Chapter 7  Kadin and the Manpower Law of 2003

7.1 Introduction

Before 1998, when Soeharto was still in power, labor rights in Indonesia were hardly discussed. Instead, they were suppressed and abused. Yet, since the fall of Soeharto, several changes have been introduced to improve the freedom and rights of labor, as well as to secure their material welfare in terms of wages, pensions, etc. This chapter discusses one of these changes: the legislation on the ‘Settlement of Employment Terminations and Determining the Payment of Severance Pay, Long Service Pay and Compensation in Firms’. The discussion in this chapter follows the chronological description of how Kadin tried to influence policymaking on this new legislation.

In 2000, the Minister of Employment and Transmigration issued the Ministerial Decree No. 150/2000 relating to changing existing labor laws. This decree was revised twice (resulting in the Ministerial Decrees No. 78/2001 and Ministerial Decree No. 111/2001) and later turned into the Manpower Law No. 13/2003. Several articles, dealing with such issues as the settlement of employment terminations and long service pay, led to strong reactions from employers and to strong, and sometimes even violent, protests from employees.

The analysis in this chapter focuses on the role of Kadin in the process of creating and implementing labor legislation from 2000-2003. We aim at addressing the following issues. First, we discuss how Kadin responded to the contents of Ministerial Decree No. 150/2000, which were very labor-friendly initially. When this decree was issued, Kadin and other business associations immediately expressed their worries. They claimed that the articles in the decree would lead to a large increase of labor costs, which would endanger the country’s economic performance, leading to a decline of the Indonesian economy. We will see that due to the criticism of Kadin and others, the government was willing to modify some of the articles, which led to Ministerial Decree No. 78/2001.

Second, we discuss how the labor movement reacted to the intentions to revise Decree No. 150/2000 and issue Ministerial Decree No. 78/2001. We will see that labor protests emerged on a large scale. Next, we will show that the reactions from the labor movements again led to a response from the government: it modified Decree No. 78/2001 and published Ministerial Decree No. 111/2001, which partly reversed earlier modifications as demanded by the employers.

Third, we discuss the process of the increasing tensions between business associations and labor unions about the new labor legislation. Ultimately, during the presidency of Megawati these tensions led to the creation of a tripartite forum of state, business and labor to solve conflicts related to business-labor issues. When President Megawati came to power, she appointed Jacob Nuwa Wea, a former labour representative, as her Minister of Manpower and Transmigration. He managed to finally find a compromise between business and labor, which, however, appeared to be a disappointing result for both sides.

We investigate the process of tripartite interaction between business, labor and the government, which led to the preparation and introduction of Manpower Law No. 13/2003. In the tripartite dialogue business and labor were to negotiate under the guidance of the state. The tripartite dialogue forced labor and business representatives to accept compromises on the contents of labor market policymaking. At the same time, however, within the framework of the tripartite dialogue both parties were also competing to get their interests recognized by the state as much as possible. We will briefly address the role of the media in the business-labor policymaking process. The media affected both success and failure of Kadin’s interventions.

The discussion of the creation of a new labor law in the early 2000s illustrates how Kadin after 1998 was challenged by other, newly emerging social pressure groups – in this case the labor movement – which also tried to influence policymaking by the state. This was new to Kadin. In our analysis we seek to describe and understand to what extent Kadin was successful in representing the business sector’s interests in this increasingly competitive environment.

Interestingly, in contrast to the previous two cases, business operated collectively, and for the first time Kadin was seen as an important venue for representing interests, in this case vis-à-vis labor. Due to this collective approach, the analysis suggests that in the end the business sector and Kadin as its main representative were successful in changing at least partially the labor laws according to their own interests. At the same time, the business community had to cope with the fact that labor unions played an important role in policymaking after 1998.

See also Manning (2008) and Caraway (2004) who have shared similar views on this.
This chapter is organized as follows. Section 7.2 briefly discusses labor legislation and labor rights in the pre-reform period. This describes the context in which discussions on reforming labor laws took place during the reformasi. Sections 7.3-7.9 chronologically describe the development of, and disputes related to, the drafting of new labor legislation between 2000 and 2003. The chapter ends with a short summary and conclusions in Section 7.10.

7.2 Labor Laws before the Reformasi

Labor legislation in Indonesia dates back to the first years after the independence. When Soekarno was President he established a number of laws – the first one was ratified as early as 1948\(^{442}\) – that were effectively favoring labor. These laws secured workers’ freedom of association and assembly, as well the right to strike and bargain collectively over labor rights. In case of labor dismissals, so-called dispute-resolution committees consisting of representatives of employers, workers and the government had to approve such decisions. Firing workers was therefore not easy and even expensive, since employers had to make severance payments.\(^{443}\) The most important law in this respect was Law No. 1/1951. It included detailed protection for labor and discussed issues such as working hours, restrictions on child and woman labor, annual leave, etc.\(^{444}\) Table 1 in the appendix provides an overview of labor legislation since the country’s independence.

During Soekarno’s presidency several labor unions were established. In most cases, these unions were affiliated to different ideologies and/or religions, such as communism, nationalism or the Islam. At the end of the 1950s, there were twelve different labor unions, the biggest of them being the All-Indonesia Central Labor Organization.\(^{445}\) This union was affiliated with the Indonesian Communist Party.\(^{446}\)

he used his power to issue several decrees that gave the regime possibilities to effectively limit labor rights, for example through strict registration requirements in case of strikes, and interventions by the military and/or policy in cases of labor disputes and strikes.\(^{447}\) Also, striking was made more difficult by imposing legal barriers. Moreover, when he came to power, Soeharto banned the All-Indonesia Central Labor Organization. In line with the corporatist model of the New Order, in 1973 he established one state-controlled trade union: the All Indonesia Workers Federation.\(^{448}\) In 1985 this union was

\(^{442}\) Law No. 12 on Labor.

\(^{443}\) Caraway, 2004.

\(^{444}\) Manning and Roesad, 2007.

\(^{445}\) Sentral Organisasi Buruh Seluruh Indonesia (SOBSI)

\(^{446}\) Partai Komunis Indonesia (PKI).

\(^{447}\) See appendix Table 2 for a list of ministerial decrees and regulations since the 1950s.

\(^{448}\) Federasi Buruh Seluruh Indonesia (FBSI).
renamed as the All Indonesia Workers Union, or Serikat Pekerja Seluruh Indonesia (SPSI).\textsuperscript{449} Pressure was put on other unions to merge into this state-sponsored union. Any remaining non-state controlled unions would have no access to the state and therefore had hardly any influence. The state-sponsored union became an umbrella organization of 21 labor unions representing labor in different sectors. In this respect, the union found itself in a similar position as Kadin did during the Soeharto regime.

Especially during the 1980s, the regime was strongly oppressive to labor.\textsuperscript{450} Thanks to international pressure, labor oppression was reduced to some extent, leading to the introduction of some regulations favoring labor (such as minimum wages and a holiday bonus requirement). Yet, the government never really gave up its approach towards labor and continued to be oppressive when needed. To conclude, during Soeharto’s regime labor rights were therefore effectively neglected. Although labor legislation was protective, at least formally, the decrees and military interventions strongly reduced the practical effects of this legislation.

7.3 Labor Policies in the Post-Soeharto Period: The Early Days

After the fall of Soeharto, the political landscape changed quite dramatically. As has been discussed in Chapter 3 of this thesis, the government – instead of being rather immune to outside interference with policymaking – suddenly had to deal with increased activism from parliament and society. The political power of the President in decision making had been reduced substantially as compared to that of Soeharto during the New Order. Moreover, increased activism in parliament and the reduced influence of Golkar meant that ministers had to negotiate important policy decisions with many different political parties before these decisions could be made. Also, social pressure groups became stronger vis-à-vis the government and had better access to policymaking processes now that the power of the President and executive had weakened. Finally, the government was more closely monitored by the media after it had received more freedom of press.

Within this process of political change after the reformasi, labor was developing into a force that gradually became more powerful. This was partly

\textsuperscript{449} The establishment of the FBSI and later the SBSI was embedded in the Pancasila ideology on industrial relations. This effectively meant that the labor union was not supposed to organize strikes and protests as this would run against one of the central principles of Pancasila, which stresses communalism and togetherness. See Sri Kusumastuti Rahayu and Sudario Sumarto, ibid., p.5.

