
Study on the Implementation of ILO Convention No. 98 in Indonesia and Its Comparison with Developed and Developing Countries

Faizal Amir P Nasution*, Henriko Tobing, Nur Farizal, Syahdan Abdul Haris Siregar, Muhyiddin

Ministry of Manpower - Republic of Indonesia

*Email Correspondences: faiziomarch@gmail.com

Abstrak

Law No. 11 of 2020 on Job Creation has been reported by ITUC, KSPI, and KSBSI for violating ILO Convention No. 98. The Indonesian government is considered not involving Trade Unions/Labor Unions in terms of collective bargaining when drafting the Job Creation Law and the substance of the Job Creation Law which is considered to limit the role of Trade Unions/Labor Unions. The United States Government, the United States Labor Association, the Belgium Labor Association, Netherlands Labor Association, Republic of Korean Labor Association, and the Brazil Labor Association provide different views from Indonesia on the report. This study uses a qualitative approach supported by a literature study with FGD discussions. Based on the results of the study, reports by Trade Unions to the ILO regarding violations of ILO Convention No. 98 are generally still conjectural and do not depart from cases or violations of the law that have occurred. The government can report data on labor practices in Indonesia to show that there are no efforts to limit the role of Trade Unions/Labor Unions as evidence that the Government of Indonesia has implemented the principles in the ILO Convention. The government of Indonesia has an important role in increasing the provision of training and improving work competencies, increasing labor placement and expanding employment opportunities, as well as continuing to oversee the implementation of this Job Creation Law in companies and continuing to protect workers by providing legal protection and social security. The Government of Indonesia is currently receiving ILO Technical Assistance, and can propose to continue implementing the Job Creation Law regulations and continue to provide regular reports to the ILO. If this provision in practice is detrimental to workers and trade unions, then this provision can be challenged procedurally with the support of valid evidence.

Keywords: ilc, job creation, convention 98

DOI: 10.47198/naker.v19i1.350 Received: 20-4-2024 Revised: 29-4-2024 Accepted: 30-4-2024

1. Introduction

Law No. 11 of 2020 on Job Creation has been reported to the International Labor Organization (ILO) by the International Trade Union Confederation (ITUC), the Confederation of Indonesian Trade Unions (KSPI), and the Confederation of Indonesian Trade Unions (KSBSI) on March 15 and 16, 2023. In the report, the Job Creation Law is considered to have violated ILO Convention No. 98 on the Application of the Principles of the Right to Organize and Collective Bargaining Convention. Some of the things at issue in the report are:

1. The drafting process of Law 11/2020 on Job Creation is considered not involving Trade Unions/Labor Unions in terms of collective bargaining.
2. The substance of the Job Creation Law and its derivative technical regulations, namely Government Regulation No. 35 of 2021 on Fixed-Term Employment Agreements, Outsourcing, Working Time and Rest Time, and Termination of Employment and No. 36 of 2021 on Wages, are considered to weaken the existence of Trade Unions in terms of:
 - a. The application of the PKWT rule without restrictions on extension and renewal and the total length of the overall fixed-term contract not exceeding five years allows flexibility for employers to replace permanent workers with workers with PKWT status. The uncertain status of employment contracts discourages workers from joining Trade Unions/Labor Unions.
 - b. The application of outsourcing rules without restrictions on the types of work that can be outsourced allows flexibility for employers to replace permanent workers with outsourced workers. The uncertain status of work contracts is considered to make workers reluctant to join Trade Unions/Labor Unions.
 - c. The relaxation of layoff rules with an agreement between workers and employers allows employers to replace permanent workers in the company with greater flexibility. Employers are considered to be able to easily replace permanent workers with PKWT or outsourced contract workers, thus weakening the existence of Trade Unions/Labor Unions.
 - d. Changes to the rules regarding severance pay are considered detrimental to workers, and there was no collective bargaining in their determination.
 - e. The minimum wage is determined by a new formula based on data provided by the Central Statistics Agency (BPS). This change significantly reduces the tripartite wage council's negotiating role in determining the minimum wage. It also abolishes sectorial minimum wages and exempts micro and small enterprises from having to pay minimum wages.

