strike in her factory in East Java, with the reported intervention of the military in the dispute and involvement in her murder (YLBHI, 1994). Repressive legislation and ministerial-level regulations passed during this time resulted in a decline in strike actions, which remained low for the rest of the 1980s (Manning, 1998: 212).

During this time, the Indonesian government followed governments of other developing countries in establishing economic processing zones (EPZs), as a 'way out' to survive in the free and tough competition of the world market, by using their only benefit of 'comparative advantage' of low wages for their labour in the 'global production sharing'.[5] They believed that EPZs would give them benefits through increasing manufactured exports, foreign exchange earnings and employments.[6] Until the late 1980s, Indonesia had

4 The heads of the Ministry of Manpower during the New Order tended to have backgrounds either in the military or as technocrats, and were therefore concerned principally with security problems or the economic reconstruction of the country (Hadiz, 1996: 7). Sudomo himself was a general in the navy. He used to be the Head of Kopkamtib (*Komando Operasional Pemulihan Keamanan dan Ketertiban*, Operational Command for the Restoration of Order and Stability), and later became the Coordinating Minister of Politics and Security.

5 Developed by David Ricardo, the theory of comparative advantage focuses on differences among nations owing to climate or technology. However, as examined by Krueger (1995), 'Ricardo could as easily have ascribed the productive differences to differing "social climates" as to physical or technological climates.' Taking all 'climatic' differences as given, the theory of comparative advantage argues that free trade among nations will maximize global welfare. This has become the prescription developed by international financial institutions such as World Bank and the International Monetary Fund when assisting developing countries to escape from economic crisis.

6 There are many names for EPZs, depending on the countries where the EPZs are set up. In China they are called 'special economic zones'; in Indonesia, 'bonded zones'; in Mexico, 'maquiladoras'; in Korea, 'free export zones'; and many more such as: 'bonded warehouse', 'technology and science parks', 'financial services zones', 'free ports', etc. Despite the wide variety of the zone formats, one of the universal features of EPZs is that there is almost complete absence of either taxation or regulation of imports of intermediate goods into the zones (Warr, 1990). These privileges are subject to the condition that almost all of the output produced is exported and that all imported intermediate goods are utilised fully within the zones or re-exported

only one EPZ, known as a 'bonded zone', established in Jakarta in 1972 (Ariff & Hill, 1985: 22). In 1979, a second bonded zone was established in Batam, an island near Singapore, which expanded to become a 'bonded island' in 1986. The establishment of bonded zones continued in other regions throughout the country, including Bekasi, Karawang, Purwakarta, and other industrial satellites of Jakarta.[7] Indonesia's low-wages policy also helped to promote the entire country as a low-cost labour market.

1.4 Structural adjustments and 'Soeharto Inc.'

During the 1980s and 1990s, the Indonesian government continued with the structural adjustments to reform its macro-economic policy. In 1982, the current account deficit had grown to \$7.2 billion, and in the mid-1980s, on the advice of the World Bank, the Indonesian government undertook steps to control this deficit through monetary and fiscal policy adjustments. On the monetary side, capital markets were deregulated, interest rates controls and sectorial credit ceilings were removed, and subsidized credit was done away with. On the fiscal side, government expenditure was curtailed, tariff rates were lowered, and foreign investment was encouraged (Prawiro, 1998). These policies were directed at increasing production and lowering inflation. In 1986, the government promulgated a series of deregulation packages to further liberalize the Indonesian market for foreign capital. In trade, reforms were driven by the requirement that Indonesia develop international competitiveness in a range of non-oil sectors, particularly manufacture.

Ironically, this deregulation process did not result in the creation of a generalized system of open markets and free competition. On the contrary, it reinforced rather than undermined the importance of state power in determining markets and the concentration of corporate power (Robison, 1997). This paradox is explained by the relations between the New Order bureaucrats and military officials and the business sector ('politico-business'), manifested in the so-called 'Soeharto Inc.' (*Time*, 24 May 1999), known in Indonesia as 'KKN' or '*korupsi, kolusi dan nepotisme*' (corruption, collusion and nepotism).[8] Soeharto-related companies dominated the privatization of the former state monopoly sectors, such as ports, roads and airports. Similarly, the operation and management contracts for state-owned companies, such as satellites and the clove trade, were held mainly by Soeharto's children (Robison, 1997: 45-7). In particular, Soeharto's family members acquired substantial fortunes from their roles as intermediaries. A firm seeking to invest in Indonesia would seek out members of the family to be shareholders in

7 As we will see later, Bekasi and other industrial satellites surrounding Jakarta have become hotspots for the labour movement in Indonesia today.

