

# ACTORS, INSTITUTIONAL CHANGE AND STABILITY IN THE INDONESIAN INDUSTRIAL RELATIONS SYSTEM

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## ABSTRACT

This paper aims to analyse institutional changes in the Indonesian industrial relations system. Although mainly focuses on the labour reforms in the Post-Soeharto era, this paper extends the time line to incorporate changes in the Old and New Order periods in analysing change and stability. In addition to the portrait of the institutional changes, this paper also analyses the roles of different actors in the periods of change. While acknowledging some significant changes in the institutional logics, the paper also discovers the evidence of institutional stability across times and periods of Indonesian government. It concludes the current changes in the Indonesian IR context has resulted in some unexpected results. This case demonstrates that there is a mismatch of different institutional elements within the Indonesian IR system that impedes successful changes.

## INTRODUCTION

Institutional change is ubiquitous in the history of industrial relations (IR). At any given time the institutions regulating IR may be conceptualised as structural representations of the ongoing power relations between various interest groups and attempts by governments to balance such interests in accordance with their own goals. Different forms of institutions have emerged representing changed logics and temporary accommodations between interest groups throughout different times. Formal industrial relations (IR) machinery which is situated at the intersection of social, political, economic and legal domains also changes across time at either the global level and/or in different national settings. The Indonesian IR system, which is the focus of this paper, has changed dramatically over recent times as a representation of wider social and economic upheaval that has been in evidence. Different institutional logics have prevailed in the Indonesian IR system at different times as various governments have sought to shape IR processes to reflect their own agendas and those of their key allies.

Leaving aside the era of Dutch colonialism, major epochs of IR in Indonesia can be categorised into at least three phases, namely the Old Order (1945 – 1965), the New Order (1965 – 1998), and post-New Order (1998 – present). Some authors have referred to the latter period as Post-Soeharto or *Era Reformasi* (Reformation Era). Each era has its different characteristics. The Old Order, under former President Soekarno, can be sub-divided into two periods, represented by different types of governance: liberal and guided democracy. The post-Soeharto Era can also be divided, at least into two. Ford (2000a) for instance, mentions a short period of Habibie administration, which she called the Habibie interregnum, can be distinguished from the following periods under the administration of Wahid and Megawati.

Various authors have documented developments in Indonesian IR field (e.g. Gall, 1998; Hadiz, 1997; Hess, 1997; La Botz, 2001; Ford, 2000a; b; 2003; Caraway, 2004). However, only some (e.g. Caraway, 2004; Ford, 2000a; 2003) have analysed aspects of institutional change in such developments. This is most likely because of the different

perspectives used by different authors. This paper employs sociological institutional theory to analyse change (and stability) within the broad institutions of IR in Indonesia, an approach which has been little used to date. We contend that the utilisation of the institutional theory enriches existing perspectives in analysing the Indonesian IR system and how it has developed in different eras.

Institutional theory suggests that institutions give order to social life and influence the sensemaking and actions of social actors (Campbell, 2004; Weick, 1995). Formal and informal rules, norms and cognitive schemas function through normative, cognitive, and regulative institutional mechanisms to shape the social order (Scott, 2008). The stronger the institutions, the more stable the social realm which in turn more strongly determines individual or group norms and actions. As an institutional environment becomes increasingly complex, however, more institutional logics exist and compete each other and thus leave greater space for ambiguity to develop and the possibility for actors to initiate change. Institutional logics refers to 'the socially constructed, historical patterns of material practices, assumptions, values, beliefs, and rules by which individuals produce and reproduce their material subsistence, organize time and space, and provide meaning to their social reality (Thornton and Ocasio, 2008).' The competition among of institutional logics may lead to the replacement of inappropriate or illegitimate logics with emerging ones or the recombination of those logics that result in a new hybrid idea. Institutional theory thus is concerned with explaining institutional change, especially in its later variants, as well as institutional and social stability. In this respect, recent developments in Institutional theory have sought to overcome earlier criticism that it overemphasized stability at the expense of properly explaining change (c.f. Greenwood & Hinings, 1996)

Institutionalists discuss two types of institutional change, namely continuous, evolutionary, path dependent change versus discontinuous, radical, punctuated equilibrium change. In the first case, a path-dependent change is likely to happen due to the overall force exerted by institutions against pressures for change in maintaining social order. This may come from the recombination of existing institutional elements or the infusion of new ideas into the existing logics. In the second case, an institution may change more radically when it becomes incompatible with other institutions that it is located alongside. This is usually initiated by the emergence of crisis. A change that looks radical may, however, actually be path dependent when it is analysed in a longer time frame. Thus the time frame is a critical element in analysing institutional change (see e.g. Campbell, 2004). For this reason, current developments in the Indonesian IR system are discussed in the context of developments over a time period of around fifty years.

In analysing institutional change and stability in Indonesian IR context, this paper takes also into account the increased emphasis on the role of actors in more recent explanations of institutional theory (e.g. Sahlin & Wedlin, 2008). The amount of agency able to be exerted by different actors may vary according to the degree to which they have they have power and also to the extent to which different contexts presents opportunities to act. This we argue strengthens the discussion of the interplay between micro and macro perspectives in institutional analysis. Early works within the field of new institutionalism focused more on the determinacy of macro-structures upon individual behaviour and thus tended to disregard the role of actors in reconstructing or change institutions. More attention is now paid to the analysis of how institutional mechanisms, such as diffusion and isomorphism, shape or constraint the choices actors take. In particular recent works in institutional theory have paid increasing attention to the analysis of the 'agentic' behaviour of actors, as they exert power to influence existing social structures. Nonetheless it should be noted that in institutional theory this

behaviour is always put within the context social embeddedness. This study considers the roles taken by relevant IR actors in Indonesia, how they have mobilised power and the influences they have had on institutional change in the Indonesian IR system, although these action are understood within the broader influence of institutional logics.

