Chapter VII

INDONESIAN LABOR LAW REFORM SINCE 1998

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I. INTRODUCTION

The development of Labor Laws throughout the world is principally influenced by models of current Industrial Relations in each of the respective countries. Generally, there are two models of industrial relations which influence the development of labor laws. The first is the *Corporatist Model or Regulatory Model* and the second is the *Contractual Model*[1]. The former is a model of industrial relations where the role of Government is very high in labor–management relations. All employment terms and working conditions are regulated completely by the Government through labor regulations. In this model it becomes a minimum standard in so far as it regulates labor rights and it becomes a maximum standard in so far as it regulates labor obligations. In this case the employees and employers only have rights to bargain the employment terms and working conditions above the minimum standard. Therefore, neither party to the negotiation is permitted to negotiate terms that are below the minimum standard. An individual labor contract or Collective Labor Agreement will be null when it violates the labor statutes or labor regulations. In these conditions, it is reasonable to say that labor law is *compulsory* and becomes a part of the *Public Law*[2] of a country. This is common in countries which follow a *Civil Law System*, such as France, The Netherlands, Germany, and of course Indonesia.

The later is a model of industrial relations where the role of Government is very low or limited. In this model, the government is not overly involved in the enactment of employment terms and working conditions. Essentially, the government limits its role to regulation of occupational and safety health only. All employment terms and working conditions are negotiated by the employees or their labor union representatives and the employer. It means that in a *contractual model,* the majority of the labor law is based on contract. Simply, under this model the parties have the freedom to regulate employment terms and working conditions

based on their respective interests. From the legal system point of view, in this situation labor law is *voluntary* and becomes part of *Private Law*[3]. This model prevails in most *Common Law Systems,* such as the United States of America, Great Britain, Australia, and Malaysia.

Based on the theories of Industrial Relations mentioned above, the main question this paper seeks to address is how has the reformation of Indonesian Labor Law progressed in general? But specifically what has been the state of labor law reform since 1998?

The first part of this paper addresses the development of Indonesian labor law so as to provide a context for those ideas and mechanisms that have influenced this development. This will then provide the relevant context for more detailed analysis of the post 1998 labor law reform program.

This paper will be divided into three parts. The first is simply the introduction and will focus on the influences of industrial relations on the development of labor law in general. The second part will focus on labor law development prior to 1998. In this part the focus will be on how the Indonesian labor law model moved from the contractual model to the corporatist model, particularly in the period after independence was achieved in 1945. Finally, the last part will focus on post-1998 labor law developments and reform. In this part the paper focuses on the theoretical shift back to the contract model despite the reality that in practice the model very much remains the *corporatist or regulatory model.*

II. INDONESIAN LABOR LAW before 1998

Before 1998 the model of industrial relations in Indonesia was the *corporatist model or regulatory model.* It meant that Government intervention in labor relations was very high. It is fair to say that the manner in which employment terms and working conditions were regulated were "from the cradle to the grave". In a context such as this Indonesian Labor Law was obviously a part of Public Law and this is reinforced by the fact that labor regulations were enacted by Government. Both employers and employees were obliged to obey the government labor regulations otherwise they will be punished either with terms of imprisonment or substantial fines.

The strong influence of the corporatist or regulatory model on the Indonesian labor law had already occurred long before Indonesia became an independent state. This model is evident in the Colonial labor laws of the Dutch East Indies

Administration and at this point the model was clearly within the field of Public Law. However, this was not absolute as some elements were characterized as being within the field of the Private Law. After independence, the state's intervention in labor-management relations started to become more dominant. In consideration of the increasing dominance of government in the labor-management paradigm it is reasonable to say that labor relations were moving from the contractual model to the corporatist model.

For instance Law No. 647 of 1925 on Restrictions against Child Labor and Night Work for Women explicitly regulated that a women may not perform work between 10.00 p.m. and 5 a.m., except where this was permitted by or under a decision of the Governor General. This law also prohibited any child under 12 (twelve) years of age from working on railways or tramways and the loading, unloading, and removal of goods in harbors, railway stations, except carrying by hand[4].