8 Soeharto came to power by promising to end corruption, yet tackling corruption proved not to be one of the priorities of the regime; under his rule KKN thrived while protesting voices were silenced (see Robertson-Snape, 1999).

a project, in order to obtain protection and, more importantly, information (Schwarz, 1994). It was reported that most important business deals in Indonesia would not be successful without bringing in 'at least one of the children' (Schwarz, 1992: 34). In 1999, *Time* magazine (24 May 1999) estimated that the family wealth had reached at least US$ 15 billion, and identified Indonesia as one of the most corrupt countries in the world.

As noted by Robison (1997: 40-44), investors either adjusted to these new conditions (as in the case of the Japanese, British, US, Australian and European companies mainly involved in 'mega-projects' such as chemicals, pulp, metal goods, power generation and construction), or cleverly exploited the politico-business networks within Indonesia (as in the case of Taiwanese and Korean investors, in low-wage export production including textiles and garments, footwear, plastic products and sporting goods). Despite the lack of transparency in macro-economic policy, a substantial flow of state bank credit was provided to leading conglomerates and politico-business families – even though some of them had been listed in banks' bad or doubtful loan categories (Robison, 1997: 40). The mega-projects raised the demand for borrowing from state banks and international institutions, which led to uncontrolled foreign debt that reached US$ 100 million in 1995 (Robison, 1997: 43). Together these problems led to Indonesia facing major challenges at the macro-economic level, which contributed eventually to the fall of the New Order after the economic crisis in 1997-98.

Meanwhile, the 1990s saw a resurgence in labour activism in Indonesia. Workers, often in conjunction with labour-based NGOs, began to establish new unions to challenge the government-backed SPSI's monopoly. In 1990, the SBM Setiakawan (*Serikat Buruh Merdeka Setiakawan*, Solidarity Independent Labour Union) was founded by several human rights NGO activists[9]; followed in 1992 by the founding of the SBSI (*Serikat Buruh Sejahtera Indonesia*, Indonesian Prosperity Labour Union)[10]; and in 1994 by the PPBI (*Pusat*

9 Many of these unions were initiated, and indeed led, by NGO activists rather than workers, as the lack of trade union roles under the authoritarian regime made it very difficult for workers to undertake those tasks. For an extensive analysis on the relationship between workers and NGOs in Indonesia, before and after the *Reformasi*, see Ford, 2009.

10 SBSI was established on 25 April 1992, as a result of the Pertemuan Buruh Nasional (PBN, National Labour Meeting) on 24-25 April 1992 in Bogor, West Java, attended by more than 100 pro-democracy activists including several leading figures such as Abdurrahman Wahid (who became the fourth President of Indonesia in 1999), Sabam Sirait and Asmara Nababan. Mochtar Pakpahan, a lawyer from North Sumatera, was elected as its first chairperson (SBSI, 1992; also Pakpahan, 1997). He was a critical opponent of the New Order regime, and in 1996 he was arrested for his involvement with the Majelis Rakyat Indonesia (MARI, Indonesian People's Assembly), and was convicted along with several PRD leaders for subversive actions against the government.

Perjuangan Buruh Indonesia, Central of Indonesian Labour Struggle)[11] and the AJI (*Aliansi Jurnalis Independen*, Alliance of Independent Journalists)[12] These unions could not operate effectively, however, due to the ongoing strict government policies and repression (see Hadiz, 1997). After 1994, no further new unions were established, and the number of collective labour agreements remained low. This situation continued for the remainder of the decade, without significant challenges from labour organizations, until the economic crisis hit Indonesia in July 1998 and led to the 'Reformasi' (reform) era.

Due to the New Order's increasing repression of the labour movement in the early 1990s, Indonesia's labour practices became the focus of strong criticism, both domestically and internationally. The most important official criticism was the petition sent to the United States Government in 1992 by Asia Watch and the International Labour Rights Education and Research Fund, concerning workers' rights and the (non-)existence of independent trade unions in Indonesia. Because of these concerns, Indonesia was placed under review by the US Trade Representative for its facilities for tariff concessions on some of its exports to the US under the GSP (generalised system of preferences) (see Fehring & Lindsey, 1995: 7; Human Rights Watch/Asia, 1994: 22-7).[13] Threatened by the possible loss, the Indonesian government increased the minimum wages for workers – but maintained its repressive labour policies (Tjandra, 2002; see also Chapter 5).