As noted, the main focus of this paper is to portray and analyse changes in post Soeharto Indonesian IR but with reference to earlier eras. This provides us with a representation of the trajectory of change from one regime to the other. Putting all changes across the timelines helps us to see forms of stability, notwithstanding the intended and implemented changes enacted in each era as well as the characteristic of institutions in preserving continuity and simultaneously opening up opportunities for groups of actors to stimulate changes. It also allows consideration of the existence of multiple institutional logics, some of which are from the past, within the complex environment of a large and extremely diverse country.

In order to portray the historical dynamics of institutional change and stability in Indonesian IR system, we draw on previous studies but contribute further insights from our own perspective. The data which we present on current developments has been collected through in depth interviews with relevant actors in the field and supported by secondary sources. In addition, observations from a number of mailing lists, newspapers, and personal or organisational blogs, which monitor the circulation of ideas around HR/IR issues at company level, have formed part of the data on which we base our analysis.

The paper is organised into four main parts. The first part presents the state of IR during the two former eras, the Old and New Order. This part shows how significantly different the IR systems were under the two governments. The second part concentrates on analysing changes in post-Soeharto era. The third section captures and analyses the role of actors involved in the post 1998 changes. A fourth section discusses issues of continuity and change within Indonesian IR institutions.

## **IR IN THE OLD AND NEW ORDER: DIFFERENT INSTITUTIONAL LOGICS**

Based upon widely accepted labour standards, it is fair to say that the Old Order regime gave a relative degree of freedom to the labour movement, at least during the period 1945-1957. Multiple labour organisations existed during this period. As noted by King (King 1982, quoted also in Hadiz 1997), a report listed that there were 1501 national, regional, and local unions in total in 1955. This phenomenon was influenced by the attempt of the Soekarno government to establish a democratic state. Many of these organisations especially major unions and federations were associated or affiliated with political parties. This relationship, however, raised accusation that labour unions did not function for the members' socio-economic welfare but as a vehicle of political parties for social mobilisation. As La Botz (2001) claims, the unions were mainly top-down driven by politicians. Hadiz adds, "...that union policy and strategy were often dictated by the party leadership" (p. 40). Nevertheless, nearly half of total unions were independent at this time.

However, during the later period of his administration, Soekarno turned away from a liberal system towards a so-called guided democracy system<sup>1</sup>. From around 1960 the regime started to increase control over labour relations. Emergency Law No. 7 was passed in 1963, which banned strikes in vital industries (Uwiyono, 2001). From then on the number of strikes and workers involved persistently decreased across time, with a

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<sup>1</sup> Guided democracy means that Soekarto centralised political power for himself, rather than letting the political parties at that time to have room to manoeuvre, as he previously did. La Botz calls it a kind of political dictatorship (2001, p. 104).

few minor deviations in certain years, and reached zero in 1962 (King 1982). Military power was also increasing involved in dissolving various labour issues particularly in industries that were considered essential.

In striking contrast with the Old Order, the New Order regime established a tight control over labour movement right from the beginning. This move was strongly related to the economic and political agenda that the government was seeking to promote. In promoting economic progress and political stability, the Soeharto government gave top priority to economic issues, and exerted very tight control over social-political matters. In order to attract foreign investment in particular, the regime promoted cheap labour, although it also started to develop a minimum wage regime. The regime was also overtly in favour of protecting the interests of foreign investors. On the other side of the coin, it established very sharp surveillance and pressures upon labour movement by using military intervention in many labour issues to enforce industrial peace. La Botz (2001) concluded that these practices represented absolute control by the state and military over labour relations issue with high levels of military intervention, both overt and covert, into workers organisations.

The Soeharto regime also took a unique standpoint in developing the post-Soekarno formal IR system. While continuing the labour laws inherited from the Old Order period, it simultaneously deviated from them. The Constitution and laws protected basic labour rights quite comprehensively<sup>2</sup> (cf. Manning 2008; Caraway 2004), however the regime disregarded these and introduced counter-acting practices supported by executive decrees and at the same time allowed illegal labour practices to be introduced by employers. In so doing the regime actually created an internal inconsistency within the IR system, particularly between the regulative institution and normative labour standards, and showed significant gaps in the practices. This shows how powerful actors such as Soeharto and his allies used coercive power to establish and support parallel institutional logics and in so doing introduced change to the existing logic of the Indonesian IR system. The new institutional framework, although forced upon all formal IR parties at that time, created a gap for rebels within the labour movement and labour-oriented activists to exploit for future institutional transformation.

