

INDONESIA AFTER THE ELECTIONS: CORE CHALLENGES FOR THE INDONESIAN LABOUR MOVEMENT 2009-2014



Federation of Indonesian Metal Union

DPP Serikat Pekerja Metal Indonesia

Jl. Raya Pondok Gede No.11 Jakarta Timur

Phone. +62-21-877-969-16 Fax +62-21-841-3954

INDONESIA AFTER THE ELECTIONS: CORE CHALLENGES FOR THE INDONESIAN LABOUR MOVEMENT 2009-2014

Three portraits of life

Fitri is a female worker in Tangerang who has worked more than eight years at a multi-national electronic company. Her monthly wages are 1.2 million rupiahs, which she uses to fulfill her family's basic needs. Fitri always puts aside 500,000 rupiah for paying the monthly home installment and 200,000 rupiah for transportation costs. If her or her children are ill, the employer will give only partial support, with a limited amount of money according to Jamsostek (Worker's Social Security) standards. Any additional costs have to be paid out of her own wages. With only 500,000 rupiah in monthly wages left after paying for shelter and transportation, Fitri is expected to meet all other daily needs such as school payments, the pocket money of her two children, the electricity bill, mobile phone vouchers, and other social costs. Being a "single parent" has made her life in Tangerang even more difficult. If Fitri wanted to earn more wages, she would have to work 6-8 hours overtime per day. Her social well-being and the well-being of her children would be put at risk if she works more than 12 hours per day. Fitri does her best to not think of concerns such as low wages, no pension, expensive health care costs, and other issues. She wants to be a good worker and provide for her family. Fitri's main hopes are that wages and social insurance for workers in Tangerang will improve.

I recall visiting a world class electronic company in East Jakarta five years ago where I met a woman who worked there for 30 years and was about to retire. I asked her, "After retirement, what plans do you have?" Her answer touched my heart, "Mr. Iqbal, how can I have a plan, I don't even know where am I going to stay after this." This woman portrayed the life of a loyal worker in a multinational company with billions of rupiah of profit during its operation in Indonesia (according to law, any foreign company is able to obtain five percent royalty per year of its total capital, regardless of whether the company is making profits or not). Even with the billions in profits, the company will discard this woman, leaving her to wonder where should can stay, how to pay her children's school fees, as well as any additional medical costs.

Later, in a discussion forum, I heard the story of Tarigan, an outsourcing worker at a shipyard in Batam, Tanjung Ugang. Tarigan earns a small monthly wage which is subject to deduction by the labor agency. In addition, he has no health insurance. Worse still, Tarigan must be prepared to lose his job at anytime due to the absence of work security. The planned "Special Economic Zone" in Batam has increased his worries.

Fitri, the older woman, and Tarigan are reflecting real images of life for workers throughout Indonesia. They are vulnerable and suffering under low wages, minimum service of the Worker's Social Security System (Jamsostek), unclear working relationships (outsourcing/contract workers), weak labor supervision, complicated labor court proceedings, and possible exploitation of manpower due to the enactment of the Special Economic Zone/SEZ.

These three portraits may help us map the problems faced by workers and push on with the struggle for a workers' movement.

The Main Issues Affecting Workers are:

1. The Social Security System (Law No. 40/2004 & Law No. 3/1992)

Trade Unions should make the enactment of a working/secure social security system (especially Jamsostek) a national issue. A social security system could guarantee citizens' rights for living, unlike any other system. Below are facts that remind us all of the importance of a social security system (especially Jamsostek).

a. Indonesia is one of the lowest countries in terms of contributions to Jamsostek (JHT-pension fund). Below is a table that illustrates Indonesia's negligence:

No.	Country	Implementing Body	Contribution		
			Employer	Worker	Total
1.	Singapore	CPF	20,00%	20,00%	40,00%
2.	Malaysia	EPF	12,00%	11,00%	23,00%
3.	Philippines	SSS	4,70%	3,30%	8,00%
4.	Tanzania	NPF	10,00%	10,00%	20,00%
5.	Ghana	SSNIT	12,50%	5,00%	17,00%
6.	Gambia	SSHF	10,00%	5,00%	15,00%
7.	Indonesia	Jamsostek	3,70%	2,00%	5,70%

Source: *Buku Jaminan Sosial Tenaga Kerja*, December 2000

b. Assets and revenue of Jamsostek development funds are not optimized for the welfare of workers:

- Jamsostek became a state owned (profit-oriented) company, not a trust fund.
- In 2007, assets of PT Jamsostek reached more than 63 trillion rupiah (US \$6.4 billion)
- Nevertheless, only a small percentage of the development funds were distributed to workers. In 2004, only 71.4% was distributed to workers; meaning that 28.6% development revenue did not return to the workers. In 2005 only 66.1% were distributed to workers, with 33.9% outstanding. In 2007, the number sunk even lower with only 55% distributed to workers.
- According to international regulations on social insurance, 100% of development funds must be returned to workers.