To summarise this section: the authoritarian New Order state served several important political and economic functions, by providing the conditions for the development of industrial capitalism while disciplining low-wage

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11 Several student activists founded PPBI in November 1994. The first chairperson was Dita Indah Sari, a former student of the Faculty of Law, University of Indonesia. Dita Indah Sari was arrested in July 1996 due to the labour demonstration she led in Surabaya, East Java, which was considered to be the largest labour demonstration held during the New Order era, attended by 15,000 workers from 10 factories (see also Balowski, 1997). Later in 1999, the PPBI changed its name to FNPBI, the Front Nasional Perjuangan Buruh Indonesia (National Front for Indonesian Labour Struggle).

12 AJI was founded by journalists following the 1994 ban of *Tempo* magazine by the New Order government (see Utami, 1994). It intended to challenge the monopoly of the government-backed journalists' association PWI (*Persatuan Wartawan Indonesia*, Indonesian United Journalists) and to become the independent organization for young journalists in the country. Officially, AJI was a union, as it was affiliated with the IFJ (International Federation of Journalists), a member of the GUF (Global Union Federations); although in practice it struggled to fully accept itself as a union as opposed to a 'professional organization'. In response to this internal conflict, in 2011 some AJI activists established the FSPMI (*Federasi Serikat Pekerja Media Indonesia*, Indonesian Media Union Federation), as the 'union wing' of the AJI (personal communication with Abdul Manan, General Secretary of AJI, June 2012).

13 The GSP is an autonomous, country-specific policy that permits tariff reductions or possibly duty-free entry of certain imports from designated developing countries. For more discussion see Ujiie, 2006.

labour. Indonesia's labour organizations were unable to challenge these strategies effectively. The weakness of the labour movement was due largely to its political exclusion, as established and maintained by the authoritarian New Order regime; rooted initially in the imperatives of the regime's survival, and subsequently in the requirements of its economic strategies. Part 2 of this chapter will explore in more detail the arguments developed in this first section, by examining the practice of labour law and industrial relations in New Order Indonesia.

2 Labour law and industrial relations in practice

This section examines labour law and industrial relations practice during the New Order era. It first discusses the notion of state corporatism in labour relations as developed in Indonesia, particularly the *Pancasila* Industrial Relations doctrine and how this doctrine has influenced industrial relations practice in the country. It then considers three of the most important fields in labour law – trade unions, minimum wages, and labour disputes settlement mechanisms – and their practices under the New Order. As Hess (1986: 225) has argued, there may be problems with the emphasis on formal machinery, since it has 'obscured the basis of the actual social relations active in the work environment'. Yet in the Indonesian context, the reverse may also apply (Ford, 1999). Labour repression under the New Order was legitimised, based on this formal machinery. The discussion in this following section is based mainly upon the formal machinery that was established under the New Order industrial relations system, and also examines particular labour laws and regulations that had direct effects on working conditions in particular fields of work.

2.1 State corporatism and Pancasila Industrial Relations

As mentioned earlier, the New Order state adopted the concept and structures of corporatism in order to control Indonesian workers. This had its roots in Soekarno's Guided Democracy, which was based on the notion of the organic or integralist state as developed by Ki Hadjar Dewantoro and Soepomo, two prominent Javanese political thinkers. Soekarno, however, never linked his Guided Democracy concept to this theory; whereas Soeharto's New Order explicitly acknowledged Soepomo's theory and its application, to help legitimise the state's authoritarianism (Nasution, 1996: 47). The government policies towards labour that were developed during the New Order period were based heavily on this theory, particularly the concept of the *Pancasila* Industrial Relations.

Schmitter (1974: 96) defines corporatism as: 'a system of interest representation, in which the constituent units are organised into a limited number of singular, compulsory, non-competitive hierarchically ordered, and functionally differentiated categories recognised or licensed (if not created) by the state, and granted a deliberate representational monopoly within their respective categories, in exchange for observing certain controls on their selection of leaders and articulation of demands and supports.' As noted by Robison (1993: 42), the main features of corporatist state theory are 'its functional concepts of social structure and organization' and 'its view of the state as transcending particular vested interests within society but embodying its common interests'. Rather than addressing the needs of the interest group concerned, the single, state-sanctioned body of interest representation aims to prevent social conflict and maintain government power. This is the antithesis of bourgeoisie liberalism, which has also become an ideal legitimation, for many national ruling elites, of their authoritarianism; with the denial of legitimate political activities outside structures defined by the state. In Indonesia under the New Order, the state ideology of *Pancasila* played an important role in this process.