In order to further its legitimacy and strengthen the approach ideologically, the Soeharto regime associated it with *Pancasila*<sup>3</sup> and thus called it Pancasila Industrial Relations (*Hubungan Industrial Pancasila: HIP*). HIP was claimed to be a system based upon Pancasila<sup>4</sup> as a unifying rhetoric of the nation, although in reality the Soeharto version of Pancasila distorted the concept and eventually discredited it. In attempting to counter and reverse the phenomenon of labour militancy during the Old Order, HIP greatly emphasised and promoted harmonious and cooperative relationships between labour and employers. This was argued to be in accordance with the social-cultural character of Indonesians, particularly the dominant Javanese culture within which Soeharto's power base was established. The argument may be true (cf. Hess 1997), although as a

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<sup>2</sup> In an interview in Jakarta 20 February 2009, Timboel Siregar from *Organisasi Pekerja Seluruh Indonesia* (OPSI) confirmed the protective nature of labour laws of the period, mentioned that the state was positioned as a guardian of labour interests due to the imbalance of power between workers and employers.

<sup>3</sup> Pancasila is 5 principles of the nation that was accepted by the founding fathers to unify the multiple backgrounds of people that make up the nation. It consists of 1) belief in the one and only God, 2) just and civilised humanity, 3) the unity of Indonesia, 4) democracy guided by consensus arising out deliberation amongst representatives, 5) social justice for the whole of the people of Indonesia.

<sup>4</sup> Timboel Siregar (20 February 2009) claimed it was only a Soeharto version. Currently the term Pancasila is discredited in the eyes of the Indonesian population.

national ideology, Pancasila also contains western ideas such as state integralism, which was adopted by pre-independence nationalists from European thinkers (see Ford 2000a). However, the attribution of industrial relations to Pancasila tended to merely legitimise the regime's own interests to safeguard the economic progress and political stability, rather than to create genuine peaceful labour condition. Thus the nation's philosophical ideals became an ideological justification to deter labour unrest, supported by physical pressures where it was deemed necessary. Therefore as a system that claimed to promote equal power relations between workers and employers and where the government played a bridging role between both parties, HIP clearly failed to deliver its normative promise.

While the Old Order was relatively democratic in ensuring freedom to organise and created an environment of multi-labour organisations, the New Order took very different position. It dissolved all existing unions into one state sanctioned union, the All Indonesian Labour Federation (*Federasi Buruh Seluruh Indonesia*, FBSI) through a Declaration of Unity, signed in 20 February 1973. Later in 1985, the federalist union was transformed into a unitary model and renamed the All Indonesian Workers Union (*Serikat Pekerja Seluruh Indonesia*, SPSI). Independent sectoral divisions under FBSI were changed into a centralistic departmental form of organising, where the central role of the union was held by the personnel of the ruling party, Functional Group (*Golongan Karya*, Golkar) and also permeated by military personnel (see La Botz 2001). This union never played its role as the representative body of its members, but merely become the voice of government's interest in labour relations issues.

Under such repressive conditions, the workers and labour activists were not silent. Efforts to fight against the system existed but were mostly underground. Student activists were among the major players in this regard (see e.g. La Botz 2001). They developed counter-logics against the New Order institutional logics and educated and organised plant workers and peasants, although they were at risk of repressive actions, including torture, being jailed, or mysteriously killed. They initially undertook clandestine grass-roots organisation of labour groups and later in co-operation with labour and other human rights related NGOs, were involved in more explicit confrontations (Ford 2000a). Such explicit confrontations were only possible during the Soeharto regime because of international support from groups such as International Confederation of Free Trade Union (ICFTU), World Confederation of Labour (WCL), and ILO and other human rights organisations. This support was in form of sending thousands of letters and numbers of delegates to Indonesian embassies, demonstrations and protests, also campaigns and ads in mass media (see Silaban 2009, p. xv). Overall during the Soeharto era, international support helped maintain the efforts of those opposed to the regime by assisting them to survive under constant political pressures from the regime.

The description above has provided an account of different institutional logics between the Old Order and the New Order governments. The latter took a very different direction to the former, although it formally continued some of the basic regulative protections of labour laws such as those applying to workers health and safety and some elements of the tripartite dispute resolution mechanism that operated at both national and regional levels. Nonetheless, there existed critical responses to the general approach to IR reforms of the New Order as, shown by the organising and educational activities of student activists and later on by labour NGOs activists who had links to wider institutional logics within international labour context that promote the conformity to labour standards. This shows that the institutional changes that were introduced or attempted, did not introduce totally new institutions. Rather, they connected to logics from the past within the Indonesian context or the existing logics from wider or international institutional setting. This coexistence of change and stability confirms a

path-dependent type of change, although we acknowledge replacement of one formal system with another.

We should also note that the New Order's HIP and labour conditions in general stimulated widespread dissatisfaction among workers and labour activists. However these dissidents had a very little room to freely express such dissatisfaction due to repressive actions carried out by the regime. A remarkable example of these was the case of Marsinah, a labour activist in East Java who was raped and tortured to death in 1993 (e.g. Kompas 3 Februari 2000; Silaban 2009)<sup>5</sup>. Others notable cases included those concerning Pakpahan and Dita Indah Sari who were jailed for their action. However, the accumulated level of dissatisfaction and the increasing frequency of activism during the 1990s were indicative of a labour movement that was waiting for a ripe moment to stimulate fundamental changes. As predicted by Hess in 1997, "... current labour policies may be approaching the end of their useful life." Such predictions became prophetic when Soeharto fell from power in 1998 and the Reformation Era began. The next section will discuss this period in detail.

