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LABOR LAW

MEASURE PLUS: INDONESIA

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Executive Summary

Indonesia has a long and complex history of labor legislation, dating back to the Dutch period. The full report provides the historical context for current labor law and practice in Indonesia. The post-independence period was dominated by the Suharto administration's "New Order," which took a corporatist view of labor relations, with the union movement strongly controlled by the national government. The ability of labor to organize was severely limited during this period, and wage trends followed the dictates of the national government.

The fall of the Suharto Administration in 1998 led to a gradual, but steady, increase in worker rights during the next few years. Minimum wages were increased rapidly, unionization increased substantially, and the protections for workers were dramatically expanded. The right of firms to fire workers was substantially curtailed, and substantial payments to displaced workers were legislated. Severance pay for all workers choosing to leave their job was also increased, making Indonesia a high-cost environment for those workers subject to those protections.

Law 13 of 2003 was the key piece of legislation that provided a statutory basis for these increased worker rights. Unions flourished in this new environment, but business firms began to complain about loss of competitiveness in comparison to other East Asian countries.

But the law was one thing; actual practice was another. A recent study by the World Bank documents the wide gap between the *de jure* rights of workers under the law, and their *de facto* rights in the labor marketplace. The study suggests that perhaps 7% of Indonesia's labor force of104 million are fully covered by these legal protections. Some others are partially covered, but the majority of workers, operating in the informal sector, have almost no protections.

But being in the formal sector is not a guarantee of full legal rights. Based on worker surveys, the World Bank study reports that:

- Redundancy payments are legally required to be more than 100 weeks' wages. But:
- In 2008, only 7% of terminated workers received full severance pay; 27% reported receiving partial payment of severance, and 66% reported receiving no severance pay at all.
- Minimum wages rose rapidly in the early 2000's and are high by regional standards. But:
- Non-compliance with minimum wages characterizes more than half of workers in the lowest income quintile, and over 40% in the second and third quintiles.
- Temporary workers can be contracted for no more than three years, with no renewals possible, limiting incentives for training of such workers. But:
- About 15% of contract workers are beyond the three-year limit for their employment.

- Non-wage benefits for workers vary widely by status. Most formal sector workers have health coverage, but only about 20% of workers with no contracts have it. About half of permanent employees have pension benefits, but only about 10% of other workers do.

It is important for Indonesia to address the pressing issues in the labor market if the country is to provide enough jobs for the very large number of new entrants to the labor market. During the next two decades, the number of people in the job-entering cohort between ages 15 and 24, as the number in this age group will remain steady at about 41 million before it begins to decline after 2030. In countries where inadequate employment opportunities for this job-entering cohort are available, political unrest from young people is a likely result.

An agenda to address the problems in the Indonesian labor market might consist of three elements:

A "grand bargain" where government, business and labor come to agreement on a wide-ranging revision of the labor code and government regulation that provides for greater enforcement of legal requirements, greater flexibility for firms to tailor their level of employment to the market for their products, severance pay and minimum wages more closely aligned with Indonesia's East Asian competitors, and more assured access by workers to health care, unemployment benefits and eventual retirement pensions. Such an agreement would turn a "lose-lose" environment for both business and workers into a "win-win" environment for both.

A simplified labor code. Part of the problem at present is the complexity of Indonesia's numerous laws and regulations conflict, making for endless litigation on labor matters.

A better framework of law and practice for labor unions. At the plant level, labor unions are a critical intermediary between workers and their complaints and management. Effective unions can be an important means for avoiding strikes and fostering "win-win" environments between workers and management. Part of what needs to be done involves legislation, but it also requires better practice by both sides.

Introduction

There are preliminary indications that Indonesia may (then and now) be approaching a phase of tightening of the labor market, as evidenced by recent signs of real wage increases in agriculture, manufacturing, and construction.[1] As the labor market tightens, the key issue in the labor market will become not only job creation, but the creation of better quality jobs. In this environment, as wages rise, the upgrading of skills and improving the productivity of labor will become key challenges for Indonesia policymakers. Furthermore, putting in place an industrial relations system that can deal with the more complex needs of a better educated and more vocal labor force will also become a high priority. A number of recent surveys indicate that foreign and local investors are not only interested in the cost and quality of labor, but also in an environment that promotes peaceful labor relations.

Despite developing countries' lack of experience with competition and labor law policies, and the general skepticism about whether maximum or perfect competition is optimal for long-term productivity growth, there are good reasons to suggest that, under the present global economic arrangements, it is important for developing countries to establish these policies. The primary reason is the enormous structural changes which have occurred in developing country economies during the last two decades as a result of privatization and deregulation. These movements have spawned out of technological, economic, political and ideological forces which are leading to liberalization as well as greater integration of the world economy. As many of the privatized firms include natural monopolies, it is important that an appropriate regulatory and competition policy framework be in place to ensure improved economic performance. In relation to the question of perfect *versus* optimum degree of competition capacity, it will be appreciated that nuanced labor laws will be required to implement said optimal competition.

Indonesia has enjoyed a demographic dividend over the last forty years. The working population has been growing faster than the population of non-working dependents. This presents a major opportunity for economic growth and poverty reduction, provided that more jobs – and better jobs – are created to employ the workforce, which will grow by an estimated 20 million workers over the next ten years. The job-entering cohort of people in the 15-24 year-old group will continue to be stable at about 41 million through 2030. Thus, the upcoming years will be critical for Indonesia to boost job creation for young workers and make the most of this opportunity. As evident from news elsewhere, a failure to provide adequate numbers of jobs for these young workers could have adverse consequences for political stability.

Today's policy makers in Indonesia face a strategic challenge in identifying which policies and programs will spur the creation of good jobs while, at the same time, ensuring that workers are better protected from risks threatening their income security. Decisions about labor policies are particularly difficult because they can directly affect the well-being of workers, both inside and outside the formal jobs market, as well as the firms that are the main engines of job growth.

Differences between these competing interests, along with a large divergence between substantial *de jure* protections for the small minority of workers insider the formal economy, and the much larger *de facto* lack of protection for the majority of workers, have contributed to the current stalemate position that leaves both workers and firms in a "lose-lose" situation. Sound empirical data will help guide the debate around labor reform.

[1] Dhanani, S. and I. Islam, Indonesian Wage Structure and Trends, 1976-2000

History of Labor Law

Labor laws address social conditions, specifying that men and women must receive equal pay for equal work, outlawing sexual harassment in the workplace, and specifying that employers may not practice discrimination. In some countries, labor laws also stipulate mandatory benefits such as insurance, payments into retirement accounts, paid leave, vacation time, and so forth. Some nations also protect their employees from limits on free speech, with the goal of promoting whistle blowing, and allowing employees to exercise their right to live, vote, and worship in their own way.

Labor and the Global Economy

Over 40 years ago, Harvard University Economics Professor Raymond Vernon foresaw that increased international economic activity would create profound political problems. He warned that the imminent growth of multinational enterprises was a threat to national politics because "multinational enterprises are not easily subjected to national policy"[2] Professor Vernon further noted that the threat to national politics would come not only from multinational enterprises, but also from the shrinking of trade barriers and advancements in transportation and communications technologies. "These [changes] are likely to raise issues of sovereignty that may, in the end, dwarf the multinational enterprise problem."

A number of scholars have noted that the global economy diminishes the regulatory capability of the nation-state and thus calls into question the conventional views of sovereignty.[3] There is a practical effect on the ability of one nation to regulate its domestic affairs in a world where labor and capital move freely across national borders. In such a world, legislation that is onerous to the business community – including most social welfare and worker protective legislation – could induce capital flight and trigger a race-to-the-bottom.[4] Thus, the nation-state is becoming increasingly powerless to play its historic role as protector of health, safety, and welfare of its citizens.[5]

International Labor Standards

There is a long tradition of concern over the international coordination of labor law to mitigate the effects of labor protections on trade competitiveness. The drive to coordinate labor practices internationally began during the second half of the nineteenth century.

The international labor rights agenda broadened dramatically at the end of World War I with the Creation of the International Labor Organization (ILO). The ILO was established in 1919 as an offshoot of the League of Nations and originally had 44 member countries from Europe, Asia, Africa and Latin America. Initially, discussions in the ILO focused on the eradication of slavery and all forms of forced labor. However, a broader labor rights agenda also included the rights to freedom of association and collective bargaining, nondiscrimination in employment, and the elimination of child labor (ILO, 1999).[6]

As part of building an international consensus on labor standards, the ILO promulgates certain

[2] Vernon, R. and U.-.-N.B.C.f.E. Research, *The technology factor in international trade*.
[3] Streeck, W. and P. Schmttter, From national corporatism to transnational pluralism: organized interests in the single European market.
[4] Simmons, B., International law and state behavior: commitment and compliance in international monetary affairs.
[5] Perlmutter, H., The tortuous evolution of the multinational corporation.
[6] Ranjan, P., An economic analysis of child labor.

"Conventions" and "Recommendations" that member nation may choose to ratify. The early Conventions adopted between 1919 and 1939 included a long list of labor market practices targeted for international standards. For example, Convention 1 establishes the 8-hour day/48-hour workweek, and Convention 5 establishes a minimum work age of 14 years (although children working with family members are excluded). Additional Conventions and Recommendations pertained to wages, occupational health and safety, retirement compensation, severance pay, survivor's benefits and other topics.

Some critics of the existing process of globalization argue that international labor standards, as defined by the International Labor Organization (ILO), need to be made part of the formal rules governing the global economy. The argument is that the path of globalization has been shaped by the 'new rules of the game' for the international economy, where these new rules are the result of both official policy measures and innovation by private sector agents in financial, goods and labor markets. Globalization is not producing the benefits that theory predicts because these rules are incomplete and inappropriately designed, and a necessary corrective is the formal inclusion of core labor standards.[7]

There are two dimensions to the economic argument in favor of core labor standards (CLS). One is a conventional 'static' economic efficiency argument whereby CLS correct distortions in labor markets. This results in better allocation of scarce resources that raises output and economic well-being. The second argument rests on 'dynamic' economic efficiency: CLS change the pattern of incentives facing business and government. In doing so, they shift economies on to a 'high road' path of economic development in which wages are higher, and in which business competition focuses on productivity and product quality rather than workplace conditions. Far from being a hidden protection, CLS are actually a means of shifting both developed and developing countries to a superior equilibrium.[8]

Enforcing International Labor Rights through Corporate Codes of Conduct

Codes of conduct for international business operations are proliferating as investors, companies and governments confront demands to respect human and labor rights claims. Until recently, the link between increasing global economic activity and human rights was tenuous. Investors and executives tended to see human rights as a matter for government officials and diplomats to implement, and resisted pressures to have their businesses used as tools for political reform.

In a nutshell, as one critic of "corporate social responsibility" put it, "the company that seeks to pursue profit and do 'good works' at the same time is likely to do neither very well."

Labor Law in Indonesia

There has been a gradual transformation in the official approach to industrial relations in Indonesia over the past 30 years; and a rush to reforms since the fall of President Suharto in May 1998 in particular. Indonesia is now undergoing a transition to democracy and, on paper, already enjoys a labor law regime that grants an impressive range of fundamental labor rights, many of which are still in dispute in some developed and most developing countries.

These include, for example, the right to organize into trade unions and the right to bargain and strike in support of claims. The law also guarantees an extensive array of minimal labor standards, including: minimum wages, set by region; a formal industrial dispute resolution system; 8 work hours per day or forty hours per work, with thirty minutes rest for each four hours

[7] Preston, L. and D. Windsor, The rules of the game in the global economy: Policy regimes for international business.
[8] Palley, T., The economic case for international labour standards.

worked; public holidays (twelve days paid per year); maternity leave (three months paid per year); sick leave (part salary paid for up to twelve months per year); holiday pay (minimum two weeks paid per year); overtime paid at the hourly rate plus 50 percent for the first hour and then double time; severance pay, and a months' pay for every year of service, up to a maximum of four months for long service: prohibitions on gender discrimination in wages; and restriction on employers rights of termination (permits required from tripartite body involving unions, management and Ministry of Manpower).

There is also an absolute prohibition against the dismissal of an employee on several grounds. Dismissal cannot be based on discrimination against the employee for reasons of tribe, race, marital status, sex, religion or political affiliation. Nor can it be based on various employee activities, including involvement by the employee in trade union activities, absence from work in fulfilling a civic or religious duty, or pursuing a grievance against the employer.

Indonesia has also recently ratified several key ILO Conventions, making it the first Asian state to ratify all seven fundamental Conventions, including: ILO Convention No. 87 on Freedom of Association and Protection of the Right to organize (ratified June 1998), No. 105 on Abolition of Forced Labor (May 1999) and No. 138 on Minimum Age (May 1999). Convention No. 182 on Worst Forms of Child Labor ratified (November 2000).

Development and Reform: An Overview

Labor law in Indonesia, which is often also called social law, occupies a peculiar place in the national legal system due to its significant role as a set of rules. To wit, it is concurrently included in the context of both public law and private law. It has an intermediate nature in serving the dual objectives, i.e., firstly introduced to rectify injustice as a result of freedom of contract includes principles that revise the civil law precepts, and secondly, designed to settle conflicts emanating from the class confrontation between hierarchy and the working class. It is therefore understood that labor law has had a fairly strong policy-oriented structure.

Recently, labor law has been reflecting the demise of major socialist regimes and the overall trend of non-unionization in the industrialized countries, no longer serving industrial relations based on class confrontation. It attempts to transform production activities to adjust to the ecological system by enhancing law, and the definition depicted in the characteristics of the modern labor law. However, labor law was not able to realize its objectives by revising civil law without questioning some of the fundamental principles of rights and property as well.

It is fair to say that labor law, with its initially regulatory nature, possesses a particular space in the development process of a nation. In this respect, if the concept of development is narrowly defined and confined in only economic terms (i.e. economic growth) then the objective of attaining social justice will be less given emphasis before the imminent need for economic development.