The Committee of Experts on the Application of Conventions and Recommendations (CEACR) observed the report and requested the Government of Indonesia to provide information on the revision process of the Job Creation Law by May 5, 2023. Then on June 5, 2023, Indonesia was included in the shortlist of individual cases discussed at the Committee on the Application

of Standards (CAS). Then on June 8, 2023, the Government of Indonesia clarified the Committee's statement during the 111th International Labor Conference (ILC) session in Geneva, Switzerland.

On June 15, 2023, the Standards Application Committee issued the Committee's final decision with the following results:

- a. Review the Job Creation Law in consultation with social partners and promptly adopt the necessary amendments to bring the law into compliance with the Convention;
- b. The Committee requests the Government to utilize and not delay technical assistance from the ILO with a special focus on the reform of labor laws, including the Job Creation Law, with the full involvement of social partners, to ensure full compliance with its obligations under the Convention in its regulations and implementation;
- c. The Committee requests the Government to provide detailed and complete information on the measures taken and progress made based on the recommendations to the Committee of Experts made before the next meeting.

The Centre for Employment Policy Development conducted a study on the implementation of ILO convention No. 98 in Indonesia and its comparison with developed & developing countries to prove that reforms have been made by the Indonesian Government in drafting regulations. The results of this study were made to support the team in responding to the follow-up results of the expert committee and ILO Technical Assistance.

2. Research Method

2.1. The Collecting Data

This research was carried out by collecting data with a literature study to become the basis for comparative study information. The results of this literature study are used as the basis for discussion through focus group discussions (FGDs) with the ILO Technical Assistance follow-up team formed in accordance with the direction of the Minister of Manpower, namely the Directorate General of PHI, Directorate General of Binwasnaker, Bureau of Cooperation, Bureau of Law, and the Center for Manpower Data and Information Technology. This research uses a qualitative approach. Qualitative research methods are research methods based on the philosophy of post positivism, used to research on natural object conditions (as opposed to experiments) where researchers are key instruments, sampling of sources and data is done purposively and snowball, data collection techniques are done by triangulation (combined) data analysis is inductive/qualitative, and qualitative research results emphasize meaning rather than generalization (Sugiono, 2009: 15).

2.2. Literature Review

Literature study data collection consists of journal articles, textbooks, handbooks, archives, and regulations. It is a way to solve problems by tracing written sources that have been made

before. In this study, researchers used literature review data collection in the order of thematic structure. Thematic structure groups and discusses sources according to their theme or topic. The literature review collection used several stages including searching for articles based on outline topics, grouping articles based on relevance to the topic and year of research then sorting the explanation structure and comparing interconnected data. Researchers conducted a review of several document publications, research, and journals related to the Implementation of ILO Convention No. 98 in Indonesia and its Comparison with Developed & Developing Countries.

2.3. Focus Group Discussion

Focus Group Discussion (FGD) can be defined as a discussion that is conducted systematically and focused on a particular issue or problem. According to Irwanto (2006: 1-2) "FGD is a systematic process of collecting data and information on a particular, very specific problem through group discussions". FGDs are an effective method for gaining in-depth insight into a group's perceptions and views on a topic. The combination of interaction between participants and individual views makes FGDs a valuable tool in qualitative research that can help explore deeper aspects of human experience.

3. Results and Discussion

3.1. Economy and Employment in Indonesia

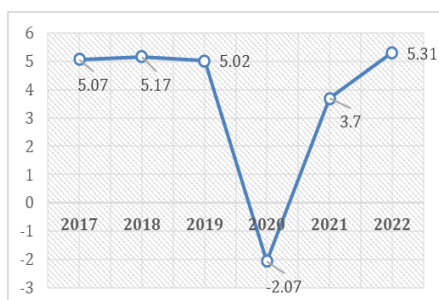


Figure 1. Economic Growth Year 2017-2022

Indonesia's economy has been growing steadily and healthily at around 5%. In 2022, Indonesia's economic growth reached 5.31%, which is one of the highest economic growths in the world. Although it was hit by the COVID-19 pandemic in 2020, which negatively affected economic growth, it improved again the following year. This economic growth was influenced by, among others, the increase in investment in Indonesia. With the investment made by both the government and the private sector, there is an increase in production activities that can create jobs and income for the community (Tambunan, 2001).