- If all development funds revenue were actually distributed to workers as it should be (without the average loss of 30% per year) the welfare of workers and their families could be better. Specific ways in which this money could improve the lives of workers and their families are:
 - Building workers' houses at very low prices (if possible at only 50% of the market price),
 - Granting scholarships for workers' children,
 - Increasing health insurance benefits for those who are no longer working (due to retirement or job termination). Medical care costs should be borne by Jamsostek (just like civil servants and military/police) until retirement. After retirement, medical costs should be borne by state health insurance (ASKES).

c. Surplus funds of PT.Jamsostek, which reflect injustice to workers, is estimated at Rp 998,393,462,589,-

No.	%	Value (Rp.)	Intended Use	Enjoyed by	Average Per Person (Rp)
1.	55	549.116.404.424	Development of JHT	8.1 million participants of Jamsostek	67.174 (US \$ 6,9/ year)
2.	30.57	305.170.723.403	Reserve Limited Company and purpose	Business Entity (PT. Jamsostek)	-
3.	10	99.839.346.259	DPKP	8.1 million participants in the form of loans plus grants	12.325 (US \$ 1.3/year)
4.	4	39.935.738.504	Partnership program	Partner	-
5.	0.43	4.331.250.000	Incentive/bonus	13 Directors and Commissioners	± 240.000.000 (US \$ 25.000/year)

Data: from various sources

As illustrated in the above table, the current Jamsostek program does not give fair treatment to workers. Examples of the unfairness include:

- Workers receive only Rp. 67,174 - per year annually of the development funds, but the directors and commissioners receive an average of Rp. 240 million per person. So who actually gains the most profit from this program?
- Reserve funds of PT. Jamsostek reach Rp. 30,517 billion per year. This means, since its establishment until the upcoming years, tens of trillions of rupiahs will be acquired. If these could be used in providing subsidies to workers in housing and transportation allowance, (according to a survey 40% of the wages received by workers are used for covering costs in housing and transportation) then workers could save 40% of their wages every month. Or if these are used to grant a scholarship to the workers'/labors' children, then they will be able to send their children to higher education like university, and will no longer be limited to sending them only to junior and senior high school. Additionally, the trillions of rupiahs could be used to cover the medical costs of retired workers and their families.

What the workers' union movement can do is file for an amendment/revision of Law No. 3 /1992 regarding Jamsostek. The issues that need to be addressed are as follows:

- The system must be in the form of a trust fund, where the representation of workers codetermine the policy for dues, the type of programs, and a 100% return of Jamosostek development fund revenue to workers.

An obligatory pension fund shall be given to all workers.

- The dues percentages for Old Age Fund and the Health Care Fund must be increased and made compulsory.
- The total dues collected and revenues of its development fund must be utilized to provide workers with housing, transportation cost subsidies, scholarships for their children, medical costs for the retired or terminated, and assistance for the living costs of workers seeking jobs after employment dismissal. In addition to amending Law No. 3/1992, we must also amend Law No. 40/2004 regarding the Social Security System (SJSN). The law should encompass all Indonesians. Every citizen of Indonesia, regardless whether they are working or not, should have the right to acquire health care security or obtain medical care funds if they are ill. If Jamsostek and other social security systems are managed in accordance to the above recommendations, workers would be able to set aside 20% to 40% of their wages for savings, thereby increasing the purchasing power of workers and welfare of Indonesia as a whole.

2. Issue of Outsourcing (OS) Workers and Contract Employees

The current work system of outsourcing has become very common and is against Law No. 13/2003. Therefore, unions have made it a priority issue to eradicate this practice. According to Law No. 13/2003, the outsourcing of work is illegal if the work is for processes of production or for core production activities of a company. Outsourcing is only acceptable for security services, cleaning services, drivers, catering, and minor supporting services. Criteria for contract employees must follow strict requirements. However, violations have occurred in the use of OS workers and contract employees. These violations include the following: OS workers performing the processes of production and core production activities; low wages (lower than minimum wage as deducted by the labor providing agent); no liability for any pension fund or severance pay; no health insurance; and easy dismissal from a job. In short, contract and OS workers experience much worse conditions than permanent workers.

What can be done by the workers' union movement?

