

COVID-19 and Labour Law: Indonesia

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Abstract

The COVID-19 pandemic is having a devastating impact on employment and livelihoods in Indonesia. Understanding the implications for workers requires mapping the combined interactions of existing labour law protections, new regulations and social security measures. This all also needs to be understood in the context of national and regional government power-sharing, Indonesia's large informal economy and the likely worsening of compliance with formal labour protections during the pandemic.

Keywords: Covid-19; Labour Law; Social Security; Pre-Employment Card Scheme; Omnibus Bill on Job Creation.

1. General Framework

Indonesia initially had a slow response to the COVID-19 pandemic with national leaders denying that there were any cases in the country until early March 2020¹. Since the first cases were acknowledged on 2 March 2020, official case numbers have been increasing, and there is good reason to suspect that infection and death rates are much higher than the official statistics given limited testing capacity². Indonesia has the second highest death toll in Asia after China, including the loss of many medical professionals. The capital city Jakarta has been the epicentre of the outbreak, but there have been cases recorded in all 34 provinces. President Joko Widodo has resisted a full national lockdown, and only on 21 April 2020 imposed restrictions on the looming annual large movement of people (*mudik*) associated with Ramadan and the Idul Fitri (Eid al-Fitr) holidays.

It is important to note that Indonesia has a decentralised system of government; provincial and regional governments have specified powers including over delivery of local

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¹ Tim Lindsey and Tim Mann, 'Indonesia was in Denial Over Coronavirus. Now it May be Facing a Looming Disaster' (*The Conversation*, 9 April 2020) <<https://theconversation.com/indonesia-was-in-denial-over-coronavirus-now-it-may-be-facing-a-looming-disaster-135436>>; 'We Don't Want People to Panic': Jokowi says on Lack of Transparency Around COVID Cases' (*Jakarta Post*, 14 March 2020) <<https://www.thejakartapost.com/news/2020/03/13/we-dont-want-people-to-panic-jokowi-says-on-lack-of-transparency-about-covid-cases.html>>.

² Tom Allard, Kanupriya Kapoor and Stanley Widiyanto, 'Jump in Jakarta Funerals raises Fears of Unreported Coronavirus Deaths' (*Reuters*, 4 April 2020) <<https://www.reuters.com/article/us-health-coronavirus-indonesia-funerals/exclusive-jump-in-jakarta-funerals-raises-fears-of-unreported-coronavirus-deaths-idUSKBN21L2XU>>.

health care programs and enforcement of nationally-determined labour rights. Often in advance of national government directions, many lower-level governments have been declaring local COVID-19 emergencies and imposing social distancing measures including restricting access to villages and neighbourhoods³. The national government has since been progressively attempting to reclaim its leadership in respect to the pandemic⁴. These national and regional government regulatory responses have been achieved through executive (rather than legislative) decision-making. The influence of civil society on this decision-making has been difficult to gauge. While activist NGOs have certainly been providing critical commentary and lobbying⁵, there has been reduced ability to gather and protest in public spaces and also government moves to curb online protest⁶. Communities, though, have been very active at ground-level in organising social distancing and assistance for the poor among other activities.

On 31 March 2020, the national government declared a health emergency⁷ and passed a regulation allowing individual regional governments to apply to the Ministry of Health for permission to implement 'Large-Scale Social Restrictions' (*Pembatasan Sosial Berskala Besar*)⁸. The capital city region of Jakarta was the first to gain permission on 7 April 2020, with a provincial regulation issued on 9 April formalising these restrictions⁹. In Jakarta, this requires all workplaces to be temporarily closed but with exemptions for government bodies and companies in essential services including health, food, energy, finance, communications, logistics, construction and public utilities. Restaurants are limited to takeaway only, and app-based motorcycle transport is limited to goods delivery only. This is in addition to earlier advice to public service and office workers to work from home wherever possible. The government of Jakarta was also authorised to provide assistance to vulnerable groups and incentives to businesses affected by the rules. Other regions outside the capital have since been steadily coming under the 'Large-Scale Social Restrictions'.

³ Rebecca Meckleburg, 'From the Field: COVID-19 Responses in Central Java' (*New Mandala*, 17 April 2020) <<https://www.newmandala.org/from-the-field-covid-19-responses-in-central-java/>>.

⁴ Jefferson Ng, 'Can Indonesia's Fight Against COVID-19 Overcome Troubled Central-Regional Coordination' (*New Mandala*, 28 April 2020) <<https://www.newmandala.org/can-indonesias-fight-against-covid-19-overcome-troubled-central-regional-coordination/>>.

