



ILO Convention's Relevance to Employment Policies in Indonesia: Legal Framework and Political Insights

Putri Tantya Rahmah Dewi

Faculty of Law, President University, Indonesia. E-mail: putri.dewi@student.president.ac.id

Article	Abstract
<p>Keywords: <i>ILO; Employers; PBB</i></p> <p>Article History Received: Aug., 21, 2024, Reviewed: Sept., 16, 2024 Accepted: Oct., 19, 2024 Published: Dec, 02, 2024</p>	<p>This article examines the relationship between Indonesia's employment policies and the conventions of the International Labor Organization (<i>ILO</i>). The <i>ILO</i>, also known as the International Labour Organization, is an international agreement that is subject to ratification by the states of the community. Based on the Treaty of Versailles, the <i>ILO</i> was formed in 1919 in conjunction with the League of Nations (<i>LBB</i>). The <i>ILO</i> is an international organization developed by the United Nations in 1945. There are three parts of <i>PBB</i> members, namely the Government, Employers, and Workers. The <i>ILO</i> was formed with the aim of providing fair policies for social society, especially workers for men and women. The article method used is a qualitative method with a legal approach. This article concludes that in order to protect workers' rights and promote social justice, Indonesian labor policies must consider the <i>ILO</i> Conventions. Therefore, it is recommended that the Indonesian government increase efforts to implement the <i>ILO</i> Conventions and overcome the difficulties and obstacles found in this study.</p>

1. INTRODUCTION

ILO stands for International Labor Organization. The *ILO* was established in 1919 which is precisely the same time as the League of Nations or (*LBB*) based on the Treaty of Versailles. The *ILO* has 187 member countries as of 2021. The Government part, the employer part, and the worker part are the only three-part international organization hosted by the United Nations called the *ILO*. These three parts are set to be the formulation and direction of all *ILO* policies and initiatives.

As the sixteenth country to join the *ILO* (International Labor Organization), Indonesia has been working with the Ministry of Manpower and Transmigration and the Indonesian Employers Association (*Apindo*) since June 12, 1950. In addition, the *ILO* collaborates with Confederation of Indonesian Labor Unions (*KSPSI*), Confederation of Indonesian Prosperous

Labor (KSBSI), Confederation of Indonesian Trade unions (KSPI), which are three significant trade unions.¹

Through the ILC International Labour Conference, the ILO has ratified or enacted 190 conventions, 206 recommendations, and 6 protocols thus far. Twenty ILO conventions—nine basic conventions, two conventions on governance, and nine general or technical conventions—have been ratified by the Indonesian government.² At the ILO forum, Indonesia showcased seven of its national social security initiatives. These include the Family Hope Programme (PKH), Death Insurance (JKM), National Health Insurance (JKN), Job Loss Insurance (JKP), Pension Insurance (JP), the Work Accident Insurance (JKK), and Old Age Insurance (JHT).³

The specific agreement to establish the rules of the convention and the power to obtain extensions of the provisions that are monitored internationally are two of the duties of member states that are obliged to ratify the convention. Human rights, social welfare, and formal agreements to define aspects of labor are among the objectives of any convention.⁴ National governments apply general or technical guidelines that are derived from international labour recommendations; they are not necessarily required to be accepted. Recommendations frequently include comprehensive advice to elucidate concepts already addressed in the Convention or offer advice on subjects not addressed in the Convention.⁵

Encouraging social justice for all people worldwide, particularly workers, was the ILO's founding goal. Prolonged peace may only be achieved via social fairness, according to the ILO Constitution's preamble. Because of this, the many shocks that occur will continue to disrupt the harmony and tranquilly of life. Working circumstances still reflect unfairness. Because of this, it's essential to address the issue of unemployment and enhance working conditions and work norms.⁶

¹ Dian Andryanto, S, “11 Juni 1950 Indonesia Gabung Organisasi Buruh Internasional ILO, ini Alasannya” <https://nasional.tempo.co/read/1471358/11-juni-1950-indonesia-gabung-organisasi-buruh-internasional-ilo-inialasannya>. Accessed on 12 May 2024.