In many Asian developing countries, including Indonesia, labor legislation and policy enacted by the Government are restrictive in nature and sometimes even repressive against the free exercise of trade union rights - making the existence of labor law obviously a repressive one. In other words, the State law tends to serve to control the performance of trade unions, as well as to manage conflicts between employers and workers. This means that the law tends to be employed as machinery to achieve their imminent policy of economic growth and political stability, rather than to reach social justice of the workers. It is the so called Corporatist Model

or Regulatory Model in industrial relations in which the role of Government is very dominant in labor-management relationships.

In this sense, all employment terms and working conditions are defined and regulated by the Government within labor policy and legislation. Hence the labor law of the country will be a legal compulsory and becomes part of the public law. In the case of Indonesia, the development and reform of labor policy and legislations can be observed through two primarily periods, namely, before the reformation era of 1998 and subsequently thereafter.

The Years Prior to 1998

The Indonesian National Revolution or Indonesian War of Independence was an armed conflict and diplomatic struggle between Indonesia and the Dutch Empire, and an internal social revolution, taking place between Indonesia's declaration of independence in 1945 and the Netherlands' recognition of Indonesia's independence in 1949. After independence was recognized, a number of key pieces of legislation were enacted with regards to labor law, as detailed below.

Act No. 1 of 1951 - The first labor law enacted by the Government was Act No. 1 of 1951 concerning Employment which regulated working hours, annual leave, and long service leave, in addition to other inalienable obligatory rights, such as ministration and maternity leave. Child labor rights, and working environment conditions were included as well and expressed the dominant role of the Government in industrial relations, in order to control rights and obligations of stakeholders, namely, employer and workers.

Act No. 2 of 1951 was the enactment concerning Employment Accidents. The Act obligated the employer to pay compensation to any worker who suffers a work-place accident irrespective of whether or not the accident is the fault of the employee his or herself. The employer is required to report such accidents to officials of the Department of Labor within 24 hours of the occurred accident. In case of failure to report workplace accidents, the employer could be liable to terms of imprisonment and/or fines.

Act No.3 of 1951 on Labor Supervision defined the official authority mandated to Labor Inspectors to supervise the enforcement of labor law on the one hand, and to actively prevent potential breach of the provision of labor law and legislations on the other hand. In particular, it allowed Labor Inspectors to investigate punishable offenses and prosecute breaches of labor law and related regulations.

Act No. 21 of 1954 In 1954 the Government enacted Act No. 21 of 1954 regarding Collective Labor Agreements. The Act stipulated that only accredited and registered worker unions would be given a right to conduct collective bargaining negotiation with the employers on behalf of their interested members in relation to the draft of collective labor agreements. In accordance with said Act of 1954, the Ministerial Regulation No. 90 of 1955 concerning Trade Union Registration defined that all unregistered and unaccredited trade unions were deemed to be illegal unions. Furthermore, according to Ministerial Decree No. 1 of 1975 on Trade Union Registration, it was confirmed that a trade union would be able to be registered if the respective union has on Union Chapter at the National Level and compiled at least 15 branches of the Union of the District Level. The objective of such restrictive conditions was to ensure Government control of activities and restrict aggressive worker unions in industrial relations in the development of the country.

Act No. 22 of 1957 was enacted regarding Labor Dispute Settlement. Said Act stipulated that all labor disputes should be resolved amicably as soon as possible between the parties. However, in case negotiations broke down, the parties were recommended to secure the services of an accredited mediator to settle the dispute. In the event that the mediator failed to resolve the case, the parties would need to forward the dispute to the Labor Dispute Settlement Committee (LDSC) at the regional level for consideration and decision. In the event one of the parties is not satisfied with LDSC decision, the unsatisfied party may appeal at the national level, chaired by representatives of the Government, i.e., Department of Labor Affairs. Act No. 22 of 1957 further regulated that all planned strikes or lockouts of the workers should at first obtain official permission from the Government that is the Labor Settlement Board at the regional level. If not, any strike without the official permission would be classified as an illegal lock out as well as illegal industrial action in the eyes of the Government.

Following the introduction of reforms in 1986, Indonesia was in a position to take advantage of its low-cost, low-skilled labor because the industries that emerged initially were simple labor-intensive activities. Thus, within non-oil exports, the most spectacular growth was in the low-skilled textiles, clothing, and footwear (TCF) sectors. Typically, however, the pattern of industrialization in East Asia has evolved from simple, labor-intensive activities towards more skill and technology intensive industries, propelled by rising real wages, and increasing stock of human capital, and more sophisticated industrial infrastructure. During this more mature phase in industrialization, labor market and human resource development policies become increasingly more important for maintaining the competitiveness of the economy.

Indonesia after the Crisis

Indonesia was deeply affected by the 1997–1998 crisis, more so than its East Asian neighbors. The "Asian Crisis" of 1997-98 affected almost all the "emerging markets" open to capital flows. But Indonesia's economic contraction was deeper and more prolonged. It was the only one to experience a (temporary) loss of macroeconomic control. It also suffered "twin crises" in the sense that its serious economic and financial problems were accompanied by regime collapse. Consequently, recovery was a slow and complex process, as new institutions had to be created, and old ones reformed under successive short-lived administrations. But this process is largely over. A directly-elected president with a strong popular mandate is in power. The new institutional framework for economic policy-making is in place. Macroeconomic stability has been restored. By 2004 per capita income and poverty incidence had recovered to levels prevailing in the mid-1990s, and under the circumstances, economic recovery has arguably proceeded about as quickly as could reasonably have been expected.[9]

In the period after the crisis, a number of pieces of legislation were enacted which affected labor law. Act. No. 13 of 2003 contains several pieces of legislation and regulations comprising the law on termination of employment in Indonesia. Act No. 13 of 2003 concerning Manpower ("the 2003 Act") consolidated the existing termination law and most of the rest of the current labor law. While the 2003 Act did not explicitly repeal the Termination of Employment in Private Undertakings Act, 1964 ("TEPU"), it covers much of the same ground and reflects relatively recent changes in Indonesian labor administration.[10] The second major piece of Indonesian labor legislation is Act No. 2 of 2004 concerning the Industrial Relations Dispute Settlement (the 2004 Act), which declares the TEPU as "no longer suitable with the needs of the society", but still applicable, as long as its provisions do not contradict the new legislation.

[9] Hill, H. and T. Shiraishi, Indonesia After the Asian Crisis*.
[10] Davenport, G., et al., Termination of employment digest.

In this Act, Chapter XII "Termination of Employment", stipulates in Art. 150 that the provisions concerning termination of employment under this act cover termination of employment that happens in a business undertaking which is a legal entity or not, a business undertaking owned by an individual, by a partnership or by a legal entity, either owned by the private sector or by the State, as well as social undertakings and other undertakings which have administrators/officials and employ people by paying them wages or other forms of remuneration.

The Political Context of Indonesia's Labor Market

After Habibie replaced Suharto as President in May 1998, Indonesian labor law underwent a program of statutory reform matched in scope only by changes introduced by Suharto when he came to power in 1966. Both periods of reform occurred not only as consequence of political transition but also by reason of dramatic shifts in Indonesia's economic circumstances. The critical distinction is that in 1966 the Indonesian economy opened to the West and grew rapidly, despite the creation by Suharto of what was effectively a military dictatorship. Since the economic crisis of 1997, however, the economy recovered only slowly, despite the end of that dictatorship and emerging democratization.

Politics and the Labor Market

President Habibie's rapid moves to remove some of the more obnoxious restrictions on organized labor stand in stark contrast to the crackdown on unionism implemented by Suharto when he assumed power at that time. The two events are, however, connected.

Labor law reforms in the past had gradually transformed the legal philosophy of industrial relations in Indonesia, at least in terms of official rhetoric. Under Suharto, the government's approach metamorphosed from simple prohibition of unions to their co-option and repression, before shifting to a new market-oriented approach, which appeared to allow scope for trade union activity. The apparent liberalization of this new model was, however, little more than a thin veneer for a subtle elaboration of previous hostile and repressive systems.

In May 1998, large student demonstrations against the government, sparked by the steep reduction in fuel subsidies as stipulated in an IMF "Letter of Intent" (LoI), came to a head when four students were killed by unknown snipers, believed to belong to rogue elements of the army. In the aftermath of large-scale riots, arson and mass looting broke out all over Jakarta and some other towns (notably Surakarta in Central Java), and President Suharto, under threat of impeachment by the no longer compliant leaders of the Parliament, resigned on May 21, 1998. This occurred after 14 of the ministers in charge of various economic affairs refused to join a new, reorganized cabinet. Ultimately, however, the fall of Suharto was due to his inability to reverse the economic collapse of the country.[11]

Under Habibie '***reformasi'*** (reformation) dramatically accelerated the liberalization of industrial relations. Unions were effectively freed from government control. As mentioned, Indonesia acceded to most ILO conventions and a plethora of statutory reforms were initiated.[12] In the workplace, however, Habibie's reforms delivered only limited improvements for workers; his government was therefore, in many ways, little more than extension of Suharto's New Order regime.

[11] Wie, T., The Indonesian economic crisis and the long road to recovery.
[12] Crawford, G., Partnership or power? Deconstructing the'Partnership for Governance Reform'in Indonesia.

Accordingly, neither leader attempted to reconfigure industrial relations to truly suit new political objectives and changing economic circumstances, nor did they contemplate worker welfare as a desirable outcome in itself: any benefits to workers were incidental, rather than an objective, of reform, delivered because the government itself seemed at risk and organized labor was a key member of the coalition that threatened it. Concessions had to be made but they were made in bad faith, and consolidated diminished elite power rather than dissolved it. Ultimately, the concessions failed. In November 1999 Habibie lost power anyway, mired in the Bank Bali fraud scandal, and Suharto had become an outcast, relying on illness to avoid trial for the vast wealth his family corruptly acquired during his tenure as President.

Abdurrahman Wahid,[13] who replaced Habibie as President in late 1999, differed from his predecessor in that he was never a member of the inner circle around Suharto. On the contrary, he was for more than a decade an opposition figure, protected by his leadership of barely tolerated and loose NGO groups, in particular the traditionalist and moderate Islamic movement, Nahdlatul Ulama.[14] With a claimed membership of 30 million, it is the world's largest Islamic organization. This meant that Wahid came to power with close ties to NGOs, sympathy for the labor movement and little enthusiasm for the strategies of the Suharto elite cliques that still dominated business and the bureaucracy.[15]

Nonetheless, Wahid was a compromised President. As a result, he had to negotiate power from a weak base. His PKB party won only 12 percent in the general elections of mid-1999, trounced by Habibie and Suharto's party, GOLKAR[16] and also by Megawati Soekarnoputri's[17] PDI-P[18] (*Partai Demokrasi* Indonesia) which won the plurality of vote, at 26 percent. Although Abdurrahman succeeded in pushing the military out of government for the first time since 1957, his government of National Unity was thus an uneasy alliance of enemies and did not enjoy policy freedom. Ultimately, he emerged as a weak leader and the latter part of his term from mid-2001 was marked by policy paralysis amid threats of impeachment stemming from allegations of corruption. Real labor reform therefore remained politically impossible. Wahid's labor reform record has been a gentler version of the Habibie pattern of rhetorical chance without real substance, although for quite different reasons.

Policies Affecting the Industrial Relations Climate

The early 1990s had seen a marked increase in unrest in Indonesia, principally in the centers of manufacturing export activity. An important reason for this unrest was the rising expectations of workers for an improvement in their welfare, combined with the enforceability of, and resulting non-compliance with, the centrally-mandated benefits, such as higher minimum wages and the new all-encompassing social system. Enforceability of Government mandated benefits is likely to be weak in most developing countries; in Indonesia, this problem was exacerbated by the absence of independent unions to represent the workers. An additional problem is that the legal and regulatory framework does not provide for effective dispute resolution mechanisms between employer and employees, making strikes the only way for workers to air their grievances.

[13] Barton, G., Gus Dur: the authorized biography of Abdurrahman Wahid.
[14] Hefner, R., Civil Islam: Muslims and Democratization in Indonesia.
[15] Liddle, R. and S. Mujani, Leadership, Party, and Religion: Explaining Voting Behavior in Indonesia.
[16] Reeve, D., Golkar of Indonesia: an alternative to the party system.
[17] Tambunan, T. and B. Purwoko, *Social protection in Indonesia.*
[18] Tan, P., Anti-Party Reaction in Indonesia: Causes and Implications.

Freedom of Association & Formation of Independent Workers Organizations

A comparison of the legislation governing the formation and operation of labor unions in six APEC countries showed that Indonesian law does indeed restrict the ability of worker organizations at the plant level to effectively represent workers to management.[19] The Indonesian Constitution says that the "the freedom of association and assembly" shall be prescribed by statute.[20] There are two such laws; however, setting up unions in Indonesia is not easy.

Currently, there are only six recognized labor unions as follows:

- Confederation of All Indonesian Workers Union (KSPSI)
- Confederation of Indonesia Prosperous Trade Union
- The Confederation of Indonesia Prosperity Trade Union (KSBSI)
- Confederation of Indonesian Trade Union (CITU)
- Indonesian Forestry and Allied Workers' Union (KAHUTINDO)
- Indonesia National Federation of Trade Unions (FSPNI)

Notwithstanding the increase in labor unions in Indonesia over the years, the growing wave of employee dismissals and seeming dissatisfaction with existing measures to ensure workers keep their jobs has prompted some sectors to question even the International Labor Organization (ILO), specifically on the extent to which it is helping workers. The manpower and transmigration ministry said ILO's role could be improved.[21]

Indonesia Law does provide for elaborate dispute resolution procedures and for the right to strike, if conciliation fails or if employers refuse to negotiate. In practice though, there are several problems which in effect limit the ability of workers to negotiate with employers. First, the law assumes that workers will be adequately represented in disputes by unions, which does not appear to be the case. Second, the process of dispute settlement and mediation is often subject to delays. Third, the labor independence of various bodies involved in the mediation process, such as Labor Tribunal and Central Committee, is questionable. Fourth, the procedure is in effect, set up compulsory arbitration. Fifth, the right to strike is severely limited. Sixth, and finally, the military is often involved to some degree or the other in labor disputes.