⁵ For example, 'Desak Pemerintah Lindungi Hak Pekerja Saat Wabah Covid-19!' [Petition the Government to Protect Workers' Rights in the Covid-19 Pandemic!] (*Amnesty International Indonesia*, <http://amnestyindo.nationbuilder.com/petisi_covid_19_lindungi_hak_pekerja?recruiter_id=155879> (accessed 30 April 2020)).

⁶ Eve Warbuton, 'Indonesia: Polarization, Democratic Distress, and the Coronavirus' (*Carnegie Endowment*, 28 April 2020) <<https://carnegieendowment.org/2020/04/28/indonesia-polarization-democratic-distress-and-coronavirus-pub-81641>>; James Gomez and Robin Ramcharan, 'Pandemic Shrinks Civic Space' (*Jakarta Post*, 25 April 2020) <<https://www.thejakartapost.com/news/2020/04/25/pandemic-shrinks-civic-space.html>>.

⁷ *Keputusan Presiden No.11/2020 tentang Penetapan Kedaruratan Kesehatan Masyarakat Corona Virus Disease 2019 (COVID-19)* [Presidential Decision no. 11/2020 on Declaring a Community Health Emergency for Corona Virus Disease 2019 (COVID-19)].

⁸ *Peraturan Pemerintah no. 21/2020 tentang Pembatasan Sosial Berskala Besar Dalam Rangka Percepatan Penanganan Corona Virus Disease 2019 (COVID-19)* [Government Regulation no. 21/2020 on Large-Scale Social Restrictions in Relation to Handling the Corona Virus Disease 2019 (COVID-19)].

⁹ *Peraturan Gubernur DKI Jakarta no. 33/2020 tentang Pelaksanaan Pembatasan Sosial Berskala Besar Dalam Penanganan Corona Virus Disease 2019 (COVID-19) di Provinsi Daerah Khusus Ibukota Jakarta* [Governor of Jakarta Regulation no. 33/2020 on the Implementation of Large-Scale Social Restrictions in Handling the Corona Virus Disease 2019 (COVID-19) in the Special Capital Region of Jakarta].

On 13 April 2020, the President declared an emergency state of national disaster and required provincial and regional governments to follow national policies in their response to COVID-19¹⁰.

The social restrictions and associated economic downturn are having massive negative effects on workers in both the formal and informal sectors, with official estimates announced on 20 April 2020 showing some four million workers affected through dismissals, stand-downs, interruptions to informal businesses and as returned overseas migrant workers¹¹. The government has also predicted that millions more may lose their livelihoods¹².

Formally, there are various protections that cover almost all workers under Indonesian labour law including protections that are particularly relevant to the pandemic situation. However, surveys show that due to weak enforcement only about 30% of Indonesian workers are fully covered by labour law in practice¹³. Given the economic downturn, it is quite likely that the COVID-19 situation is worsening compliance with workers' rights.

2. Dismissals

Indonesia's labour law contains various protections against dismissal. Fixed-term workers may have their contracts terminated but compensation for lost wages through to the end of the contract must still be paid¹⁴, meaning that there is little advantage to ending such contracts early. For permanent workers, dismissals for redundancy are possible if the company is closing having suffered losses for two consecutive years or due to *force majeure*¹⁵. There is debate occurring as to whether the declarations of national emergency constitute *force majeure* for this purpose, with some legal commentators concluding that the law is unclear on this matter¹⁶. However, at least one prior case from the Courts of Industrial

¹⁰ Keputusan Presiden no. 12/2020 tentang Penetapan Bencana Nonalam Penyebaran Corona Virus Disease 2019 (Covid-19) Sebagai Bencana Nasional [Presidential Decision no. 12/2020 on Declaring the Non-Natural Spread of Corona Virus Disease (COVID-19) as a National Disaster].

¹¹ 'Dampak Covid-19, Menaker: Lebih dari 2 Juta Pekerja di-PHK dan Dirumahkan' [The Impact of Covid-19, Minister for Labour: More than 2 Million Workers have been Dismissed or Stood Down] (*Kompas*, 23 April 2020) <<https://money.kompas.com/read/2020/04/23/174607026/dampak-covid-19-menaker-lebih-dari-2-juta-pekerja-di-phk-dan-dirumahkan>>; 'Kini, Ada 2,8 Juta Pekerja Terdampak Covid-19' [Now There are 2.8 Million Workers Impacted by Covid-19] (*Beritasatu*, 13 April 2020) <<https://www.beritasatu.com/ekonomi/620111-kini-ada-28-juta-pekerja-terdampak-covid19>>.