- Demand the Minister of Labor and the President of the Republic of Indonesia (RI) to make a ministerial decision (or Presidential Decree) containing legal sanctions (criminal/civil) to outsourcing agents/labor providers and companies practicing outsourcing not in accordance with Law No.13 /2003.
- Demand the Minister of Labor and the President of RI to revoke the permits/licenses of outsourcing agents/labor providers due to violations of Law No.13/ 2003, and firmly state that outsourcing may be allowed only for cleaning services, catering services,

drivers, security, and minor support services.

If outsourcing in its current form is abolished in accordance to the above amendments, workers will enjoy job security and the end of unlawful employment dismissals.

3. The Wage Issue

Wage issues in Indonesia center around low wage levels. The minimum wage does not cover 100% of the decent daily living costs. The structure and scale of wages in companies are still not just, considering the huge disparity between foreign and local employees. Additionally, in some workplaces, the wages of workers with at least five years of experience on the job barely match that of a contract worker. The following table (with DKI Jakarta's minimum wage) illustrates just how low wages are:

Table A: Percentage of UMP (Provincial Minimum Wage) Value towards KFM/KHL DKI Jakarta 1998 – 2008

Year	UMP (Rp)	KFM / KHM (Rp)	Percentage of UMP Towards KFM / KHM (%)
1998	198.500	254.251	78.07
1999	231.000	351.263	65.76
2000	286.000	384.172	74.45
2001	426.250	246.000	100.06
2002	591.226	519.931	113.71
2003	631.554	746.749	84.57
2004	671.550	699.713	95.98
2005	711.843	759.963	93.67
2006	819.100	815.056	100.49
2007	900.560	991.988	90.78
2008	972.604	1.055.275	92.17

Source: BPS DKI Jakarta

Graphic B: Nominal UMP and Real UMP towards KFM / KHM DKI Jakarta 1985 – 1995 (1985 = 100)

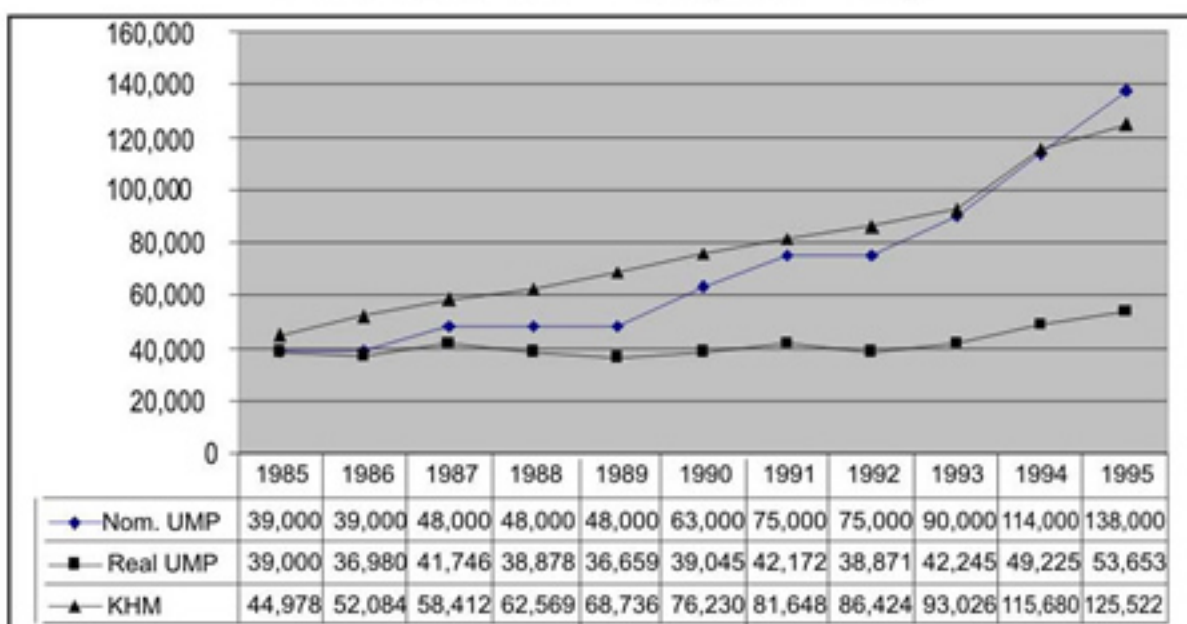


Table A, illustrates that the wages of workers in DKI Jakarta from 1998 until 2008 have never been up to 100% of the daily decent living cost (KHL). In fact, the value of decent living costs is on a minimum-level compared to the living needs of the people. The KHL value is the result of a joint survey by delegates of workers, business actors, and the government. Since minimum wage in Indonesia does not support decent living, the KHL

survey may seem unreliable or odd. The same applies in Table B, thus illustrating that real wages are consistently under the nominal-level and KHL.