\textsuperscript{450} During 1983-1988 Sudomo, a former navy official, was Minister of Manpower and Transmigration. He adhered to the so-called security approach to reduce the number of labor conflicts and violently oppress them when they came to the surface (Caraway, 2004, pp.33-34).
due to the public opinion on how the Soeharto government had treated labor before 1998. Actually, Soeharto increased feelings of injustice when in September 1997 – just a few months before he had to resign – he passed Manpower Law No. 25/1997. This law formalized several restrictions on labor and labor union activities, such as limits on strikes and registration requirements for labor unions. The law was very controversial and even the state-controlled SPSI was against it. Notwithstanding the protests Soeharto passed the law. The oppressive nature and human rights abuse of the Soeharto regime gave labor leverage after the reformasi in the sense that people expected the new government to compensate for the behavior of the previous regime and to give in to at least some of the claims labor was going to make. Moreover, public opinion and policymakers had become critical of neo-liberal policies that were demanded by the International Monetary Fund and the World Bank during the crisis, which especially hit the poor. Again, this was expected to lead to more attention for labor demands from the government.

The rising power of labor was also due to international developments. One major development was the ratification of International Labor Organization (ILO) Convention No. 87 in June 1998. This convention established the freedom of association and protection of the right to organize. Although initially ratification of this convention did not lead to changing labor policies of the Indonesian government (as it remained committed to the Manpower Law passed by Soeharto in 1997), continuous pressure from the ILO especially made the government decide to improve labor policies. In particular, under the guidance of ILO it issued Trade Union Law No. 21/2000, which was one of the first major laws that were accepted during the reformasi. This law permitted workers to establish labor unions at the enterprise level. The establishment of this law quickly led to an enormous rise of enterprise unions, which at a higher level were organized in labor union federations. The number of labor union federations (called labor unions from now on) increased from just one during the New Order (namely, SPSI) era to 61 at the end of 2001. These labor unions represented approximately 11,000 companies and had 11 million members. The largest and most important labor unions were the Konfederasi Serikat Pekerja Seluruh Indonesia (FSPSI), chaired by Jacob Nuwa Wea and

452 Manning, 2008.
representing about 6,240 enterprise unions; Dewan Executive F-SPSI Reformasi, chaired by Andi Hisbulin and representing 3,150 enterprise unions; Federasi Serikat Buruh Demokrasi Indonesia (FSBDSI), chaired by A. Azis Riambo SH and representing 121 enterprise unions; and Serikat Buruh Sejahtera Indonesia (SBSI), chaired by Muchtar Pakpahan and consisting of 229 enterprise unions. In Table 3 in the appendix the full list of all labor unions (in 2001) is given.

So, one important implication of Trade Union Law No. 21/2000 was that it led to an expansion of organized labor and thus a much stronger pressure on the government to take into account labor demands as compared to the pressure from labor during the New Order regime, when labor was very poorly organized.

Meanwhile, the controversy over Manpower Law 25/1997 led to the passing of two laws, the aim of which was to postpone implementation. In the end, the 1997 Law was not to be implemented until October 2002. This gave room for drafting a totally new labor law that aimed at gaining the support from all parties involved, in particular labor unions and business associations.

7.4 Ministerial Decree No. 150/2000

As discussed above, during the Soeharto regime the government used the issuance of ministerial decrees as a way to circumvent existing labor laws, enabling them to use these laws in a way that best suited the interests of the Soeharto government and/or the business sector. After the fall of Soeharto, the government again used decrees, though this time it seemed for different reasons. One of the most controversial decrees was Ministerial Decree No. 150/2000 (also known as Kep-150), which focused on industrial relations disputes and dispute resolution. This decree was established as a temporary solution in anticipation of the drafting of a new labor law.

Ministerial Decree No. 150/2000 was launched in April 2000 and became effective on 20 June of the same year. Decree No. 150/2000 covered a number of aspects related to ‘The Settlement of Employment Termination and Determining the Payment of Severance Pay, Long Service Pay, and Compensation in Firms’. The decree contained several remarkable changes with respect to existing labor laws, particularly with respect to the Ministry of Manpower regulation No. 3/1996. Decree No. 15/2000 was supposed to replace this regulation from the Soeharto era, which had had only little impact on regulating disputes and dispute resolution between business and labor. First, employees who resigned or who were sacked because they were found guilty of

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456 In total 197 decrees were issued during the Soeharto regime, all favoring government and business (Nikkei Weekly, 25 June 2001, cited in Caraway (2004)).
serious offense were entitled to a payment based on the length of their time with the company (i.e., length of service pay). Second, the maximum period for severance pay was increased from five to seven months of salary, whereas the length of long service pay was increased from six to ten months of salary. Third, employees were entitled to receive long service payment if they had served a minimum of three (instead of five) years. Finally, employers who temporarily suspended employees had to pay 75% (instead of 50%) of the salary until the industrial disputes resolution committee reached a decision.

These changes obviously favored labor. With these new rules, it became more difficult and more costly for employers to dismiss employees. The launching of this labor-friendly decree was undoubtedly affected by the increasing influence of labor movements and labor unions. Given the new political constellation, it was felt that after the Soeharto period in which labor had been repressed, it was now time for change. Moreover, labor was affected strongly by the Asian crisis, giving way to increased pro-labor regulation as this would reduce the likelihood of increasing unrest within society. In addition, in 2000, when the decree was introduced, Bomer Pasaribu was the Minister of Employment. He had been a leading figure in the labor movement. This may have been one of the reasons why the contents of the decree appeared to be favoring labor interests.

When the decree was launched, the business community strongly criticized it. Criticism was aimed at the fact that the decree did not take into account business interests. According to the business community, it would lead to an impossibly high financial burden for many companies, at a time when the Indonesian business sector was much affected by the Asian crisis. The decree would strongly reduce Indonesia’s attractiveness to foreign investors and would lead to relocation of industries to neighboring countries. Some business representatives accused the government of using this decree to improve its image among labor. Others pointed out that these new rules were added to the problems Indonesian business (domestic as well as foreign) already had to deal with, such as the high costs of the bureaucracy and a weak institutional environment. It was stressed that important industries such as the shoes, electronic and textile industries were relocated to other countries such as China and Vietnam, mainly because of a weak institutional environment (such as weak

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457 For example, by ‘... carelessly or intentionally causing damage, harm or leaving any goods belonging to the employer in poor condition’; see Article 18 of the decree.
458 Table 4 in the appendix covers an overview of the contents of Ministerial Decree No. 15/2000 as compared to Ministry of Manpower regulation No. 3/1996 with respect to determining payment of severance, long service pay and compensation in firms.
459 In an interview Pasaribu did acknowledge that after years of decrees that mainly favored the government and business, the time had come to turn to labor, also because there was fear of social unrest due to massive unemployment following the Asian crisis (Caraway, 2004).
law enforcement), high corruption, security problems, and rising costs of labor.\textsuperscript{461} It was said that due to the weak institutional environment, the high levels of corruption, the security problems and the rising labor costs, about 50 textile industries had already been moved to Cambodia and Vietnam.\textsuperscript{462} The new labor laws would make it very hard, if not impossible, for many companies to survive the painful economic situation Indonesia experienced during the turn of the century.

The business association for the shoes industry, Aprisindo (Asosiasi Persepatuan Indonesia), was one of the first to criticize the decree, pointing out the negative effects for business in general and for the shoes industry in particular. Although the association was relatively small, it still had a lot of influence within the Indonesian business sector, because of the charismatic secretary-general Djimanto and Chairman Anton Supit, who put Aprisindo at the centre of many discussions about state-business relations.\textsuperscript{463} The criticism of this business association was soon adopted by other associations, such as the Union of Indonesia Export Companies,\textsuperscript{464} led by secretary-general Toto Dirgantoro, by the Indonesian Apparel Manufacturers Association (AAMI) and the Indonesian Toy Business Association (APMI), and by the director of the Indonesian Textile Association API (Asosiasi Pertekstilan Indonesia), Benny Soetrisno.\textsuperscript{465}

Apindo, the Indonesian Employers’ Association, also criticized the decree and recommended the government to revise.\textsuperscript{466} Similar demands were voiced by Kadin at various occasions. At various occasions Kadin recommended revising

\textsuperscript{461} Data collected by the World Bank on the quality of the institutional environment for 214 countries in 2000 actually seem to support this view. In a sample of 188 countries for which information about the quality of the rule of law (measured as perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence) was available, Indonesia ranked number 160 – just above Togo and Burundi. With respect to regulatory quality (measured as the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development) the same dataset shows that Indonesia ranked number 125 of the 188 countries for which data were available: just below the Ivory Coast and just above the Kyrgyz Republic. Finally, with respect to control of corruption Indonesia is one of the worst performers of all countries in the dataset, ranking number 166 of the 187 countries for which data were available. See Kaufmann, Kraay and Mastruzzi, \textit{Governance Matters IV: Governance Indicators for 1996-2004}, World Bank, 2005.