¹² Emma Connors and Natalia Santi, 'Fears of Social Unrest as Indonesia Enters Dangerous Phase' (*Financial Review*, 20 April 2020) <<https://www.afr.com/world/asia/fears-of-social-unrest-as-indonesia-enters-dangerous-phase-20200420-p54ldb>>.

¹³ Asian Development Bank and BPS-Statistics Indonesia, *The Informal Sector and Informal Employment in Indonesia*. (2011).

¹⁴ Undang-Undang no. 13/2003 tentang Ketenagakerjaan [Law no. 13/2003 on Labour], art. 62.

¹⁵ Undang-Undang no. 13/2003 tentang Ketenagakerjaan [Law no. 13/2003 on Labour], art. 164(1).

¹⁶ 'Employers Struggle Pending Relief from the Government' (*Assegaf Hamzah and Partners*, 1 April 2020) <<https://www.ahp.id/employers-struggle-pending-relief-from-the-government>>; 'Jokowi Declares Covid-19 as a National Disaster: A Force Majeure Trigger?' (*Assegaf Hamzah and Partners*, 14 April 2020) <<https://www.ahp.id/jokowi-declares-covid-19-as-a-national-disaster-a-force-majeure-trigger>>.

Relations suggests that government policy can constitute *force majeure*¹⁷. Employers are required to provide normal severance pay for dismissals under these provisions.

Redundancy is also possible where the business is otherwise closing for reasons of efficiency¹⁸, but the Constitutional Court held in 2011 that the provision on redundancy for efficiency reasons is constitutional provided that it only occurs in the context of *permanent* closure of the business¹⁹. Where redundancy is justified by efficiency, severance pay is set at twice the usual calculation.

There are also procedural requirements for dismissal; redundancy should be the last resort after other measures have been attempted such as reducing management pay and reducing working hours or placing workers on temporary stand down²⁰. Further, employers must first negotiate with workers and their representatives and if a genuine agreement is not reached then employers must make an application to the relevant Industrial Relations Court before a worker can be dismissed²¹. It appears that courts are still functioning, although with reduced hours²².

3. Wage Cuts

In general, normal wages should still be paid to workers. This includes the Annual Religious Holiday Bonus (equivalent to a thirteenth month wage) which is due to be paid to Muslim private sector workers in time for the end of Ramadan at around 23 May 2020²³.

As one possibility to delay paying normal wages, employers can apply to the relevant Provincial Governor for a temporary (up to 12 months) exemption from paying the

¹⁷ 'Penting!! Inilah Putusan-Putusan PHK Akibat Force Majeure' [Important! These are the Dismissal Decisions as a Result of Force Majeure] (*Hukumonline*, 30 April 2020)

<<https://www.hukumonline.com/berita/baca/lt5ea98f3e4e02f/pening-inilah-putusan-putusan-phk-akibat-force-majeure>>.

¹⁸ *Undang-Undang no. 13/2003 tentang Ketenagakerjaan* [Law no. 13/2003 on Labour], art. 164(3).

¹⁹ Constitutional Court Decision No.19/PUU-IX/2011; 'Dapatkah Perusahaan Melakukan PHK Karena Kerugian Akibat Covid-19?' [Can Companies Dismiss Workers Because of Losses Caused by Covid-19?] (*BP Lawyers*, 1 April 2020) <<https://bplawyers.co.id/2020/04/01/dapatkah-perusahaan-melakukan-phk-karena-kerugian-akibat-pandemi-covid-19/>>.

²⁰ *Surat Edaran Menteri Tenaga Kerja dan Transmigrasi no: SE-907/MEN/PHI-PPHI/X/2004 tentang Pencegahan Pemutusan Hubungan Kerja Massal* [Circular Letter of the Minister for Labour and Transmigration No: SE-907/MEN/PHI-PPHI/X/2004 on Preventing Mass Dismissals].

²¹ *Undang-Undang no. 13/2003 tentang Ketenagakerjaan* [Law no. 13/2003 on Labour], arts. 150–151.

²² 'Penetapan Pandemi Covid-19 Membatasi Pengajuan Upaya Hukum Para Pencari Keadilan?' [Does the Declaration of the Covid-19 Pandemic Limit Access to Justice?] (*Kliklegal*, 21 April 2020) <<https://kliklegal.com/penetapan-pandemi-covid-19-membatasi-pengajuan-upaya-hukum-para-pencari-keadilan/>>.