After Indonesia achieved independence the intervention of government remains strong. This is evident in Law No. 1 of 1951 on Employment Law which regulated working hours, annual leave, long service leave, rights such as menstruation leave and maternity leave, child labor rights, and work-place conditions. The employer has to comply with the law and therefore facilitate the provision of the labor rights stipulated in the law. The failure to comply would give rise to threats of imprisonment or substantial fines. It is in this law that the concept of twelve working days of annual leave became a standard for employers and this is a standard that persists until today. However, this was a minimum standard that employees and employers could negotiate to a higher level but not to a level less than the 12-day minimum. In the event employees and employers did negotiate an individual or collective labor agreement or company regulation which stipulated an arrangement where annual leave was less than the 12-day minimum then the agreement would be deemed to be null or void[5].

Law No. 2 of 1951 on Employment Accidents obligates the employer to pay compensation to any worker who suffers a work-place accident irrespective of whether the accident is the fault of the employee. The employer is also obligated to report the work-place accident to the relevant Department of Labor official within 24 (twenty four) hours of the accident occurring. Failure to report work-place accidents will make the employer liable to terms of imprisonment or fines[6].

Law No. 3 of 1951 on Labor Supervision gave authority to Labor Inspectors to supervise the enforcement of the labor law and to investigate punishable offenses. In

reality this meant that the labor inspector was not only authorized to prosecute breaches of the provisions of the labor law and regulations but was also authorized to actively prevent potential breaches of the provisions of the labor law and regulations through the socialization of the labor law to both employees and employers[7].

Law No. 21 of 1954 on Collective Labor Agreements stipulated that only accredited and registered unions had a right to enter into collective bargaining negotiations on behalf of their members. Therefore, to be effective each union had to register their existence with the authorized Department of Labor official in order to exercise the right to bargain collectively. The value of accreditation and registration was that any collective labor agreement between an unregistered union and an employer was deemed to be null and void at law[8].

According to Ministerial Regulation No. 90 of 1955 on Trade Union Registration all unregistered trade unions are deemed illegal unions. The Regulation grants the government the authority to dismiss or to postpone unregistered unions[9]. Furthermore, more recent regulations such as Ministerial Degree No. 1 of 1975 on Trade Union Registration stipulates that a Trade Union can be registered where it has 1 Union Chapter at the National Level, and 15 branches of the union at the District Level, and 1,000 unions at the Plant Level[10]. It is evident based on these conditions that the theory of registering is easier than the practice, Simply, the conditions to register a union were purposively difficult to register a union and even more difficult to contemplate registering a new union. The purpose of such restrictive conditions was to ensure that Indonesia was in essence a one union country. The difficulty in registering new trade unions meant that it was considerably easier for the government to control union activities when it only had to deal with one union. It was hoped and expected that this type of union control would limit industrial action and the development of an active and aggressive labor union. This over control of the union meant that the right or freedom to associate was non-existent at this time, at least as it applied to Indonesian labor.

Furthermore, according to Law No. 22 of 1957 on Labor Dispute Settlement it is stipulated that all labor disputes are to be resolved amicably if possible. However, where the amicable negotiations break down or fail then the parties are to secure the services of an accredited mediator or conciliator to resolve the case. In the event that the mediator or conciliator fails to resolve the dispute then the parties can ask the Labor Dispute Settlement Committee at the regional level to resolve the case. If one of the parties is not satisfied with the decision of the Committee at the regional

level, then that party may appeal to the Labor Dispute Settlement Committee at the national level. Both the committees, national and regional levels, are chaired by government. At the regional level the chair was held by the Head of the relevant Department of Labor Regional Office. At the national level the committee was chaired by a relevant authorized official of the Head Office of the Department of Labor[11]. In effect this was compulsory arbitration managed and administered by the government. It is easy to see that the level of government intervention in the dispute resolution process was very high. This Law changed the labor dispute settlement mechanisms that were regulated in the Ordinance on Arbitration, Staatsblaad No. 52 of 1847 from the Dutch Colonial period. This ordinance permitted labor disputes to be resolved through voluntary arbitration or through the court without intervention from the government (Department of Labor)[12]. This means to all intents and purposes there was no government intervention is the dispute resolution process in the Dutch Colonial Period.