Pancasila, literally meaning 'five pillars', consists of five ideals: Belief in One God; Humanitarianism; Indonesian Unity; Popular Government by Consultation and Representation; and Social Justice. Developed by Soekarno, it is part of the Preamble of the 1945 Constitution. Its proponents argue that it is rooted in the Indonesian people's philosophy and way of life; namely, the '*prinsip kekeluargaan*' (family principles). According to this concept, the relationship between the state and the people should be considered as a relationship between 'father and sons', in which the state is the 'wise father'; therefore the relationship between state and people should be always in 'harmony,' and the two elements should trust each other. With such a broad and bland generalisation, *Pancasila* is open to a wide range of interpretations, but only through and by the state. As noted by Robison (1993), it may not be the blandness of the ideals that makes *Pancasila* important, but because it gives legitimacy to authoritarianism as a mechanism, which 'achieves the common will of society through consensus under the tutelage of a state in the possession of its own officials' (1993: 44). In Indonesia daily life under the New Order, *Pancasila* was frequently used to cover and to repress conflicts. Any attempts to establish legitimate political organization outside the framework defined by the state were considered 'anti-*Pancasila*', and therefore against the people's will. The promulgations of the Political Party Law in 1983 and the Community Organizations Law in 1985 were examples of the state's efforts to contain alternative political activities outside the state's framework by using *Pancasila* (Lubis, 1993: 166-72).

As mentioned earlier, in the context of Indonesian labour policy, state corporatism was developed primarily through the concept of *Pancasila* Industrial Relations. Introduced in 1974 by General Ali Moertopo of the Special Operation Office (OPSUS),[14] the *Pancasila* Industrial Relations was formulated as a manifestation of values consistent with *Pancasila* ideology, and rooted in the cultural life of the Indonesian people. It is said that within *Pancasila*, the role of bipartite and tripartite dispute resolution mechanisms in negotiating the differences between the interests of labour and capital should be supported by the 'family principle' and the 'traditional' values of 'mutual help' and 'deliberation to reach consensus' (Djulmiati & Soedjono, 1982). There were no exact regulations concerning this doctrine; nevertheless, it was an effective tool to contain labour within the government framework.

Due to the decline in oil prices, and the government's increasing need to redirect its economic policy toward manufacturing and export-oriented industrialisation, the government intensified its labour controls in the 1980s and the *Pancasila* Industrial Relations gained momentum. The original *Pancasila* Industrial Relations system came into real effect in the early 1980s, when Admiral Sudomo was in charge as the Minister of Manpower. Sudomo gave the concept a more precise formulation, and set up the structures that made it more practical. He concluded that the system should be conducted in the contexts of 'partnership' in production, profit and responsibility, towards 'God the almighty, nation and state, the community, fellow employees and family' (cited in Fehring & Lindsey, 1995: 3). This formulation may seem obscure and insipid. Nevertheless, it became an ideological – and to a certain extent a practical – framework to enable both tight industrial control and military involvement in labour disputes, based on the notion of 'industrial security' and the subordination of labour to state policy. As noted by Fehring and Lindsey (1995: 3):

> [the *Pancasila* Industrial Relations] operates at all levels of industrial relations within Indonesia and it is more than an over-riding ideological formulation. HIP's application to individuals and families means that its practical ramifications reach down from cabinet level to day-to-day aspects of employer/employee relationships. At the national level […] there is the *Departemen Tenaga Kerja* [Department of Manpower], the SPSI [*Serikat Pekerja Seluruh Indonesia*, All-Indonesia Workers' Union – the government backed trade union] and the *Panitia Penyelesaian Perselisihan Perburuhan Pusat* (P4P) [Central Labour Dispute Resolution Committee] and various national employer bodies. […] [R]eproduced at the regional levels […] [it] involve[s] the *walikota*, or mayor, as well as the military forces represented by Kodim [*Komando Daerah Militer*, District Military Command] and Polres [*Kepolisian Resort*, local police]

14 General Ali Moertopo, a Soeharto intimate, was the Chief of the Special Operation Office (OPSUS) and was known as the architect of the New Order. Through the OPSUS, Moertopo implemented numerous initiatives to assure the continuity of the new regime. He was in charge of taming the political parties with the so-called 'floating mass' doctrine, by which political parties lost their ties to the masses; he was also deeply involved with the creation of GOLKAR, a state political party used to contest elections and to take parliamentary seats on behalf of the state; and he was also responsible for the establishment of a sole, state-sanctioned labour union, the FBSI, in 1973 (Hadiz, 1997: 90-104).