²³ 'Dampak Covid-19, Hak Buruh Seharusnya Tetap Dipenuhi' [The Impact of Covid-19, Workers' Rights Should Still be Fulfilled] (*Hukumonline*, 1 April 2020)

<<https://www.hukumonline.com/berita/baca/lt5e843d365ce85/dampak-covid-19--hak-buruh-seharusnya-tetap-dipenuhi/>>; 'Menaker Ida Pastikan THR Kepada Pekerja Tetap Wajib Dibayarkan' [Minister for Labour Confirms that Annual Holiday Bonus Should Still be Paid to Workers] (*Kementrian Ketenagakerjaan Republik Indonesia*, 2 April 2020) <<https://kemnaker.go.id/news/detail/menaker-ida-pastikan-thr-kepada-pekerja-tetap-wajib-dibayarkan>>.

regional minimum wage²⁴. Applications require union approval and proof of accounts. The difference in wages, however, still needs to be paid later and becomes a debt owed by the employer to worker²⁵. There does not yet appear to be any publicly available data on the extent to which such exemptions are being applied for and granted in relation to COVID-19.

In the new ministerial directions released specifically for COVID-19, any decisions about changes to wages and conditions for some or all workers should occur in dialogue and agreement with workers²⁶. This would appear to give employers more flexibility than usual to renegotiate wages for the duration of the pandemic, and arguably may put workers at a disadvantage given their likely lower bargaining power²⁷.

4. Temporarily Standing Workers Down Without Pay

The legality of temporarily standing down workers without pay (*dirumahkan*) is somewhat contradictory in Indonesia. On the one hand, the main labour law does not recognise the practice, although normal paid annual leave may be still used during this time.

The law does provide that workers who are absent when carrying out civic duties should still be paid²⁸. Jakarta Legal Aid (LBH Jakarta) has argued that the instruction to non-essential businesses to close under 'Large Scale Social Restrictions' means that workers in these businesses are carrying out civic duties by staying home to prevent the spread of COVID-19 and hence that they still have the right to be paid²⁹.

However, a lower-level ministerial direction recognises that employers might stand down workers temporarily as an attempt to avoid redundancy³⁰. In such situations, workers should still be fully paid unless an agreement has otherwise been reached (see above).

²⁴ *Undang-Undang no. 13/2003 tentang Ketenagakerjaan* [Law no.13/2003 on Labour], art. 90; *Keputusan Menteri Tenaga Kerja dan Transmigrasi no. KEP-231/MEN/2003 tentang Tata Cara Penangguhan Pelaksanaan Upah Minimum* [Minister of Labour and Transmigration Decision no. KEP-231/MEN/2003 on Procedures for Suspension of Minimum Wage Implementation].

²⁵ Constitutional Court decision no. 72/PUU-XIII/2015; Agus Sahbani, 'Putusan MK ini Kabar Baik Bagi Pekerja' [This Constitutional Court Decision is Good News for Workers], (*Hukumonline*, 3 October 2016) <<https://www.hukumonline.com/berita/baca/lt57f231254dcfc/putusan-mk-ini-kabar-baik-buat-pekerja>>.

²⁶ *Surat Edaran Menteri Ketenagakerjaan no. M/3/HK.04/III/2020 tentang Perlindungan Pekerja/Buruh dan Kelangsungan Usaha Dalam Rangka Pencegahan dan Penanggulangan COVID-19* [Circular Letter of the Minister for Labour no. M/3/HK.04/III/2020 on Worker Protection and Business Continuity for the Prevention and Management of the Spread of COVID-19], art II(4); Better Work Indonesia, 'Workers' Protection and Business Continuity Amid the Covid-19 Pandemic' (*Better Work*, 17 April 2020) <https://betterwork.org/wp-content/uploads/2020/04/BWI_covid_FAQs_eng_web.pdf>.

²⁷ 'Bermasalah Terkait Pekerjaan Karena Pandemi COVID-19?' [Do You Have Employment Problems Because of the COVID-19 Pandemic?] (LBH Bandung, 20 March 2020) <<http://www.lbhbandung.or.id/bermasalah-terkait-pekerjaan-karena-pandemi-covid-19-16-kantor-lbh-ylbhi-membuka-posko-pengaduan-bantuan-hukum-online/>>.

²⁸ *Undang-Undang no. 13/2003 tentang Ketenagakerjaan* [Law no. 13/2003 on Labour], art. 93(2).

²⁹ Informasi Covid-19 Untuk Warga' [Covid-19 Information for Citizens] (LBH Jakarta, *Jakarta Legal Aid*) <<https://www.bantuanhukum.or.id/web/informasi-covid-19-untuk-warga/>> accessed 24 April 2020.