Law No. 22 of 1957 on Labor Dispute Settlement further stipulated that all planned strikes or lock-outs had to first obtain the permission of the government before they may be undertaken, in this case the Board of Labor Disputes Settlement. In this scenario any strike or lock-out that did not obtain the requisite permissions was to be classified as an illegal strike or lock-out and there were consequences for holding illegal industrial actions. It is worth noting at this juncture that the all pervasive intervention of government in labor relations saw that during this period not a single permit was issued for a strike or lock-out to take place.

Pursuant to Law No. 12 of 1964 on the Termination of Employment in the Private Sector, employers were prohibited from terminating an employee because of illness or the employees' participation in an industrial action or with respect to the completion or fulfillment of an obligation to the State. Similarly, where employees had to first obtain permission to undertake industrial action employers were also required to obtain permission from the relevant Labor Dispute Settlement Committee before a termination may be validly made of an employee. If the employer failed to obtain the requisite permission to terminate then any termination effected against an employee would be deemed void at law[13]. As was previously noted in the discussion on Law No. 22 of 1957 the Committee system was in fact tantamount to compulsory arbitration chaired by government, which in turn meant that the government also was to play a significant and pervasive role in matters relating to the termination of employees. Simply, the legality of any termination was at the complete and sole discretion of the government as all terminations had to be

approved by the relevant committee first. This is no longer the case as the enactment of Article 1603p of the Indonesian Civil Code (*Kitab Undang-undang Hukum Perdata* / KUHPer) as an employer now possesses the authority to terminate an employee with 1 month notice prior to the date of termination or immediately if the required compensation is paid to the terminated employee. This means that the employer has the authority to terminate directly and without notice[14]. This means that a termination of employment can be effected without the involvement of the government where both the employee and the employer agree to the terms and conditions of that termination.

According to Law No. 1 of 1970 on Labor Safety, employers are obliged to provide occupational health and safety equipment to their workers. For instance an employer shall provide safety tools, safety shoes, masks, goggles, and helmets, among other tools and equipment[15]. The goal of this law is to prevent work accidents or occupational illness. Any breach of these provisions means that the employer becomes liable for a term of imprisonment or for a fine. This is reflective of the very deep intervention that the government has into the work-placed occupational health and safety controls.

Additionally, Government Regulation No. 8 of 1981 on Wages Protection requires that an employer pay wages to their employee even where the employee is absent from work where this absence is beyond the control of the employee. Some of these instances beyond the control of the employee include sickness, marriage, death, or complete an official State assignment, among others. Employers are required to pay their sick workers a decreasing proportion of their salary over a 12-month period. It is only at the conclusion of this 12-month period that the employer may terminate the employee. The decreasing proportional payment scale is 100% of an employees wage for the first 3 months and this is to decrease by 25% for each further 3-month period the employee remains sick. Therefore, for months 4-6 the employee receives 75%, months 7-9 the employee receives 50%, and for months 10-12 the employee receives 25% of their normal salary. It is worth noting that the 'no work, no pay' principle is not absolute and this is because the government maintains the ability to intervene in this area.

According to Law No. 3 of 1992 on Social Security, an employer who employs more than 10 workers or pays salaries of more than Rp. 1,000,000 are required to register and become a member of the social security system. Similar to previously noted sanctions, any failure by the employer to comply with these provisions exposes

the employer to a term of imprisonment or a fine[17]. This means that the role of government in the social security sector is as the dominant player.

III. INDONESIA LABOR LAW REFORM after 1998

As a developing country the two biggest obstacles facing Indonesia are the lack of capital and the lack of technology. These obstacles demand that Indonesia attract foreign capital investment to facilitate and support economic growth and prosperity. Traditionally, the means of attracting foreign capital investment was to offer an environment that permitted the use of cheap, and often under-age, labor. This pro-investment environment was also one that historically was weak on enforcement meaning that even where pro-employee regulations were in place these could often be ignored with almost absolute immunity from the authorities. Unfortunately, foreign capital investors tended to exploit the generosity of developing countries and the returns that the developing countries were expecting never materialized on the scales they considered necessary. Even so this ability of developing countries to provide cheap labor and no law enforcement and the apparent complicity in this exploitation has been characterized as 'social dumping'. Despite considerable efforts to ensure the inclusion of social clauses in WTO (World Trade Organization) conference pronouncements has so far failed to materialize.