Labor unrest in Indonesia can be attributed, at least in part, to the problems listed above with the dispute settlement mechanisms and to the lack of confidence of workers in the SPSI as true representatives of workers at the firm level. Workers typically bypass the normal industrial regulation procedures and seek assistance from the national or regional parliaments or from NGOs such as Legal Aid Institute. Because strikes are permitted only within a restricted set of circumstances that seldom apply, most strikes that take place are illegal. Employers are also know to use Ministerial Regulation No. 4 (1986), which permits them to dismiss workers if they are absent for six consecutive days, to justify dismissal of striking workers.

Corruption in the Labor Markets

The complex integration of institutional structures and cultural norms in the context of labor

[19] Shah, A., W.B.C. Evaluation, and R.R. Division, Balance, accountability, and responsiveness: lessons about decentralization.
[20] Danchin, P., The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries.
[21] Hiscox, M. and N. Smyth, Is There Consumer Demand for Improved Labor Standards? Evidence from Field Experiments in Social Labeling.

relations is illustrated by the phenomenon of corruption. Corruption has been commonly, though not un-problematically, defined as "abuse of public power for private benefit"[22] and "violation of formal rules."[23] These definitions indicate that corruption involves a distortion of the legal system, producing a further gap between law and practice. As a general rule, corruption has been a significant problem in many East Asian states, including China,[24] Indonesia,[25] and, in the 1990s, Malaysia.[26] It has contributed to the marginalization of some aspects of positive labor law in those countries. Bureaucrats are bribed not to enforce labor standards. Judges often decide in favor of the people who offer the bigger financial inducement. Many workers, and sometimes employers, lose confidence in the system and do not seek to settle disputes in a formal setting. Where corruption is sufficiently institutionalized, then irrespective of the statutes or regulation introduced, much of the labor market comes to operate in accordance with a "shadow" system of rules.

Corruption can be understood as both an institutional and a cultural phenomenon. For example, in Indonesia, it can be argued that a historical chain of events established an institutional pattern that has continuing incentive effects (path dependence). The Dutch colonial bureaucracy operated for most of the lengthy period of its rule on what amounted to an appendage system. That is, officials, or European natives, enjoyed the power to impose taxes and were expected by colonial authorities to take their income in the form of a percentage of those taxes. The purpose of this practice was to increase state revenues. In the post colonial period, these practices were perpetuated and in Suharto's Indonesia were employed as a means of strengthening "patrimonialism" under authoritarian rule.[27]

Child Labor

Child labor is a mass phenomenon in today's world, and occurs in Indonesia as well. According to the ILO Bureau of Statistics, 250 million children aged 5–14 were economically active in 1995, almost a quarter of the children in this age group world-wide.[28] The phenomenon is most widespread in the poorest continent, Africa, but was not always the sole province of the less developed countries: child labor was once common in Europe and in the United States, too. In 1851 England and Wales, 36.6 percent of all boys aged 10–14 and 19.9 percent of girls in the same age group worked. The historical evidence suggests that child labor has been part of the labor scene since time immemorial.[29] However, the ILO[30] reports substantial progress in reducing child labor in Indonesia, stating that child labor was reduced by 25% between 2004 and 2008. The reliability of this estimate cannot be verified, as the report does not provide actual numbers of child workers in either year.

Women's Labor in Indonesia

Labor markets are gendered institutions operating at the intersection of the productive and reproductive economies. Participation in labor markets does not automatically empower women. han up. Discrimination against women may persist because, in the absence of institutional changes, it is profitable. It is important to distinguish between static and dynamic, and micro-

[22] Tanzi, V., Corruption around the world: Causes, consequences, scope, and cures.
[23] Khan, M., 8 Determinants of corruption in developing countries: the limits of conventional economic analysis.
[24] Rodriguez, P., K. Uhlenbruck, and L. Eden, Government corruption and the entry strategies of multinationals.
[25] Lindsey, T. and H. Dick, Corruption in Asia: rethinking the governance paradigm.
[26] Wu, S., Corruption Difference and Multinationals' Cross-Border Investment.
[27] McLeod, J., Beginning postcolonialism.
[28] Ashagrie, K., Statistics on working children and hazardous child labour in brief.
[29] Cunningham, C., R. Bremner, and M. Boyle, Large Group Community Based Parenting Programs for Families of Preschoolers at Risk for Disruptive Behaviour Disorders: Utilization, Cost Effectiveness, and Outcome.
[30] ILO, 2010, "Monitoring and Assessing Progress on Decent Work in Indonesia."

and macro-efficiency. Labor market regulation has an important role to play in the institutional transformation needed to reconcile goals of efficiency and equality.[31]

The emphasis on structural adjustment and labor flexibility in both developing and industrialized economies is rapidly altering the nature of employment. Women are being substituted for men and many forms of work are being converted into the kinds of jobs traditionally geared to women.
International data on recent trends in female economic activity reveal that new types of labor data are needed to highlight the mechanisms of control over workers and the actual economic forms of vulnerability to which women are exposed. Policy makers, employers, labor agents, and members of the public often view women's labor as domestic workers as a natural extension of their traditional, underpaid role as mothers and care providers in the family, underplaying the contractual relationship between employer and employee. They do not address the range of working conditions that domestic works may encounter, including the physical size, layout, and building materials of the house they must clean; the number of individuals they serve, including children in the employers household; and the workload, which often involves juggling, cleaning, cooking, caring for children, and caring for the elderly.

The labor migration from Indonesia is dominated by women domestic workers. About 75% of the 600,000 or so labor migrants are women, mostly for domestic service. In 2009, Indonesia suspended the issuance of exit visas for domestic work in Malaysia, charging that the government there was inadequately protecting such workers from abuse or unpaid wages. In February, 2011, Saudi Arabia suspended issuance of work visas for Indonesians, in part because of "exaggerated reporting in the Indonesian media on the abuse of Indonesian maids by Saudi sponsors."

Contrarily, while Indonesia is particularly generous relative to the other countries in laws mandating special leaves for women, such as maternity and menstrual leave, the reality appears to be that women are in most cases disallowed from taking either type of leave. The American Association of Free Labor Institute (AAFLI) in collaboration with SPSI (Indonesia's only Government-sanctioned trade union) interviewed 11,165 workers from non-union factories in Java and found that only 11 percent were not paid for leave while another 12 percent were paid for that leave. There are also ample documented cases of women being fired because of marriage, pregnancy or birth. Thus, while the laws on menstrual and maternity leave provide benefits to some female employees, they also open other to abuse and discrimination by employers. The menstrual leave, for example, has often been used as a means to harass female workers, and could easily be abandoned and replaced by sick leave if necessary.[32]

Islam and Labor Law in Indonesia

About 87% of Indonesia's population of 230 million is Muslim, making it the country with the largest Muslim population in the world.

Islam and politics in Indonesia are of interest because, after years of sustained economic growth, this nation ranks as one of Asia's political and economic giants. With its huge domestic market and manufacturing industry, Indonesia in the early 1990s seemed poised to join the ranks of the world's largest economies early in the twenty-first century. By the end of 1998, however, this achievement was in doubt. The financial crisis that erupted in East Asian markets

[31] Basu, K., Child labor: cause, consequence, and cure, with remarks on international labor standards.
[32] Agrawal, N., Indonesia: Labor Market Policies and International Competitiveness.

in August 1997 had an especially destructive impact on Indonesia. After growing at a brisk annual rate of 6-7 percent for almost thirty years, Indonesia's gross domestic product shrank almost 14 percent in 1998. A poverty rate that had declined to just 13.7 percent of the population in early 1997 had shot back up to 40 percent eighteen months later. Equally alarming, a country long praised for its multicultural tolerance found itself caught in a downward spiral of ethno-religious violence. Better off than most of the public, Chinese Indonesians (3 percent of the population) became the target of angry Muslim crowds. In a cycle of anti-Christian violence never before seen in Indonesian history, some four hundred churches, many owned by Chinese-Indonesian congregations, were damaged or destroyed between 1997 and 1998. Indonesia's rare flower seemed to be wilting.

The political and economic crises of 1997-99 dampened the optimism of those who had hoped that Indonesia might serve as a beacon for democracy to the larger Muslim world. For other observers, the crises only confirmed the dim prospects for democratization in any Muslim nation. Both of these conclusions, however, miss the larger point. Indonesia *does* have rich civic precedents, as well as the world's largest movement for a democratic and pluralist Islam. At the same time, however, the regime that ruled Indonesia from 1966 until the fall of President Suharto in May 1998 was also one of the world's most shrewdly authoritarian. The crisis of 1997-99 did not prove the earlier claims of democratic Islam as a fraud, then, but underscored the scale of the challenge faced by Indonesian democrats of all faiths. This fact only makes more urgent the task of understanding Muslim politics in Indonesia and the circumstances that lead some Muslims to embrace democratic ideals.

Indonesia's Current Labor Environment

The wrenching experience of the regime collapse following the Asian financial crisis in 1998 caused great hardships for many Indonesian workers, as formal sector jobs disappeared, and many workers retreated to informal work or to agriculture. The economy began to recover well into the early 2000's, with GDP growth returning to relatively high rates. Nevertheless, the recovery of employment lagged that in GDP growth. Through 2003, there was much discussion of "jobless recovery" as the leading sectors in economic growth were not associated with rapid growth in employment. This began to change by 2004, and employment has grown relatively rapidly since then. A 2010 ILO report[33] claims that employment grew at an annual rate of 9.4% between 2004 and 2008, and that the rate of unemployment in the 15-24 age cohort fell from 30% to 23%. (These statistics may overstate the actual trend, as some observers have expressed doubts about their validity. As the ILO report does not cite specific numbers in its claims, further analysis is needed to determine whether they accurately represent reality.)

Indonesia experienced a significant macroeconomic shock at the end of 2008 related to the world financial crisis. Indonesia was one of the least affected countries in South East Asia. Although GDP growth slowed markedly to 4.4% in the first quarter of 2009, it did not experience the collapse in growth experienced by countries such as Korea, Thailand and Malaysia. The economy quickly recovered from this external shock, with GDP growth exceeding 6% in 2010 and the prospect of slightly faster growth in 2011. Open unemployment declined after the crisis, falling from above 10% in 2008 to 7.1% in 2010.

Enough of history. The remainder of this section attempts to negotiate among the various aspects of the labor market in Indonesia. But this is a bit akin to the tale of the blind men and

[33] ILO, 2010, "Monitoring and Assessing Progress on Decent Work in Indonesia."

the elephant, where each told a different story about the phenomenon they were trying to describe. The Indonesian labor situation is a bit like that.

- The legal profession, articulated earlier in this paper, provides one story, suggesting only gradual acquisition of rights by labor

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- The politics, also discussed above, tell a moderately different story, though with trying to assure that workers benefit properly from economic growth.

- The World Bank's *Doing Business* indicator tells yet another, suggesting a very business-unfriendly environment, where the ability of firms to hire and fire is severely constrained.

- Prospective Foreign investors, drawing upon the laws and the World Bank, see an environment where labor costs and related issues suggest a high-cost environment for investment compared to other countries in the neighborhood.

- Touching another part of the animal, many firms actually operating in Indonesia see the legalisms of the law as no obstacle to their operations. Legally mandated severance pay does not have to be provided, and contract workers continue to work beyond the three-year legal limit for such work. If a worker complains, the legal system is likely to take years to address his claim.

- That 7% or so of workers who actually enjoy all of the rights provided by law find the elephant healthy, so why would anyone want to change the laws?

- The great majority of workers in Indonesia see yet another part of the elephant. They lack the benefits of the 7%, and much else. If the elephant steps on their foot, making them unable to work, that is their tough luck. Unemployment, sick leave, or health insurance is not part of their world.

Most of these characteristics of the Indonesian labor market as it actually operates are documented in a 2010 report by the World Bank.[34] That report estimates the Indonesian labor force at 104.5 million in 2009, distributed as shown in Table 1.

[34] World Bank, 2010, "Indonesia Jobs Report: Toward Better Jobs and Security for All."

Table 1

Composition of the Active Labor Force

Indonesia, 2007

Sector	Formal	Informal
Agriculture	4%	37%
Industry	12%	7%
Services	23%	17%
Total	39%	61%

Source: World Bank, 2010

As indicated by the table, only about one-third of Indonesian workers are in the formal sector, mostly in industry and services. About 90% of agricultural workers are in the informal sector, as are 37% of workers in industry, and more than 40% of service workers. Many for the formal-sector service workers are in government.

But being in the formal sector is not a guarantee of full legal rights. Based on worker surveys, the study reports that:

- Redundancy payments are legally to me more than 100 weeks' wages. But:
- In 2008, only 7% of terminated workers received full severance pay; 27% reported receiving partial payment of severance, and 66% reported receiving no severance pay at all.
- Minimum wages rose rapidly in the early 2000's and are high by regional standards. But:
- Temporary workers can be contracted for no more than three years, with no renewals possible, limiting incentives for training of such workers. But:
- About 15% of contract workers are beyond the three-year limit for their employment.
- Non-compliance with minimum wages characterizes more than half of workers in the lowest income quintile, and over 40% in the second and third quintiles.
- Non-wage benefits for workers vary widely by status. Most formal sector workers have health coverage, but only about 20% of workers with no contracts have it. About half of permanent employees have pension benefits, but only about 10% of other workers do.