### **INSTITUTIONAL CHANGE IN POST-SOEHARTO ERA**

After a long period of repressive power under the Soeharto regime and conditioned by accumulated dissatisfactions among labour, there was potential support for large scale and radical change to occur. Both Manning (2008) and Ford (2000a) observed that there were significant changes in Indonesia IR system following the fall of Soeharto. Almost inevitably, there was a big push towards a more democratic system, resonating with political reform developments within the wider Indonesian society. The former authoritarian system where the state and military took a full control over labour issues thus, at least tangibly, entered its terminal phase. The question remains, however, whether this was really as revolutionary a change as it appeared on the surface?

The fall of Soeharto meant the breakdown of his repressive regime, including that of a state-controlled IR system where military intervention was often a default option. With the support and involvement of the ILO Jakarta Office, the post Soeharto governments ratified eight ILO core conventions and translated them into Indonesian regulative environment (Rahayu and Sumarto 2003, Manning 2008; Caraway 2004). Key amongst these was Convention No. 87, 1948 on Freedom of Association and Protection of the Right to Organise. The ratification of this convention had been a top priority in the ILO agenda, supplemented with other concerns such as on effective and impartial dispute resolution and protection against anti-union discrimination (Caraway 2004). These were the foundation stones of the labour reform process.

A closer look at this period reveals that academic commentators have divided the Indonesian labour reform process into two rounds (e.g. Caraway 2004; Manning 2008). According to Caraway, the first round was started when the Habibie administration ratified ILO Convention No. 87 on June 1998 and ended when Wahid administration passed the Trade Union Act (No. 21/2000). This phase was concerned with the adoption of the core labour standards of the ILO until the materialisation of freedom of association into Act No. 21/2002. There was a break of around two and a half years, a period within which unions, employer association and government were in tensions dealing with their differing opinions upon Ministerial Decree No. 150/2000 on Lay-off, years of service and severance pay, before the second round commenced. The second round was mainly about passing the other two laws, namely the Manpower Act (No. 13/2003), and the

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<sup>5</sup> For a more detail account of the case, an informal source from a blog as follow could be considered, (<http://fprsaturei.wordpress.com/2008/04/27/jam-jam-saat-marsinah-menghilang-represi-dan-resistensi/>).

Settlement of Industrial Dispute Act (No. 2/2004).<sup>6</sup> In acknowledging these formal reforms however, we must take into account the pre-reform period where the long standing efforts of several actors to increased awareness of multiple other parties such as the workers and international organisations about the need to change the current state of Indonesian IR system under Soeharto regime. This might more realistically be noted as the actual and genuine reform process in itself.

These formal reforms brought into existence several 'new' institutions into the already existing Indonesian IR system. The ideas for the new institutions were, at least partially, sourced from the outside-in and were not 'indigenous' to the existing logics. Those ideas are related to internationally-recognised labour standards, structures and practices intended to replace the inappropriate existing logics and practices in Indonesia, especially those associated with the repressive model during the New Order era. The actions of different actors in this reshaping process are illustrative of the shifting agendas and coalitions of the different parties. For example, several interviewees noted that the labour activists solicited the assistance of the ILO in representing their cause but noted that the ILO also shaped the reform agenda to suit its own interests as well. So, for example, several activists claimed that they warned the ILO that there would be negative unintended consequences for the labour movement with the introduction of 'liberal' IR regulations of the type common in developed countries but these warnings were not acted upon. As will be noted later, a number of negative consequences did indeed occur as a result of these initiatives.

There were at least two key further institutional developments in Indonesian IR in the post Soeharto era that were enabled by the legislative change referred to above. The first was the re-emergence of multiple labour unions and the allied development of the emergence of independent federations (multiple) and confederations (three) which did not exist in the past. This represents a major departure from the New Order system under which only SPSI was acknowledged as the state-sanctioned union. However, the existence of multiple unions is indicative of institutional continuity from the Old Order system with some slight differences. These differences were in the existence of confederations in the *Reformasi* period and the general lack of affiliation of unions with political parties.

The emergence of multiple unions and confederations is a clear indication of conformity to the worldwide idea of freedom for workers' to organise and indicative of the adoption of internationally-recognised standards which provided a different institutional logic to that that existed in the Soeharto era. In its early development, this return to the right of association provided strong momentum for further positive development in Indonesian IR context. However, this development is now regarded as problematic because it has resulted in a highly fragmented labour movement. Currently, almost one hundred unions formally exist at national level and are in competition with each other in terms of membership and influence, rather than working collaboratively to ensure further reform. Moreover, the increase in the total number of unions is not reflected in a similar increase in total union membership and total number of unions at firm level meaning that organising effort is diluted. All the labour activists interviewed as part of this research confirmed this fragmentation and noted that it is not conducive to the overall development

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<sup>6</sup> If we consider the opinion of Timboel Siregar of *Organisasi Pekerja Seluruh Indonesia* (OPSI) there should be five Acts to be considered as part of the package of labour reforms (the two other Acts are No. 39/2004 on The Protection of Indonesian Migrant Workers and 40/2005 on National Social Security System), then we have an extended end. Alternatively, if we consider the dissatisfaction of some labour activists about the results of the reform, then we might have no end to the reform because there is an extended expectation that there will be more reform to come.

of better labour condition because the government often manipulates the divisions between labour organisations to shape further reform to their own interests. The respondents also acknowledge the difficulty associated with solving this fragmentation in the near future. Silaban (2009) further claims that the fragmentation also reflects the ideological 'haziness' of the Indonesia labour movement. The fragmentation resonates with the conditions during the Old Order regime and reflects a similar situation in broader Indonesian politics where fragmentation is a key feature. This suggests either immature political tactics and strategy or deep ideological divisions amongst the relevant actors within the broad Indonesian labour movement.