² Mohammad Hatta Muarabagja, “104 Tahun ILO: Menengok Jejak Hubungan Indonesia dengan ILO,” <https://dunia.tempo.co/amp/1714028/104-tahun-ilo-menengok-jejak-hubungan-indonesia-dengan-ilo>, Accessed on 12 May 2024.

³ *Ibid.*

⁴ Kantor Perburuhan Nasional, *Konvensi-Konvensi Ilo Tentang Kesetaraan Gender Di Dunia Kerja* (Jakarta: Kantor Perburuhan Nasional, 2006), p. 1.

⁵ *Ibid.*

⁶ Kementerian Luar Negeri Republik Indonesia, “International Labour Organization (ILO),” https://kemlu.go.id/portal/id/read/4250/halaman_list_lainnya/international-labour-organization-ilo, Accessed on 12 May 2024.

The impact of the pandemic on the workplace, particularly the problems of job closures and rising unemployment rates worldwide, is something that the ILO is closely monitoring. income reductions for both businesses and employees, Issues with the health and safety of workers during the pandemic; disparities in the labour sector's recovery between nations and areas; and social protection for workers impacted by the event.

The ILO aids its member nations in fostering the rehabilitation of the labour sector. It was decided to support an inclusive, robust, and sustainable recovery of the world of work by pushing policies that produce decent work for everyone in June 2021, as part of the ILO Global Call to Action for a Human-Centred Recovery from the COVID-19 Crisis.⁷

The ILO always incorporates tripartite components into the process of creating international labour standards, starting with topic selection and ending with acceptance at the International Labour Conference (ILC).⁸ The International Labour Organisation (ILO) has an annual conference called the International Labour Conference (ILC). In addition to employers' and workers' organisations, delegates from ILO member nations gather to discuss and adopt new international labour regulations, as well as the ILO's work plan and budget.⁹

Workers and employers have the right to organise and join organisations of their choosing, which is essential to a free and open society. It is a fundamental civil liberty that serves as a guide for achieving social and economic progress. It is also linked to an influential acknowledgment the freedom to engage in collective bargaining. Speaking up and being represented are fundamental components of good work¹⁰.

Human trafficking, debt bondage, and other modern forms of slavery are examples of forced labour. The most vulnerable victims include young women and girls coerced into the prostitution industry, migrants held in debtors' bonds, sweatshop labourers who toil for meagre pay, and plantation labourers who are compelled to continue using unlawful methods for little or no compensation. The ILO has started a number of investigations and projects in the unofficial market. The phrase is employed to explain how work able to done beyond the reach of formal laws and enforcement system. The informal economy employs over 50% of non-agricultural workers in several developing nations. More women operate in the unorganized sector, usually as street sellers, in these nations. Work done informally is typically ineffective, insecure, poorly paid and executed under unfavorable situation. Assisting entrepreneurs and

⁷ *Ibid.*

⁸ *Ibid.*

⁹ International Labor Organization, "Sekilas Tentang ILO," p.3.

¹⁰ *Ibid.*, P.9.

labourers break arising from this informality requires a variety of tactics to raise their abilities and output, enhance laws and implementation as well as promote self-creation sustaining institutions.¹¹

Through a number of initiatives and programmes targeted at enhancing working conditions and advancing workers' rights, the ILO actively supports Indonesia. The following are a few of the ILO's efforts in Indonesia, Capacity Building and Training. To enhance governments', employers', and trade unions' comprehension and application of international labour standards, the ILO offers training and capacity building. Research and Advocacy. To solve labor-related concerns in Indonesia, the ILO carries out studies and makes policy recommendations. Government officials frequently consult ILO reports while developing labour laws. Special Projects. The ILO is responsible for special projects that address issues including gender equality in the workplace, improving working conditions in the informal sector, and ending child labour.

The ILO conventions have a great deal of significance for Indonesian labour policy. ILO Conventions offer a thorough framework for regulating a number of employment-related issues, including pay, working conditions, health and safety at work, and collective bargaining and association rights. Indonesia's ratification of ILO conventions demonstrates its commitment to upholding global labour standards and enhancing working conditions for its workforce.

ILO agreements are not always easily implemented in Indonesia, nevertheless. The efficient application of these standards is frequently hampered by a variety of legal and political issues. Despite the fact that Indonesia's labour laws have mostly incorporated the ILO agreements' principles, worker rights breaches continue to happen often. The implementation of labour laws that adhere to ILO standards is also impacted by Indonesia's complicated political and economic dynamics.