Based on the fact that this dilemma continues unabated, Indonesia has found itself caught between a need to exploit any competitive advantage that is has and a desire to put in a labor regulatory framework that would reduce and erase this comparative advantage over time. This decision is complicated further by the fact that developed countries have not maintained any real consistency in how they approach the needs of developing countries. This inconsistency manifests itself in developed countries actively seeking out cheap labor and poor law enforcement and then claiming that developing countries are engaging in social dumping and violating the human rights of their citizens.

During the period between 1994 and 1997, Indonesia was under increasing levels of domestic and international pressure from labor organizations to recognize what were considered to be fundamental labor and human rights, such as freedom of association. These labor movements had considerable success in socializing the rights that labor have and are entitled to enjoy including the right to join a trade union and the right to bargain collectively for better employment terms and conditions.

The domestic and international pressure being applied to Indonesia and other developing countries was to ensure the movement from the *corporatist model* to the *contractual model.* The failure, noted earlier, to incorporate a *social clause* into WTO Conference pronouncements, encouraged developing nations to aggressively pursue the ILO (International Labor Organization) to force the application of the 8 ILO Core Convention concerning the Fundamental Rights of Workers. In 1998, the ILO declared that all the members of the ILO must enforce the 8 ILO Core Conventions irrespective of whether they have already ratified them or not[18]. The increasing pressure saw Indonesia ratify 5 of these Core Conventions in the period after 1998:

1. Convention No. 87 on Freedom of Association and Protection of the Rights to Organize and which was ratified in Presidential Decree No. 83 of 1998.
2. Convention No. 105 on the Abolition of Forced Labor and which was ratified in Law No. 19 of 1999.
3. Convention No. 138 on the Minimum Age for Admission to Employment and which is ratified in Law No. 20 of 1999.
4. Convention No. 111 on Discrimination in Respect of Employment and Occupation and which is ratified in Law No. 21 of 1999.
5. Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor and which is ratified in Law No. 1 of 2000.

By ratifying these 5 ILO Core Conventions, Indonesia has become the first country in Asia to ratify all 8 of the Core Conventions. The remaining 3 of these Core Conventions were ratified prior to 1998:

1. Convention No. 29 on Forced or Compulsory Labor which was ratified in Law No. 261 of 1933.
2. Convention No. 89 on the Application of the Principles of the Right to Organize and to Bargain Collectively which was ratified in Law No. 18 of 1956.
3. Convention No. 100 on Equal Remuneration for Men and Women Workers for Work of Equal Value which was ratified in Law No. 80 of 1957.

The ratification of ILO Core Convention No. 87 of 1949 followed by the promulgation of Law No. 21 of 2000 on Trade Unions ensured that Indonesia changed from being a *Single Union System* to that of a *Multi Union System.* According to Law, every worker now had a right to form or to become a member of a

trade union. Some of the overly onerous conditions of the past were repealed meaning that a trade union could be formed with at least 10 like-minded individuals deciding to do so. The obligations for union registration were removed[19]. Although registration was no longer required there remained a requirement to notify the establishment of a new trade union to the authorized Department of Labor official. The practical implication of the enactment of this provision was that a company may have a multitude of trade unions operating concurrently within its work place. Prior to the enactment of Law No. 21 of 2000 no single union could be legally established in Indonesia except for SPSI or FBSI and both of these were sponsored by government. The above approved unions, SPSI (All Indonesian Labor Union) the former FBSI (All Indonesian Labor Federation), meant that Indonesia was subject to constant international criticism for its failure to allow greater freedom of association with respect to unionization of the workforce.

From an industrial relations perspective the movement from the *corporatist model* to the *contractual model* should have been cause for celebration. However, the unfortunate reality was that even with the theoretical change in the models applied there was no real change in the practical application of industrial relations concepts or principles. The reason is that the fundamental changes to the system did not result in a corresponding decrease in the levels of government intervention in the management of industrial relations, particularly with regard to employment terms and working conditions. The Government intervention in determining employment terms and working conditions remains a dominant feature of the Indonesian industrial relations landscape and this intervention continues to be maintained through the enactment of regulation. This means that where the contract model would normally provide increased scope for trade unions to be actively involved in the negotiation of employment and working conditions with employers has yet to occur in Indonesia. The consequences of this are:

1. Trade Unionists use their trade unions as a political tool to seek higher office such as becoming members of Parliament or even the Minister of Labor.
2. Labor issues tend to be nationwide in nature and not regional or local.
3. Trade Unions no longer fulfill their primary task of negotiating employment terms and working conditions through *Collective Labor Agreements*.
4. Trade unions are more focused on the passage of legislation

through Parliament than on the needs of their respective members.