The second institutional development concerns the introduction of labour tribunals as a new formal mechanism of labour dispute settlement. This judicial system has replaced the former non-judicial mechanism represented in the role of a special committee (*Panitia Penyelesaian Perselisihan Perburuhan*, P4, Labour Dispute Settlement Committee), consisting of tripartite representatives. As explained by Lusiani Julia<sup>7</sup> from the ILO Jakarta, the court system was suggested by the ILO as a common mechanism which is used extensively by other countries. The ILO provided technical assistance to the Manpower and Transmigration Department in initiating this change which commenced operations in 2006. Although it is clear that the people involved in the reform process were well acquainted with the various systems of dispute settlement, it appears that the endorsement of the tribunal system was because it was familiar to ILO advisors perhaps indicating a level of normative isomorphism on institutional choice. However, the introduction of the tribunals to replace the former system, was made in the face of warning by groups such as the Legal Aid Foundation about likely problems with its administration (Tambunan 16/2/09)<sup>8</sup>. These problems relate to wider systemic issues in the Indonesian court system which is characterised by various forms of corruption and bureaucratic slowness. Siregar (20/2/09) from *Organisasi Pekerja Seluruh Indonesia* argues that by disregarding the known problems surrounding Indonesian court system, the parties to the new mechanism will have to confront its potential failure in the future. This was suggested because of the high level of administrative and resource burdens that will be imposed on the various parties, especially workers and labour unions with their lack of knowledge and skills on court mechanisms and lack of financial resources to hire lawyers to deal with industrial conflicts that brought into court. It is also apparent that the new tribunals are dominated by the legal profession and are likely to make decision on narrow and technical legal grounds rather than on a balanced view of the overall merits of any particular case. Siregar reported that there are an increasing number of failures for these reasons in cases where workers have sought redress through the new system.

A further change that has been facilitated by reforms mentioned above has allowed for the increasing use by employers of outsourcing and contract-employment as strategies toward achieving more labour market and business flexibility. Both practices have existed before the passing of Employment Act No. 13/2003 but the legal endorsement provided by new law has encouraged the rapid spread of these practices across many industries and illegal extensions of these practices into areas of contract law that are still protected. Tambunan concluded that the labour conditions for workers have got worse, and 'gone wilder' (*'buas'*) because of both the legal extension of outsourcing and contract employment into previously protected areas and the illegal exploitation of it by unscrupulous employers.

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<sup>7</sup> An interview with Lusiani Julia, Program Officer, ILO Jakarta Office, Jakarta, 20 March 2009.

<sup>8</sup> An interview with Rita Olivia Tambunan, Trade Union Rights Center, in Jakarta 16 February 2009. Tambunan was accompanied by another TURC staff.



Paradoxically, the impact of these, well intentioned, changes has become magnified now that there is a reduced level of involvement of the state or the government in IR issues. It is the perception of the labour activists that the state has reduced its involvement in the relations between the labour and the employers and in so doing have allowed even more freedom for certain employers to act without regard to the law. The monitoring of illegal practices by government officials is very low, according to the labour activists. Rajagukguk, a labour law expert involved in part of the reform process, questions whether the criticism of the labour activist concerning the reduced level of state involvement is reasonable<sup>9</sup>. He argues that it is a consequence of the logic of the current system that further promotes bipartite mechanisms in dealing with various labour matters and therefore reduces the level of state involvement. This is, however, a kind of departure from the dominant logic of the bureaucrats in Indonesian Department of Manpower who previously promoted high levels of government involvement, which Rajagukguk calls 'labour bureaucratisation'. This situation confirms on the existence different institutional logics amongst various actors and also diverse views about the right balance in the new system. People however have to temporarily live with the advantages and disadvantages of current system, although they may reject the underlying ideas. The interviewees foresaw that no change would be likely to happen at least until the general election which will take place later this year.