³⁰ *Surat Edaran Menteri Tenaga Kerja dan Transmigrasi No: SE-907/MEN/PHI-PPHI/X/2004 tentang Pencegahan Pemutusan Hubungan Kerja Massal* [Circular Letter of the Minister for Labour and Transmigration No: SE-907/MEN/PHI-PPHI/X/2004 on Preventing Mass Dismissals].

5. Sick and Quarantine Leave

New ministerial directions provide that workers who are under observation for COVID-19 or otherwise required to be in quarantine or isolation should continue to receive full pay³¹. Workers who are actually sick with COVID-19 should be paid under normal sick leave entitlements which in Indonesia are comparatively very generous providing for full pay for up to 4 months and then reduced pay in subsequent months³². However, the new directions and normal sick leave only cover the worker themselves and do not extend to caring for children or other relatives.

6. Health and Safety

Employers in Indonesia are generally under a duty to maintain a safe workplace, and under new ministerial directions, workplace leaders are to integrate COVID-19 prevention into their workplace health and safety programs and to empower their OHS Committees to increase workplace health³³. Among other steps, employers are required to report any suspected infections, educate workers about COVID-19, provide hand-washing facilities, require mask-wearing and monitor workers who may have travelled to infected areas³⁴. Under the 'Large-Scale Social Distancing' regulations applicable in Jakarta, those exempted workplaces remaining open must provide a clean workplace, ensure physical distancing, carry out temperature checks and close for 14 days if a suspected case of COVID-19 is found³⁵.

The various appeals to employers to direct workers to work from home do not appear to have addressed work safety issues in the home³⁶.

³¹ *Surat Edaran Menteri Ketenagakerjaan no. M/3/HK.04/III/2020 tentang Perlindungan Pekerja/Buruh dan Kelangsungan Usaha Dalam Rangka Pencegahan dan Penanggulangan COVID-19* [Circular Letter of the Minister for Labour no. M/3/HK.04/III/2020 on Worker Protection and Business Continuity for the Prevention and Management of the Spread of COVID-19].

³² *Undang-Undang no. 13/2003 tentang Ketenagakerjaan* [Law no. 13/2003], art. 93(3).

³³ *Surat Edaran Menteri Ketenagakerjaan no. M/3/HK.04/III/2020 tentang Perlindungan Pekerja/Buruh dan Kelangsungan Usaha Dalam Rangka Pencegahan dan Penanggulangan COVID-19* [Circular Letter of the Minister for Labour no. M/3/HK.04/III/2020 on Worker Protection and Business Continuity for the Prevention and Management of the Spread of COVID-19].

³⁴ *Surat Edaran Menteri Pendayagunaan Aparatur Negara dan Reformasi Birokrasi Nomor 19 Tahun 2020 tentang Penyesuaian Sistem Kerja Aparatur Sipil Negara Dalam Upaya Pencegahan Penyebaran Covid-19 Di Lingkungan Instansi Pemerintah* [Circular Letter of the Minister for State Apparatus and Bureaucratic Reform no. 19/2020 on Adjustment of the Work System of the Civil Service for Preventing the Spread of Covid-19 in Government Institutions]; *Surat Edaran Kementerian Ketenagakerjaan nomor 5/193/AS.02.02/III/2020 tentang Kesiapsiagaan dalam Menghadapi Penyebaran Covid-19 di Tempat Kerja* [Circular Letter of the Ministry of Labour no. 5/193/AS.02.02/III/2020 on Preparedness for Dealing with the Spread of Covid-19 in Workplaces].

³⁵ *Peraturan Gubernur DKI Jakarta no. 33/2020 tentang Pelaksanaan Pembatasan Sosial Berskala Besar*.

³⁶ *Surat Edaran Kepala Dinas Tenaga Kerja, Transmigrasi Dan Energi Provinsi DKI Jakarta Nomor 14/SE/2020 Tahun 2020 tentang Himbauan Bekerja di Rumah (Work From Home)* [Circular Letter of the Department of Labour, Transmigration and Energy of the Capital Region of Jakarta no. 14/SE/2020 on Appealing for Work From Home].

7. Social Security

The social security response to COVID-19 in Indonesia has involved a patchwork of different initiatives, both new and building on existing programs. The response has been rather piecemeal with announcements emanating from different sources at different times and with various government levels and agencies involved in implementation. The coordination and delivery problems are immense and there seems to be both overlaps and likely gaps in coverage.

On 31 March 2020, President Joko Widodo announced an economic stimulus package worth IDR 405.1 trillion (USD 24.5 billion) that includes recognition of the need to increase the social safety net³⁷.