2. RESEARCH METHODOLOGY

The methodologies used in this essay are qualitative. The qualitative approach itself can be viewed as a research technique that employs verbatim or written descriptions provided by observable individuals and actors. Explaining and analysing individual or group phenomena, events, social dynamics, attitudes, beliefs, and perceptions are done using this qualitative method. As a result, developing foundational assumptions is the first step in the qualitative method study process. Subsequently, it is linked to the research's use of cognitive norms.

¹¹ *Ibid.*, Pp.10 & 14.

Following the survey, the data is interpreted.¹² According to Sugiono the type of qualitative research is based on the philosophy of postpositivism, which is used to examine the conditions of natural objects. Here the position of the researcher as a key instrument, then data collection techniques with triangulation, data analysis is qualitative, and research results emphasize meaning over generalization.¹³ This article uses a legal approach.

3. DISCUSSION

3.1 Implementation of ILO Conventions in Indonesia.

ILO rules are difficult to implement, even though Indonesia has ratified a number of ILO conventions. The reasons for this are manifold, encompassing deficiencies in the legal framework and law enforcement apparatus, insufficient funding for monitoring and enforcing compliance, and cultural and economic elements that impact labour practices in the real world.

Challenges in Implementation

Despite having made great progress, Indonesia still has a long way to go before it can successfully apply ILO standards. Among the principal difficulties are:

3.1.1 Weak Law Enforcement

Weak law enforcement is one of the main obstacles. Despite the existence of laws and rules, worker rights breaches frequently go unpunished by the government. This is due to ineffective supervision and inspection systems, and political interference.

3.1.2 Lack of Awareness and Education

A large number of employers and employees are unaware of their ILO-mandated rights and responsibilities. It is necessary to increase labour rights outreach and education.

3.1.3 Economic and Social Conditions

Complicated social and economic circumstances are another difficulty. For instance, employees may be more willing to put up with subpar working conditions while unemployment is high than to labour for no pay at all.

3.1.4 Gender Discrimination and Inequality

According to Michio Miyamoto, the foundation of good labour is gender equality. "It's Time for Women to be Equal in Collective Labour Agreement Negotiations," he stated during the conversation, adding that "achieving gender equality in the workplace is still one of the

¹² Qotrun A, "Penelitian Kualitatif: Pengertian, Ciri-Ciri, Tujuan, Jenis, dan Prosedurnya," <https://gramedia.com/literasi/penelitian-kualitatif/>, accessed on 13 May 2024

¹³ Laudya Tysara, "Jenis Penelitian Kualitatif Menurut Para Ahli, Pahami Karakteristiknya" <https://www.liputan6.com/hot/read/5299910/jenis-penelitian-kualitatif-menurut-para-ahli-pahami-karakteristiknya>, accessed on 13 May 2024.

biggest challenges." According to him, equality and nondiscrimination should be made a fundamental value in order to promote the ability of companies and employees to engage in collective bargaining. In addition, he stated that non-discriminatory policies are advantageous to businesses, employees, and women workers alike.

3.2 Position of ILO Conventions in Indonesia

An analysis based on the origins of labour law determines the place of ILO Conventions in national law. Multilateral agreements take the form of the ILO Convention. The degree to which a nation recognises an international agreement determines whether or not it is enforceable under national law. There are differing views within Indonesia about whether or not the ILO treaties can be used as a basis for domestic labour laws. Most scholars and professionals concur that the ILO Conventions constitute soft law.¹⁴

3.3 Political Dynamics in the Implementation of ILO Conventions

The political climate in Indonesia also has an impact on ILO conventions. Labour policies are formed and carried out in large part by the government, employers, and trade unions.

3.3.1 Pressure from Various Parties

The foreign community, companies, labour unions, and other parties frequently exert pressure on the Indonesian government. Employers frequently seek more latitude in labour laws to boost competitiveness, but international pressure forces the government to adhere to ILO standards. Conversely, trade unions push for enhanced protection and better working circumstances.