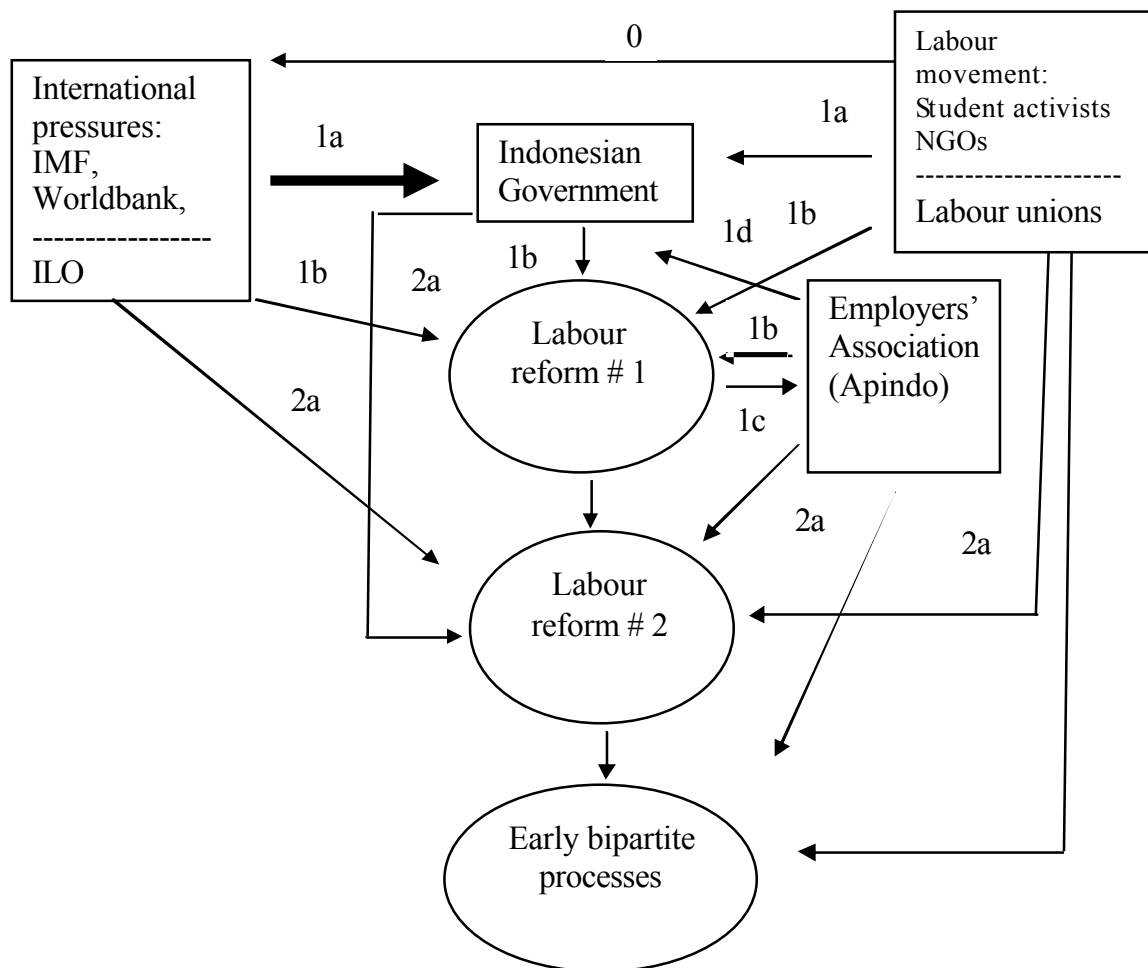
#### **ACTORS AND INSTITUTIONAL CHANGES**

Various actors have played different roles in the institutional changes within Indonesian industrial relations system across time. We take a longer time line in our analysis to identify the roles of the different actors and these are depicted in Figure 1 below. This extension enables us to see the influence of different actors that have been involved directly or indirectly in current changes such as student activists and NGOs. The use of this extended time line leads us to different conclusions to those of Caraway (2004) and Ford (2000a) on the role of labour unions on the reform process. These differences will be elaborated below.

#### **Figure 1. Relevant Actors in the Indonesian Labour Reforms**

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<sup>9</sup> An interview with H.P. Rajagukguk in Jakarta, 21 February 2009.



Line 0 in Figure 1 shows the influence of student activists, labour NGOs and later on labour unions in early stages of labour protests against the repressive policies and practices during Soeharto administration. In order to avoid suppression from the government and military, the students mostly worked underground by educating and organising workers and peasants in order to develop their awareness of their rights. La Botz (2001) develops a historical account of this student movement from different generations, 70s, 80s, and 90s to show that their involvement in labour and democratic movements has been constant. Along with these former students are other elements of the emerging civil society, who worked through numerous non-governmental organisations (NGOs) to develop democratic movements and especially labour movement during Soeharto regime. Labour-oriented NGOs played critical role in organising labour movement in Indonesia, in the absence of credible labour unions. Workers rights education and protection and organised strikes to protest the repressive labour policies and practices were actions taken by the NGOs. La Botz (2001) and Ford (2003) present thorough historical accounts to show this important role played by the NGOs. In 1990s although the Soeharto government only allowed SPSI to act as the sole sanctioned labour union, several alternative unions emerged out of the critical component of the civil society, they were *Serikat Buruh Sejahtera Indonesia* (SBSI, The Indonesian Prosperous Trade Union), *Serikat Buruh Merdeka – Setia Kawan* (SBM-SK, Solidarity Free Trade Union), and later on *Front Nasional Perjuangan Buruh Indonesia* (FNPBI, Indonesian Front for Labour Struggle). However, under constant pressures,

these unions could not optimally gain legitimacy and influence, though a few received a level of international recognition and support. These labour unions, according to La Botz (2001), had paved the way to significant changes in post-Soeharto era.

Surprisingly, as Ford (2000a, b) and Caraway (2004) observe, the labour activists didn't really seize their opportunity for a greater role during the post-Soeharto vacuum. They contributed less during the course of change, as depicted by line 1b in Figure 1. Ford (2000a) claims that it is in contrast to the predictions of Hadiz (1997) and it shows a temporal discontinuity from the raising labour concerns in the late New Order.