Indonesia has two key social assistance programs for poor households: the food voucher program (*Kartu Sembako*) and a conditional cash transfer program (*Keluarga Harapan*). Both the *Kartu Sembako* and the *Keluarga Harapan* programs have been ramped up with increased payments³⁸ and provision has also been made for free or subsidised electricity for three months for about 30 million customers. Village administrators have also been directed to reprioritise village funds towards Employment Incentive Cash for Work Schemes³⁹. In addition, lower-level governments and community organisations around the country have also been organising delivery of food and basic household products to the poor and to people required to isolate⁴⁰.

On 24 March 2020, the Financial Regulator announced a one-year postponement and interest reductions for bank and non-bank credit payments for loans of up to IDR 10 billion (USD 645) for micro and small enterprises⁴¹. Beginning on 1 April 2020, workers in the manufacturing sector with incomes below IDR 200 million (USD 12,920) per year will be exempt from paying income tax for six months⁴².

³⁷ *Peraturan Pemerintah Pengganti Undang-Undang nomor 1 tahun 2020 tentang Kebijakan Keuangan Negara dan Stabilitas Sistem Keuangan untuk Penanganan Pandemi Corona Virus Disease 2019 (Covid-19)* [Government Regulation in Lieu of Law no.1/2020 on State Fiscal Policy and Financial System Stability for Management of the Corona Virus Disease 2019 (Covid-19)].

³⁸ 'Dampak Pandemi Covid-19, Pemerintah Percepat Penyaluran Bansos Program Keluarga Harapan' [The Impact of the Covid-19 Pandemic, the Government Hurries the Delivery of the Keluarga Harapan Program] (*Kompas*, 25 March 2020) <<https://nasional.kompas.com/read/2020/03/25/09055051/dampak-pandemi-covid-19-pemerintah-percepat-penyaluran-dana-bansos-program>>; Jeffrey Neilson, 'Without Social Safety Nets Indonesia Risks Political Instability Over Covid-19' (*New Mandala*, 22 April 2020) <<https://www.newmandala.org/indonesia-risks-political-instability-over-covid-19/>>.

³⁹ *Surat Edaran Menteri Desa, Pembangunan Daerah Tertinggal dan Transmigrasi no. 8/2020 tentang Desa Tanggap Covid-19 dan Pengasan Padat Karya Tunai Desa* [Circular Letter of the Minister for Villages, Development of Disadvantaged Regions and Transmigration no. 8/2020 on Village Responses to Covid-19 and Village Cash for Work Schemes].

⁴⁰ Meckleburg, above n 3.

⁴¹ *Peraturan Otoritas Jasa Keuangan Nomor 11/POJK.03/2020 tentang Stimulus Perekonomian Nasional Sebagai Kebijakan Countercyclical Dampak Penyebaran Coronavirus Disease 2019* [Financial Services Authority Regulation no. 11/POJK.03/2020 on National Economic Stimulus as a Countercyclical Policy in Relation to the Impact of the Spread of Coronavirus Disease 2019].

⁴² *Peraturan Menteri Keuangan no. 23/2020 tentang Insentif Pajak untuk Wajib Pajak Terdampak Wabah Virus Corona* [Minister for Finance Regulation no. 23/2020 on Tax Incentives for Tax Obligations Impacted by the Corona Virus Epidemic].

The national government has also brought forward and adapted a signature policy of President Joko Widodo that had been under development – the Pre-Employment Card program (*Kartu Prakerja*)⁴³. The program allows adults to apply for the card which will provide them each with IDR 3,550,000 (USD 228) worth of benefits consisting of access to an online training program and four months of post training cash incentives. The training programs are to be run by ‘digital platform partners’ including Ruangguru, Maubelajarapa and the online shopping companies Tokopedia and Bukalapak. With a budget allocation of IDR 20 trillion (USD 1.2 billion), the program aims to reach 5.6 million participants overall, with 165,000 processed per week. It opened for registrations on 11 April 2020. The program has already garnered some strong criticism for not having clear criteria for participation, not being able to handle the huge numbers of registrations it has received⁴⁴, for providing online training that may not meet the actual market-driven needs of participants⁴⁵, that many of the training courses are already available for free on the internet⁴⁶, concern that it is really the online training providers that will profit, and suspicion that a Presidential advisor and CEO of one of the providers was personally benefitting⁴⁷.