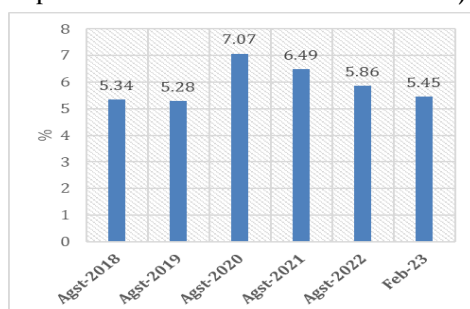


Figure 2. Open Unemployment Rate

The current unemployment rate is 5.45% or 7.99 million people as of February 2023. This value continues to decline every year, indicating that the unemployment rate in Indonesia continues to decline. The unemployment rate had risen significantly during the COVID-19 pandemic in 2020, but declined again in the following years. The unemployment problem in Indonesia has always been

a challenge for the government. One solution to reduce unemployment is to create job opportunities (Surindra et al., 2021).

Indonesia is currently in a phase of economic growth and business improvement. The Indonesian government, as a regulator, intervenes in the economy and employment by issuing the Job Creation Law, which encourages investment and creates economic growth, which will create employment opportunities.

3.2. Other Countries' Labor Laws

This research needs to look at the labor regulations in these countries regarding PKWT, outsourcing, layoffs, severance pay, and minimum wages and compare them with labor regulations in Indonesia. The countries compared are developed and developing countries, namely the United States, the Netherlands, Belgium, Brazil, and Republic of Korea.

3.2.1. United States

Table 1. Employment Rules in the United States

General Requirement	Employment Rules
PKWT	- The conditions of non-permanent contracts stipulate a period of no more than one year with temporary determination and a maximum extension of 1 additional year, where appointment to a successor position is considered an extension of the original appointment.
Outsourcing	- US federal rules do not specifically regulate - Outsourcing some non-core business process work to other companies.
Termination of Employment	- WARN requires employers to give 60 days' notice of termination. - Notification to affected employees or their representatives, State transferred labor units, and chief elected officials of local government units
Severance	- Based on length of service after qualifying for layoff - It requires payment of at least the federal minimum wage for all hours worked in a workweek and half the employee's regular rate for time worked over 40 hours.
Minimum wage	- The Department of Labor determines prevailing wage rates using wage surveys, which collect data on the specific wage rates paid to various classifications of workers on construction projects. - Implement state-specific sectoral minimum wages.

Sources: Any Sources 2023

3.2.2. Netherlands

Table 2. Labor Rules in the Netherlands

General Requirement	Employment Rules
PKWT	- The contract period does not exceed three years. Continuation of the contract shall be notified one month prior to the end of the contract and compensation shall be paid for failure to notify.
PHK	- Contract termination occurs with the consent of the employee. If the employee does not agree then it must require court approval with a valid reason.
Severance	- For each year that the employment contract lasts, a transitional payment equal to one-third of the salary per month and a proportionate share for employment contracts lasting less than one year.
Minimum wage	- The government sets the minimum wage in law and does not regulate sectoral minimum wages. For employees aged 15-20, the youth minimum wage applies.

Sources: Any Rules 2023

3.2.3. Belgium

Table 3. Employment Regulations in Belgium

General Requirement	Employment Rules
PKWT	- Contract for a maximum of 2 years under certain circumstances
Outsourcing	- User companies must consult with labor unions.
Termination of Employment	- Employees may be dismissed for serious reasons with written notice.
Severance	- There is no mandatory severance pay unless provided for in the Company's regulations.
Minimum wage	- There is no minimum wage. In most industries, the CBA sets a minimum fixed hourly wage for blue-collar workers and a minimum monthly salary for white-collar workers.