\textsuperscript{463} Djimanto and Anton Supit were often invited for public discussions with labor unions and the government.

\textsuperscript{464} Gabungan Perusahaan Eksportir Indonesia.


\textsuperscript{466} Suara Pembaruan, 27 January 2001.
Ministerial Decree No. 150/2000: in January 2001 the chairman of the Kadin Department of Public Policy, Fadel Muhammad, was one of the first Kadin officials who strongly recommended the government to revise Ministerial Decree No. 150/2000, and also Aburizal Bakrie, chairman of Kadin, openly complained about the adverse impact of the decree on business. In a more elaborated reaction to the launch of the decree, the Kadin chairman of the special task force for manpower issues, Hasanuddin Rachman, stated that according to Kadin 27 articles of the 37 articles of the decree needed to be changed. Of these articles seven needed to be revised completely. These articles dealt with issues such as payment to employees in case of voluntary resignation, housing, and the rule that business should pay 75 per cent of salary in case of dismissal. With respect to this last issue, Rachman argued that the old rule of 50 per cent was fair enough. Moreover, he argued that long service payments should stop after six months as was the situation before the decree was launched, instead of it being extended to ten months. Especially the item referring to the rule that employers had to pay employees who voluntarily resigned met with a lot of resistance among the business people.

The above discussion clearly shows that among representatives of the business sector, there was a general consensus that Ministerial Decree No. 150/2000 harmed the interests of Indonesian business. Business representatives insisted that the decree should be replaced, or at least revised, in order to improve the balance between the interests of labor and business. Kadin and its representative in labor affairs, Apindo, played a pivotal role in voicing the complaints. The consensus among businessmen on this issue was one of the few occasions in which Indonesian business seemed to speak with one voice. In many other cases, and at least with respect to the cases discussed in Chapters 5 and 6, such a consensus was lacking due to conflicting interests of different subclasses of businessmen. The strong consensus of business on the issue of Ministerial Decree No. 150/2000 also allowed Kadin to play an important role as a representative of business interests. Perhaps for the very first time, Kadin was actually functioning as the peak organization representing business interests.

469 Bisnis Indonesia, 4 April 2001.
470 pokja Ketenagakerjaan Kadin Indonesia; ‘pokja’ is short for ‘kelompok kerja’, which can be translated as working group set up to accomplish specific tasks. This special task force was installed by Kadin to formulate a formal reaction to the launch of the decree.
472 The articles that were heavily criticized were the following: article 15 (clause 1), 16 (clauses 1 and 4), 18 (clauses 3 and 4), 19 (clause 3), 21, 22, and 26.
473 See Chapter 4 for a detailed discussion of the relationship between Kadin and Apindo.
Because of the strong and widespread opposition by Kadin and sectoral business associations against Ministerial Decree No. 150/2000, the government decided to revise and replace the decree. The government became more and more convinced that the institutional climate for (foreign) investors had to be improved and that the reallocation of various industries to countries like China and Vietnam had to be stopped. This change was possible especially after the Minister of Manpower and Transmigration, Bomer Pasaribu, was replaced by Hamdi Al Hilal. The new minister was more pro-business, and this clearly increased opportunities for business and for Kadin to successfully raise its voice and demand changes to the decree. The government made its intentions of revision public in November 2000. Kadin made it clear\(^{474}\) that it wanted to be involved in the process of revising the decree in order to be able to influence decision making regarding labor policies and to defend business interest.\(^{475}\)

### 7.5 Labor Opposition against Revising Ministerial Decree No. 150/2000

When the government announced its intentions to revise and replace Ministerial Decree No. 150/2000, several labor organizations were strongly opposed to this and immediately mobilized their organizations to make their wishes heard with both business and the government. The two most influential (and independent) labor organizations FSPSI\(^{476}\) (All Workers Labor Union) and SBSI\(^{477}\) (Indonesian Welfare Labor Union) were among these organizations.\(^{478}\) They advised the government not to revise the decree, but only provide additional explanations with respect to some articles. Some individual labor representatives also were opposed to the government’s intentions to replace the decree. Among those who openly expressed their discontent with the government’s policy were influential labor union officials like Jacob Nuwa Wea, chairman of FSPSI, Andi William Sinaga, the public relations officer of the National Board of SBSI (DPP-SBSI),\(^{479}\) Kus Haryanto, secretary of the Tripartite Department of SBSI, Muchtar Pakpahan, chairman of SBSI, and Raswan Suryana, secretary-general of SBSI.

Raswan Suryana was against the government’s intentions of revising the decree, because according to him the potential dangers as perceived by business in terms of industrial relocation to neighboring countries were not because of the new labor legislation, but mainly because of the weak institutional

\(^{474}\) As expressed for instance by Pungky Bambang Purwadi, the then chairman of Kadin-DKI.

\(^{475}\) Kadin Daerah Khusus Ibukota or the regional (Jakarta) branch of Kadin.

\(^{476}\) Federasi Serikat Pekerja Seluruh Indonesia.

\(^{477}\) Serikat Buruh Sejahtera Indonesia.


\(^{479}\) Dewan Pengurus Pusat SBSI.
environment and the related high level of corruption in the bureaucracy, leading to forceful constraints on and high costs for doing business in Indonesia. He argued that therefore the remedy to the problem of industrial relocation was not to revise Ministerial Decree No. 150/2000, but to combat bureaucracy and corruption. Jacob Nuwa Wea was also against any revision. His opinion actually had great weight among labor, since he was not only chairman of the influential FSPSI but also a member of the PDI-P, at the time the dominant political party in parliament. In his view the government should go no further than to provide additional explanations to some of the articles of the decree, instead of revising the decree. This view was supported by the secretary of the Tripartite Department of SBSI, Kus Haryanto.

As is shown by the above discussion, the intentions of the government to revise Ministerial Decree 150/2000 met with strong opposition from labor. Regarding the labor law policies, the government had to maneuver between different interests in society. This was a major change for policymakers in Indonesia as compared to the situation during the New Order, when the President and the cabinet could simply make decisions without consulting society. Clearly, this was no longer possible in the new situation after 1998.

7.6 Labor Laws are Changed Again: Ministerial Decrees 78/2001 and 111/2001

In spite of labor’s strong opposition, the government yielded to the views of the business sector and decided to revise the contents of Ministerial Decree No. 150/2000. On 4 May 2001, Minister Hamdi Al Hilal launched Ministerial Decree No. 78/2001, which was to replace Decree No. 150/2000. Whereas No. 150/2000 was clearly pro-labor, No. 78/2001 signified a clear set-back of labor rights. The decree contained major revisions of articles of Decree No. 150/2000 that were considered most problematic by the employers. The labor

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481 See Jacob Nuwa Wea’s statement during a panel discussion organized by F-PDIP (Fraksi Partai Demokrasi Indonesia Perjuangan) in Jakarta in February 2001.

482 See Chapter 3 for a discussion of the political parties of Indonesia since 1997. PDI-P was the new PDI that emerged after severe internal conflicts and incidents, inflicted by interventions of the state (27 July 1997). PDI became into PDI-P (Partai Demokrasi Indonesia Perjuangan) led by Megawati Soekarnoputri, daughter of the late Soekarno.

483 Ministerial Decree No. 78/2001 issued by the Minister of Employment and Transmigration.

484 In particular Ministerial Decree No. 78/2001 was changed with respect to the following articles: article 15 (clause 1), 16 (clauses 1, 2 and 4), 17, 18, 26 and 35. It did not make changes with respect to some pressing demands from business to also change articles 19, 21 and 22, however. See Appendix table 4 for a comparison between Ministerial Decree No. 150/2000 and No. 78/2001. See: SMERU, Industrial Relations in Jabotabek, Bandung, and Surabaya During the Freedom to Organize Era, May 2002, pp.19-20.
unions, however, did not want to accept the changes because of this setback of rights. Moreover, the changes were made by the government without consulting the unions. As a reaction to the launch of the decree therefore, some labor unions organized strikes. In East Java, for example, FSPSI organized a strike on 21-23 May.

After the launch of the decree the minister delayed implementation, hoping that labor representatives could be convinced of the need for the changes. Although Minister Hamdi Al Hilal reiterated his view that the measures were taken in the national interest and were needed to stop unemployment figures from rising, he offered to partially revise Ministerial Decree 78/2001. On 16 May 2001, a Surat Edaran was published, which led to a delay of 14 days of the implementation of Decree 78/2001. However, the unions were not satisfied with the revision since it did not substantially change the policy. So, when the government failed to convince the unions of the need for the changes, the decree came into force on 31 May.