- Indonesia has raised the educational level of new entrants to the job market significantly over the past decade, but still lags behind its neighbors. In higher education, there is a 17% enrollment rate, compared to 46% in Thailand.

In sum, the legal, *de jure*, protections for workers are considerable, including high costs and procedural complications for firing workers, high severance pay levels. Both discourage the hiring of new employees. Many firms prefer outsourcing through contracts with such workers. The three-year limit on such employment limits incentives for firms to train workers.
On the other hand, the *de facto* system by which many employers operate provides little in the way of protections for workers.

The World Bank report calls this a "lose-lose" situation, bad for workers and bad for employers. In 2009, when the second Yudhoyono administration was about to take office, the Bank called for a "grand bargain" that would overhaul the entire system of labor market regulation to turn it into a "win-win" framework. This effort has not prospered. Narrower efforts to reduce the high costs of laying off workers similarly failed in 2006 and 2007.

A recent USAID survey of firms in three sectors of the economy:[35] garments, home furnishings, and automotive parts, appears to confirm the findings of the earlier World Bank work. For the USAID-financed study, 106 firms and 8 associations representing those sub-sectors were interviewed in 2010. According to the report (p.3) "most firms perceive the restrictive labor regulations force them to cope with unproductive employees, lower productivity, fewer workers and thus lower competitiveness."

Clearly, the issues identified in earlier studies have persisted, and improvements in the regulation of the labor markets would surely yield payoffs in higher worker productivity, more on-the-job training, and higher incomes for workers. Some experts have suggested that work on this issue might be a high-risk, high-payoff activity for USAID to undertake during the next several years.

Recommendations for Reform of Labor Law and Policy in Indonesia

Labor law reform in Indonesia should focus on three key areas: harmonization of laws, revision of current laws pertaining to worker organization and association, actions to end the gap between extensive protection for a few workers and the inadequate protection for most, leading to better protection and enforcement of worker rights.

Leveling the Playing Field while Better Enforcing Worker Rights

The politics of labor relations are so contentious that it seems unlikely that piecemeal approaches to closing the gap between the *de jure* and *de facto* parts of the labor market environment can work. Clearly, some kind of "grand bargain" is needed, where employees, unions and businesses can come to compromises that can smooth the operation of the labor market, while bringing millions more workers into the formal system. Perhaps the plan to expand the social security system to all workers will be an important part of the bargain. Indonesia should strive towards providing adequate protection of workers' rights through both implementation of appropriate legislation and enforcement of existing laws, while allowing employers the flexibility to respond to market conditions in their employment practices.

[35] Measure Indonesia, 2011, "The Enterprise Development Diagnostic for USAID/Indonesia" (draft)

Harmonization of Laws

Harmonization of laws in Indonesia should consist of:

1. Harmonization between formal law and the living values (customs) within Indonesian society.
2. Harmonization between Indonesian Law and global law, especially in the field of business and labor law.
3. Harmonization between one effective act and another, throughout legal fields, so that there are no overlaps or conflicts one another.

The Government, the House of Representative (DPR-RI) and the judiciary (especially the Supreme Court of the Republic of Indonesia) should be aware that the serious problems facing the legal development in Indonesia are in part due to the fact that many of the existing laws are out of date or left-over from the Dutch colonial time. Also, many laws and regulations give rise to injustice as well as interpretation by judges and prosecutors in their effort to deal with the more sophisticated transactions in a global market. Therefore, it is felt to be extremely necessary to draft new legislation more appropriate to the living values of Indonesian society without ignoring the global needs facing the whole nations in this present world. Thus, the imperative priority should be updating and harmonizing laws, in this case, to support the growth of the economy. In this respect, it is necessary to conduct comparative studies on foreign legislation, e.g. ASEAN countries and Japan, to improve and harmonize national laws.
For laws, created by Government in cooperation with the House of Representatives, to be effective, Adam Podgorecki states that the following capabilities are needed:[36]

1. Proper description about situations in hand.
2. Making analysis of evaluations and put the evaluations in a hierarchy order. In this way, a yardstick or guidance can be found, whether the use of a means produce a positive thing or not.
3. Verification of the proposed hypotheses. In the sense, whether the selected means righteously ensures the fulfillment of the desired goals or not.
4. Measurement of the effects of the regulations in force.
5. Identification of factors neutralizing the aggravating effects of the regulations in force.
6. Institution of regulations into the society, so that the goals of reform can be successfully achieved.

The legal changes in Indonesia[37] are destined to fail if they remain premised on merely protecting outside interests, utilizing Western frameworks without adaptation, and continuing to fail to accept a more pluralistic approach that recognizes the cultural diversity of Indonesian society.[38] However, a pluralistic and localized view of law reform is something the international community needs to consider, not just for Indonesia, but also for the rest of the developing world. For law reform to be of assistance to the developing world, the international community needs to localize its approach. Effective law reform can only be achieved by a more complex response than is currently being applied.

Revise Laws on Worker Organization and Association

The 2003 Manpower Act gave workers many benefits and freedoms to organize and strike - a reform reaction to former president Suharto's authoritarian policies banning freedom of

[36] Podgorecki, A., *Law and society*.
[37] Choice, P., Joseph E. Stiglitz, Globalization and Its Discontents.
[38] Hiscock, M., Changing Patterns of Regional Law Making in Southeast Asia.

association. However, the law has since been widely viewed as favoring workers at the expense of employers, and there is considerable evidence that it has dealt a blow to Indonesia's overall competitiveness.[39] Industrial disputes in recent years have often ended in violence, either with workers taking out their frustration at the failure to resolve their grievances, or employers enlisting security forces to put down protests.

As mentioned earlier in this paper, in considering future policy, it would be important to consider that effective, democratic, plant-led worker organizations, by providing "voice" at the workplace, may be able to play a positive role and reduce some of the costs associated with worker unrest. Legislation encouraging collective bargaining at the enterprise level could enable workers and managers to negotiate outcomes that might be able to enhance worker productivity. Improving the dispute resolution mechanism and the ability of the workers to be heard can reduce the incidence of illegal or wildcat strikes. What would be needed, however, would be more than legislative changes. Careful changes in legislation, industrial relations practices, and increased deregulation and competition in product markets could improve the positive role that unions can play while controlling their "negative" role.[40]

[39] Agrawal, N., Indonesia: Labor Market Policies and International Competitiveness, World Bank, Indonesia Jobs Report: Towards Better Jobs and Security for All.
[40] Agrawal, N., Indonesia: Labor Market Policies and International Competitiveness.

Appendix

1. Presidential Decree No. 83 of 1998
2. Convention No. 87
3. Convention No. 89
4. Convention No. 105
5. Convention No. 111
6. Convention No. 138
7. Convention No. 182
8. Act No. 1
9. Act No. 2
10. Act No. 13
11. Act No. 18
12. Act No. 19
13. Act No. 21
14. Act No. 80
15. Article 131
16. Article 150
17. Article 163
18. Manpower act of 2000

Annex 1: The Indonesian Legal System

As in other countries, Indonesia's judges, legislators and legal scholars are, more or less, consciously guided by the opinion and custom of the community in developing or applying the law. In accordance with this notion, then, according to Rene David and John E.G. Brierley:[41]

"... the role of custom as a source of law is analogous to that attributed by Marxist thinking to the material conditions of production; they are both an infrastructure upon which the law is built. The positivist school, on the contrary, has attempted to dismiss the role of custom altogether; according to this view, custom now occupies only a minimal place in a codified system in which the law is to be exclusively identified with the will of the legislators. While this position is not realistic, that of the sociological school, which gives the expression "source of law" an unusual sense, exaggerates the role of custom in the other direction. Custom is not the fundamental and primal element of law that the sociological school would like it to be; it is but one of the elements involved in establishing acceptable solutions. In modern societies, this element is far from having the primordial importance of legislation. But it is also far from being as insignificant as the doctrine of legislative positivism would have it."

Despite the fact that it does not serve as important source of law in Indonesia, usage is still frequently treated as a source of law in legal practices, especially in the field of business law. Usage, too, has a critical position in Indonesian judicial practices. Article 27 of the Basic Law on Judicial Powers, the Act Number 14 of 1970 (*Undang-Undang Pokok Kekuasaan Kehakiman Republik Indonesia*) provides that "judges as a legal and justice agent are under obligation to dig, to observe and to understand the values of living law of the peoples in their society."

In the Elucidation of the Article 27, it is suggested that within a society that is acquainted with "unwritten law" and under the period of revolution and transition, judges serve as formulators and diggers of the values of the living law of the people. Accordingly, a judge in Indonesia can make a decision that is in accordance with the law of people and their sense of justice.

The rules that make up Indonesia's laws emanate from a variety of sources which carry different degrees of legal authority. Sources of law may be generally classified as written or unwritten law, or consisted of "official sources"' or "unofficial sources." In the event of conflict, written law generally prevails over unwritten law.

The hierarchy of Indonesian sources of law consists of:

- **The Constitution of 1945** (*Undang-Undang Dasar 1945*).
- **Decree of the People's Consultative Assembly of the Republic of Indonesia** *(Ketetapan MPR or abbreviated TAP MPR*).
- **Legislation** (*"Undang-Undang" or abbreviated as UU*).
- **Government Regulations in lieu of Acts** (*Peraturan Pemerintah Pengganti Undang-Undang or abbreviated PERPU*).

- **Government Regulation of the Republic of Indonesia** (*Peraturan Pemerintah or abbreviated PP*).
- **Presidential Decision of the Republic of Indonesia** (*Keputusan President or abbreviated Keppres*).
- **Presidential Decree** (*Instruksi President or abbreviated Inpres*).

[41] Brierley, J.E.C., thought within the formal shape of civil codes in the nineteenth century.

- **Cabinet Minister Decision** (*Keputusan Menteri or abbreviated Kepmen*).
- **Cabinet Minister Decree** (*Instruksi Menteri or abbreviated Imnen*).
- **The Local Regulation** (*Peraturan Daerah or abbreviated Perda*).
- **Unofficial Sources or Non-Formal Sources**

Unofficial or non-formal sources refer to the legal consciousness of members of some public: attitudes, values, beliefs, and expectations about law and the legal system. The law is an image and an incentive in the minds of the people. The previous bullets refer to 'enacted law' i.e., any law enacted by body possessing legislative powers. In descending order of legal authority, Indonesia's written law comprises of the Constitution, legislation, and other regulations.

Statutory Law

The General statutes are the whole body of enacted laws, or all positive laws in a written form. Then, any positive enactment to which the state gives the force of a law is a "statute," whether it has gone through the usual stages of legislative proceedings, or has been adopted through other modes to express the will of the people or other sovereign power of the state. In an absolute monarchy, an edict of the ruling sovereign is statutory law. The Constitution being direct legislation by the people must be included in the statutory law, and indeed it is an example of the highest form that the statute law can assume.

The Constitution

The Constitution lies at the apex of the hierarchy of Indonesia law. It lays down the fundamental principles and the basic framework of state organizations as well as enshrines the fundamental rights of the individual vis-à-vis the country. The Constitution of Indonesia (*Undang-Undang Dasar*) 1945 is the supreme law of the land. This means that the law-making powers of Indonesia's Parliament (that is, the House of Representatives of the People, or DPR-RI) are limited by the Constitution, and any Act of the Parliament (the House of Representatives of the People or DPR-RI) which is inconsistent with the Constitution will be void to the extent of such inconsistency.

Decree of the People's Consultative Assembly of the Republic of Indonesia (TAP MPR-RI)

The Republic of Indonesia is a unitary state, not a federal state like United States of America, and the sovereignty of the state is in the hands of the people, fully performed by the People's Consultative Assembly of the Republic of Indonesia (*Majelis Permusyawaratan Rakyat Republik Indonesia*). The Majelis Permusyawaratan Rakyat (MPR-RI) consists of all members of the House of Representatives of the People (DPR-RI) plus the representatives of various provinces (*Utusan Daerah*) and functional groups (*Utusan Golongan*) to be regulated by Statute.

The function of the People's Consultative Assembly of the Republic of Indonesia (MPR-RI) are to draw up the Constitution and, if necessary, to make amendments on the Constitution for which 2/3 of all MPR-RI members ought to be present and 2/3 (two-third) of the Members present have voted in favor of the amendment, and also to nominate the President and the Vice President, and to point out the general guidelines of the State's policy.

The Decree of the People's Consultative Assembly of the Republic of Indonesia (*Ketetapan MPR-RT*) is next in the hierarchy of laws in Indonesia.

Legislation

The next source of law in Indonesia is the legislation, codifying or statute (*Undang-Undang*)

namely:

(1) Codifying statute or code: A law that purports to be exhaustive in restating the whole of the law on particular topic, including prior case law as well as legislative provisions. Courts generally presume that a codifying statute supersedes prior case law.

(2) Statute
Legislation gains its "binding power" through its promulgation in the "State Gazette." Although the Constitution is supreme, statutes are the main source of law in Indonesia except where these laws explicitly provide for incorporations from other sources such as custom or principles of equity.

In general, legislation consists of:

(1) Preamble or considerant, containing considerations why the legislation has been made.

(2) Dictum, containing the contents or articles of the legislation. In addition to the consideration and dictum, there is another critical part, namely, the transitional rules. Any legislation is assigned an ordinal number and the year of its issuance. The ordinal numbers are returned back to the number one (1) every year. For example, the Act Number I of 1974 on Marriage in Indonesia, and in 1975, the Act firstly issued is the Act Number I of 1975, and so on.

Statutes can only be effective if enacted by DPR-RI in cooperation with the President. Thus, the main function of the House of Representatives of the People (DPR-RI) is to legislate in cooperation with the President.