These organizations were coordinated by *Bakorstanas* (*Badan Koordinasi Bantuan Pemantapan Keamanan dan Stabilitas Nasional*, the Coordinating Body for National Stability and Security), which also involved *Koramil* (*Komando Rayon Militer*, Regional Military Command) and *Polsek* (*Kepolisian Sektor*, the sub-district police). Such policies and structures led to repressive, and quite often agressive, government approaches towards labour during the 1980s to 1990s, which reached their peak in the aforementioned murder of the labour activist Marsinah. The situation was relaxed slightly in the early 1990s, due to growing international pressure on the Indonesia government to address its repressive labour practices. Nevertheless, from the time of the abolition of the relatively active and political labour movement of the 1960s, the labour movement in Indonesia has been kept tame and weak through restrictive labour laws at both the enterprise and national levels. The next section of this chapter will further the discussion by examining Indonesian labour law in its practical application during the authoritarian New Order regime, in three important fields of labour law: trade unions; minimum wages; and labour dispute settlement.

2.2 Labour law in practice

2.2.1. Trade unions

After the abolition of the SOBSI (*Sentral Organisasi Buruh Seluruh Indonesia*, All-Indonesia Central Labour Organization) in 1965, all labour unions were depoliticised and rendered powerless. The unions could not continue their activities and existence as unions, because the military would repress any attempts at active labour organizations and representation. With the establishment of the government-backed union FBSI, the traditional link between trade unions and political parties was also severed, and redirected toward more socio-economic realms (Hadiz, 1996: 7-8). The FBSI was further restructured in 1985, into an even more centralised, hierarchical and therefore easily controlled organization, the SPSI. Despite another restructuring and renaming in 1995, to become the FSPSI (*Federasi SPSI*, All-Indonesia Workers' Union Federation), the organization remained the same weak, government-controlled union (Hadiz, 1997). Indeed, it is evident that particularly during the 1980s, the organization was involved with assisting the security apparatus to identify and address any potentially state-destabilising developments in the labour area (Tanter, 1990; also Hadiz, 1997).

Although trade union rights were formally recognised by legislation in Indonesia,[15] in practice, this legislation was ignored – the only labour-based regulations with any influence were the anti-labour regulations issued at the ministerial level, through the Minister of Manpower. During the 1980s,

15 By that time, Indonesia had ratified ILO Convention No. 98, on the Right to Organize and Bargain Collectively in 1956, while the Basic Law No. 14 of 1969 explicitly confirmed 'the right to set up and to become a member of a trade union'.

after the collapse in oil prices, several Minister of Manpower regulations were released which together severely restricted trade union rights. Minister of Manpower Decree No. 5/1987, for instance, required that for a union to obtain recognition it must have representation in at least 20 provinces, 100 district level organizations, and 1000 workplaces. Such provisions were almost impossible to satisfy in a very strict labour environment, and further buttressed the existence of SPSI against any competitors. Due to the increasing criticism of the government's practices in labour matters in the early 1990s, registration requirements were relaxed marginally via Minister of Manpower Regulation No. 3 of 1993, and Minister of Manpower Regulation No. 1/1994. Despite these, the conditions for unions to obtain recognition were still restrictive.

The restrictive conditions ensured that through the 1990s unions were not recognized formally unless they had representation in 100 workplaces, 25 regions and 5 provinces. Although workers were able to establish plant-level unions in companies with more than 25 workers, this was permitted only if no unions had already been established (one union per company), and only after obtaining the approval of more than 50 percent of the workers. Further, staff in management positions were forbidden from joining these plant-level unions. Other ministerial-level articles advised that the corporate unions could 'establish cooperation with or be affiliated to the All-Indonesia Workers' Union' (SPSI)', and more explicitly, that they were 'recommended to join the All-Indonesia Workers' Union of relevant business sectors' within 12 months of their establishment' – raising strong questions about the independence of these unions and their ability to genuinely represent workers. Such provisions still clearly favoured the government-backed SPSI.

Although the slight relaxation in government policy in 1990 allowed a few new unions to establish themselves, the government's ongoing strict policies and repression prevented these from operating effectively. After 1994, practically no new unions were established; and collective labour agreements remained few. This situation continued for the rest of the decade. We will return to this situation in the next chapter, as part of the analysis of trade union legislation.