3.3.2 Economic Policy Shift

The implementation of ILO conventions can be impacted by economic policies that prioritise job creation and increased investment. For instance, the 2020 Job Creation Law was criticised for weakening worker safeguards despite its stated goal of promoting investment and economic growth. The conflict between luring in foreign capital and upholding strict labour laws is seen in this law.

¹⁴ Shafira Khairunnisa, Agus Pramono, Sonhaji, "Analisis Hukum Ratifikasi Dan Implementasi Konvensi-Konvensi *International Labor Organization* (ILO) Di Indonesia) *Diponegoro Law Review Vol.5* (April 2016): 5

3.3.3 Role of Trade Unions

Trade unions play a significant role in monitoring the application of ILO rules and defending the rights of workers. Trade unions in Indonesia have expanded, although they still have difficulties with collective bargaining and freedom of association. The success of implementing the ILO convention can be enhanced by greater support for trade union rights.

3.4 Indonesia's Ratifications

There are 18 ILO conventions that have been ratified by the Indonesian government¹⁵

- 1) ILO Convention No. 19 of 1925, which addresses the equitable treatment of foreign and domestic workers with regard to benefits for occupational accidents.
- 2) The 1929 ILO Convention No. 27 on the Marking of Weights on the Packing of Large Goods for Ship Transportation.
- 3) The 1930 ILO Convention No. 29 on Forced or Compulsory Labor.
- 4) ILO Convention No. 45 of 1935 on the Employment of Women in Underground Mine Work and Other Related Activities.
- 5) The 1946 ILO Convention No. 69 pertaining to Ship Cook Certification.
- 6) ILO Labor Inspection Convention No. 81 of 1947.
- 7) International Labor Organization Convention No. 87 of 1948 concerning Workplace Safety and Health and Safety of Workers.
- 8) ILO Convention No. 88 of 1948.
- 9) ILO Resolution No. 98 of 194 on the Promotion of Human Rights for Organization and Unity
- 10) ILO Convention No. 100 of 1951 on Equal Pay for Equal Work for Women and Men and Equal Rights for Women in Employment.
- 11) ILO Convention No. 105 of 1957 concerning the Protection of Private Employment.
- 12) ILO Convention No. 106 of 1957 concerning Women's Rights in Trade and Exchange.
- 13) ILO Convention No. 111 of 1958 on Discrimination in Workplace and Labor.
- 14) ILO Convention No. 120 of 1964 on Child Labor in Wages and Pensions.
- 15) ILO Convention on the Minimum Age for Employment, No. 138 of 1973
- 16) Tripartite Consultations to Promote the Implementation of International Labor Standards—ILO Convention No. 144 of 1976

¹⁵ SBMI, "Konvensi Ilo Yang Telah Diratifikasi Oleh Pemerintah Indonesia" <https://sbmi.or.id/konvensi-ilo-yang-telah-diratifikasi-oleh-pemerintah-indonesia/>, accessed on 16 May 2024.

17) Convention on the Elimination of the Worst Forms of Child Labor, ILO Convention No. 182 of 1999.

18) ILO Convention No. 185 of 2008 on Identity Documents for Seafarers.

3.6 Legal Framework

Law No. 13 Year 2003 on Manpower and Law No. 11 Year 2020 on Job Creation are two of the major laws that form the foundation of Indonesia's labour regulations. Numerous facets of employment, such as hiring, working conditions, and terminating employment, are governed by these regulations. But monitoring and enforcement of these rules are frequently problematic, particularly in the informal sector, which employs the vast majority of Indonesia's labour.

Indonesia can benefit from the rules provided by ILO Conventions to assist balance the interests of employers and employees. For instance, Convention No. 111 on Discrimination in Employment and Occupation highlights the significance of eliminating discrimination in the workplace, while Convention No. 100 on Equal Remuneration promotes equal pay for men and women. A more equitable and inclusive labour market in Indonesia may result from the effective application of these conventions.