The other functions of the DPR-RI are as follows:

1. In cooperation with the President, to ascertain and decide upon the State's Budget.
2. In cooperation with the President, and without deviating from the rules of law, to strive for the realization of the Guidelines of the State's Policy.
3. To advise the President on the National Development Plans in his position as the keeper of the MPR's mandate, and which advice ought to be seriously considered by the President.
4. To control and supervise on the operation of the law, the adherence of the State's budget by the government and the handling of the State's finances in general, and adherence to the government's policy, which ought to be in accordance with the Constitution and decisions of the MPR, including the control on the President's acts in realizing the State's Principle Guidelines (which also includes the control of his Minister's policies).
5. Suggests to the MPR-RI when an extra-ordinary meeting should be held, whenever the DPR-RI is of the opinion that the President has seriously deviated from the State's Principle Guidelines, as laid down by the MPR-RI.
6. Discuss the declaration of war, peace, truce or other treaties with other countries, which have been or will be made by the President.
7. Discuss the verification and account of the State's finance, as acknowledged by the Body for the State Finance Control (*Badan Pemeriksa Keuangan*).

How a Bill Becomes an Act

An act may come into existence, either by way of a bill submitted by the President to the DPR-RI for its agreement and approval, or on the initiative of at least 30 (thirty) members.

There are five major codes that have been enacted in Indonesia, as follows:

1. Civil Code (*Kitab Undang-Undang Hukum Perdata*)
2. Code of Civil Procedure (*Het Herziene Indonesisch Reglement, for Java and Madura, and Rechtsreglement Buitengewesten, for the other parts of Indonesia*)
3. Commercial Code (*Kitab Undang-Undang Hukum Dagang*)
4. Criminal Code (*Kitab Undang-Undang Hukum Pidana*)
5. Code of Criminal Procedure (*Kitab Undang-Undang Hukum Acara Pidana*)

Background of the Indonesian Legal System

The questions about the issue of "law and development," are impossible to separate from the characteristics of the legal system in each country. Therefore, to understand the legal system of "the Republic of Indonesia," a person first must be aware of the history of that country's legal system and what the citizens of that country think concerning their laws. People commonly believe that history and tradition are very strong in Indonesian legal system. Some parts of the law of Indonesia can be traced back to the days of the Dutch colonization.

Prior to the advance of foreign colonists to the Nusantara (Indonesia) land, the peoples of Indonesia had their own "native law" known as "*Hukum Adat*" ("adat law")[42]. The form of "adat law" is **"**unwritten adat rules,**"** though referred to as a single entity. It is not really one uniform system of law, but many separate systems; according to the Dutch scholar, Mr. Van Vollenhoven, the nineteen adat systems are quite different from European regulations. However, there are similarities in their "legal culture."[43]

"Indonesian legal cultures" are predominated by the "general culture of Indonesia," such as "compromise culture," as opposed to the "Western culture" that is characterized as "conflict culture." Sudargo Gautama & Robert N. Hoick[44] explain the legal situation in Indonesia during the Dutch colonization:

"From the earliest days of Dutch colonization, inhabitants of the Indonesian archipelago have been divided for legal purposes into various "population groups", based primarily on racial origin. Although other group distinctions were also made - for example, between Dutch subjects and foreigners, between residents and non-residents, between Dutchmen and several categories of non-Dutchmen - no distinction was more important or more pervasive than the division into population groups. What kinds of contracts one might enter into and in what form, whether one could own land and where, from whom one could inherit wealth and in what ways - matters such as these depended almost entirely on which population group one belonged to.

This was so because distinct rules of contract law, of property law, of inheritance law existed for each group. Each group, that is to say, had what amounted to its own legal system - separate regulations administered by separate government officials and enforced in separate courts of law. Although transactions between members of regulations were sometimes made, the basic division was never overcome. Distinct, and very different, systems of law thrived side by side in Indonesian for centuries.

Through colonization period by the Dutch Government, a "concordance principle"' was applied by the Dutch Colonial Government in Indonesia as its colony. The Indonesian legal system

[42] Lev, D.S., The supreme court and adat inheritance law in Indonesia.
[43] Ibid.
[44] No, I.D.E.A.L.S., Law and Development in Changing Indonesia.

belongs to the Dutch legal system. This means that in terms of methodology, style of legal thought and reasoning the structure of legal institutions, doctrines of legal classification and procedure, the Indonesian legal system bears a close resemblance to the Dutch legal system.

A newcomer to Southeast Asia might well wonder how it came about that Indonesia and Thailand belonged to the Civil Law family when other countries in the same region (Singapore, Malaysia, and Brunei) are part of the Common Law family. The short answer, of course, is colonization or influence by different western powers during the colonial era. British colonization was responsible for bringing Singapore, Malaysia, and Brunei into the common law fold, whereas Dutch colonization explains how Indonesia came to be part of the civil law family.

As a kind of civil law, the Indonesian legal system is predominated by "enacted law." The statutes, because of the rigors of drafting involved, appear to be the best means of enunciating the rules needed at a time when the complexity of social relations demands that precision and clarity is paramount."

Sources of Law in the Indonesian Legal System

In accordance with the principle of "lex superior derogat legi inferiori"[45], the inferior statute should not defy the superior one. It is necessary that every circle of society knows the statute hierarchy taking effect in Indonesia.

When we apply the concrete style of "Adat Law" to a modern business, when, for example, should a caribou be bartered with three goats? In the same manner, it is impossible to use the power of a magic mantra in an arrangement of a business deal amounting to billions of rupiahs. Similarly, how can we formulate a national legal system (meaning not local) on the basis of "varied local law"? If there are some jurists stating that such "modern adat law" does not have the above-mentioned characteristics, then, it is sensible to argue that "adat law" essentially has no existence anymore, because the disappearance of characteristics they have determined as the characteristics of "adat law" means, logically, the disappearance of "adat law" itself?

In addition, should we acknowledge that now it is the time for Indonesian law to nationalize itself by eliminating its local elements? Sunaryati Hartono, a former Head of the National Agency for Legal Development (abbreviated as "BPHN") is also concerned about the identification of "customary law" with "adat law". She stated in her concerns in her article in Result of Research Presentation on the Role of Customary Law in National Law, in 1992:

"Is the habit of some of our present legal scholars to simply identify customary law with adat law right and proper? Or, have, in our modern state, customary law, in its broader meaning, been actually developed such as one that has been developed among executives (or state administration), one that has been developed by courts, and one that has been developed by legal professionals (notaries public and lawyers), especially in the field of contracts, and generally in business law and economic law?"

This nearly the same with that of Satjipto Rahardjo[46] that:

"Regulations or laws in the field of business law occupied the first rank in the number of the enacted law produced from 1947 until 1987, more than those in the field of land law. However, observed from the emergence of customary law in both fields, it seems that there has been an

[45] Leite, J., J. Alferes, and L. Pereira, Multi-dimensional dynamic knowledge representation.
[46] No, I.D.E.A.L.S., Law and Development in Changing Indonesia.

imbalance, that is, an inverse ratio. From twenty eight laws in the field of commercial law, there are just two regulations attaching customary law."

If we follow the division of society models suggested by H.L.A Hart[47], there are two models, namely:

1. Societies with an order of primary rules of obligation
2. Societies with an order of secondary rules of obligation.

It is in a society with primary rules of obligation that the roles of customs are visible, because norms within such a community model are very close to everyday real life of law. Before involving ourselves too deeply into the polemic about customary law and adat law, we should, at first, ask a question. What is a custom?

The term of "custom" generally implies habitual practice or course of action that is characteristically repeated in like circumstances. "Usage" is a repetition of acts, and differs from a "custom" in that the latter is the general rule which arises from such repetition; while there may be usage without a custom, there cannot be a custom without usage accompanying or preceding it; this is in agreement with the teaching of Jellinek[48] that a repeated act, eventually, will obtain its "the normative power"**.**

Customary law is law consisting of customs that are accepted as legal requirements or obligatory rules of conduct. A custom is only changed into Customary Law when it results in awareness that such a custom should be done. Especially for Indonesia, once again, we should make a distinction between Adat Law and Customary Law.

According to Satjipto Rahardjo[49], "There are three components or conditions for a custom to be accepted in a society. The three conditions are worthiness or sensibility or appropriateness. “Malus usus abolendus est” or "a bad or invalid custom is (ought) to be abolished. An unqualified custom is to be abolished. It means that the authority of usage is not absolute, but conditional, depends on its suitability to the standard of justice and public benefits.”

The important connection with the Indonesian legal system regarding the "codification system" is to determine the position of custom within the Indonesian legal system. With the acceptance of "the statutory law system" as the predominant system, then, the entrance of a custom into the legal system should be under the cognizance of the written law. Such a cognizance occurs, for example, through a regulation saying that practices that have been persistently accepted as things subjects to agreement shall be tacitly considered to be included in the contract, despite the fact that they are not included explicitly in the contract. In my opinion, the development of such a situation actually brings about a fourth condition for the validity and the acceptance of a custom, namely, it should not defy statutory law**.**

The legal basis of the validity of a custom in Indonesia is found in various regulations, both those originated in the Dutch colonial government and those created after the independence of Republic of Indonesia. Among others, such regulations include:

(1) Article of 15 A.B. Other than promulgated exceptions about indigenous Indonesians and

[47] MacCormick, N., *HLA Hart*.
[48] Vermeule, A., I. POSITIVE AND NORMATIVE THEORY DISCONNECTED.
[49] No, I.D.E.A.L.S., Law and Development in Changing Indonesia.

those who are made equal to Indonesians, custom shall not become "a law," unless otherwise legislation has decided.

(2) Article 27 of The Basic Law on Judicial Powers (the Act Number 14 of 1970) Judges, as legal and justice officials, are under obligation to dig (to discover), to observe, and to understand the values of living law of the peoples.

(3) Appendix of Article 27 of the Basic Law on Judicial Powers (14 of 1970) (Item number 1) Within societies acquainted with unwritten law and under the period of turbulence and transition, judges serve as formulators and diggers of "the values of living law" of the peoples. Accordingly, they should go down among peoples to know, to feel, and to be able to fathom the sense of law and the sense of justice of the peoples. From the above-mentioned articles, we know that in Indonesia, it is not merely legislation or enacted law that serves as the legal source of the validity of custom, but also the custom itself, provided that we do not identify custom with "adat law." It is the custom itself that serves as the legal sources, as long as they do not defy the law or the enacted law. Therefore, even though certain enacted law does not refer a custom as valid, the custom may be enacted by the judge as long as it does not defy the provision of enacted law.

From the above-mentioned articles, we know that in Indonesia, it is not merely legislation or enacted law that serves as the legal source of the validity of custom, but also the custom itself, provided that we do not identify custom with "adat law." It is the custom itself that serves as the legal sources, as long as they do not defy the law or the enacted law. Therefore, even though certain enacted law does not refer a custom as valid, the custom may be enacted by the judge as long as it does not defy the provision of enacted law.

In Indonesia, the binding force as law is not merely possessed by legislation, but also owned by judicial decisions, despite the distinction between the two, namely:

1. The binding force of the law or legislation applies generally, because legislation contains regulations that are abstract and not designed for certain peoples.
2. The binding force of a judicial decision only binds the concerned parties, and not another judge, for example, who will decide another similar case or event.

During the globalization era, Indonesia, can no longer distinguish rigidly the **stare decisis** system and our own judicial system the basis of which is Article 1917 of the Civil Code. In reality, within each of both systems, there are combined elements. Even in Britain, judges frequently set themselves free from the binding force of the former decisions when the needs of community demand some others. Thus, the reality in Indonesia demonstrates that in field application the civil law system and the common law system can harmoniously intertwine. It particularly occurs to legal constructions relating to business or commercial law, economic law, international trade law, and others relevant to the need of the current modernization and globalization era.

In the Indonesian legal system, precedents or decided cases constitute a fundamental need to complement the application process of various pieces of legislation. However, as a source of law, the binding force of a precedent for judges in Indonesian judicial system is not the same as that in the common law judicial system.

Annex 2: Annotated Bibliography

Chowdhury, A., Islam, I., & Tadjoeddin, M. (2009). Indonesia's Employment Challenges: Growth, Structural Change and Labour Market Rigidity. *European Journal of East Asian Studies*, 8(1), 31-59.
"The current industrial relations system seems to represent 'overcorrection' for past repressions of labour rights and entitlements. Hence, this is reflected in the vigorous application of minimum wages policy, rather generous severance pay, restrictions on the use of temporary employment contracts and production outsourcing. This creates a high-cost business environment that acts as a brake on much needed private investment from domestic and external sources. Inadequate investment in turn acts as a brake on formal-sector employment generation." (page 44)

Creagh, S. (2010, July 8). Indonesia says labour law review may take two years. *The Jakarta Globe*. Retrieved February 25, 2011.
A review of Indonesia's strict labor laws could be completed in one or two years, longer than hoped for by investors looking for flexibility in hiring. Indonesia is attracting strong interest from market investors but analysts say laws that enforce high severance pay and make it hard to fire staff are obstacles for manufacturers and other foreign direct investors. However, two years from now means 2013, which is very close to the election scheduled to take place in 2014. Some doubt the probability of a change occurring so close to an election.

Employing workers in Indonesia (2010, June). *Doing Business: Measuring business regulations*.http://www.doingbusiness.org/data/exploreeconomies/indonesia/employing workers/
This website is a summary of the regulation of employment in this economy, specifically as it affects the hiring and redundancy of workers and the rigidity of working hours. The information was collected as part of the Doing Business project, which measures and compares regulations relevant to the life cycle of a small- to medium-sized domestic business in 183 economies. The most recent round of data collection for the project was completed in June 2010.

Not making it easy. (2009). *Economist*, 392(8648), 11-12. Retrieved from EBSCO*host*.
The article discusses the business climate in Indonesia. According to Fauzi Ichasan of Standard Chartered Bank several obstacles exist to business formation including poor infrastructure and rigid labor laws. Demand for electric power has grown 6% annually, and efforts to make more power available have not kept pace.