Sources: from any regulation 2023

3.2.4. Brazil

Table 4. Employment Regulations in Brazil

General Requirement	Employment Rules
PKWT	- 2-year contract at most under certain circumstances
Outsourcing	- The purpose of temporary employment agreements is to meet temporary needs such as staff replacement, extraordinary requests, or replacement

	of employees on maternity leave. Temporary employment agreements are valid for up to 180 days and extendable by 90 days.
Termination of Employment	- Employees are dismissed by the company with or without cause, or Constructive or indirect dismissal, expiration of the term of the employment agreement, mass/collective dismissal, Collective agreement. - For administrative purposes, the relevant authorities (FGTS and CAGED) need to be notified of the dismissal.
Severance	- Deposited into a special bank account maintained in the employee's name at the CEF (Caixa Economica Federal). The amount to be funded monthly by the employer corresponds to 8% of the employee's monthly compensation and the FGTS Indemnity applicable in case of termination without cause is 40% of the balance of the deposits made during the employment relationship.
Minimum wage	- The determination of the minimum wage is based on a formula that takes into account economic factors, in particular inflation and GDP growth and without bargaining with workers. - Brazil's Federal Constitution establishes minimum labor standards, including a minimum wage determined by the Federal Government every 4 years and a prohibition on reducing employees' salaries, except by collective bargaining in exceptional circumstances.

Sources: from other regulations 2023

3.2.5. Republic of Korea

Table. 5 Employment Regulations in the Republic of Korea

General Requirement	Employment Rules
PKWT	- Agencies may make a temporary appointment for a specified period not exceeding one year. Appointments can be extended to a maximum of 1 additional year (24 months total service)
Out sourcing	- Dispatch of workers shall not be made for tasks: (1) work performed at construction sites, (2) Port transportation business; Korean railway corporation; agricultural product distribution, fisheries, and price stabilization; logistics business; and labor supply business, (3) seafarers, (4) hazardous work, and (5) other tasks specified by Presidential Decree.
PHK	- Employers must have a legitimate reason stipulated in the law must not dismiss, lay off, suspend, change jobs, without a fair reason. - Dismissal for business reasons, there must be an urgent business need such as a transfer, takeover, or merger to prevent the decline of the business.
Severance	- Pension payment = Average daily wage × 30 days × (Number of working days ÷ 365).

Minimum wage	- The minimum wage is determined by considering the cost of living of workers, wages of similar workers, labor productivity, and income distribution. Will be determined in units of hours, days, weeks, or months - Set sectoral minimum wages in specific industries and sectors
--------------	---

Sources: from any regulations, 2023

3.3. Fixed-Term Employment Agreement PKWT and Outsourcing

Changes to the rules on non-permanent contracts and outsourcing in the Job Creation Law are considered by trade unions to be detrimental to workers because they reduce the opportunity for workers to obtain permanent worker status, as well as the uncertainty of long-term work contracts and the low bargaining power of workers. Trade unions also consider that this could weaken the power of trade unions in companies due to workers' reluctance to join trade unions. This assumption was also supported by the US government and workers' associations during the ILC-III hearing that the excessively long duration of non-permanent contracts and the unrestricted types of work in the outsourcing rules applied in Indonesia risk permanent non-permanent workers being replaced by non-permanent or outsourced workers and divide the workforce.

The results of the comparison of the changes in Law 13/2003 to the Job Creation Law regarding the rules of non-permanent contracts and outsourcing, the term of non-permanent contracts which was previously a maximum of 3 years has become 5 years. Meanwhile, the outsourcing rule, which previously could only hand over work that was not related to the company's core business, was not limited to the type of work handed over to third parties.

Based on the results of comparisons with regulations in other countries, non-permanent contracts in the United States, Belgium, and Brazil regulate the length of the contract and its extension for a maximum of 2 years, while non-permanent contracts in the Netherlands and the Republic of Korea have a length of contract and its extension for a maximum of 3 years. The implementation of non-permanent contracts in these countries is shorter than the implementation in Indonesia, which is a maximum of 5 years. The rules regarding outsourcing applied in the United States, Belgium and Republic of Korea only assign work that is not related to the company's core business to third parties, while in Indonesia assigning work to third parties without restrictions on the type of work. Outsourcing practices in Brazil outsource work to third parties to meet temporary needs such as staff replacement or extraordinary requests with a maximum work contract of 180 days which can be extended up to 90 days.

There is no relevant terminology and standardized reference on what constitutes a good contract period. Shorter contract periods are not always better for workers. The length of the contract, whether long-term or short-term, may vary depending on the specific terms of the contract and the nature of the work (Akatwijuka & Hart, 2017). While the application of rules regarding outsourcing in several countries varies, there are no specific rules for work that can be

outsourced to third parties. The application is adjusted to the conditions and needs of each country.