On this last day of May 2001, the minister launched Decree No. 111/2001, along with Ministerial Decree 78/2001. By launching this complementary decree, the government made it possible for companies to formulate their own internal regulations regarding some of the labor regulations that were so controversial. These internal regulations could overrule official regulations in certain circumstances. Thus, the launching of Decree No. 111/2001 was to be seen as a compromise between the opposite positions of labor and business in the hope that the conflicts between both parties could be reduced. Soon, however, this strategy turned out to be unsuccessful. Replacing Ministerial Decree No. 150/2000 by Decrees No. 78 and No. 111 did not end the business-labor conflicts at all.

Putting into force Ministerial Decree No. 78/2001 led to strong reactions from labor. Everywhere in the country, massive protests and rallies were organized and demanded the restoration of Decree No. 150/2000. In early June, the office of the local governor in East Java was besieged by thousands of protesting workers. About 38,000 workers in Purwakarta, West Java, threatened to deploy massive rallies as a protest against the government and demanded the resignation of the Minister of Manpower and Transmigration, Al Hillal. In Semarang, East Java, a large number of labor unions and other civil society organizations joined forces and demanded the withdrawal of Decree No. 111/2001.

As a compromise to satisfy labor demands, he revised Article 35A of Ministerial Decree No. 78/2001 on the compensation to be paid to employees who are accused of misbehavior.


78/2001. In Samarinda, East Kalimantan, thousands of laborers went on strike, and about 500 representatives went to the local government office to demand the cancelation of the decree.\textsuperscript{490} In Medan on Sumatra, protests were organized against the government’s labor policies, again mobilizing thousands of protesters.\textsuperscript{491}

At various occasions, local authorities seemed inclined to give in to the demands of the protesters. As discussed in Chapter 3, after the decentralization policies, which had started with the establishment of Law No. 22/1999 on ‘Local Autonomy and Law,’ local authorities had obtained the power to decide on these matters at the local level. Thus, for example, workers’ representatives in East Kalimantan had a meeting with the local parliament, which was attended by representatives of the Indonesian Employers’ Association Apindo. In response to the labor rallies, the vice-governor of East Kalimantan, Yurmalis Ngayoh, promised to send a formal letter to all business enterprises in the region asking them to restore Ministerial Decree No. 150/2000. When in Tangerang, West Java, thousands of labors organized a rally demanding the cancellation of Decree No. 78/2001, the mayor canceled the decree and restored Decree No. 150/2000.\textsuperscript{492} In a short period of time, local authorities of 19 different regions decided to cancel Decree No. 78/2001 and restore No. 150/2000.

Meanwhile, business representatives kept on raising their voices during the period of massive labor protests. Again, Apindo played a leading role. Prominent representatives of this organization such as Djimanto and Anton Supit\textsuperscript{493} reiterated their criticism on the Ministerial Decree No. 150/2000.\textsuperscript{494} According to Anton Supit, the revisions in Decree No. 78/2001 did not go far enough to solve the problems the business sector had with Decree No. 150/2000. Of course, this was like pouring oil on the fire, making the conflict over the decree between labor and business even more intense. In the media the conflict between business and labor about the decree received a lot of attention. In most cases, the claims made by labor were supported. The way the media covered the conflict expressed the widely felt belief that after the fall of Soeharto the government should become more responsive to labor demands in general.

\textsuperscript{490} Kompas, 2 June 2001.
\textsuperscript{491} Koran Tempo, 12 June 2001.
\textsuperscript{492} Media Indonesia, 22 May 2001.
\textsuperscript{493} As mentioned above, Djimanto and Supit were both leading figures in Aprisindo, the Indonesian association for the shoe industry. Because they both were charismatic business leaders, they were asked to play an active role in Apindo as well. Djimanto was vice-chairman and Supit a regular member of Apindo.
\textsuperscript{494} Suara Pembaruan, 15 June 2001.
### 7.7 The Business-Labor Conflict Continues

Both labor and business were unhappy with the situation as created by the government and its policy on establishing labor rights. Soon after issuing Ministerial Decrees No. 78/2001 and 111/2001, Jacob Nuwa Wea, chairman of FSPSI, recommended that the government should withdraw both decrees because of the escalation of labor rallies, which at times became violent. This recommendation was supported by Bomor Pasaribu, the former Minister of Employment and Transmigration, who had issued Decree No. 150/2000. Bomor Pasaribu argued that both decrees were rejected in 19 regions anyway. He also stressed that both decrees violated higher legislation, referring to Labor Law No. 12/1964 which specifically dealt with employment termination in private firms (see Table 1 in the appendix), as a decree has a lower legal status than a law. Finally, he argued that the contents of Decree No. 150/2000 were temporary only. As soon as the new labor law would be ratified by the parliament, the regulations of the decree would be replaced anyway. So, why not withdraw the decrees and wait for the new law?

The chairman of DPP-FSPSI, Hikayat Atika Karwa, recommended postponing the implementation of the two ministerial decrees until the new labor law was ratified by parliament. At the same time, the labor movement organized new rallies in Bandung, Surabaya and Jakarta. On 11 June 2001, labor demonstrated at the Presidential and vice-Presidential palace in Jakarta. Moreover, labor rallies were organized in Surabaya and Medan. Meanwhile, labor unrest intensified in Bandung and in Kediri at Gudang Garam, a major cigarette factory. A popular protesters’ slogan was ‘down with Ministerial Decree 78/2001, it is favoring business and undermining labor’. On 13 June 2001, unrest grew even more when a mass rally was organized in Jakarta during which the demand to cancel Decree No. 78/2001 was supported by the local parliament of Jakarta and by the governor of the DKI-Jaya, Sutiyoso. A similar move was made by the local authorities in Surabaya. Also in Batam, authorities took the initiative to postpone the Ministerial Decree No. 78/2001. Here, the argument was that this decree (instead of Decree No. 150/2000) was jeopardizing foreign investment, as these foreigners threatened to leave the

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495 Media Indonesia, 16 June 2001.
497 DPP-FSPSI represents the FSPSI labor organisation at the national level.
499 Again, the protest focused on the rising prices and insufficient labor rights.
500 “Cabut Kep 78/2001, Pengusaha Dinahkan, Buruh Dicucul”.
country due to labor unrest. On 13 and 14 June 2001 labor demonstrations in Bandung and in Sidoardjo turned violent. Several incidents between demonstrators and the police were reported. In Bandung the local authorities announced that Ministerial Decree No. 78/2001 would be postponed. To some people these steps seemed justified, since it reduced labor unrest and its destructive effects on the economy and stability of society; to others they were a testimony of weakness and policy inconsistency.

The government tried to respond very carefully to these demands of both labor and business. In doing this, it took into account the fact that the decrees were to be elements of a process towards the establishment of a new labor law. The secretary-general of the Ministry of Manpower and Transmigration claimed that the two decrees should be seen as products of tripartite negotiations, involving business, labor and the government. Because of this the decrees had to be acknowledged by all parties involved.

The opinion of President Wahid played an important role as well. According to him, Ministerial Decree No. 150/2000 should be replaced by Decrees No. 78 and 111/2001, because of the negative impact Decree No. 150/2000 was expected to have on foreign direct investment. At the same time, he suggested some modifications to the implementation of the decrees. In particular, those regions or companies that had already successfully implemented Ministerial Decree No. 150/2000, could continue to use this decree. For the remaining regions and companies, labor should be allowed to propose recommendations for a pro-labor policy. His position on the decrees was opposite to those of many local governments and of the national parliament, which was to restore Decree No. 150/2000. Apparently, his position was also not influenced by the continuing and increasing labor rallies.

Mainly because of labor unrests, parliament – by way of Committee VII, a parliamentary committee that specifically deals with industrial relations

502 The general manager of Batamindo Industrial Park in Batam, John Sulistyawan, stated that inflows of foreign investment were mainly determined by three factors: security; law and order; and peaceful labor-business relations. He supported the rejection of the Ministerial Decree No. 78/2001 to avoid labor rallies in Batam.

503 This claim was contested by many people; see e.g. Jacob Nuwa Wea’s interventions during a meeting of Committee VII of parliament, to be discussed later in this section.

504 Although the influence of the president in Indonesia was weakened very much after the reformasi, the voice of the president still mattered. It did occur sometimes that the opinions of the president and governmental officials diverged. This was also the case regarding the question whether or not Ministerial Decree No. 150/2000 should be restored.

505 Media Indonesia, 13 June 2001; Bisnis Indonesia, 13 June 2001.

506 This was mentioned in the meeting between the president and labor representatives of the DPP (Dewan Pengurus Pusat) of Federasi Serikat Pekerja Seluruh Indonesia (FSPSI) and nine members of DPD (Dewan Pengurusan Daerah) in the presidential palace.