Saudi Arabia Suspends Recruitment of Indonesian Workers. (2011, February 16). *The Jakarta Globe*. Retrieved February 25, 2011.
Citing "exorbitant charges and lack of qualified workers" and negative press reports, business leaders in Saudi Arabia have suspended the recruitment of Indonesian migrant workers. The chambers criticized Indonesian labor federations for "failing to comply with signed memorandums of understanding" governing recruitment.

Agrawal, N., *Indonesia: Labor Market Policies and International Competitiveness*. 1995: World Bank Publications.
Indonesia's labor market in the 1990s was characterized by rising labor costs, reduced worker productivity, and increasing industrial unrest. The main problem is generous, centrally mandated, but unenforceable worker benefits. The estimated cost of the government-mandated benefits package would be a hefty 12 percent of the wage bill. The other problem is that the

government has greatly limited organized labor, viewing it as a threat to political and economic stability. There were increasing signs that in the early 1990s Indonesia's competitiveness was being eroded by several factors: rising labor costs, low worker productivity, and increasing industrial unrest. Legislation encouraging enterprise-level collective bargaining could help reduce some of the costs associated with worker unrest.

Ashagrie, K., *Statistics on working children and hazardous child labour in brief*. 1997: ILO.

It is common knowledge that data on child labor are extremely scarce. The reason for this is the absence of an appropriate survey methodology for probing into the work of children which, for the most part, is a "hidden" phenomenon. Consequently, the ILO designed special sample survey methodologies and experimented them in four countries. These were further refined and adopted for investigating at the national level the child labor situation in a number of countries. The child labor problem being multi-dimensional, the information sought through the specialized survey approaches included the number and age of working children, type of work they are engaged in, conditions of work, types of exploitation faced, whether they attend school, who their employers are, and perceptions of working children. Based on the findings of the experiments as well as the results of national surveys carried out using the newly developed methodologies and, also taking into account other demographic and socio-economic factors, the ILO produced estimates on the size of working children at regional and global levels which have been internationally accepted and quoted as ILO figures.

Asian Development Bank, 2009. "Informal Employment in Indonesia," Working Paper 156. Pp. 48.

The paper used the February 2007 round of Indonesia's National Labor Force Survey (Sakernas) for a comparative analysis of wages and benefits of formal and informal workers. Informal employment, narrowly defined, was estimated at least 29.1% of total employment in Indonesia. Informal employment is also highly concentrated in rural areas and is prevalent in agriculture and construction sectors. More women are likely to be informally employed than men, and women generally receive lower pay and are mostly unpaid family workers.

Asian Development Bank, 2010. "Indonesia: Critical Development Constraints," pp.116

The report identifies three constraints to faster Indonesian development that it considers to be critical. These include:

- **inadequate and poor quality of infrastructure,** particularly transport networks and electricity supply, as well as irrigation supply in some provinces;
- **weaknesses in governance and institutions,** especially in the prevalence of corruption, poor government effectiveness, and occasional occurrence of terrorism and violence incidences; and
- **unequal access to and poor quality of education,** particularly secondary and vocational education.

Asian Development Bank, 2010. "The Informal Sector and Informal Employment in Indonesia," pp. 124.

This paper uses an improved methodology over the 2009 ADB paper, applying it to two provinces, Yogyakarta and Banten. It found that 89% of all jobs in Yogyakarta were informal, compared to 76% in Banten. In both provinces, informal employment in agriculture was 99% or higher. The document contains considerable additional information about wage differentials between formal and informal sectors, and the extent to which formal-sector workers enjoy such benefits as severance pay and sick leave.

Basu, K., *Child labor: cause, consequence, and cure, with remarks on international labor standards.* Journal of Economic literature, 1999. 37(3): p. 1083-1119.
At least 120 million of the world's children aged 5 to 14 worked full-time in 1995, most of them under hazardous, unhygienic conditions, for more than 10 hours a day. This is an old problem worldwide but particularly so in Third World countries in recent decades. What has changed, with globalization, is our awareness of these child laborers. By bringing together the main theoretical ideas, the author hopes to encourage both more theoretical research and empirical work with a better theoretical foundation. Among other things, the author observes that: a) The problem is most serious in Africa, where the child-labor participation rate is 26.2 percent. But since 1950, the trend is a decline in that participation rate worldwide. b) Child labor has not always been considered evil, and there is no consensus on why it began to decline. c) Mandating compulsory education is regarded as more effective than outlawing child labor, because attendance at school is easier to monitor, but some experts believe economic progress is the answer to the problem. The author argues that, in some economies, the market for labor may exhibit multiple equilibria, with one equilibrium having low adult wage and a high incidence of child labor and another equilibrium exhibiting high adult wage and no child labor. The model is used to provide a framework for analyzing the role of international labor standards.

Brierley, J.E.C., *thought within the formal shape of civil codes in the nineteenth century.* Law Library Journal. 84: p. 159.
This article starts by examining the evolution of civil law and common law toward convergence, briefly addressing the history of the theoretical and philosophical perspectives that contributed to shape evolution and change within these two systems. Then, the article analyses general features of the central aspects of contract theory in the civil law and common law jurisdictions. Finally, this work focuses on the analysis of the structure, characteristics and main clauses of the commercial space launch services contracts in both systems, stressing their similarities in structure, treatment and consequences.

Chandra, A., *Indonesia's Non-State Actors in ASEAN: A New Regionalism Agenda for Southeast Asia?* Contemporary Southeast Asia, 2004. 26(1): p. 155-175.
Since its inception in 1967, the Association of Southeast Asian Nations (ASEAN) has experienced both major achievements and setbacks. Its agenda of regional integration has been expanded to embrace wider issues, ranging from security to economic cooperation. In October 2003, in Bali, for example, ASEAN member countries agreed to establish an ASEAN Community (AC) by 2020, which will reinforce three elements of cooperation, namely political and security cooperation, economic cooperation, and socio-cultural cooperation. Despite this, the majority of Indonesian non-state actors remain somewhat indifferent towards the Association. In recent years, ASEAN's failure to address the economic crisis effectively has been a central criticism of the Association. One key aspect that will be addressed in this paper is ASEAN's exclusive nature, which limits the interaction between the Association and the citizens of its member states. In the area of economic cooperation, for example, the implementation of the ASEAN Free Trade Area (AFTA) has been viewed skeptically by a large section of ASEAN member states' citizens. In Indonesia, in particular, various non-state actors are generally of the opinion that this regional trade liberalization measure will only benefit a small section of the Indonesian community.

This article analyses contemporary Indonesian non-state actors' attitudes towards ASEAN and its activities. The analysis in this paper is based on field research interviews conducted with various local NGOs, CSOs, business associations, and members of the academic community in two major cities in Indonesia, Jakarta and Surabaya. In order to facilitate discussion on the

subject, this paper is divided into four sections: (1) the current literature on the role of non-state actors in regional integration theories; (2) the Indonesian public's perceptions of Southeast Asian regionalism in the past; (3) contemporary attitude of Indonesian non-state actors towards ASEAN and its activities; and (4) some concluding remarks.

Chen, D., *Club goods and group identity: Evidence from Islamic resurgence during the Indonesian financial crisis.* Journal of Political Economy, 2010. 118(2): p. 300-354.
This paper exploits relative price shocks induced by the Indonesian financial crisis to demonstrate a causal relationship between economic distress and religious intensity and investigate why it exists. Rapid inflation favored growers of staple crops and disfavored sticky wage-earners. The author uses pre-crisis wetland hectares and government occupation as instruments and dryland hectares and service occupation as "placebo instruments" to estimate the impact of economic distress on religious intensity. Economic distress stimulates Koran study and Islamic school attendance but does not stimulate other social activities or secular school attendance. The results seem attributable to the role of religion as ex-post social insurance: credit availability reduces the effect of economic distress on religious intensity by roughly 80%, religious intensity alleviates needing alms or credit to meet basic needs at the peak of the crisis, and religious institutions facilitate consumption smoothing among villagers. The author explains these findings in a model where religious intensity represents the degree of social insurance in which people participate and social sanctions facilitate religion's function as ex-post insurance. Together, these results provide evidence that religious intensity responds to economic forces and suggest alleviating risk may mitigate fundamentalist tendencies.

Choice, P., *Joseph E. Stiglitz, Globalization and Its Discontents.* Public Choice, 2004. 120(1): p. 236-241.
This article is a review of the Joseph Stiglitz book, *Globalization and Its Discontents*. In the book, Stiglitz draws upon his experiences as chief economist at the World Bank to explain major events in the global economy of the 1990s. The primary episodes that this book analyzes are the Asian Crisis and Russia's post-Soviet reforms. Written history helps fill out the empirical record and enhances the reader's understanding of economic processes. Professor Stiglitz also has much to say about how political factors affected policy at the IMF, US Treasury, and the World Trade Organization. He claims (p XIII) that ideology and bad economics thinly veiled the actions of special interests. Private interests lobbied successfully for alleged privatization and liberalization, resulting in crises. Free market ideology served as intellectual cover for these interests in efforts to justify alleged misadventures in privatization. Professor Stiglitz claims that experience with these policies refute the case for rapid privatization, and indicate a need for stronger and more open international governance.

The review points out that the primary deficiency of this book is in its understanding of Public Choice concepts. The review claims that a better title for this book might have been "Centralization and its Discontents" because it is rife with examples of how central control by the IMF and WTO benefited well-connected special interests, at great expense to ordinary people throughout the world. These agencies rejected privatization and deregulation, and instead attempted to implement partial central planning over a number of different countries.

Compa, L. and T. Hinchliffe-Darricarrere, *Enforcing International Labor Rights Through Corporate Codes of Conduct.* Columbia Journal of Transnational Law, 1995. 33(3): p. 663-689.
This article first reviews initiatives by the international community to address the "linkage" between trade and international labor rights and fair labor standards through domestic trade statutes, regional trade agreements and other governmental approaches. It then examines

several private sector efforts embracing "codes of conduct" for labor and employment practices in international commerce. Some are proposed by sources external to multinational corporations as codes by which they can pledge to abide. Others are initiated by individual companies themselves. The authors focus their treatment on codes of conduct issued by Levi Strauss &. Co. and Reebok Corporation as examples of the challenges in formulating, auditing and enforcing labor rights and labor standards by private corporations engaged in international trade.

Davenport, G., et al., *Termination of employment digest*. 2000: International Labour Organization.
This book provides an overview of legislation on termination of employment, illustrating the various approaches taken to the subject in national systems around the world. It reviews the legislation of 72 jurisdictions from a diversity of systems reflecting different geographic, development and legal environments and offers a practical reference for the lay reader, as well as lawyers and other experts.

Deacon, B., *The Politics of Global Social Policy.* UNRISD Occasional Paper, Geneva, 2004.
The focus of this paper is global social policy. Social policy within one (capitalist or market-based) country may be understood as those mechanisms, policies and procedures used by governments, working with other actors, to alter the distributive and social outcomes of economic activity. These mechanisms and policies may be conceptualized as being constituted of three strands - redistribution mechanisms alter, (usually to make more equal) the distributive outcomes of economic activity, regulatory activity frames and limits the activities of business and other private actors to take account of the social consequences of their activities, and rights leads to more or less effective mechanisms to ensure citizens might access their rights.

Global Social Policy is by extension the mechanisms, policies and procedures used by intergovernmental and international organizations, working with other actors to do 2 things: first, influence and guide national social policy, and second, provide for a supranational or global social policy. Within this second sense Global Social Policy is about global social redistribution, global social regulation and global social rights. Global social policy in this sense embraces the emerging mechanisms of global social transfer, global social regulation, and global social rights. One of the questions in this paper is whether this concept has sufficiently taken root as a way of thinking about international policy to re-embed capital in a set of international institutions which might ensure that the global economy had a social or public purpose.

Deaton, A., J. Friedman, and V. Alatas, *Purchasing power parity exchange rates from household survey data: India and Indonesia*. 2004: Research Program in Development Studies, Woodrow School of Public and International Affairs.
Purchasing power parity (PPP) exchange rates are extensively used by researchers and by policymakers. This paper proposes and implements a new methodology for calculating PPPs using information on unit values from household surveys. Although unit values are not identical to prices, they have compensating advantages. Large household surveys contain several million unit values, they are tied to actual transactions, and they are naturally linked to household characteristics such as income. In consequence, it is possible to calculate PPPs for different social groups, including PPPs for the poor. The paper calculates multilateral price indexes for the states and sectors of India, as well as PPPs for rural and urban Indonesia together with rural and urban India. PPPs for the poor are distinguished from general PPPs. The internal PPPs for India are not very different from previous estimates based on bilateral comparisons, but the estimated PPP between India and Indonesia is very different from the numbers calculated by

either the Penn World Table or the World Bank. It implies that either India is much better-off, or Indonesia much poorer (or both) than is generally supposed.

Dhanani, S. and I. Islam, *Indonesian Wage Structure and Trends, 1976-2000.* Background paper prepared for the Infocus Socio-Economic Security Program (ILO/SES). Geneva: International Labor Organization, 2001.
The structure of wages and their real trends have a profound impact on poverty, living standards, income security, income distribution and the incentive to invest in education and training. Against such a broad context, the paper sets itself four objectives. The first objective is to review the wage patterns and wage systems in the Indonesian economy in general, and in selected sectors. The second objective is to review trends in income, expenditure and wage distribution, and to examine the latter by gender, urban-rural location, education, formal/informal status, industry and province. The third objective of the paper is to assess trends in real wages and labor productivity over the 1976-2000 period in several key economic sectors, with particular reference to the agricultural and manufacturing sectors. The fourth objective of the paper is to reflect on the role of minimum wages in offering income security to Indonesian workers.