2.2.2 Minimum wages

Although minimum wage regulations were introduced in Indonesia in the early 1970s as part of a socially-oriented wage policy (Manning, 1998: 207), the minimum wage figure remained under government control, without significant consultation with either businesses or unions and workers' organizations. During the New Order era, the rate was based on a scale known as

Kebutuhan Fisik Minimum (KFM, Minimum Physical Needs)'[16] which varied between regions, as determined by the *Dewan Penelitian Pengupahan Daerah* (DPPD, Local Wage Research Council). According to Minister of Manpower Regulation No. 131/1971, the DPPD was to comprise ten public servants, three trade union members and three company representatives. The trade union representatives were only to be drawn from the SPSI, and the public servant representatives were drawn from a range of government agencies. DPPD meetings were conducted in secret, and submissions were not allowed. Minister of Manpower Regulation No. 20/1971 further specified that the minutes of DPPD meetings would only be made available to its members.

This situation, as noted by Fehring and Lindsey (1995: 6), led to 'the extraordinary situation where perhaps the most important condition of employment for workers is decided without public scrutiny or public knowledge of either the factors that have led to the decision or how such decisions are reached'. And it further 'reflects [the New Order government's] consistent policy of restraining industrial reforms so that economic development can proceed on the government's terms'. In labour relations literature, such a policy is known as 'wage repression' (to distinguish from 'labour repression'); and represents a government's efforts to repress wages and labour costs to boost economic gains, through tight controls over trade unions and the absence of proper minimum wage legislation (Deyo, 1989: Chapter 2). While some have argued that there is little evidence of wage repression in newly industrializing countries (Fields, 1994), including Indonesia (Manning, 1998: 212), it would appear that wage policy was an effective tool to enable the New Order government to control labour. The New Order government, with or without pressure from international financial institutions and human rights organizations, was likely keen to either repress or increase wages and labour costs, depending on the situation and if considered necessary to promote economic development – as was evident in the 1990s.

Following the growing international criticism of Indonesia's labour practice in the early 1990s, the New Order government responded with highly publicized efforts to improve labour standards by boosting minimum wages. Minimum wages in all provinces were raised significantly – by about one-third in 1994, and by a further 21 percent in 1995 (Manning, 1998: 212). Real minimum wages rose by approximately 15 percent in real terms and by 10-20 percent in most provinces during 1988-94, including a 25 percent real increase over the next six years in the rapidly industrializing districts of West Java surrounding Jakarta and Bandung. As a result, the wage dis-

16 In 1997, *Kebutuhan Fisik Minimum* was replaced by *Kebutuhan Hidup Minimum* (KHM, Minimum Subsistence Needs) by Minister of Manpower Regulation No. 3/1997, and in 2003 the enactment of Manpower Law No. 13/2003 linked minimum wages to the notion of 'decent wage'. We will discuss this in more detail in Chapter 5.

parity between the highest and lowest wages also increased. According to a 1996 World Bank study (Rama, 1996), minimum wages in Indonesia tripled in nominal terms and doubled in real terms during the first half of the 1990s, leading to an overall 10 percent increase in average earnings and a 2 percent decrease in wage employment, with only a 5 percent decrease in investment. The study found that the unemployment effect was particularly marked in small firms, while employment may have increased in large firms.

This was a great step forward for Indonesian workers, who had been listed by the World Bank in 1994 as being at the extreme end of the international ranking for differences between lowest and highest wages for paid workers, with a differential of 1:50 (World Bank, 1994: 52-4). However, in 1996 the World Bank downplayed the significance of these wage changes, arguing in an influential report that the rapid rise in regional minimum wages, particularly since 1989, was 'beginning to have a negative effect on the creation of employment, especially of women and young workers' (World Bank, 1996: 81). The report went on to warn that 'caution must be exercised in raising them [wages] further for fear of eroding competitiveness, lowering employment growth and paradoxically of increasing poverty and labour unrest' (cited in Islam & Nazara, 2000: 4). This study was influential because, as noted by Islam and Nazara (2000), it provoked the Indonesian government to reconsider its policy on minimum wages. Bappenas (the National Planning Development Agency), for instance, in its White Paper outlining the medium-term outlook for the Indonesian economy (Bappenas, 1999), remarked that minimum wages had distorted the relative pay structure and inhibited labour market flexibility in Indonesia. Moreover, in July 1999, an ILO-supported tripartite working group had heeded the warning issued in the aforementioned World Bank study. The working group put forward a recommendation to replace the minimum wage setting process with a new one, which would enable a clearer description of the criteria for specifying minimum wages and strengthen the government's implementation capacities. Neither group, however, offered strong evidence to support the validity of their proposals. Indeed, as noted by Islam and Nazara (2000: 25): 'There is no evidence to suggest that minimum wage induced increases in domestic labour costs erode business profitability in large and medium-scale manufacturing'.

