



ITUC - Asia Pacific

International Trade Union Confederation - Asia Pacific

One Marina Boulevard, 9th Floor NTUC Centre, Singapore 018989
Tel: (65) 6327 3590 Fax: (65) 6327 3576
E-mail: gs@ituc-ap.org

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President: *Felix M. Anthony*

General Secretary: *Shoya Yoshida*

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President Joko Widodo
Presidential Staff Office
Gedung Bina Graha
Jalan Veteran No.16 Jakarta Pusat
10110 Indonesia
Email: webmaster@ksp.go.id

Your Excellency,

In solidarity with Indonesian workers, the International Trade Union Confederation (ITUC), together with its regional organisation for Asia and the Pacific (ITUC-AP), is writing to express our serious concern about the draft bill of Omnibus Law on Job Creation.

The ITUC represents over 207 million workers in 163 countries and territories with 332 national affiliates, including our affiliates in Indonesia, Konfederasi Serikat Pekerja Indonesia (KSPI) and Konfederasi Serikat Buruh Seluruh Indonesia (KSBSI).

We are extremely concerned about the draft bill, which are strongly opposed by the ITUC affiliates and workers in Indonesia.

Our analysis shows that the “Omnibus Law on Job Creation” would lead to a greater flexibility and lower workers’ welfare significantly. Furthermore, the draft bill also falls short of compliance with the ILO Convention 98 on Right to Organise and Collective Bargaining, Convention 100 on Equal Remuneration and Convention 144 on Tripartite Consultation which had ratified by the government of Indonesia.

1. Risks to undermine minimum wages:

- It removes references to minimum wages at the city/district and sectoral level and only refers to provincial minimum wages. The level of the minimum wage will be based on economic growth at the provincial level, rather than based on evidence on the cost of living.
- Wage-setting will become the prerogative of provincial governors contrary to ILO Convention No.131 on Minimum Wage Fixing, which requires a tripartite minimum wage setting mechanism.
- Dissuasive sanctions against employers for not complying with minimum wage levels will also be significantly weakened. The current applicable legislation (Law 13/2003) provides for a punishment of up to 4 years imprisonment and/or the payment of a fine of 400 million rupiah. The Omnibus law would remove these penalties as well as penalties for unjustified late payments. Moreover, micro-small and medium scale enterprises, which constitute the majority of businesses in Indonesia, may be exempt from the obligation to pay workers minimum wages.

2. Critical provision with regard to severance pay will be removed:
 - This will facilitate the hiring and firing of workers for employers, while at the same time depriving workers of a significant part of their benefits. Workers on fixed-term contracts will no longer benefit from severance pay for example.
 - Other categories of workers deprived of their severance pay include workers dismissed as part of retrenchment procedures or workers who are laid off due to prolonged sickness and workplace accidents.
3. The excessive use of temporary contracts for work of a permanent nature:
 - Currently, the legislation does not permit employers to hire workers on temporary contracts for more than two years for work of permanent nature. However, relevant provisions would be removed if the Omnibus law was adopted. This would incentivize employers to perpetually keep workers on insecure contracts.
4. Limitation to the outsourcing of workers and the coverage of health and pension schemes will be removed:
 - Currently, outsourcing is only permitted to five types of work that are not part of the core business of enterprises. However, if the proposed bill were adopted, employers would be able to outsource all their activities to an insecure workforce such as the hourly workers etc. As a result, many workers may not be covered by health insurance and pension schemes with their employers being exempted from their duties and responsibilities.
5. Risks to health and safety:
 - While the limit of the 40 hours per work is maintained in the Omnibus law, daily limitations have been removed. The maximum hours of permitted overtime have been increased, which may lead to significant health and safety risks.
6. Consultation with trade unions will be removed:
 - Requirements to consult with in order to minimize job losses and to take measures to mitigate adverse effects of terminations in the event of restructuring have been removed.

Mr. President, the Government submitted the draft bill of Omnibus Law to the House (DPR) in February to kick-start deliberation over wide-ranging economic reform that intended to woo investors, boost economic growth and create jobs. On 29 April 2020, following mounting pressure from labour groups, your Excellency had announced that the Government had reached a deal with the House (DPR) to delay the deliberation of the labour cluster within the Omnibus Law that will provide the opportunity to explore substantial issues within the bill and also to accommodate input from stakeholders. Indeed, we really appreciate on your initiative and decision to postpone the deliberation of this controversial bill in particular during the COVID-19 pandemic.

We have learned that the technical team for labour cluster was formed on 3 July 2020 which consists of government, trade union and employer representatives. On 8 July 2020 the team has been met for the first time, however, some of trade unions organisation including our affiliate KSPI has withdrawn from this technical team.

The ITUC would like to remind the Government of the Republic of Indonesia of its obligation to ensure the implementation of ILO Convention No. 144 on Tripartite Consultation. Article 3, paragraph 2, of the Convention stipulated that “employers and workers shall be represented on an equal footing on any bodies through which consultations are undertaken.” In this regard, it is very important to ensure the views of KSPI Indonesia as one of the largest trade union organisations in Indonesia must be taken into account by the Government before making any decision.

In this regard, the ITUC and the ITUC-AP demand that the Government of the Republic of Indonesia to comply with its international obligations:

1. Ensure that the social partners must be represented on an equal voting on any bodies through consultations are undertaken, although they should not be limited to a committee, a team of any other bodies, and that the Government must continue to consider in good faith any opinions of social partners, including KSPI Indonesia.
2. Ensure that any proposed amendments shall not decrease of the guaranteed rights and benefits by the statutory Law and International Labour Standards.

We look forward to your urgent intervention and wish to be kept informed of the measures taken to address these matters.

Yours sincerely,



Sharan Burrow
General Secretary ITUC



Shoya Yoshida
General Secretary ITUC-AP

- C.c. 1. Mr. Said Iqbal, President KSPI
2. Ms. Elly Rosita Silaban, President KSBSI