The other new Law is Law No. 13 of 2003 on Labor. This Law is controversial for a number of reasons and paramount among these is that the law is deemed to be pro-employer and anti-employee. This was primarily reflected in the rejection of the Law by the trade unions en-masse and the acceptance en-masse by most employer associations and groups. Employers saw the Law as a means of consolidating their profits and increasing their margins.

The arguments presented by trade unions for their rejection of the new law are:

1. The Law legalized "*out-sourcing*" which would have the effect of reducing job security for Indonesian workers.
2. The Law legalized the "*specified time contract*" which was thought to jeopardize permanent employment security previously enjoyed by workers who would now be forced on to temporary or non-permanent work contracts.
3. The Law restricted the right to strike to specific types of labor disputes.
4. The Law gives authority to employers to terminate their workers for the alleged commission of a crime without the need to await a binding criminal conviction to be handed down by the relevant court of law.
5. Some of the articles of the Law are inconsistent and as such Create legal uncertainty.
6. Many others.

In a somewhat perverse twist of fate the government through the Department of Labor is already moving to amend the law it went to great pains to pass through the House of Representatives just 3 years previously.

The government's commitment to amending the current labor laws and regulations, which are supported by the Employer Association, is because the current regulatory framework has been deemed not to be investor friendly. It is the view of the government that to attract further capital investment it is necessary to make the regulatory framework more investor friendly. However, in an interesting twist labor unions oppose any further amendments to the current law unless the proposed amendments are more labor friendly. This is interesting because when the current law came into force some 3 years ago the trade unions were opposed to the

provisions it contained. However, the government and Employer Association is proposing amendments that would impact directly on the conditions of specified time contracts, termination procedures, and severance payment calculations and the trade unions are vehemently opposed to any further amendment.

In terms of legal substance Law No. 13 of 2003 to all intents and purposes re-regulated employment terms and working conditions that had already been regulated elsewhere. It is somewhat ironic that Law No. 13 of 2003 repealed and replaced previous laws and regulations but it did not in fact change or amend the regulatory framework as all that was regulated in Law No. 13 of 2003 was already regulated elsewhere.

The repetition of employment terms and working conditions which have already been regulated in Law No. 1 of 1951 on the Employment Act are[20]:

1. Prohibition against employing child labor.
2. Obligation to provide rest breaks and annual leave of at least 12 days.
3. Working hours.
4. The rights and obligations of female workers.
5. among others.

The repetition of employment and working conditions already regulated in Law No. 14 of 1969 on Fundamental Provisions of Labor are[21]:

1. The right of any prospective employee to gain employment without discrimination.
2. Equal rights or opportunities to choose or move to another job.
3. The right of any worker to form or to become a member of a trade union.
4. The right to strike or lock-out.
5. The right of employees to acquire or to improve or to develop job competencies through job training.

The repetition of employment terms and working conditions can be seen in other labor regulations such as:

1. Government Regulation No. 8 of 1981 on Wages Protection[22].
   a. No work, no pay.
   b. Exception of "No work, no pay".
   c. Minimum Wage.
2. Ministerial Regulation No. 2 of 1978 on Company Regulations[23].
   a. Obligation of the employer who employs more than 10 workers

must produce Company Regulations.

b. The content of Company Regulations.

c. Obligation to legalize the Company Regulations.

3. Ministerial Regulation No. 2 of 1993 on Specified Time Contract[24].

a. The requirements of a Specified Time Contract.

b. The duration of a Specified Time Contract.

c. The ending of a Specified Time Contract.

4. Ministerial Regulation No. 150 of 2000 on the Termination of Employment and Severance Payments[25].

a. The calculation of severance payments.

b. Wages component used to calculate severance payments.

c. The rights of the resigned worker.