What can be done by the workers' union movement?

- Demand the Minister of Labor and the President of RI stipulate a minimum wage value consistent with a reasonable need for living in accordance to the mandate of Law No.13/2003.
- Demand the Minister of Labor create an ministerial regulation about the structure and scale of wages. If this is implemented, workers (permanent employees) with a working period of over one year of service shall have a wage above the KHL after taking consideration of the education, working period, experience, and skills/productivity of those workers.
- Propose a Wage Law which regulates the wages received by workers and the people that enable them to meet their purchasing power. If this is implemented, then workers will not have to take on debts just to fulfill their basic needs.

Additionally, if there is an equal or higher value of workers' wages, workers will be able to afford decent lives and their purchasing power will increase, thereby helping Indonesia's industries/factories to produce.

4. Issue of Labor Inspection/Supervision is Very Weak

With the enactment of regional autonomy in Indonesia, the conduct of labor inspection also experienced radical changes and has become weak. Violations of labor regulations that have occurred include: outsourcing not in accordance with the law, low wages, illegal overtime hours, and unilateral employment dismissal, etc. These violations are indicative of the following developments:

- The Labour Office only abides by the Regent/Mayor, which shows that a lack of willingness in the administration of regional autonomy has weakened labor inspections/supervisions.
- Labour Inspectors (HR) are increasingly incompetent. An example of this is that the Office for Supervision is staffed by the Funeral Office.
- Bribery from businesses is widespread and only increasing.

What can be done by the workers' movement?

- Demand the formation of a national-level labor inspection/supervision committee, under the President RI.
- Conduct trainings and education for the Labor Inspectors with state/regional funding. If labor inspectors became strong and professional in accordance with the recommendations above, violations against workers'/labors' rights will no longer occur and there will be no unilateral employment dismissals, practices of illegal outsourcing, and low wages, etc.

5. Issue of Labour Court Proceedings (PPHI) Law No.2/2004 titled Court Resolutions on Industrial/Labor Court Proceedings was crafted with the objective that labor resolutions should be done quickly, cheaply, and with justice. However, the real implementation of the law presents a different picture. Consistent problems with the courts include:

- The cost of labor court proceedings are high and involve many court mafias.
- The process in resolving cases takes a very long time (one case = nine processes of appeals).
- The distance between the labor court and the worker bringing the case affects the process of court proceedings. Since many workers are unable to attend because of transportation problems, they are prone to lose the case.
- Workers lose in conflicts with company management since workers cannot afford the legal fees.

What can be done by the workers' movement?

- Demand the Minister of Labor and the Supreme Court form additional labor courts at the Regency/City-level to make access easier.
- Demand the Supreme Court issue a Supreme Court Regulation. The regulation would demand that all labor court judges apply quick legal processes and intermediate decisions (keputusan sela) in accordance with Law No. 2/2004, thereby enabling the court proceedings to become cheap, quick and fair/just.

6. Issue of Special Economic Zones (SEZ)

2009 is a decisive and important year for Batam, Bintan, Karimun and several other areas in Indonesia. Starting this year, regulations will be enacted for Special Economic Zones (SEZ), which will create pilot projects in three regions. However, learning from the experience of other countries like China, India, Brazil, Malaysia and Vietnam regarding SEZs, workers will suffer negative consequences to these zones including low wages, minimum health and security standards, and no pension funds.

What can be done by the workers' movement?

- Advocate for an SEZ law that regulates the protection for workers in these zones as stated in Law No.21/2000, Law No. 13/ 2003, Law No.3/1992, and Law No. 40/2004.
- Advocate for the contents of an SEZ law to encompass fundamental matters. The law should stipulate that anti-labor unions are prohibited. The law should further stipulate that wages must be reasonable and include implementation of social security. Additionally, the practice of outsourcing should be prohibited, as it violates Labor Law No. 13/ 2003.

The above mentioned issues can be specified into 6 (six) main programs of the workers' struggle:

1. Struggle for the revision of the Jamsostek Law.
2. Struggle for the eradication of outsourcing.
3. Struggle for reasonable wages and wage structure law.
4. Struggle for strengthening labor inspection/supervision.
5. Struggle for quick, cheap and fair/just labor court proceedings.
6. Struggle for a Special Economic Zone (SEZ) law which caters to the welfare to workers.

Supported by Friedrich Ebert Stiftung Indonesia Office