If the current priority is economic growth, then the Indonesian government should not only think about the currently working population but also think about creating employment opportunities for the unemployed population. The policy of implementing PKWT and outsourcing regulations in the Job Creation Law can accommodate flexibility in the business world to grow. With a recovering economy, it can encourage investment and create job opportunities. The PKWT and outsourcing rules in the Job Creation Law can be an alternative way to create job opportunities and reduce the unemployment rate in Indonesia. In essence, the supervision of employers and the protection of workers in the implementation of the Job Creation Law needs to be strengthened by the Government so that there are no violations that harm workers. Because if workers are protected in all forms of any contract, the difference between PKWT-PKWT and outsourced workers will not be too meaningful (Wongkaren et al, 2022). To provide certainty to workers, the Job Creation Law requires employers to provide compensation money to workers whose employment relationship based on PKWT or outsourcing ends. This is an added value for the PKWT and outsourcing rules in the Job Creation Law because this has not been regulated in Law 13/2003.

Table 6. Number of Unions/Laborers in Indonesia

Description	Count		
	2016-2018	2019-2021	2022-2023
Confederation SP/SB	14	16	21
Federation SP/SB	134	169	197
SP/SB	7.294	10.748	12.346
Members SP/SB	2.717.961	3.256.025	4.208.338

Sources: Inspector General Directorate PHI and Social Security (2022)

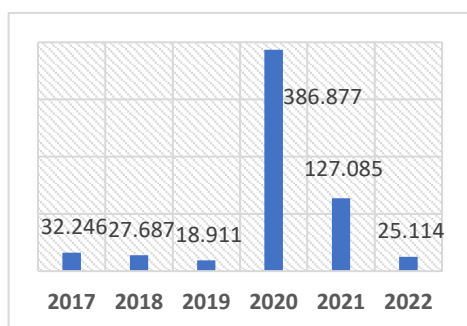


Figure. 3 Count PKB

Source: Ditjen PHI dan Jamsos (2022)

which has increased from year to year. These data show that labor unions continue to grow and develop.

Based on Table 6, the number of confederations, federations, trade unions/labor unions in companies, and trade union/labor union members is increasing from year to year. In 2022, the number of trade unions at the enterprise level was 12,346, an increase of 1,598 compared to 2021. The number of trade union/labor union members in 2022 was 4,208,338, an increase of 952,313 compared to 2021. Based on Figure 3, the government facilitates trade unions/labor unions by providing registration and consultation services for Collective Labor Agreements (CLAs), the number of

There are no rules that limit a person from joining unions and organizations, even if a person's contract has not been renewed or has been terminated, he or she can still be an active member of a trade union. The status of non-permanent workers or outsourcing will not reduce the power of trade unions to conduct collective bargaining because PKB can be conducted for the status of permanent, contract, or outsourced employees. Therefore, the assumption by trade unions that the changes to the PKWT and outsourcing rules in the Job Creation Law weaken the power of unions is incorrect and irrelevant.

3.4. Termination of Employment (PHK) and Severance Pay

Changes to the rules regarding layoffs in the Job Creation Law for workers/labor unions are considered detrimental because they allow employers to replace permanent PKWTT workers in the company with PKWT contract workers or outsourced workers. The Belgian Workers' Association also supported this opinion during the ILC-111 hearing that the imbalance in bargaining power between employers and workers could result in employers being able to impose contractual terms on workers without negotiation so that more workers would be employed through precarious contracts with limited legal protection. Apart from that, changes to the rules regarding Severance Pay in the Job Creation Law are considered detrimental to workers because they reduce workers' welfare, and there is no collective bargaining with labor unions in determining them.

The results of a comparison of Law 13/2003 with the Job Creation Law regarding layoff regulations are generally the same, only there is an additional reason for companies to lay off workers, namely that the company is in a state of delay in debt payment obligations. The regulated layoff procedures remain the same, namely that there must be a valid reason and the employer notifies the worker. If workers reject the layoff proposed by the employer, then the matter enters the realm of industrial relations disputes.