In addition, all formally waged workers should be members of the *BPJS Ketenagakerjaan* social security scheme. Informal workers can also voluntarily join the scheme, although their numbers are relatively low. The old age guarantee (*Jaminan Hari Tua*) component of this is an accumulation fund which can be accessed early and in full by members who have been formally dismissed⁴⁸. So technically this may not be available to those who have ‘only’ been temporarily stood down or ‘*dirumahkan*’. Since the COVID-19 outbreak, there has

⁴³ *Peraturan Presiden no. 36/2020 tentang Pengembangan Kompetensi Kerja Melalui Program Kartu Prakerja* [Presidential Regulation no. 36/2020 on Developing Work Competence via the Pre-Employment Card Program].

⁴⁴ ‘Ribuan Nasi Kotak Untuk Bantu Pekerja Harian Terdampak Covid-19’ [Thousands of Rice Meals to Help Daily Workers Affected by Covid-19] (*Kompas*, 17 April 2020)
<<https://megapolitan.kompas.com/read/2020/04/17/14050061/ribuan-nasi-kotak-untuk-bantu-pekerja-harian-terdampak-covid-19>>.

⁴⁵ ‘Kartu Prakerja, Penyelamat atau Sekedar Pemborosan Anggaran?’ [The Pre-Employment Card, Saviour or Just a Waste of Money?] (*Kompas*, 20 April 2020)
<<https://money.kompas.com/read/2020/04/20/073400926/kartu-prakerja-penyelamat-atau-sekedar-pemborosan-anggaran-?page=all>>; Nivell Rayda, ‘COVID-19: Jokowi’s Reskilling Initiative for the Unemployed Raises Questions over Effectiveness’ (*CNA*, 24 April 2020)
<<https://www.channelnewsasia.com/news/asia/covid-19-jokowi-s-reskilling-initiative-for-the-unemployed-12669090>>.

⁴⁶ ‘Materi Pelatihan Kartu Prakerja Dinilai Tak Efektif, Ekonom: Lebih Bagus di Youtube’ [Pre-Employment Card Training Materials Judged Ineffective, Economist: It’s Better on Youtube] (*Kompas*, 17 April 2020)
<<https://nasional.kompas.com/read/2020/04/17/16213791/materi-pelatihan-kartu-prakerja-dinilai-tak-efektif-ekonom-lebih-bagus-di>>.

⁴⁷ ‘Jokowi’s Millennial Staffer, Ruangguru CEO Resigns from State Palace’ (*Jakarta Post*, 21 April 2020)
<<https://www.thejakartapost.com/news/2020/04/21/jokowis-millennial-staffer-ruangguru-ceo-resigns-from-state-palace.html>>.

⁴⁸ *Peraturan Pemerintah no. 46/2015 tentang Penyelenggaraan Program Jaminan Hari Tua* [Government Regulation no. 46/2015 on Implementation of the Old Age Guarantee Program]; *Peraturan Pemerintah no. 60/2015 tentang Perubahan Atas Peraturan Pemerintah no. 46/2015 tentang Penyelenggaraan Program Jaminan Hari Tua* [Government Regulation no. 60/2015 on Amending Government Regulation no. 46/2015 on Implementation of the Old Age Guarantee Program].

been an increase in workers taking up this option⁴⁹. The implementing agency for *BPJS Ketenagakerjaan* will also separately provide cash compensation of IDR 1 million (USD 66) per month for up to three months for workers who have been laid off⁵⁰. On 30 April 2020, the government announced a relaxation of the requirement for payment of employer contributions to the *BPJS Ketenagakerjaan* scheme for companies that keep their workers on⁵¹.

8. Indonesian Overseas Migrant Workers

Indonesia is a migrant-sending country, with an estimated 4.5 million people working overseas at any one time. In response to COVID-19, a temporary halt to government processing of outbound migrant workers was decided on 17 March 2020⁵². Workers who already held work visas were still allowed to depart if receiving countries had not blocked entry. Large numbers of Indonesian migrant workers have had to return home due to the worldwide economic downturn, and in some cases deportations, associated with COVID-19. As of 23 April 2020, it was reported that more than 121,000 migrant workers have returned to Indonesia⁵³, including many cruise ship workers⁵⁴, though the numbers may well be higher. It is very likely that returned workers and their families are particularly vulnerable at this time given losses to incomes and the expenses associated with travel home⁵⁵.

⁴⁹ 'PHK Nyata Ramai-Ramai Cairkan BPJS Ketenagakerjaan!' [Dismissals Visible in the Rush to Access BPJS Ketenagakerjaan Funds] (*CNBC Indonesia*, 20 April 2020) <<https://www.cnbcindonesia.com/news/20200420163748-4-153172/phk-nyata-ramai-ramai-cairkan-bpjs-ketenagakerjaan>>.