The labour activists in the field, however, did not really agree with the claim that they missed their opportunity. When confronted with this claim, Rekson Silaban<sup>10</sup>, the president of *Konfederasi Serikat Buruh Sejahtera Indonesia* (The Confederation of Indonesian Prosperity Trade Unions, KSBSI) openly refuted this conclusion, "That's not true. You could not quote them. Such opinion is controversial. Please check later in my book, there are some footnotes, which provide you fairer view." In his book, Silaban (2009) claims that it was the efforts of labour activists, especially those from SBSI, that imposed the agenda to ratify the ILO Convention No. 87 to the IMF, before it met with Indonesian government. The latter relationship is depicted by line 1a. Ari Sunarijati<sup>11</sup> from the Federation of Reformed All Indonesian Workers Union (*Federasi Serikat Pekerja Seluruh Indonesia (SPSI) Reformasi*) also said that they participated in meetings that discussed the drafts of three new labour laws (line 2a). A discussion paper issued by *Trade Union Rights Centre/TURC* (Suryomenggolo 2004) states the involvement of "*Tim Kecil*", a small group of representatives of labour activists, especially on the discussions of two of the laws. However "the house" (labour activists) divided into those supported the processes and results and those who did not. This nevertheless supports the claims of Caraway (1999) that labour activists were not solid or unified as a movement, a conclusion that was agreed with by the activists themselves in interviews.

The ILO played an arbiter role during the reform processes to conform to international labour standards (lines 1a, 1b, 2a). The ILO had advocated for a long time that the government and labour stakeholders comply with world labour standards. During the Soeharto period the ILO could not make any headway with these arguments due to lack response from the government (Caraway, 2004). However, the ILO gained momentum during the monetary crisis when the intervention of international financial institutions such as International Monetary Fund (IMF) came at the price of the acceptance of world labour standards by the reformation governments. These standards were eventually transformed into the new package of labour laws. However, this success by the ILO should be seen in the context of long and sustained reform pressures from Indonesian and international labour unions (Silaban 2009) and NGOs (Ford 2003) and also as a means for the new government to gain legitimacy before its international stakeholders. Notwithstanding the antecedents mentioned above the constant pressures from the ILO and its ongoing role in facilitating the institutionalisation of the core labour standards, has had a major shaping role on Post Soeharto IR in Indonesia.

The employer groups were less involved during the first round of reforms, which might be argued to not have had great impact upon them (dotted line 1b). Rather they became involved at the end to the first round, responding Ministerial Decree No. 150/2000 that forced upon them high levels of severance pay for workers. This threat to their interests was so great and profound that their immediate reaction was unavoidable. The severance pay issue became their entree into further involvement in both tripartite and bipartite processes. Caraway (2004) even claims that from this time on the

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<sup>10</sup> An interview with Rekson Silaban in Jakarta, 10 March 2009.

<sup>11</sup> An interview with Ari Sunarijati in Jakarta, 14 March 2009.

employers became more solid than the labour activists. To the contrary, the labour activists claim that the employer associations tried to use backdoor tactics (*jalan belakang*) to impose their interests during the discussions about the shaping of labour laws by providing hotels for the meetings and holidays. Some activists (eg Silaban) went even further and made the accusation that 'money politics' ('suap') was in use to further the interests of the employers. No explicit evidence could be found to support this claim but some indicative evidence was put forward by activists, based on field interviews and other sources for instance the report of TURC (Suryomenggolo 2004).

The Indonesian government has shown various levels of commitment during the different times of change. The quick response of Habibie government to ratify ILO Convention No. 87 was very surprising (Caraway 2004), although Silaban (2009) claims that its adoption by the government could be attributed to pressure from the labour movement which left the government with few options other than to introduce the change. Although it tried to gain legitimacy by adopting changes, the government also showed some reluctance for instance in deciding to continue controversial Employment Law No. 25 /1997 which had already received widespread criticisms. As mentioned earlier, there is also a claim of reduced involvement of the government in stimulating balanced labour-employer relations, including reduced monitoring of the implementation of labour laws at company level. Claims are also made about the dominant influence of the government in the passing of the package of three new labour laws (Suryomenggolo 2004; Rajagukguk, 21/2/09), which are claimed to be largely detrimental to the interests of labour<sup>12</sup>.

The role of international financial institutions especially the IMF was important in starting the labour reform process. The IMF reforms were part of the imposed structural reform of Indonesian economy as a response to the economic crisis, although it was not included in written letter of intent signed by the ILO and Indonesian government. It agreed to support the interests of labour unions such as SBSI and the ILO and delivered the message to Habibie government. Silaban (2009, p 39-40) notes his and other activists meetings with the IMF in 1998. "These talks... also explain why Habibie then ratified the ILO convention ..." (p. 40).

Another party that took part and expected to play a role in the conception of labour laws was academics in labour law or labour relations (see Suryamenggolo, 2004). They however did not play as significant a role as might have been expected because were not consulted from the beginning. Rajagukguk clearly showed his disappointment because in his view the new labour laws don't show a cohesive understanding of the nature of labour law and industrial/labour relations. The labour law reforms had not started with any academic draft. It is then claimed as a failure of the government and legislators upon the issue of the regulations.

## **REFLECTIVE DISCUSSION AND CONCLUSIONS**

Some key questions emerge from the forgoing discussion of the evolution of the post-Soeharto IR systems in Indonesia and the role of key actors in facilitating reform during this period.

First, have the authoritarian and highly repressive state intervention mechanisms of New Order industrial relations been irrevocably removed and have the more liberal reforms to the system become firmly established? This is a critical question for any informed reflection upon the continuing development of Indonesian IR system. In responding to this question and in criticising general political conditions in post-Soeharto

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<sup>12</sup> Exceptions can be made regarding the regulations on severance pay which favors the interests of workers.