Based on Figure 5, the number of layoffs that occurred in 2020 was very significant, reaching 386,877 people. This happened because many companies experienced losses and went bankrupt or made efficiency gains during the COVID-19 pandemic. However, after that the number of layoffs decreased and in 2022 it would reach 25,144 people throughout Indonesia. This figure is still better than in 2017 and 2018 before the COVID-19 pandemic. This change in regulations of the Job Creation Law has no impact on the number of layoffs.

There is an adjustment to the severance pay compensation value to accommodate the government's social security program. Currently there is employment social security in the form of Job Loss Guarantee (JKP) which is a guarantee given to workers/laborers who experience termination of employment. Apart from providing benefits in the form of cash, this program has two other benefits, namely access to job market information and job training as a provision for workers who have been laid off to be able to work again or become entrepreneurs.

Apart from that, the Job Creation Law eliminates the regulations regarding compensation money for housing rights as well as treatment and care which was previously set at 15% of

severance pay because these benefits have been accommodated in government programs, namely BPJS and Tapera. To enforce the rules regarding severance pay, the Job Creation Law regulates criminal sanctions for companies that do not provide severance pay to their workers according to the rules. This has never been regulated in previous regulations so this is proof of the government's seriousness in increasing protection and improving welfare for workers.

On this basis, the assumptions of trade unions regarding the ease and flexibility of employers in laying off their workers and the severance pay regulations being detrimental to workers are not true. The layoff procedures regulated in the Job Creation Law are generally similar to the layoff procedures in the United States, the Netherlands, Belgium, Brazil and the Republic of Korea, namely that there must be a valid reason regulated by law and notification of the layoff to workers. Meanwhile, the rules regarding severance pay regulated in the Job Creation Law are generally similar to the severance pay rules in the United States, the Netherlands, Belgium, Brazil and the Republic of Korea, namely that the amount of severance pay is in accordance with the worker's length of service. This proves that the layoff and severance pay regulations applied in Indonesia are in line with those applied internationally.

3.5. Minimum Wage

Changes to the rules regarding minimum wages in the Job Creation Law with a new formula based on data on economic and employment conditions provided by BPS as well as eliminating sectoral minimum wages are considered detrimental by trade unions because they reduce the negotiating role of trade unions in the tripartite wage council in determining minimum wages. . Meanwhile, the views of the Dutch and Republic of Korean workers' associations state that the use of a new formula for determining minimum wages and the absence of collective bargaining with labor unions is considered to reduce workers' welfare because it ignores the actual cost of living.

From an economic growth perspective, the use of a formula in determining the minimum wage means that annual increases tend to be stable and not fluctuate. Since 2020, when the new minimum wage formula was implemented in the Job Creation Law, it can be seen that the increase in the UMP has tended to increase slowly unlike in the previous year, which increased rather steeply. This condition aligns with the government's expectations if the main priority is economic growth. In principle, the minimum wage is a basic safety net rule that needs to be maintained, while wages in the company can be determined by negotiating with the company according to the skills and competencies possessed by the workers.

Based on PP 36/2021, the actual cost of living is reflected in a formula that includes purchasing power parity variables, labor absorption rate, and median wage. In addition, determining wages using a formula can be done by selecting the conditions in each province and district/city, thereby reducing political intervention from regional officials, which causes wage disparities between regions. In minimum wage decisions made by the Governor in each province,

he still listens to recommendations from the wage council, where the wage council includes workers (WHD, 2022). Based on the Guidance of Minimum Wage published by the ILO, determining the minimum wage using a or without a formula does not violate the convention (ILO, 2016).

The United States Workers Association believes eliminating sectoral negotiations from wage settings will reduce workers' wages in some sectors. However, this assumption is rare, depending on the conditions and characteristics of each country. Based on research by Sungkar et al (2015), sectoral minimum wages can increase labor prices and reduce labor demand from employers, resulting in some workers who cannot compete with sectoral minimum wages becoming unemployed. In addition, sectoral minimum wages can also increase production costs for entrepreneurs, leading to increases in the prices of goods and services.