507 Ketenagakerjaan Komisi VII DPR.
– finally recommended to restore Ministerial Decree No. 150/2000.\textsuperscript{508} To support this decision, Hadi Wasikun, a member of Committee VII, referred to the fact that 65 enterprise unions, local parliaments, governors and vice-regents had officially rejected Ministerial Decree No. 78/2001. So, there seemed to be strong support for this decision, at least among labor and local governments. Of course, Kadin and a large number of business associations remained strongly against restoring Ministerial Decree No. 150/2000. At the same time, however, although Ministerial Decree No. 78/2001 was more in line with their interests, they were not very satisfied with this decree either. Only Aprisindo explicitly welcomed this decree to avoid further labor turmoil. The chairman of the labor union FSPSI, Jacob Nuwa Wea, who was also a member of the committee and a leading figure in PDI-P, argued that Ministerial Decree No. 78/2001 was not the outcome of representative tripartite negotiations between business, labor and the government anyway, and should therefore be withdrawn.

Meanwhile, the support labor gained from local governments seemed to help reduce labor protests at least to some extent. For instance, in Sidoardjo, East Java, vice-regent Saifullah, agreed to restore the Ministerial Decree No. 150/2000 because of the devastating effects of the labor rallies. As a response, the chairman of the FSPSI branch in Sidoardjo, Dikdik Bagio Utomo, stopped the rallies. In Semarang, the vice-chairman of the FSPSI branch of East Java, Sitompul, expressed his appreciation for the local government which had sent orders to 35 regents and mayors in East Java to restore Decree No. 150/2000.

The conflict between business and the labor movement on the new labor legislation also led to reactions and discussions from the public. One of the main issues that were discussed dealt with the growing importance of tripartite deliberations between the business sector, labor unions, and the government.\textsuperscript{509} Among those who were stressing the importance of such a tripartite mechanism were Hadi Soestastro, executive director of CSIS,\textsuperscript{510} Julius Rizaldi,\textsuperscript{511} chairman of the central board of the Association of Indonesian Lawyers DPP-Ikadin,\textsuperscript{512} and James Castle,\textsuperscript{513} chairman of the American Chamber of Commerce in Jakarta, who suggested to change the existing paradigm of perceiving labor, business and government as conflicting parties into a new paradigm where the

\textsuperscript{508} Kompas, 14 June 2001.
\textsuperscript{509} Sri Kusumastuti Rahayu and Sudario Sumarto, “The Practice of Industrial Relations in Indonesia”, by SMERU Research Team, March 2003, pp.16-20.
\textsuperscript{510} Centre for Strategic and International Studies, a leading research institute in Jakarta, where many national and international meetings are held.
\textsuperscript{511} Bisnis Indonesia, 8 July 2001, “Solusi Meredam Perseteruan antara Pengusaha dan Buruh”.
\textsuperscript{512} DPP-Ikadin: Dewan Pengurus Pusat Ikadin.
\textsuperscript{513} Suara Pembaruan, 19 July 2001, “Keharmonisan antara Pekerja dan Pengusaha”.

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parties are partners rather than rivals. Developing a tripartite mechanism would improve information exchange and create an understanding for each other’s positions and views. This would help decision making with respect to difficult issues like labor rights, which would be supported by all three participants.

Before 1998 and in the early years of the reformasi, most business-labor disputes were settled by bipartite negotiations between employers and employees. In 2000 and 2001, however, at a regional level several business-labor disputes were solved by setting up a tripartite forum of labor, business and local government. This was the case, for instance, in Bekasi in 2001 on minimum wages, in Surabaya in 2000 on various issues, and in Tangerang in 2000 on the raise of oil prices.

Yet, other participants in the public debate continued to emphasize that labor right policies were not the main issues in Indonesia. Bomer Pasaribu, the former Minister of Manpower and Transmigration, frequently stated that the crucial issues were security and political instability, and related to these the high level of investment risk. In terms of labor, he said, Indonesia was still attractive because of the lower wages in comparison with neighboring countries such as Malaysia and Thailand. According to Dikdik Rachbini the major problem in Indonesia was the mismanagement of economic resources and corruption. Efforts to solve these problems were prerequisites for solving labor-business problems. Notwithstanding these critical remarks, labor rights reforms remained high on the agenda in Indonesia.

7.8 Towards the Manpower Law of 2003

After the labor rallies had turned violent mid-June 2001, Vice-President Megawati Soekarnoputri charged the co-ordinating Minister for Social, Political and Security Affairs, Agum Gumelar, with the task of co-ordinating efforts to settle labor-business disputes. Clearly, the government realized it was time for some serious action in order to solve the problems regarding labor rights. In particular, it had come to the conclusion that the conflict could only be solved

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514 See also Paulus C. Nitbani, who comments on the communication problems between the partners, which have to be overcome; see Suara Pembaruan, 10 June 2001, “Kepmenakertrans Nomor 78 Tahun 2001: Mempersoalkan Nasib Buruh dan Pengusaha”.


516 Dr. Dikdik Rachbini from the Economics Department of Universitas Indonesia, also a member of Committee VI of parliament, is a leading economist in Indonesia, who is often invited by the media and at governmental meetings to give his views on numerous economic issues.
by co-ordinated action involving both labor and business representatives, which should work together with the government.

On 15 June 2001, a meeting was held chaired by Agum Gumelar. Present were the Minister of Manpower and Transmigration, Al-Hilal Hamdi, and representatives of three business associations and 18 labor unions. The meeting was meant as a first attempt to establish a representative tripartite committee consisting of representatives of business associations, labor unions and the government. The committee would discuss labor-business problems and make suggestions to the Minister of Employment and Transmigration on how to solve them. During the meeting it was decided to postpone the implementation of Ministerial Decree No. 78 and No. 111/2001 and to restore Decree No. 150/2000 for a month – until the new tripartite committee had been established.

The initiative to establish a tripartite committee was brought up at a meeting in Geneva during the 89th ILO (International Labor Organization) Conference, which was held from 5 to 21 April 2001. The meeting was convened by the Indonesian Ambassador with the UN in Geneva to discuss the labor-business tensions in Indonesia. Representatives from both labor and business were present at this meeting. Since the conflicts over the new labor legislation had turned so violent, all parties realized that a solution to the conflict was absolutely necessary. Companies were afraid of losing their business and losing out on foreign economic and financial support. Both were indispensible to recover from the economic crisis in business since 1998. Labor on their part realized that continuing the conflict would eventually hurt workers, as it could lead to massive unemployment if the crisis were to continue or even intensify. The fact, therefore, that both representatives of business and labor were present in Geneva showed that the initiative to actively develop a tripartite mechanism to solve business-labor disputes was supported by both sides.

In the Indonesian context, tripartite deliberation was not an unknown phenomenon. Actually, already during the New Order tripartite deliberations were used in business-labor relations, at least officially. The principle of these deliberations fitted into Pancasila, in which communalism and togetherness were prominent. In practice, however, these deliberations did not involve real co-operation between the parties involved since, as is already discussed, labor was effectively suppressed. In this context, the ideology was used as an

519 The business sector was represented by Suparwanto from Apindo, the government by Edison Situmorang, and the labor unions by Andre Maramis (from DPP-FSPKP), A. Kusumanegara (from DPPS Arbumusi), Ferry Julyantono (DPP-Gabungan Serikat Pekerja Merdeka Indonesia/Gaspermindo), Timboel Siregar (adviser), HL Amri (DPP-SPNI), Miyadi Suryadi (Gaspermindo Baru), Sultan Meranjat (SRI), Rekson Silaban (DPP-Serikat Buruh Sejahtera Indonesia/SBSI), and Haryono (KNPI).
argument to stress that labor was not supposed to organize strikes and protests as this would run against the principles of communalism and togetherness. Interestingly, in the new political setting after the reformasi, the Pancasila principles finally seemed to be effectuated and seemed to be helpful in solving business-labor disputes regarding the new labor law.

Initially, however, the establishment of the tripartite committee (Tripartite Nasional) failed, due to the inability of labor to select its representatives. The largest labor union FSPSI (by way of its chair Jacob Nuwa Wea) wanted to adopt different criteria of representation than the other labor unions. In particular, while the FSPSI preferred the proportional system which would benefit the biggest union, the medium-sized and small unions preferred the coalition system, which would give all unions equal representation. This led to an impasse as no decision on this matter was taken, which meant that after one month the committee was still not established. As was decided at the meeting of 15 June Decree 78/2001 was to be restored. On 17 July 2001, Jacob Nuwa Wea challenged the Minister of Manpower and Transmigration by suggesting that Ministerial Decree No. 78/2001 should not be restored, but instead Decree No. 150/2000 should remain effective until parliament had formulated the new labor law. Yet, Minister Al-Hilal Hamdi found it too risky to postpone the restoration of Ministerial Decree No. 78/2001 because of the perceived negative impact of Decree No. 150/2000 on business.