Dhanani, S., I. Islam, and U.N.S.F.f.I. Recovery, *Poverty, inequality and social protection: lessons from the Indonesian crisis*. 2000: UNSFIR.
Before the financial crisis of mid-1997, estimates of consumption poverty in Indonesia were based on rather modest poverty line thresholds when seen in relation to estimates of capability poverty. The reasons behind this discrepancy are identified and alternative estimates of consumption poverty for the pre-crisis period proposed. During the crisis, the behavior of consumption poverty can be described as transient in nature and is relevant in understanding the notion of vulnerability, that is, the risk that individuals and households can experience temporary episodes of poverty. Vulnerability could have worsened, however, in the absence of government intervention, entailing macroeconomic stabilization measures and social protection initiatives. Based on this experience, a fiscally sustainable social safety net, that is able to reinforce household coping mechanisms and social capital, is recommended as part of the country's medium-term strategy to combat poverty.

Feridhanusetyawan, T., A.I.R. Project, and U.o.A.C.f.I.E. Studies, *The Impact of Trade Liberalization on Welfare and Employment in Asean*. 1998: University of Adelaide.
This study estimates the impact of international trade liberalization on changes in welfare, sectoral outputs, and employment patterns in ASEAN by using a global computable general equilibrium model. The results show countries which participate in regional trade liberalization such as APEC and AFTA will obtain additional benefit from the liberalization. However, without any participation in the multilateral trade liberalization, such as through the WTO, the gain will be minimal. By participating in the WTO and APEC liberalization, the total welfare of ASEAN countries will increase by US $3.9 billion. Given that ASEAN countries are participating in the WTO and APEC, the implementation of AFTA will create minimal additional benefit by around US$242 million in total. However, the opening of AFTA to the MFN bases will increase welfare significantly. Manufacturing sectors in ASEAN are expected to benefit from trade liberalization. The expansion of manufacturing sectors will lead to increased labor demands, and labor will migrate from primary sectors to manufacturing sectors. Indonesia as a labor abundant country will benefit from the development of labor intensive industries, while other ASEAN countries especially Malaysia and Thailand will rely on more capital intensive industries.

Hefner, R., *Civil Islam: Muslims and Democratization in Indonesia*. 2000: Princeton Univ Pr.

This book tells the story of Islam and democratization in Indonesia, the world's largest Muslim nation. Challenging stereotypes of Islam as antagonistic to democracy, this study of courage and reformation in the face of state terror suggests possibilities for democracy in the Muslim world and beyond. Democratic in the early 1950s and with rich precedents for tolerance and civility, Indonesia succumbed to violence. In the aftermath of bloodshed, a "New Order" regime came to power, suppressing democratic forces and instituting dictatorial controls that held for decades. Yet from this maelstrom of violence, repressed by the state and denounced by conservative Muslims, an Islamic democracy movement emerged, strengthened, and played a central role in the 1998 overthrow of the Suharto regime and election of Muslim leader Abdurrahman Wahid as President of a reformist, civilian government.

In explaining how this achievement was possible, the author emphasizes the importance of civil institutions and public civility, but argues that neither democracy nor civil society is possible without a civilized state. Against portrayals of Islam as inherently antipluralist and undemocratic, he shows that Indonesia's Islamic reform movement repudiated the goal of an Islamic state, mobilized religiously ecumenical support, promoted women's rights, and championed democratic ideals.

Hill, H. and T. Shiraishi, *Indonesia After the Asian Crisis*.* Asian Economic Policy Review, 2007. 2(1): p. 123-141.

Indonesia was deeply affected by the 1997–1998 crisis, more so than its East Asian neighbors. Its economic contraction was deeper and more prolonged. It was the only one to experience a (temporary) loss of macroeconomic control. It also suffered “twin crises,” in the sense that its serious economic and financial problems were accompanied by regime collapse. Consequently, recovery was a slow and complex process, as new institutions had to be created, and old ones reformed under successive short-lived administrations. But this process is largely over. The directly elected president with a strong popular mandate is in power. The new institutional framework for economic policy-making is in place. Macroeconomic stability has been restored. Although growth has yet to return to pre-crisis levels, by 2004 per capita income and poverty incidence had recovered to levels prevailing in the mid-1990s, and in the circumstances economic recovery has arguably proceeded about as quickly as could reasonably have been expected.

Hiscock, M., *Changing Patterns of Regional Law Making in Southeast Asia.* Saint Louis University Law Journal, 1994. 39: p. 933.

Different patterns of law making have been established in Southeast Asia in recent years. The origin of this change is visible in the 1960s, although its fruits are in the 1990s. Law in its various forms (whether "hard law"- legislation - or "soft law"- self regulation and guidelines) increasingly originates in transnational or multilateral bodies, rather than in a national lawmaker, although it may pass through a national legislature or other lawmaker.

Much of this law attempts to harmonize national legal systems in order to facilitate international transactions by setting forward common or compatible principles, rules and institutions. These changes have had or will have a significant effect on transnational commercial transactions, and they are wrought more by consensus after consultation (musyawarat) rather than by imposition. Governments have played the dominant role in this process, supported principally by bureaucrats with less input from professionals and very little from lawyers and, on the whole, despite the difficulty of determining the criteria of success, this is a beneficial development for the region, and in the next two decades, may transform the trading environment. This paper concludes with the understanding that considerably more needs to be done within national regimes to nurture and intensify this process of change.

Hiscox, M. and N. Smyth, *Is There Consumer Demand for Improved Labor Standards? Evidence from Field Experiments in Social Labeling.* Department of Government, Harvard University, 2006.
A majority of surveyed consumers say they would be willing to pay extra for products made under good working conditions rather than in sweatshops. But as yet there is no clear evidence that enough consumers would actually behave in this fashion, and pay a high enough premium, to make social product labeling profitable for firms. We provide new evidence on consumer behavior from experiments conducted in a major retail store in New York City in 2005. Sales rose for items labeled as being made under good labor standards, and demand for the labeled products actually rose with price increases of 10-20% above pre-test (unlabeled) levels. If the results hold more generally, there is a strong latent consumer demand for labor standards that many more retailers and producers could satisfy profitably by switching to certified and labeled goods.

International Labor Office, 2010. "Monitoring and Assessing Progress on Decent Work in Indonesia," pp. 73.
This is mainly a compilation of ILO projects in Indonesia, evaluations of progress under such projects, along with an extensive description of the various surveys used by the Indonesian government that are relevant for measuring trends in employment status, etc. The report contains no statistical tables, though matrices of ILO-related activities are numerous. The quantitative data in the report consists largely of the following statement (p. 12):

During the period of 2004-08 employment growth in Indonesia was 9.4 per cent annually (5.5 per cent and 16.6 per cent for males and females respectively), which exceeded the growth of labour force (7.7 per cent annually, 4.9 per cent and 12.5 per cent correspondingly for males and females). This trend has helped lower open unemployment rates in the country (ILO, 2009). The past years also witnessed job creation for youth aged 15-24. In the period of 2004-08, the youth unemployment rate showed a remarkable decline from 29.6 per cent to 23.3 per cent (26.9 per cent to 21.8 per cent for males and from 33.5 per cent to 25.5 per cent for females), which is partly due to an increase in the enrolment rate for secondary and tertiary education among the youth.

Two other relevant statistics given in the report are that employment grew only 1.4% between 2008 and 2009, and that child labor declined by 25% between 2004 and 2008. Comment: how one could assess progress without some tables showing actual numbers is beyond the ken of this reviewer.

Johnson, S., et al., *Corporate governance in the Asian financial crisis 1997-98*. 1998: Stockholm Institute of Transition Economics and East European Economies.
The "Asian Crisis" of 1997-98 affected almost all of the "emerging markets" open to capital flows. Measures of corporate governance, particularly the effectiveness of protection for minority shareholders, explain the extent of stock market decline better than do standard macroeconomic measures. The explanation is that in countries with weak corporate governance, worse economic prospects result in more stealing by managers and thus a larger fall in asset prices.

Krugman, P., *What should trade negotiators negotiate about?* Journal of Economic literature, 1997. 35(1): p. 113-120.
This paper is a review of the study *Fair Trade and Harmonization: Prerequisites for Free Trade?* study completed by Jagdish Bhagwati and Robert Hudec, specifically on issues raised by new

demands for international labor and environmental standards. The author comes to the conclusion, through review of the study, that the demand for harmonization is by and large ill-founded in both economics and law, and that realistic political economy requires that we give it some credence, but not too much.

Leary, V., *Forms follow function: Formulations of International Labor Standards–Treaties, Codes, Soft Law, Trade Agreements».* International Labor Standards. Globalization, Trade and Public Policy, 2003: p. 179–205.
Since 1919, legally binding labor conventions adopted by the International Labor Organization (ILO) have been the main form of instrument used to promote labor standards; 184 ILO conventions comprise the international labor code. In 1998, however, The International Labor Conference adopted, and gave particular emphasis to, a different form of instrument: a Declaration on Fundamental Principles and Rights at Work. The adoption of the ILO Declaration raises questions which are the focus of this paper: what form should international labor standards take?

A major portion of this paper focuses on the renewed relevance of the ILO and its efforts to promote labor standards through new initaitives and new forms; developments at the ILO are illustrative of the *problematique* of current labor standard setting and enforcement. The push to include workers' rights in trade and investment agreements (WTO-GATT and NAFTA) and to promote working conditions through the adoption of declarations and codes, private as well as public, is also discussed in the paper.

Leite, J., J. Alferes, and L. Pereira, *Multi-dimensional dynamic knowledge representation.* Logic Programming and Nonmotonic Reasoning, 2001: p. 365-378.
According to Dynamic Logic Programming (DLP), knowledge may be given by a set of theories (encoded as logic programs) representing different states of knowledge. These may represent time (in updates), specificity (in taxonomies), strength of updating instance (in the legislative domain), hierarchical position of knowledge source (in organizations), etc. The mutual relationships extant among states are used to determine the semantics of the combined theory composed of all the individual theories. Although suitable to encode a single dimension (e.g. time, hierarchies...), DLP cannot deal with more than one simultaneously because it is defined only for a linear sequence of states. To overcome this limitation, we introduce the notion of Multi-dimensional Dynamic Logic Programming (MDLP), which generalizes DLP to collections of states organized in arbitrary acyclic digraphs representing precedence. In this setting, MDLP assigns semantics to sets and subsets of such logic programs. By dint of this natural generalization, MDLP affords extra expressiveness, in effect enlarging the latitude of logic programming applications unifiable under a single framework. The generality and flexibility provided by the acyclic digraphs ensures a wide scope and variety of application possibilities.

Lev, D.S., *The supreme court and adat inheritance law in Indonesia.* The American Journal of Comparative Law, 1962. 11(2): p. 205-224.
This article describes how Indonesian law remains structurally much as it was before Dutch colonialism in the archipelago came to an end. But the structure of a legal system takes on the significance that people give to it, and after independence, Indonesia's legal system was run by Indonesians, not Dutchmen. This change has been particularly important for Indonesian customary (adat) law, which is more susceptible to changing ideals and imagination of the country's elite than the written codes. In the absence of legislative action, the ideas and goals of the post-revolutionary elite have been brought to bear on adat law by judges, primarily judges of the Supreme Court. For this to happen, certain changes have been necessary in the

conceptions Indonesian judges have of their own role in adat law. This article is concerned with the influence of these two developments on adat inheritance case law.

MacCormick, N., *HLA Hart*. 2008: Stanford Law Books.
In this book, the author delivers a clear and current introduction to the life and works of H.L.A. Hart, noted Professor of Jurisprudence at Oxford University from 1952 to 1968. Hart established a worldwide reputation through his powerful philosophical arguments and writings in favor of liberalizing criminal law and applying humane principles to punishment. This book demonstrates that Hart also made important contributions to analytical jurisprudence, notably by clarifying many terms and concepts used in legal discourse, including the concept of law itself.

Taking into account developments since the first edition was published, this book provides a constructively critical account of Hart's legal thought. The work includes Hart's ideas on legal reasoning, judicial discretion, the social sources of law, the theory of legal rules, the sovereignty of individual conscience, the notion of obligation, the concept of a right, and the relationship between morality and the law. The author actively engages with current scholarly interpretations, bringing this accessible account of England's greatest legal philosopher of the twentieth century up-to-date.

Manning, C., *Labour market adjustment to Indonesia's economic crisis: context, trends and implications.* Bulletin of Indonesian Economic Studies, 2000. 36(1): p. 105-136.
This paper focuses on labor market adjustment during the economic crisis of 1997-98. It shows how labor processes help explain better outcomes for the poor than were initially predicted. The Indonesian experience is viewed in a framework that contrasts two extreme models: a Keynesian world of rigid real wages, and a neoclassical situation of flexible adjustment to economic shocks. It was found that the Indonesian case is more consistent with the neoclassical than the Keynesian model, despite the tendency for greater government intervention in labor markets before the crisis. The paper also finds that the large change in relative prices from the exchange rate depreciation had a smaller effect than expected on employment structure. These conclusions are discussed in the context of major changes in labor markets prior to the economic crisis.

McCulloch, N. and A. Grover, *Estimating the national impact of the financial crisis in Indonesia by combining a rapid qualitative study with nationally representative surveys*. 2010, IDS Working paper, forthcoming, Brighton: Institute of Development Studies.
This paper draws on a rapid qualitative assessment of the impact of the financial crisis in Indonesia, to generate hypotheses about the potential national impacts. The authors test these hypotheses using nationally representative labor force surveys from before and after the onset of the financial crisis. The authors find that Indonesia weathered the storm rather well: there is no evidence for increased school dropout; labor force participation fell, particularly for young workers, whilst unemployment rose for the young, but fell for workers over 25. The changes for female workers were the same as those for male workers and there do not appear to have been any major sectoral shifts in labor. Surprisingly, the authors find that real wages for employees rose significantly during the crisis period, although those in the informal sector did not benefit to the same extent. Our results are similar to those from the earlier qualitative study, except that, because it focused on areas harder hit by the crisis, the qualitative study did not observe the significant gains made by employees over the crisis period.