The Indonesian government has the prerogative to determine the minimum wage (Trimaya, 2014), so it does not matter whether the sectoral minimum wage exists or not. Indonesia, which is currently prioritizing economic development, tends to use a formula so that the increase in the minimum wage each year can be well controlled. The absence of a sectoral minimum wage in the Job Creation Law can alternatively be determined at the company level based on a mutual agreement between employers and workers in their respective companies on a bipartite basis.

This change to the regulations in the Job Creation Law also frees micro and small businesses from having to pay minimum wages which is intended to provide convenience, protection and empowerment for micro and small businesses. The application of minimum wages to micro and small businesses can be burdensome for entrepreneurs and there are concerns that they will not be commensurate with their ability to pay wages. Wages in micro and small businesses are determined based on an agreement between employers and workers in the company which must pay attention to workers' welfare and business capabilities.

The central government and regional governments can provide assistance to micro and small businesses in determining wages, such as guidance, facilitation, or incentives. This regulation could be an opportunity for micro and small entrepreneurs to develop their businesses and expand job opportunities. Micro and small businesses that have developed into medium or large businesses must adjust their wages to the minimum wage provisions applicable in their area.

3.6. Compliance with ILO Conventions

To date, Indonesia has ratified 20 ILO conventions consisting of 9 basic conventions, 2\two government conventions, and 9 technical conventions ILO Convention No. 87 was ratified through Presidential Decree No. 83 of 1998, followed by the Trade Union Law No. 21 of 2000, which was the starting point for fundamental conceptual changes in industrial relations in Indonesia. ILO Convention No. 98 has been ratified with Law Number 18 of 1956 concerning Approval of the International Labor Organization Convention No: 98 concerning the

Applicability of the Basics of the Right to Organize and to Bargain Collectively. ILO Convention No. 144 has been ratified through Presidential Decree No. 26 of 1990.

In this case, the alleged violation of the ILO Convention against the Indonesian government was linked to ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize, No. 98 concerning the Applicability of the Basics of the Right to Organize and Bargain Collectively, and No. 144 concerning Tripartite Consultation to Improve the Implementation of International Labor Standards. Table 4 shows the ratification status of Conventions 87, 98, and 144 from Indonesia and countries that did not support the Indonesian Government in the ILC-111 session. The Indonesian government always absorbs aspirations and social dialogue to fulfill the obligations of the principle of meaningful participation in every policy decision, namely continuing to uphold the rights of workers and entrepreneurs to have their opinions heard and considered and to receive explanations or answers to decisions made. The government always listens, conducts studies and carries out social dialogue with the parties involved before formulating policy regulations. Meaningful participation is not decision making. The decision remains in the hands of the government as regulator (Rijal, Maswati, R., & Darlin, 2020).

This case of alleged violation of ILO Convention 98 is similar to a case that occurred in Belgium. The Belgian government implemented regulations in its country regarding a new system/protocol in tripartite collective negotiations. According to a complaint filed by the Belgian trade union, this new regulation is alleged to weaken the right to unionize for workers at the company. The Belgian government continues to run this new system model as a trial, with supervision by the CEACR Expert Committee. If there are problems or losses for workers, improvements can be made. The Indonesian government is currently receiving ILO Technical Assistance as a form of follow-up to alleged violations of ILO conventions. The Indonesian government can use the same mechanism by proposing to continue implementing the Job Creation Law regulations by continuing to provide regular reports to the ILO. If in practice this provision actually harms workers and trade unions, then this provision can be challenged procedurally again, supported by valid evidence.

4. Conclusion and Recommendations

In general, the Job Creation Law wants to achieve increased investment, create job opportunities, and provide legal and social protection for workers. The government, especially the Ministry of Manpower, has a very important role for workers. The first role needs to be to increase job training and work competency so that the workforce has the expertise and skills required in the industrial world and increases the bargaining power of companies. The second role requires improving workforce placement and expanding job opportunities so that jobs are created and workers can work according to their expertise and skills. The latter role is of course important to continue to monitor the implementation of the Job Creation Law in companies and continue to protect workers by providing legal protection and social security. Because if workers

are protected in all forms of contracts, the difference between PKWT-PKWT and outsourcing workers will not be very significant (Wongkaren et al, 2022).

The Indonesian government is currently receiving ILO Technical Assistance as a follow-up to alleged violations of ILO conventions. The government can report data regarding labor practices in Indonesia to show that there are no efforts to limit the role of trade unions, which is evidence that the Indonesian government has implemented the principles of the ILO Convention.