The situation changed when at the end of July 2001 Megawati Soekarnoputri became the new President of Indonesia. During her Presidential campaign she claimed that during her presidency she would strive for improving the position of the poor and the blue collar workers. This was reflected in her choice of the people who became cabinet members. With respect to labor issues, she made an important decision by replacing Al Hillal Hamdi, who as Minister of Manpower and Transmigration had been favoring business interests more than those of labor; as the new minister she appointed Jacob Nuwa Wea, the leading labor representative and a former member of parliament for the PDI-P (Megawati’s party). The fact that he had a background as a leading labor representative, plus the fact that he was a member of Megawati’s party made him the best candidate for this position.

The impact of this decision became obvious right away. On 10 August 2001, the new Minister of Employment and Transmigration stated that Ministerial Decree No. 150/2000 would continue to be effective until another policy protecting labor interests was established. Obviously, business associations were not happy with this decision. The new minister also announced he would start an investigation into the question to what extent

Decree No. 150/2000 affected the move of industries from Indonesia to neighboring countries. Finally, he expressed his intentions to improve communications with Kadin and Apindo. This sudden change in the political landscape together with the rather violent labor rallies of the past few months meant that the role of Kadin and other business associations in the business-labor disputes came under great pressure. The restoration of Ministerial Decree No. 150/2000 in fact implied the end of the disputes between business institutions and labor, at least for the time being. Business had lost the battle and had to wait for new opportunities to voice their interests and influence decisions regarding labor rights to support these interests. All attention now focused on parliament’s preparations of the draft of a new law on the settlement of business-labor disputes. The business associations had no other option than to refocus their efforts and participate in the preparations of the new law as much as possible.

7.9 Drafting the Manpower Law of 2003

As mentioned before, the last time labor rights law had been ratified by parliament was in 1997 (Law No. 25/1997). However, this law met with strong opposition from labor and was therefore postponed on 1 October 1997 until October 2002. So, formally at least, Labor Law No. 22/1957 on labor dispute settlement and Law No. 12/1964 on protecting labor rights in private companies continued to be the legal basis for the labor rights. A new labor law should replace these old laws. In August 2001 the government started the process of preparing drafts for the new law. The government managed to informally involve a large number of labor and business organizations in the process. The process of drafting a new law took a long time. It was only in February 2003 that two drafts were presented in parliament: the draft for the act Penyelesaian Perselisihan Hubungan Industrial and the draft for the act on labor (Ketenagakerjaan).

These drafts were the result of discussions between labor and business representatives during a series of meetings facilitated by the government. Therefore, it was expected that the discussion of the drafts in parliament would not face that many problems. Surprisingly, when the drafts were presented in parliament, both labor unions and business associations criticized the contents.

523 UU No. 22/1957 tentang Penyelesaian Perselisihan Perburuhan dan UU No. 12/1964 tentang PHK Diperusahaan Swasta.
524 On 3 February 2003, the drafts were passed to the Pansus (Panitia Khusus). As discussed in Chapter 5, a Pansus is a special committee set up by parliament if the text of a law has to be drafted, discussed, modified, and ratified or rejected by parliament.
525 This was stated by the chairman, also a member of Committee Komisi VII of parliament, of the Tim Kecil Pembahasan Informal RUU Ketenagakerjaan oleh Buruh dan Pengusaha.
The discussions about the new labor law once again seemed to reach a deadlock. In an attempt to revive the discussions, Minister Jacob Nuwa Wea organized another series of meetings between business and labor to rewrite the drafts. Initially, however, these meetings did not lead to a satisfactory result. There was still a lot of disagreement on several articles related to the provision of prayer facility, menstruation leave, the right to breastfeed during working hours, rules regarding outsourcing, rules regarding temporary employment, the right to strike, and rules on resignation. As a response to this deadlock situation, the chairman of Sub Komisi Ketenagakerjaan Komisi VII DPR, Rekso Ageng Herman, was appointed to chair a new team consisting of labor, business and independent representatives that was to discuss those articles on which labor and business still had conflicting views. The new team was successful: within four weeks they succeeded in reformulating the main (though not all) articles. These drafts were to be sent to parliament for ratification.

Yet, even though new drafts of the law were formulated, this did not end discussions. Several labor unions rejected the draft of Penyelesaian Perselisihan Hubungan Industrial and the draft of Ketenagakerjaan, since the texts were said to accommodate too much the interests of business, undermining the needs of labor. This view was particularly defended by the chairman of the Anti-Labor Abuse Committee (KAPB), which represented 22 labor unions. The chairman of this committee emphasized once more that the main problem for business in Indonesia was bureaucracy and corruption, not labor rights. In his view, the two policy drafts were even weaker than Law No. 22/1957 and No. 12/1964. In particular, he criticized the restraints on organizing rallies and outsourcing. He also rejected the claim of his critics that the drafts reflected the views of the majority of the laborers. According to the chairman of KAPB many labor unions had not been involved in the drafting process. The criticism of KAPB was supported by KSPI. Yet, whereas KAPB strongly rejected the

526 The official name of this team was Tim Kecil Pembahasan Informal RUU Ketenagakerjaan oleh buruh dan pengusaha.
527 Bisnis Indonesia, 8 February 2003.
528 Komisi Anti Penindasan Buruh, and by the vice-director of Lembaga Bantuan Hukum (LBH) Jakarta, Surya Tjandra.
529 Similar views were expressed by the vice-director of Lembaga Bantuan Hukum (LBH) Jakarta, Surya Tjandra.
530 For instance the ASPEK Indonesia, FNPBI, Kawasan Berikat Cakung, FSPI, Gaspermindo, and AJI.
531 The new law stipulated that one week before a rally is organized a letter has to be sent to the authorities, containing the names and number of participants.
532 With respect to outsourcing activities, there were no health and pension insurance arrangements in the new law.
533 KSPI (Kongres Serikat Pekerja Indonesia) unites various labor unions.
drafts, other labor unions, among which the influential FSPSI and SBSI, supported them. Clearly, there was no consensus among labor about whether or not to accept the drafts.

One day before the Perlindungan Ketenagakerjaan draft was to be accepted in parliament, hundreds of laborers and members of NGOs organized a rally at the Bundaran Hotel Indonesia, a strategic spot in Jakarta. The strike was led by KAPB together with several NGOs dealing with labor rights. Criticism on various articles was raised again and participants in the rally strongly criticized those labor unions that supported the drafts.

Notwithstanding these protests, Jacob Nuwa Wea recommended that parliament authorize the act on labor. Rekso Ageng Herman, chair of the team that had redrafted the new law, argued that the protests were not supported by the majority of the labor unions. Moreover, the minister said he would not accept the threat of labor unions and other organizations organizing rallies. He emphasized that the new legislation was required urgently in view of the massive unemployment, and that the drafts were the results of intensive discussions with representatives of business and labor unions. He was supported by the chairman of the Komite Pemulihan Ekonomi, Sofyan Wanandi, who advised the government not to change the drafts any more. He argued that global economic developments required new domestic and foreign investments.

Parliament finally adopted the drafts during a session on 25 February 2003. Yet, this process was not a smooth one. The session during which the drafts were discussed with representatives of both business and labor was interrupted twice because of tumultuous discussions on issues raised by Apindo and Kadin. These business representatives highly criticized the amount of long service pay, the amount of penghargaan compensation received, and the 

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534 Kompas, 8 February 2003; Republika, 8 February 2003.
536 For instance Kopbumi, YLBHI, and LBH Apik.
537 For example, Dita Indahsari of FNPBI argued that the draft still incorporated several articles undermining labor interests, i.e. out-sourcing workers, contract workers, and PHK.
538 Bisnis Indonesia, 18 February 2003.
540 Bisnis Indonesia, 27 February 2003.
541 Kompas, 22 February 2003.
543 Due to pressure of the interventions made by Kadin and Apindo it was finally decided that employees who had worked for eight years, would get nine times their monthly salary or wage. This amount was less than previously demanded by Jacob Nuwa Wea as chairman of FSPSI (ten times the monthly salary for nine years of service). It was also less than demanded by most labor unions.
544 Employees would still receive three times their monthly salary.
compensation received by employees who violated existing regulations. With respect to these three cases, Ministerial Decree No. 150/2000 had been harmful for business interests. During the discussions on the drafts of the labor laws, in all three cases the drafts were eventually adjusted to accommodate the demands of the business sector. In the end, the new labor laws were adopted by parliament under tense conditions: controversies regarding the laws within parliament, and protesting rallies outside parliament.