No, I.D.E.A.L.S., *Law and Development in Changing Indonesia.* 2001.
With the evolution of the market-oriented economy as well as the increase in cross-border transactions, there is an urgent need to conduct research and comparisons of judicial systems

and the role of law in development in Asian countries. In order to facilitate this research, the Institute of Developing Economies, Japan External Trade Organization (IDE-JETRO) organized joint research projects with research institutions in seven Asian countries. This publication, named ***IDE Asian Law Series***, is the outcome of the research conducted by respective counterparts. This series is composed of papers which correspond to the research themes mentioned, and include this study on law and development in Indonesia. This is one of the only works on law in Asia that is both comprehensive and comparative.

Organization, I.L., *<Global wage report.pdf>.* Global Wage Report, 2010. 2: p. 122.
This second ILO *Global Wage Report* provides some evidence about the impact of the global economic crisis on wages around the world. It shows in particular that the global growth in real average wages was reduced by half in 2008 and 2009, compared to earlier years. This highlights how while the crisis has been dramatic for those who lost their jobs, smaller than expected paychecks have also severely affected the purchasing power and well-being of those who managed to stay in work. Among the most pressing challenges to be dealt with are rising wage inequality and the growing disconnect between wages and productivity, a deterioration in the quality of employment, a shift towards more vulnerable forms of employment, and other dimensions of what the ILO calls “decent work”. The report provides policy-makers with some practical illustrations of how collective bargaining, minimum wages and income policies can help to address the fairness challenge which confronts policy-makers today, with the hope that this will assist them in advancing their decent work objectives and contribute to converting into practice the internationally agreed ILO Declaration on Social Justice for a Fair Globalization and the Global Jobs Pact.

Part I of the report provides an overview of global wage trends during the crisis based on available data from as many countries. Part II of this report discusses wage policies in times of crisis. Part III of the report concludes with a summary highlighting some issues that are of key importance for improving wage policies.

Palley, T., *The economic case for international labour standards.* Cambridge Journal of Economics, 2004. 28(1): p. 21.
This paper explores the economic case for international labor standards. Granting workers rights of free association and collective bargaining confers both static and dynamic economic efficiencies. Static efficiencies refer to one-time gains from improvements in economic practice. Dynamic efficiencies refer to gains from improvements to the growth path resulting from a shift away from a ‘low road’ development path to a ‘high road’ path. These efficiencies raise wages, employment and output in developing countries, and they can also benefit workers in developed countries. Labor standards are an institutional mechanism for raising the quality of growth in both developing and developed countries. In this sense, they are a ‘win–win’ institution.

Palmer, S., *Freedom of Association and Collective Bargaining.*
Indonesia has undergone a major transition in its labor law regime over the past ten (10) years, with the ratification of all the ILO Core Labor Conventions including ILO Convention No.87 concerning freedom of association and protection of the right to organize. The transition also includes the enactment of three new Labor Acts since 1998; the Trade Union Act, the Manpower Act and the Settlement of Industrial Disputes Act. This paper is intended to provide an update on the progress of implementing and realizing freedom of association and collective bargaining in Indonesia between the years 2003–2008.

Perdana, A. and J. Maxwell, *Poverty targeting in indonesia: Programs, problems and lessons learned.* Economics, 2004.

This paper presents a discussion on some poverty alleviation programs that are specifically targeted to the poor. The programs covered in this paper are: Inpres Desa Tertinggal (IDT), Padat Karya (Employment), Food Security, Education and Health component of the post-crisis Social Safety Net package. Brief assessments of the programs show that the targeting of poverty alleviation programs in Indonesia has been a difficult and frustrating process for central government planners attempting to allocate scarce budgetary resources as efficiently and effectively as possible. Although poor families did benefit to a certain degree, all the pro-grams that we have considered have suffered from two common problems: under-coverage and leakage. The paper concludes that the effectiveness of various poverty-targeted programs in Indonesia are determined by, among other things, the type of targeting, administrative capacity, program design and publicity, and the quality of monitoring.

Podgorecki, A., *Law and society*. 1974: Routledge & Kegan Paul Books.
This book discusses investigation on law, which can be either speculative or empirical. The speculative approach consists mainly in pondering over the essence of law and its main quality and in conjecturing how it functions or could function. There is no systematic means of verifying the validity of general concepts and theories. It goes on to explain matters are even more complicated because of the ambiguities of law itself and because of the traditions of the profession.

Presidential Regulation 36 of 2010, Republic of Indonesia. LIST OF BUSINESS FIELDS CLOSED TO INVESTMENT AND BUSINESS FIELDS OPEN, WITH CONDITIONS, TO INVESTMENT. Pp. 101
This document provides the negative list of specific areas of investment closed to foreign investment, or open only under requirements for gradual divestment or other types of limitation. The prohibited list is small, though with some questionable limits on foreign investment in transportation and logistics. The conditional investment list, on the other hand, is very extensive, including many agricultural activities that are effectively prohibited, and others where foreign companies are not permitted 100% ownership, or are required to gradually divest part of their capital to Indonesians.

Preston, L. and D. Windsor, *The rules of the game in the global economy: Policy regimes for international business*. 1997: Kluwer Academic Pub.
This book analyzes the evolution of international policy regimes affecting the development and management of international business. The authors explain the nature of international regimes, and show how the interlinked processes of global economic integration and multinational enterprise expansion make the development of regimes both inevitable and desirable. They then examine several major types of regime currently in place, including those that have emerged from global or regional institutions such as the United Nations (UN) and the European Community (EC), as well as those dealing with functional areas such as international trade and payments, sea and air transportation, telecommunications, and environmental issues. They conclude with an assessment of the critical similarities and differences among existing regimes, the most likely direction and scope of future regime development, and the important implications of regime evolution for international management.

Ranjan, P., *An economic analysis of child labor.* Economics Letters, 1999. 64(1): p. 99-105.
This paper shows how poverty in combination with credit constraints can give rise to the phenomenon of child labor in developing countries. It further shows how banning child labor can reduce the welfare of the households intending to send their children to work, and suggests some alternative policies.

Roessler, F., *Domestic policy objectives and the multilateral trade order: lessons from the past.* The WTO as an international organization, 1998: p. 213–229.
Trade issues are rarely discussed in isolation from other policy issues. Linkages between trade and other policy areas have long been a feature of the multilateral trade order, and recent events suggest and intensification of the trend. The pursuit of domestic policy objectives through the multilateral trade order raises fundamental issues for the newly established WTO. This paper attempts to address these issues by examining the experience of the GATT with the linkages made between trade and balance-of-payments matters, development policies, and objectives of antitrust policies. The paper argues that the integration of these subject matters into the multilateral trade order undermined both the trade order and the attainment of the objectives in those nontrade policy areas. At least two important lessons can be drawn from this experience: first, the pursuit of domestic policy objectives through trade policy instruments is not judiciable and therefore leads to a de-legalization of international trade relations; and second, exemptions fromt rade policy disciplines designed to permit the pursuit of domestic policy objectives attract protectionist forces that eventually subject that objective to their ends.

Sheppard, B., *Workers in the shadows: abuse and exploitation of child domestic workers in Indonesia*. 2009: Human Rights Watch.
This report documents how hundreds of thousands of girls in Indonesia, some as young as 11, are employed as domestic workers in other people's households, performing tasks such as cooking, cleaning, laundry, and child care. Most girls interviewed for the report worked 14 to 18 hours a day, seven days a week, with no day off. Almost all are grossly underpaid, and some get no salary at all. In the worst cases, girls reported being physically, psychologically, and sexually abused.

Simmons, B., *International law and state behavior: commitment and compliance in international monetary affairs.* American Political Science Review, 2000. 94(4): p. 819-835.
This article examines patterns of commitment to, and compliance with, international monetary law. The author considers the signal that governments try to send by committing themselves through international legal commitments, and argues that reputational concerns explain patterns of compliance. One of the most important findings of this paper is that governments commit to, and comply with, legal obligations if other countries in their region do so. Competitive market forces, rather than overt policy pressure from the International Monetary Fund, are the most likely "enforcement" mechanism. Legal commitment has an extremely positive effect on governments that have recently removed restrictive policies, which indicates a desire to reestablish a reputation for compliance.

Storey, D. and W. Murray, *Dilemmas of development in Oceania: the political economy of the Tongan agro-export sector.* Geographical Journal, 2001. 167(4): p. 291-304.
This article critically engages with the recent diffusion of the orthodox development model in Oceania and highlights some evolving dilemmas. In particular, it explores the social, economic and ecological tensions arising from economic reforms that are exacerbating the fragility of already vulnerable nation-states and communities. In order to illustrate its arguments, a case study of the impacts of agro-export growth in Tonga is presented. Attention is drawn to the socially inequitable and ecologically unsustainable outcomes of rapid growth in this sector. In analyzing the political economy of the squash pumpkin sector, the authors point to the important role that culture plays in mediating and conditioning development outcomes. Reflecting on the Tongan case, it is argued that to better understand the implications of orthodox developmental reform in the region, research must seek to more explicitly incorporate distributional and ethical analysis.

Streeck, W. and P. Schmttter, *From national corporatism to transnational pluralism: organized interests in the single European market.* Politics & Society, 1991. 19(2): p. 133.
This paper explores the emerging role of organized interests, especially of labor unions, in the polity of the post-1992 European Community. It begins by reviewing the causes of the Community's failure in the 1960s and 1970s to develop a neocorporatist system of interest representation. It then analyzes the decline of national-level neocorporatism in the years after the second "oil shock," and relates the "Internal Market" project to that development. In particular, the paper argues that the relaunching of European integration in the mid-1980s is inextricably linked to a domestic European "deregulation" project, which in turn responds to the diminished "effective sovereignty" of nation-states over their highly interdependent national economies. Examining the regional, national, and supranational level of policy-making, the paper concludes that European interest politics is likely to be more pluralist than corporatist, and will share important characteristics with the political system of the United States.

Tambunan, T. and B. Purwoko, *Social protection in Indonesia.* Social Protection in Southeast and East Asia–Towards a Comprehensive Picture, 2002. 1(1.66): p. 1.35.
During the 'new order' period up to mid-1997, the Indonesian economy had been performing very well. However, by the end of 1997 and in 1998 Indonesia was in a deep financial crisis. By 1998, as a consequence of output decline, the incidence of poverty was estimated to have increased to 14.1% in 1999, or about 29 million people. The social security system in Indonesia was started in 1977 with the introduction of a social security program for workers. In 1992, the government issued a Social Security Act for private employees, including state companies. The program is a compulsory social protection scheme for employees against social hazards, such as employment injury, death, sickness, and old age.

The existing social security system in the country has several shortcomings. One of these is the scheme's coverage of only employees in the formal sector. Also, not all schemes comply fully with the law and government regulations on employee's social security or with international standards (as defined by the ILO). Recently, several ministries in Indonesia have been working on the reform of the social security system. For this purpose, the government has proposed a new law that will support the reform. Under that new law the social security scheme will become a Trust Fund. The proposed law is currently being processed.

Vermeule, A., *I. POSITIVE AND NORMATIVE THEORY DISCONNECTED.*
Positive and normative legal theory often seem to have little to do with one another. Part I of this paper describes the disconnect and suggests that it arises from two sources: the gap between fact and value, and the gap between external and internal perspectives on law. In the following Parts, the author lays out a repertoire of strategies and mechanisms for connecting positive and normative legal theory. Part II of the paper examines cases in which positive theory serves as a direct *source* of normative arguments. Part III examines cases in which positive theory serves as an indirect *constraint* on normative decision-making. In the latter case, positive theory serves a constructive role by narrowing the set of normative arguments that must be considered when deciding what to do. Part IV extends the theme of constraints to a second-order question: In light of our best positive theories, to what *audiences* can normative scholarship be addressed?

Vernon, R. and U.-.-N.B.C.f.E. Research, *The technology factor in international trade*. 1970: National Bureau of Economic Research; distributed by Columbia University Press.
The author discusses the need to adapt the generally accepted formula of growth and change in international trade theory comprising land, labor, and capital to incorporate the technology variable. He discusses the importance of having a widely accepted model to provide

consistency wtihin a discipline, but also recognizes that this can be a weakness. He provides a brief history of how economists has struggled to overcome the limitations to trade theory as evidence of what is needed to further the discipline, and provides his own interpretation of how this may be achieved.

Wickramasekara, P., *Asian labour migration: Issues and challenges in an era of globalization*. 2002: International Migration Programme, International Labour Office.
In this paper the author examines the trends and issues in Asian labor migration and the challenges faced by countries and the trade union movement in the protection of migrant workers. The author first discusses problems with current terminology and examines some popular myths about migrant workers. The author points out that receiving countries reap considerable benefits from migration, which are usually overlooked. The author traces main trends and features in Asian labor migration in the recent past, and identifies the most vulnerable groups of migrant workers who need priority attention. The paper also highlights the current dilemma faced by labor sending countries in 'protection' of national workers abroad and promotion of overseas employment. In the final section, the author discusses the specific role of trade unions and broader policy options open to countries for protecting migrant workers in the light of the ILO and other international instruments.

Wie, T., *The Indonesian economic crisis and the long road to recovery.* Australian Economic History Review, 2003. 43(2): p. 183-196.
This article provides a concise overview of the origins and impact of the 1997-1998 crisis on the Indonesian economy and the tardy process of recovery since. It is pessimistic about the current prospects for speedy recovery due to the inability of the politically weak governments, which succeeded the highly authoritarian Suharto regime, to take the necessary steps needed to achieve full economic recovery. The article briefly compares this crisis with the economic crises that hit Indonesia during the early 1930s and mid-1960s, and points to similarities as well as differences.

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