The repetition of employment terms and working conditions already regulated elsewhere, particularly Law No. 21 of 1954 on Collective Labor Agreements are:

1. The validity of the Collective Labor Agreement.
2. The extending of the validity of a Collective Labor Agreement.
3. The negotiation requirements of a Collective Labor Agreement.

Based on the above analysis, Law No. 13 of 2003 was just another regulation to regulate employment terms and working conditions which had already been regulated previously in other instruments. Simply, the ability of the government to intervene in matters relating to the determination of employment terms and working regulations never changed. This currently remains the case.

The promulgation of Law No. 13 of 2003 was followed by the promulgation of Law No. 2 of 2004 on Industrial Relations Disputes Settlement. This new law significantly changed the industrial relations disputes settlement framework by establishing a new mechanism for the resolution of industrial disputes. The new law required the parties to attempt to reach an amicable resolution to the dispute by entering into negotiations. If the parties cannot reach an amicable settlement the new regulatory framework requires them to enter into mediation or conciliation in an attempt to resolve the dispute. This alternative dispute resolution is a compulsory step that must be completed prior to the matter coming before the courts. The task of the conciliator and mediator to all intents and purposes are the same. Ultimately, the mediator or conciliator will hand down a decision however the parties are under no obligation to accept the decision of the mediator or conciliator. Where the parties do not accept this decision the matter is to be resolved through

traditional court-based mechanisms. For matters involving a conflict of interest or disputes between trade unions the Industrial Relations Court is a Court of First Instance and Appeal. This means that a right of appeal does not exist and the losing party cannot appeal to the Supreme Court. Especially for conflict of interest and trade union disputes, the parties can elect to undertake final and binding arbitration as the means of resolving their dispute. The decision of the arbitrator is final and binding. The parties are under an obligation to perform the decision of arbitrator[26]. However, for matters relating to employment rights and termination of employment a right of appeal exists. This means that a losing party may appeal to the Supreme Court.

Although Law No. 2 of 2004 on Industrial Relations Disputes Settlement changed the labor dispute mechanism significantly it did not drastically impact upon the length of time required to have a dispute resolved, the mechanism still took a considerable period of time to navigate. The new mechanism encourages the parties to use the newly created Industrial Relations Court and avoid, at least theoretically, the mechanisms of voluntary arbitration. This is worth noting as voluntary arbitration is considered to be the best mechanism for accelerating the dispute resolution process. Even with new mechanisms in place it is still expected that most disputes will be appealed all the way to the cassation phase at the Supreme Court. The primary reason for the likelihood of appeals is that the alternative dispute mechanisms of mediation and conciliation are mandated under the law and must be completed prior to the dispute coming to court. Essentially, it is expected that the parties will go through the motions until their respective disputes reach the courts. The new law lessens the ability of government to intervene in the process and accelerate matters to a resolution. In this sense the new law can be characterized as weak with respect to dispute settlement..

Another new law promulgated by the government is Law No. 39 of 2004 on Migrant Worker Protection. In terms of substance all of the articles in this law are derived from the provisions contained in Ministerial Decree No. 104A of 2002 on Migrant Worker Protection. Therefore, it is fair to state that this Law is merely a restatement of the Ministerial Decree. A law, on face value, provides greater legal force however in a very real sense the purpose of Ministerial regulations and decrees is to give force of effect to a law and not vice versa. Migrant workers remained subject to a law which was heavily prejudiced against them.

According to the new Law No. 39 of 2004 on the PJTKI (Labor Placement Companies) these companies still possess the authority to recruit, to conduct labor

training, and to place the labor into an employment setting. The PJTKI also has an obligation to protect migrant workers before placement, during placement, and after placement[28]. The question is how can the PJTKI protect the migrant workers where the focus is on the recruitment, training, and eventual placement and not on the types of conditions the migrant worker may find on arrival? In a simple business sense where a PJTKI gets a contract to place 100 migrant workers, then the company's goal is to place 100 migrant workers, no more and no less than the agreed number. Therefore, even where the law stipulates that the PJTKI is required to protect the workers it places the emphasis is rarely on this protection. It is clear that until there is stricter enforcement of the available provisions PJTKI will continue to focus on the recruitment, training, and placement concerns in preference to protection. The government has the ability to play a much stronger hand in enforcing the provisions as the law provides that the government is responsible for regulating and licensing PJTKI.