After the draft texts were endorsed by parliament, there were still some labor unions that were not satisfied. Yet, the majority of the unions were prepared to accept the texts. Chairman Rodja of the most important labor union FSPSI made a statement that despite some unsatisfactory articles the organization was willing to accept the law. Business representatives were also ready to respect the decisions of parliament and to accept the new law. According to chairman Bakrie, Kadin was quite satisfied with the contents of the law, although it did not meet all demands of the business sector, but at least this new law was seen as much more business-friendly than Decree No. 150/2000.

Therefore, after the finalization of the drafts texts into the text of Labor Protection Law No. 13/2003, the final text was ratified in parliament in April 2003 and signed by the President soon afterwards.

In the process of establishing new labor legislation, minister Jacob Nuwa Wea played a crucial role. Apart from being the chairman of an influential labor organization, he was also a former member of parliament for PDI-P. As a former MP he was accustomed to the practice of negotiating and policymaking. He also spoke the language of the people, which earned him respect among labor. At the same time, he was a realist who was aware of the fact that a compromise between labor and business was necessary to be able to draft the new labor legislation. Such a compromise, he realized, would not be perfect for either party involved. Still, probably because of his status he managed to function as an intermediary between both parties involved in formulating Law No. 13/2003. His role was particularly important after the new law was promulgated. While several labor organizations still rejected it, Nuwa Wea

545 In these cases employees would no longer get any compensation.
546 Organized by Forum Pemimpin dan Aktivitas Perempuan Serikat Pekerja; Media Indonesia, 28 February 2003; see also Suara Pembaruan, 25 February 2003.
547 Some of the labor unions that were not satisfied were: Kongres Serikat Pekerja Indonesia (KSPI), Komite Anti Penindasan Buruh (KAPB), Aliansi Jurnalis Indonesia (AJI), Aspek Indonesia, Front Nasional Perjuangan Buruh Indonesia (FNPBI ), FGII (Forum Guru Independen Indonesia), Persatuan Pekerja Muslim Indonesia (PPMI), Konsorsium Pembela Buruh Migran Indonesia (Kopbumi), YLBHI, and Solidaritas Perempuan.
548 Bisnis Indonesia, 8 March 2003.
549 The law includes several articles satisfying demands from Kadin and other business associations. Based on an interview with Sihite, head of the management department of Kadinda-DKI, 3 July 2003.
550 Undang-Undang Ketenagakerjaan No. 13 tahun 2003.
made it clear to them that they had better accept the deal and the new legislation. After all, more protests and opposition would hurt labor even more.

Even though the contents of the new law remained to be criticized by both business representatives and labor unions, their diverging opinions about the law did not escalate into large labor-business conflicts as occurred after the drafting of Decree No. 150/2000.551 Actually, since the ratification Manpower Law No. 13/2003 has been functioning without too many problems. One of the reasons of this success is the fact that labor-business conflicts are now solved or prevented by way of tripartite discussions both at a national and at a local level.552 This type of tripartite dialogue has been quite common since the early 2000s. Both labor and business have become aware of the fact that such dialogues are most fruitful in solving disputes. It creates a sphere in which both parties trust each other and in which both parties respect the position of the other. The labor unions in particular have become aware that too radical demands lead to a weakened business sector, which in the end may be counterproductive for labor as well. A close-down of factories would not be a victory for labor, but instead a loss for both business and labor.

7.10 Conclusions

This chapter discusses the process of labor rights legislation and the role of Kadin in establishing this new legislation. The case study in this chapter covers the period from the adoption of Ministerial Decree No. 150/2000 in 2000 until the ratification of Manpower Law No. 13/2003 in 2003. As we have seen, Ministerial Decree No. 150/2000 was particularly labor-friendly. When this decree was launched, Kadin played an important role as the organization that channeled business’ strong criticism on the decree and that mobilized efforts to revise it. Kadin representatives, through their contacts with the Ministry of Employment and Transmigration but also through their appearances in the media, stressed that the initial version of the decree would be very harmful for Indonesia’s economy. The decree would make labor costly and would reduce the competitiveness of Indonesian exporters. It would also lead to a reduction of foreign investment and would even lead to a displacement of multinationals from Indonesia to cheaper neighboring countries such as Vietnam, China and Cambodia. They argued that therefore Decree 150/2000 had to be replaced by a new decree in which labor rights were less harmful for the Indonesian economy and Indonesian business. During the initial phase of the period 2000-2003

552 Examples are the payment negotiations conducted by Lembaga Komisi Pengupahan, P4D, Lembaga K-3, Lembaga Produksi, etc.
business focused on influencing policymaking by directly or indirectly (through the media) communicating with the government. There was no direct interaction with labor representatives yet.

The government appeared to be sensitive to the demands of business. It feared that the adverse effects of the decree would make the economic burden of the Asian crisis, which had hugely affected the country’s economy, even larger. Kadin and the government thus had similar interests and responsibilities: too high labor costs had to be prevented, and it was necessary to create an economic environment that was attractive to domestic and foreign investors. Kadin’s efforts in lobbying for a more business-friendly decree were successful in the end. In early 2001 the government issued Ministerial Decree No. 78/2001, in which several of the regulations that favored the position of labor over business were mitigated or even removed.

After the government had decided to replace Ministerial Decree No. 150/2000 by Ministerial Decree No. 78/2001, there were strong and large-scale protests by labor and protest rallies were organized in many cities, at times violent. In spite of the economic problems of the country, they managed to mobilize enormous support for their protests. Under pressure of the massive labor revolt, the government did not dare to maintain Ministerial Decree No. 78/2001 and was thinking of reinstalling Ministerial Decree No. 150/2000.

In those hectic days, the position of Kadin changed. Instead of discussing matters with the government bilaterally, it realized it now had to take labor seriously. Both the business sector and the government began to realize that labor was a powerful party in the process of policymaking. Labor unions became participants in the discussions and negotiations on legislation. When parliament decided to prepare Manpower Law 13/2003 (replacing Ministerial Decrees No. 150/2000, No. 78/2001 and No. 111/2001), representatives of labor unions participated in tripartite committees and meetings involving representatives of business, labor and government. Thus, labor unions became important actors in debates on labor legislation. Kadin became one of the three parties in this triangular relationship and was no longer the only party to talk with the government. Instead, it had to accept that it could only play a modest role in the tripartite interaction with labor and government on issues regarding labor legislation. In similarly, labor became aware that it was in every one’s interest that Indonesia was attractive for investors and that radical and violent rallies could hurt the economy, which would also hurt labor interests.

The bottom line of this case study is that it shows that in the new reality of the Indonesian political economy after 1999, tripartite negotiations between business, labor and government had become a necessary practice of channeling policymaking. With respect to labor legislation, it took quite some time (with a lot of disagreements, conflicts, protests and violence) before this practice of tripartite negotiations was established. These negotiations are now common practice in Indonesia.
As this case study shows, Kadin’s role as the representative of business interests was never seriously challenged by the business sector. In contrast to what we have seen in the cases described in Chapters 5 and 6, there was no serious fragmentation of interests and views among business members of Kadin, which could have impeded the effectiveness of Kadin’s actions. The main reason for this apparent harmonious situation may have been that in this particular case the interests of all business people were quite similar. To all these business people, labor costs were an important part of the total costs of production, and rising labor costs would seriously affect their performance and competitiveness. On several occasions, Kadin worked closely together with some of its most important member business associations, such as for instance the Indonesian shoes association Aprisindo and the Union of Indonesian Export Companies, in trying to convince the government (and later labor as well) representatives why the proposed labor legislation should be changed.
### Table 1: Overview of the Labor Legislation in Indonesia 1948–early 2000

<table>
<thead>
<tr>
<th>Year</th>
<th>Magepwar</th>
<th>Labor-Work Agreements</th>
<th>Industrial Relations</th>
<th>Wages</th>
<th>Freedom of Association</th>
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<td>1940s</td>
<td>Law No. 12, 1948</td>
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<td>1990s</td>
<td>Law No. 25, 1997 on Migrant Workers (proposed)</td>
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<td>Presidential Decree No. 80, 2000 on the Ratification of ILO Convention No. 81 of 1948 concerning the Rights of Association and Protection of the Right to Organize</td>
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Source: SMERU, The Practice of Industrial Relations in Indonesia, March 2003.
Table 2: Overview of Industrial Relations Regulation in Indonesia 1948-early 2000