Hence, no matter what the controversies among scholars as to whether there was indeed wage repression in Indonesia during the 1990s, it seems apparent that wages – and minimum wages policy in particular – were one set of tools used by the Indonesian New Order government to maintain its control over labour, in the perceived interests of economic development. During the import-substituting industrialization phase in the 1980s, low-waged labour had given a 'comparative advantage' in the context of international competition; and in the 1990s, minimum wages became the new tool for the government to counter international pressures. The roles of employers and unions in the setting of minimum wages were minimal; while the government dominated almost all of the process.

2.2.3 *Labour dispute settlement*

As noted earlier, labour dispute settlement mechanisms were provided for during the New Order by at least two laws, which remained on the books throughout the New Order period: the Labour Dispute Settlement Law of 1957 (No. 22) and the Procedures for Dismissal of Workers in Private Undertakings Law of 1964 (No. 12). The 1957 law was enacted predominantly as a response to the escalating labour unrest in the mid-1950s. Its main purpose was to limit strikes and lockouts, by providing a 'compulsory arbitration' mechanism in labour disputes. Nonetheless, both laws also provided protection for workers in labour relations, by emphasizing job security. The most important provision was the provision which stated that in all cases of retrenchment, the decision must be discussed with the worker and his or her union first; and that the employer must obtain permission for retrenchment from the regional Ministry of Manpower office, otherwise the retrenchment would be considered 'null and void'. The Laws provided a system for the settlement of disputes at various stages, including via corporate or bipartite level settlement; via mediation by an official appointed by the Minister of Manpower; and via settlement by the tripartite Regional Committee (P4D) and Central Committee (P4P). Although the Laws acknowledged the right to strike, legal strikes were only permitted if conciliation efforts had failed, or if employers refused to negotiate. Workers were required to follow a set of procedures before they could strike, including notifying their employer, and notifying the Mediator in the Regional Ministry of Manpower office, who would then visit the location and attempt to negotiate with the parties first.

There were several problems with this system in the context of New Order Indonesia. First, in order to function effectively, such a system will depend heavily on the abilities of all parties (employers, unions and government) to legitimately represent their interests (Hess, 1997: 41) – which was not possible during the New Order, as trade unions had been weakened and kept weak since the late 1960s. Second, the labour disputes settlement process has been criticized as ineffective due to its long and complicated procedures, combined with a high frequency of corrupt officials with a strong biased towards employers (Gallagher, 1994). As Manning noted (1998: 215), the increase in labor unrest during the late seventies and early eighties was caused at least partly by the ineffectiveness of the dispute resolution mechanisms, alongside a lack of confidence in the SPSI. Finally, the close involvement of the military in labour disputes raised further problems, which undermined the credibility and effectiveness of the system.

In the early 1980s, as the New Order government sought even more control over labour, it released the Minister of Manpower Decree No. 342/1986, concerning General Guidelines on Labour Dispute Settlement. This regulation stated that the Ministry of Manpower office must co-ordinate with the Regional Government, Police Resort or Military District to overcome possible physical violence in the case of a strike.[17] This regulation was widely relied upon by the military to justify its involvement in labour disputes. Minister of Manpower Regulation No. 4/1986, which permitted an employer to dismiss workers if they were absent for six consecutive days, was another example of the increasing attack on labour rights; and was used to justify the dismissal of striking workers.

3 Concluding remarks

This chapter has discussed the economic strategies of the New Order state, and its corresponding policies toward labour. It has shown that the authoritarian New Order state served important political and economic functions, by providing the conditions for the development of industrial capitalism, while also disciplining labour. Indonesian labour organizations were unable to challenge the strategies effectively. This labour weakness related largely to the political exclusion of labour groups by the New Order government, rooted initially in the imperatives of the regime's survival, and subsequently driven by the perceived requirements of the economic strategies. These issues were reflected in the changing labour policies, which followed the changing economic strategies. This chapter's analysis of the practices of labour law in New Order Indonesia, specifically in three key fields in labour law – trade unions, minimum wages, and industrial dispute settlement mechanisms – supports these observations. In New Order Indonesia, labour law, rather than becoming a tool to restrain public and private power over workers, was used to legitimise labour repression through formal machineries. The protective legislation inherited at the country's independence, and which prevailed until the mid-1960s, was simply not applied in practice – as this option was dependent on the government's willingness to apply the laws, and such willingness was clearly lacking.