The last new Law is Law No. 40 of 2004 on the National Social Security System. The purpose of this law, at least as the government sees it, is to develop a new National Social Security System, where all Care Takers of the Social Security Program are under the control of a Social Security Board. In order to achieve this objective the National Social Security Board has the authority to supervise and to evaluate all Care Takers of the Social Security Program. The tasks of the National Social Security Board are[29]:

1. To observe or to do research on the implementation of social security program.
2. To propose policies on the investment of Social Security funds.
3. To propose the budget of donations for receivers of social security dues and the operational budget for the government.
4. To harmonize the social security programs which have or are being implemented by a variety of care takers on social security.

IV. CONCLUSION and ASSESSMENT

Based on the analysis above the following conclusions can reasonably be drawn from the available data:

1. Indonesian Labor Law reform since 1998 is notable for the ratification of all ILO Core Conventions. This has in turn encouraged the implementation of the *Contractual Model*. ILO

Conventions No. 87 and 98 and Law No. 21 of 2000 on Trade Unions are the legal basis for the Contractual Model.

2. The new Law No. 13 of 2003 on Labor maintains many of the old regulations that were in force prior to 1998 meaning that government intervention in determining employment terms and working conditions remains a dominant factor.
3. The strong government intervention in determining employment terms and working conditions weakens the position of trade unions in the collective bargaining process. This was able to remain a factor because orientation of trade unions is more political than economic in nature.
4. The new Law No. 2 of 2004 on Industrial Relations Dispute Settlement does not provide a sufficiently broad opportunity to the disputing parties to explore alternative dispute resolution mechanisms. Unfortunately, this shortcoming is likely to metamorphose into an uncertain and lengthy legal process.
5. The new Law No. 39 of 2004 on Migrant Worker Protection still does not sufficiently address the placement of migrant workers. The system is heavily prejudiced against migrant workers. The key provisions are a repetition of the previous provisions under the old regulation.
6. The new Law No. 40 of 2004 on the National Social Security System has not made any significant changes and is in fact a restatement of the previous regulation.

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NOTES

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[4] Ordinance on Restriction of Child Labor and Night Work for Women, Staatsblad No. 647 of 1925.
[5] Law No. 1 of 1951 on the Employment Act.
[6] Law No. 2 of 1951on Employment Accident.
[7] Law No. 3 of 1951 on Labor Supervision.
[8] Law No. 21 of 1954 on Collective Labor Agreements.
[9] Ministerial Decree No. 90 of 1955 on Trade Union Registration.
[10] Ministerial Decree No. 1 of 1975 on Trade Union Registration.
[11] Law No. 22 of 1957 on Labor Dispute Settlement
[12] Ordinance on Arbitration Staatsblaad No. 52/1847.

[13] Law No.12 of 1964 on Termination of Employment in the Private Sector.
[14] Indonesian Civil Code, Staasblaad No. 23 of 1847.
[15] Law No.1 of 1970 on Labor Safety.
[17] Law No. 2 of 1993 on Social Security.
[18] ILO, *Rules of the Game: A Brief Introduction to International Labor Standards*, (Geneva: International Labor Standard Department, 2005), 12.
[19] Law No. 21/ of 2000 on Trade Unions.
[20] Compare: between Law No. 13 of 2003 on Labor and Law No. 1 of 1951 on the Employment Act.
[21] Compare: between Law No. 14 of 1969 on Fundamental Provisions of Labor and Law No. 13 of 2003 on Labor .
[22] Compare Law No. 13 of 2003 on Labor and Government Regulation No. 8 of 1981 on Wages Protection.
[23] Compare: Law No. 13 of 2003 on Labor and Ministerial Regulation No. 2 of 1978 on Company Regulations.
[24] Compare: between Law No. 13 of 2003 on Labor and Ministerial Regulation No. 2 of 1993 on Specified Time Contract.
[25] Compare: between Law No. 13 of 2003 on Labor and Law No. 21 of 1954 on Collective Labor Agreements.
[26] Law No. 2 of 2004 on Industrial Relations Dispute Settlement.
[28] Law No. 39 of 2004 on Migrant Worker Protection.
[29] Law No. 40 of 2004 on the National Social Security System.