- 1) Law No. 18 of 1956, with the addition of State Gazette No. 42 of 1956.
- 2) Article 2 and Article 4 of Presidential Decree No. 83 of 1998.
- 3) Law No. 13 of 2003 Concerning Manpower
- 4) Law No. 11 of 2020 Concerning Job Creation

4. CONCLUSION

The ILO plays a critical role in Indonesia by offering technical support and oversight to guarantee that ratified treaties are implemented effectively. The acceptance of these agreements by Indonesia has resulted in notable enhancements to labour laws and regulations, hence positively influencing employment policies and practices. In order to bolster labour rules and regulations, the Indonesian government has passed the 2022 Government Regulation No. 2 on Job Creation and the 2021 Government Regulation No. 36 on Labour Law. Through these regulations, the nation's competitiveness will rise and labour conditions and worker rights will be strengthened.¹⁶

¹⁶ Faizal Amir P Nasution, Henriko Tobing, Nur Farizal, Syahdan Abdul Haris Siregar, Muhyiddin, "Study on the Implementation of ILO Convention No. 98 in Indonesia and Its Comparison with Developed and Developing Countries," *Jurnal Ketenagakerjaan* (April 2024), Pp. 29-30.

In conclusion, the ILO Convention has major implications for Indonesian employment policies. The convention emphasises the value of workers' rights, social protection, and involvement in decision-making processes. Indonesia's labour law does not entirely comply with the ILO Convention's criteria, which can result in abuses of workers' rights and erode social stability. To improve Indonesia's employment policy, the Labour Law must be aligned with the norms of the ILO Convention, as well as workers' rights and social protection.

REFERENCES

Book

Kantor Perburuhan Nasional, *Konvensi-Konvensi Ilo Tentang Kesetaraan Gender Di Dunia Kerja* <https://www.ilo.org/media/321476/download>

International Labor Organization, *Sekilas Tentang ILO* <https://www.ilo.org/media/330156/download?t>

Kantor Perburuhan Nasional, *Konvensi-Konvensi Ilo Tentang Kesetaraan Gender Di Dunia Kerja* <https://www.ilo.org/media/321476/download>

Journal/Article

Shafira Khairunnisa, Agus Pramono, Sonhaji. *Analisis Hukum Ratifikasi Dan Implementasi Konvensi-Konvensi International Labor Organization (ILO) Di Indonesia* (Vol.5, April 2016, ejournal3.undip.ac.id) <https://ejournal3.undip.ac.id/index.php/dlr/article/download/11336/10993>

Faizal Amir P Nasution, Henriko Tobing, Nur Farizal, Syahdan Abdul Haris Siregar, Muhyiddin. *Study on the Implementation of ILO Convention No. 98 in Indonesia and Its Comparison with Developed and Developing Countries*. (Vol.19, April 2024, journals.kemnaker.go.id)

News

Dian Andryanto, S. *11 Juni 1950 Indonesia Gabung Organisasi Buruh Internasional ILO, ini Alasannya*. (Juni 2021) <https://nasional.tempo.co/read/1471358/11-juni-1950-indonesia-gabung-organisasi-buruh-internasional-ilo-inialasannya>

Mohammad Hatta Muarabagja. *104 Tahun ILO: Menengok Jejak Hubungan Indonesia dengan ILO*. (April 2023) <https://dunia.tempo.co/amp/1714028/104-tahun-ilo-menengok-jejak-hubungan-indonesia-dengan-ilo>

Kementerian Luar Negeri Republik Indonesia. *International Labour Organization (ILO)* (December 2022) https://kemlu.go.id/portal/id/read/4250/halaman_list_lainnya/international-labour-organization-ilo,

Faaizah, Noor. 9 *Pengertian Korupsi Menurut Para Ahli, Dari Aktivis Barat-Perspektif Islam*. (October 2023). <https://www.detik.com/edu/detikpedia/d-6975355/9-pengertian-korupsi-menurut-para-ahli-dari-aktivis-barat-perspektif-islam#:~:text=Berdasarkan%20Undang%20Undang%20Nomor%2031,dalam%20hal%20pengadaan%2C%20dan%20gratifikasi>.

Qotrun A. *Penelitian Kualitatif: Pengertian, Ciri-Ciri, Tujuan, Jenis, dan Prosedurnya* (2021) <https://gramedia.com/literasi/penelitian-kualitatif/>

Laudya Tysara. *Jenis Penelitian Kualitatif Menurut Para Ahli, Pahami Karakteristiknya*. (May 2023). <https://www.liputan6.com/hot/read/5299910/jenis-penelitian-kualitatif-menurut-para-ahli-pahami-karakteristiknya>