The allegations that the Government has violated ILO Convention No. 98 in the context of the Job Creation Law create conflict between workers, employers, and the government. To overcome these problems, the Ministry of Manpower needs to continue to increase its role in providing job training and increasing job competency, placing workers and expanding job opportunities, supervising the implementation of the Job Creation Law in companies, and continuing to protect workers by providing legal protection and social security. Reporting evidence in the form of data on labor practices shows that the Indonesian Government has implemented the principles of the ILO Convention. Providing Technical Assistance from the ILO can be useful in carrying out this problem-solving procedure.

References

- ILO (1948). Convention No. 87 – Freedom of Association and Protection of the Right to Organise Convention
- ILO (1949). Convention No. 98 – Right to Organise and Collective Bargaining Convention
- ILO (1976). Convention No. 144 – Tripartite Consultation (International Labour Standards) Convention
- ILO (2016). Minimum Wage Policy Guide. Inclusive Labour Markets, Labour Relations & Working Conditions Branch (INWORK), Jenewa.
- McIntyre, Richard & Matthew M Bodah (2006). The US and ILO Conventions No. 87 and No. 98: The Freedom of Association and Right to Bargain Collectively. Dipublikasi di buku: Justice on the Job: Perspectives on the Erosion of Collective Bargaining in the United States.
- Molina, Ó., & Pedersini, R. (2022). Collective bargaining in seven European countries throughout the pandemic (Vol. 74).
- Pemerintah Indonesia (2021). Peraturan Pemerintah Nomor 35 Tahun 2021 tentang Perjanjian Kerja Waktu Tertentu, Alih Daya, Waktu Kerja dan Waktu Istirahat dan Pemutusan Hubungan Kerja
- Pemerintah Indonesia (2021). Peraturan Pemerintah Nomor 36 Tahun 2021 tentang Pengupahan
- Pemerintah Indonesia (2022). Peraturan Pemerintah Pengganti Undang-Undang (Perppu) Nomor 2 Tahun 2022 tentang Cipta Kerja
- Pemerintah Indonesia (2003). Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan

- Pemerintah Indonesia (2020). Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja
- Pemerintah Indonesia (2023). Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja Menjadi Undang-Undang
- Rijal, Maswati, R., & Darlin. (2020). Peran Pemerintah Daerah dalam Pengelolaan Objek Wisata Sungai Tamboras di Desa Tamboras Kecamatan Iwoimenda Kabupaten Kolaka. *Jurnal MODERAT*, 6(3), 557–572. <https://doi.org/10.32493/rjih.v2i1.2981>
- Silalahi, S. A. F. (2014). Kondisi Industri Manufaktur Indonesia Dalam Menghadapi Globalisasi. *Jurnal DPR RI*
- Sungkar et al. (2015). Pengaruh Upah Minimum Terhadap Ketimpangan Pendapatan di Indonesia. *Jurnal Ilmu Ekonomi Vol 3 No. 2*. Universitas Syiah Kuala
- Surindra, B., Artantri, M. W., Forijati, R., & Annas, M. (2021). Analisis Pengangguran dan Kesempatan Kerja di Masa Pandemi COVID-19. *Jurnal Pendidikan Ekonomi Akuntansi Kewirausahaan*, Vol.1 No.2
- Tambunan (2001). *Ekonomi Pembangunan*. Pustaka Ekonomi, Jakarta.
- Trimaya, A. (2014). Pemberlakuan Upah Minimum Dalam Sistem Pengupahan Nasional Untuk Meningkatkan Kesejahteraan Tenaga Kerja. *Jurnal DPR RI*
- USCIB. (2007). *Issue Analysis: U.S Ratification of ILO Core Labor Standards*. United States Council For International Business. New York.
- Wage and Hour Division (WHD) Department of Labor (2022). *Updating the Davis-Bacon and Related Acts Regulations*, Washington DC. RIN: 1235-AA40
- Wongkaren, et al (2022). *Analisa PKWT dan Alih Daya Dalam UU Cipta Kerja*. Pusat Pengembangan Kebijakan Ketenagakerjaan. Jakarta.