<table>
<thead>
<tr>
<th>Year</th>
<th>Minower</th>
<th>Labour/Work Agreements</th>
<th>Industrial Relations Regulations and Dispute Resolution</th>
<th>Wages</th>
<th>Devolution of Association</th>
</tr>
</thead>
<tbody>
<tr>
<td>1940s</td>
<td>Government Regulation No. 43/1945 on “Modification of the regulations and regulations on labor contracts”</td>
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<tr>
<td>1950s</td>
<td>Ministerial Regulation No. 01/May/1950 on “Regulation on the implementation and enforcement of labor law”</td>
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<tr>
<td>1960s</td>
<td>Presidential Decision No. 46/1963 on “Presidential Decision No. 46/1963 on “Protection of the rights of workers and the implementation of labor contracts”</td>
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<tr>
<td>1970s</td>
<td>Ministerial Decision No. 60/May/1971 on “Protection of Workers’ Rights and the Implementation of Labor Contracts”</td>
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<tr>
<td>1980s</td>
<td>Ministerial Regulation No. 01/May/1981 on “Protection of Workers’ Rights and the Implementation of Labor Contracts”</td>
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<tr>
<td>1990s</td>
<td>Ministerial Regulation No. 02/May/1990 on “Protection of Workers’ Rights and the Implementation of Labor Contracts”</td>
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<tr>
<td>2000s</td>
<td>Ministry of Manpower Regulation No. 5/1999 on “Protection of Workers’ Rights and the Implementation of Labor Contracts”</td>
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</tbody>
</table>

Source: SMERU, The Practice of Industrial Relations in Indonesia, March 2003.
Table 3: Overview of the Labor Union Federations, 2001

Source: SMERU, The Practice of Industrial Relations in Indonesia, March 2003.
Table 4: Comparing the Contents of Minister of Manpower Regulation No. 3/1996, Ministerial Decree No. 150/2000, and Ministerial Decrees No. 78/2001 and 111/2001

<table>
<thead>
<tr>
<th>Regulation No.</th>
<th>Year</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulation No. 78/2001</td>
<td>2001</td>
<td>Settlement of Employment Termination at both Provincial and Central Government Committee Level.</td>
</tr>
</tbody>
</table>

Legislation/References and Modifications for the Decree:
- The introduction of minimum wages, bonuses, and compensation in accordance with the provisions of Regulation No. 3/1996.
- The introduction of minimum wages, bonuses, and compensation in accordance with the provisions of Regulation No. 150/2000.
- The introduction of minimum wages, bonuses, and compensation in accordance with the provisions of Regulation No. 78/2001.
- The introduction of minimum wages, bonuses, and compensation in accordance with the provisions of Regulation No. 111/2001.

Amendments:
- The economic recession caused a decrease in demand for labor, leading to a decrease in the number of employment terminations.
- The government implemented various measures to reduce the number of employment terminations, including the introduction of minimum wages and bonuses.
- The government also implemented measures to provide compensation for workers who were terminated.

Articles:
- Article 2: Any person who is about to file a civil action against the employer is required to submit an Application for Termination of Employment, effective 1996.
- Article 3: The employer is required to submit an Application for Termination of Employment, effective 1996.
Table 4 (continued)

<table>
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<tr>
<td>Article 12</td>
<td>(1) In the case of separation from work (leaving prior to termination of employment (SAE)), the employee shall be entitled to pay a maximum of fifty percent (50%) of their wage during the period. If the employee submits a claim for more than fifty percent (50%) of their wage, the employer shall be entitled to pay the wage at the reduced rate provided that the claim does not exceed seventy-five percent (75%) of their wage.</td>
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<tr>
<td>Article 13</td>
<td>(1) Before providing or conducting employment separation (BRES), it is the responsibility of the Provincial Committee or the Central Committee, and in the event of a dispute, the National Committee, to make a determination in accordance with the provisions in this Chapter or to refer the matter for consideration by the National Committee.</td>
<td>(1) Before providing or conducting employment separation (BRES), it is the responsibility of the Provincial Committee or the Central Committee, and in the event of a dispute, the National Committee, to make a determination in accordance with the provisions in this Chapter or to refer the matter for consideration by the National Committee.</td>
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<tbody>
<tr>
<td>Article 14</td>
<td>(2) The employee shall be entitled to pay a maximum of fifty percent (50%) of their wage during the period. If the employee submits a claim for more than fifty percent (50%) of their wage, the employer shall be entitled to pay the wage at the reduced rate provided that the claim does not exceed seventy-five percent (75%) of their wage.</td>
<td>(2) The employee shall be entitled to pay a maximum of fifty percent (50%) of their wage during the period. If the employee submits a claim for more than fifty percent (50%) of their wage, the employer shall be entitled to pay the wage at the reduced rate provided that the claim does not exceed seventy-five percent (75%) of their wage.</td>
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171
Table 4 (continued)

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<tbody>
<tr>
<td><strong>Table 4 (continued)</strong></td>
<td>article 18</td>
<td>article 18</td>
</tr>
<tr>
<td>1. (i) If the employer terminates the contract of employment as a result of a major offence, the worker shall be entitled to terminate the contract and be entitled to long service pay and compensation.</td>
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<tr>
<td>1. (ii) If the employer terminates the contract of employment as a result of a major offence, the worker shall be entitled to terminate the contract and be entitled to long service pay and compensation.</td>
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<tr>
<td>2. (ii) If the employer terminates the contract of employment as a result of a major offence, the worker shall be entitled to terminate the contract and be entitled to long service pay and compensation.</td>
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<tr>
<td>3. (ii) If the employer terminates the contract of employment as a result of a major offence, the worker shall be entitled to terminate the contract and be entitled to long service pay and compensation.</td>
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<tr>
<td>4. (ii) If the employer terminates the contract of employment as a result of a major offence, the worker shall be entitled to terminate the contract and be entitled to long service pay and compensation.</td>
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<tr>
<td>5. (ii) If the employer terminates the contract of employment as a result of a major offence, the worker shall be entitled to terminate the contract and be entitled to long service pay and compensation.</td>
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<tr>
<td>6. (ii) If the employer terminates the contract of employment as a result of a major offence, the worker shall be entitled to terminate the contract and be entitled to long service pay and compensation.</td>
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**Article 19**

1. In the event that the worker is dismissed by the employer or is dismissed by the worker, the worker shall be entitled to the following:
   - a. Period of 1 year or less: 50% of wage
   - b. Period of 1 year 1-2 years: 50% of wage
   - c. Period of 2 years 1-3 years: 50% of wage
   - d. Period of 3 years or more: 50% of wage

**Article 20**

1. If the worker is dismissed by the employer or is dismissed by the worker, the worker shall be entitled to the following:
   - a. Period of 1 year or less: 50% of wage
   - b. Period of 1 year 1-2 years: 50% of wage
   - c. Period of 2 years 1-3 years: 50% of wage
   - d. Period of 3 years or more: 50% of wage

**Article 21**

1. The amount of long service pay shall be calculated as follows:
   - a. Period of 1 year or less: 50% of wage
   - b. Period of 1 year 1-2 years: 50% of wage
   - c. Period of 2 years 1-3 years: 50% of wage
   - d. Period of 3 years or more: 50% of wage

**Article 22**

1. The amount of long service pay shall be calculated as follows:
   - a. Period of 1 year or less: 50% of wage
   - b. Period of 1 year 1-2 years: 50% of wage
   - c. Period of 2 years 1-3 years: 50% of wage
   - d. Period of 3 years or more: 50% of wage

**Article 23**

1. The amount of long service pay shall be calculated as follows:
   - a. Period of 1 year or less: 50% of wage
   - b. Period of 1 year 1-2 years: 50% of wage
   - c. Period of 2 years 1-3 years: 50% of wage
   - d. Period of 3 years or more: 50% of wage

**Article 24**

1. In the event of termination of employment by the employer or the worker, the worker shall be entitled to long service pay and compensation in accordance with the provisions in Article 23 and Article 24.
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</table>


**Table 4 (continued)**

- Article 21 through 32 are related to the obligations to provide: severance pay, long service pay, and compensation, which is stipulated as follows:
  - Severance pay: Two times in accordance with the provisions outlined in Article 22.
  - Long service pay: Shall be in accordance with Article 22.
  - Compensation: shall be in accordance with the provisions in Article 24 (provisions regarding labor disputes).

- Article 27 up to 32 are related to the obligations to provide: severance pay, long service pay, and compensation, which is stipulated as follows:
  - Severance pay: Two times as much as the provisions in Article 22.
  - Long service pay: In accordance with the provisions in Article 22.
  - Compensation, in accordance with the provisions in Article 24.

- Article 27 is unrelated to Articles 32 and 33, which regulate the minimum wage, whereas Article 33 is unrelated to the provisions in Article 27.

- Article 28 is unrelated to Articles 32 and 33, which regulate the minimum wage, whereas Article 33 is unrelated to the provisions in Article 27.

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