Indonesia, Hadiz (2004) states that the reformation era has been disappointing and that many policies and practices actually remain the same. The research presented in this paper tends to support this view in that it points to continuing institutional legacies from the Soeharto era. Notwithstanding changes to the formal IR machinery, many of the old power imbalances remain and at an ideological level, the old era still exerts some influence over the taken-for-granted behaviours of current institutions which have distorted the intended reforms.

Second, have there been significant improvements in labour conditions in Indonesia? Unfortunately the answer is a clear no, an unexpected result for the supporters of the labour reform. All the labour activists interviewed for this research were in concert in voicing such opinions although with various degrees of criticism. A few of them even claimed that in some instances current conditions are worse than those under the New Order system. Timboel Siregar, the vice president of *Organisasi Pekerja Seluruh Indonesia* (OPSI, All Indonesian Workers Organisation) claims that the New Order system had in some way more protections for labour interests in formal labour laws, although it contained deviations from these in the form of executive decrees and actual practices. The laws now have been too liberalised in the opinion of many, and have allowed, and partly legitimated, the 'wild' behaviour of greedy employers in further exploiting labour. Deviations from the law in practice have no controls on them at all. Moreover, old behaviours remain the same, for example in situations where the law is still negotiable between the employers and power holders, 'a negotiable justice' (c.f. Tjandra and Hanggrahini 2007). In this respect, Indonesia shows similarities to other regimes such as those in the old Soviet bloc where state control was rapidly removed to leave a relatively lawless vacuum.

The labour reforms have certainly created new freedoms within the Indonesian IR system but it can be argued that not all developments within this new environment are positive for labour. For example, the Law No. 21/2000 has granted the freedom of association, but it also stimulated a euphoric atmosphere within which too many trade unions have been established relative to total membership. This situation reflects a growing fragmentation and competition in the Indonesian labour movement that has negatively impacted labour conditions, rather than creating an environment conducive to stimulating improvements.

Another big institutional shift has been seen in the introduction of Industrial Relations Court by Law No. 2/2004. Amongst other things, this law has shifted the government's role through tripartite mechanism in solving industrial dispute onto a judicial system. Within this new institutional structure there is claimed to be a lack of experience and capability, especially on the labour side that has led to significant problems especially for labour unions and workers to handle various problems and industrial disputes. For Siregar, this demonstrates that the state has merely withdrawn itself from active engagement in the system. This liberalisation has gone too far in Siregar's view, because the new institutions do not take into account the imbalance of power (including capabilities) between the workers and the employers. The state has been part of the problem through its over-involvement in the IR system in the past but has now flipped too far the other way and in largely withdrawing from the system has merely abdicated its responsibility. This has been a caused significant on ongoing problems for the labour unions.

In the context of the developments noted above, the welfare conditions of workers have been under fire. Under the new outsourcing regime many permanent workers have been fired as employers have responded to the pressures of the global financial crisis. Outsourced and temporary contract employees on the other hand have been increased significantly, in automotive component manufacturing, textile and

garment, banking, and supermarkets amongst many others. The latter types of workers are employed under contractual agreement for a given term, for example in an annual contract. Although the law prohibits the employers to outsource core process of their businesses and limits the length of contractual employment, the reality is that the practice has not been well monitored and 'outlaw' behaviours have not been punished according to the law. An example shows that from about a thousand workers employed by a company in Tanjung Uncang, Batam in Sumatra around 80 percent are outsourced employees. These 'employees' work under three month employment contracts between the company and 26 different suppliers without basic legal protections. Tellers at several banks, who are a core elements of the bank's customer service oriented business model have been changed from permanent to contractual workers (Siregar 20/2/09). Under new contractual agreements the salaries and employment security of these workers has been reduced. Even in big firms it is not uncommon to find that many workers are now paid less than the minimum wage. Overall, it can be convincingly argued that the introduction of more flexibility in employment conditions has been thoroughly detrimental to employee working conditions.

Such an outcome is not really that different to that resulting under the explicit philosophy during the New Order where exploitation of cheap labour was the core principle of Indonesian business practices. A few respondents conclude that the current situation is even worse. The greed of employers has remained the same. The ignorance and disregard of the government to the unlawful acts has not changed. The labour movement has become more fragmented and less able to speak with one voice and changes to the law and business practices have provided new ways for employers to reduce wages and conditions. One of the only things that have changed for the better is that there is now no military involvement in labour disputes.

The recent changes in Indonesian IR illustrate a mismatch of structural, cognitive and normative elements in the system and the direct and indirect institutions that impact upon it. The introduction of new labour standards (e.g. right to organise) and structural elements (industrial tribunals) could not overcome the normative assumptions that have shape the actual operation of institutions for a long period of time. Hess (1997) and Hofstede's (2000) have argued that Indonesian administrative practice is rooted in a paternalistic culture, with hierarchical and a patron-client focus which tolerate imbalances of power and the submissive position of labour relative to employers and government officials. With the semi withdrawal of the state from direct control of the IR system, the employers have exploited new freedoms to maintain and enhance their dominant position over labour. The realities of this imbalance of power are not matched by the cognitive assumption of equality contained in the new institutions. Thus some parts of the current Indonesian IR system reflect an institutional legacy that has been inherited from earlier times.

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