⁵⁰ 'Korban PHK Dampak Corona Dapat Rp 1 Juta Per Bulan Per Orang untuk 3 Bulan' [Laid-Off Workers Due to Corona Will Get 1 Million Rupiah Per Month Per Person for Three Months] (*Kompas*, 24 March 2020) <<https://money.kompas.com/read/2020/03/24/213019226/korban-phk-dampak-corona-dapat-rp-1-juta-per-bulan-per-orang-untuk-3-bulan>>.

⁵¹ Dzulfiqar Fathur Rahman, 'Only One-Third of Manufacturers Still Operating: Govt' (*Jakarta Post*, 30 April 2020) <<https://www.thejakartapost.com/news/2020/04/30/only-one-third-of-manufacturers-still-operating-govt.html>>.

⁵² *Keputusan Menteri Ketenagakerjaan no. 151/2020 tentang Penghentian Sementara Penempatan Pekerja Migran Indonesia* [Minister for Labour Decision no. 151/2020 on a Temporary Halt to Placement of Indonesian Migrant Workers].

⁵³ 'Selama Pandemi Covid-19, 121.498 Pekerja Migran Pulang ke Indonesia' [During the Covid-19 Pandemic, 121,498 Migrant Workers have Returned to Indonesia] (*Suara.com*, 23 April 2020) <<https://www.suara.com/news/2020/04/23/175015/selama-pandemi-covid-19-121498-pekerja-migran-pulang-ke-indonesia>> ; 'Virus Corona: Jutaan WNI akan Kembali ke Tanah Air, Pemerintah Didesak Karantina Mereka' [Corona Virus: Millions of Indonesian Migrant Workers Will Return Home, the Government Pressured to Quarantine Them] (*BBC News Indonesia*, 2 April 2020) <<https://www.bbc.com/indonesia/indonesia-52123419>>.

⁵⁴ 'Covid-19: Crew Members Return to Indonesia as Cruise Liners Halt Global Operations' (*Jakarta Post*, 2 April 2020) <<https://www.thejakartapost.com/news/2020/04/02/covid-19-crew-members-return-to-indonesia-as-cruise-liners-halt-global-operations.html>>.

⁵⁵ 'Penanganan Pemulangan Pekerja Migran Indonesia dalam Masa Pandemi COVID-19' [Handling the Return of Indonesian Migrant Workers in the COVID-19 Pandemic] (*Migrant Care*, 31 March 2020) <<http://www.migrantcare.net/2020/03/pemulangan-pekerja-migran-indonesia-dalam-masa-pandemik-covid-19/>>.

9. Omnibus Bill on Job Creation

Finally, it is worth noting that Indonesia currently has major amendments to its labour laws proposed within the draft ‘Omnibus Bill on Job Creation’. This set of sweeping amendments are being driven by the desire to raise Indonesia’s ranking on the World Bank’s *Doing Business Index* and to increase foreign investment in the country. Notable proposed changes in relation to labour include reduction of rights to severance payments and paid leave, weakening outsourcing protections, and exemption from paying minimum wages for labour-intensive industries and SMEs⁵⁶ – all rights that are especially pertinent to the COVID-19 situation. Unions and workers have been continuing their campaign against the changes despite the pandemic⁵⁷. As per an announcement on 24 April 2020, unions have successfully forced President Joko Widodo to delay the legislative debates on the labour section of the Omnibus Bill⁵⁸.

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⁵⁶ Esther Samboh, ‘Key Points of Labor Reform in Omnibus Bill on Job Creation: What we Know so Far’ (*Jakarta Post*, 13 February 2020) < <https://www.thejakartapost.com/news/2020/02/13/key-points-of-labor-reform-in-omnibus-bill-on-job-creation-what-we-know-so-far.html> >.

⁵⁷ ‘Workers Blast Lawmakers with Messages Opposing Omnibus Bill on Job Creation’ (*Jakarta Post*, 9 April 2020)

<<https://www.thejakartapost.com/news/2020/04/09/workers-blast-lawmakers-with-messages-opposing-omnibus-bill-on-job-creation.html>> ; ‘Desperate Workers to Hold Mass Rallies Against Job Creation Bill Despite Pandemic’ (*Jakarta Post*, 17 April 2020)

<https://www.thejakartapost.com/news/2020/04/17/desperate-workers-prepare-to-rally-nationwide.html>.

⁵⁸ ‘Indonesia Delays Deliberations Over Labor Issues in Omnibus Bill Amid Backlash’ (*Jakarta Post*, 25 April 2020)

<<https://www.thejakartapost.com/news/2020/04/24/govt-house-delay-deliberations-over-labor-issues-in-omnibus-bill-amid-backlash.html>>.