The situation discussed in this chapter continued throughout the 1990s without significant challenges from labour organizations; only changing dramatically when the economic crisis hit Indonesia in 1997-98, as will be discussed later. Interestingly, prior to the economic crisis, the World Bank's 1996 evaluation of Indonesian labour law already advised that '[Indonesian] workers are overly protected', but that 'the government should stay out of industrial dispute[s]' (*The Jakarta Post*, 4 April 1996). This statement was released in an effort by the World Bank to create 'industrial harmony between workers

17 Other provisions were provided in Minister of Manpower Regulation Nos. 1108/1986 and 120/1988. In January 1994, in response to the threat of losing GSP facilities from the US. All these regulations were repealed and replaced by a new decree, Ministerial Decree No. 15A /1994.

and employers,' due to the rise in labour unrest in the country, which in the World Bank's opinion was not favourable to business and investments.[18] The New Order government, by this stage under financial pressure, responded to the World Bank's comments by introducing a new bill, the *Manpower Bill*, which was designed to replace all previous labour laws and regulations. The new Bill came under strong criticism from many labour groups and NGOs, who saw it as an anti-worker law in every sense (YLBHI, 1997).[19] Nonetheless, the Bill was eventually enacted as the Manpower Law No. 25/1997 on 3 October 1997. Although it had to some extent adopted the workers' demands, labour protests became widespread around the country.[20]

Meanwhile, the currency crisis in Thailand had become an economic crisis throughout Asia, including Indonesia, and the Indonesian economy was severely damaged. By May 1998, the country's economic growth had fallen to minus 7%; unemployment hit 12%; interest rates climbed to 75%; and the country's currency, the *Rupiah*, slumped from 6,000 to the US dollar, to a catastrophic 18,000 (Godement, 1999: 12). The ILO (1999) reported that the Asian financial crisis had added 10 million new unemployed in Thailand, Malaysia, Indonesia and the Philippines; while numbers of people living on

18 This was consistent with the Bank's general diagnoses and prescriptions regarding how developing countries should commence business, as seen in the series of 'Developing Business' reports which it publishes yearly. In 'Doing Business 2005: Removing Obstacles to Growth' (World Bank 2004), which 'benchmarks regulatory performance and reforms in 145 nations'. Legislation regarding the hiring and firing of workers was considered one of heavier regulatory burdens on business in developing countries (compared to developed countries); along with access to credit, enforcing contracts, registering property, and protecting investors (see Engel, 2010). Such an approach is challenged by the work of Ha-Joon Chang (2002: 116-7), who considers the historical role of institutions in the now-developed countries. His analysis suggested that the institutions of today's developing countries are, in general, far ahead of where those same institutions were in the now-developed countries, when the latter were at similar levels of development. He also points out that good institutions take time to develop, and must be affordable for the country and socio-politically acceptable. He argues (2002: 135) that international standard property rights and corporate governance are the two areas that are most problematic for developing countries, as they require large investments (for example accountants and lawyers) for limited returns; and, as a result, reduce the availability of funding for education or essential infrastructure.

19 One major criticism was related to the right to form a labour union. Under the new Bill, labour unions could only be formed by a decision of the 'majority' of workers in the firm, which could be interpreted as 50 percent plus one, which made it harder to form a union except in very small firms. Moreover, the Bill had been drafted and approved during secret meetings, without sufficient consultation with unions and individual workers. These secret discussions were held in a five-star hotel in Jakarta, in order to avoid the massive labour demonstrations in front of the parliament building protesting against the new draft. (Radio Nederland, 24 November 1997).

20 After being postponed several times, and under pressure from labour demonstrations in front of the Parliament Building in Jakarta, the Plenary Meeting of the Indonesian Parliament on 23 September 2002 agreed to annul Manpower Law No. 25/1997, and replace it with two new Bills – one on industrial relations dispute settlement, and one on guidance and protection for workers (*Tempo Interaktif*, 23 September 2002).

less than a dollar a day were estimated to have risen from 40 million in 1997, to 100 million in 2000. In Indonesia, the poverty rate tripled from 22.5 million in 1996, to 79.1 million in June 1998 – almost 40% of the total population (*Kontan*, 7 December 1998). Economic growth of 7% per year since the 1970s was wiped out within days. The crisis fractured the legitimacy of the New Order, leading to growing unrest throughout the country. Student and middle-class protests, united by the word *reformasi* (reform), had given way to rioting and looting in the capital, which eventually forced President Soeharto to resign on 21 May 1998. Soeharto then appointed his deputy and intimate, Habibie, as the new president, and ended his 32 years in power. The post-Soeharto era, known as the *Reformasi*, marked a new phase in the country's history. This will be the topic of the next chapter.