

The State of Indonesian Labor Unions: Navigating Labor Dynamics and Challenges

Ike FARIDA

- I. Introduction: Current state of Indonesian labor market, workers, and work trends
- II. Labor Relations Laws in Indonesia
- III. The state of labor unions in Indonesia and the challenges they face
- IV. The role of the state, labor unions, and other worker representatives
- V. Conclusion

I. Introduction: Current state of Indonesian labor market, workers, and work trends

Over the past two decades, Indonesia has experienced consistent economic growth. Indonesia is in its demographic bonus state,¹ where the majority of the population is in its productive age (15 to 64 years old), which has been seen as an opportunity for Indonesia to transition from a developing country into a developed country.² The *National Labor Force Survey (Sakernas)* by the Central Bureau of Statistics (BPS) reported in August 2023 that the total population in the working age reached 212.59 million people. From this figure, Indonesia has 146.62 million labor force with details as follows.

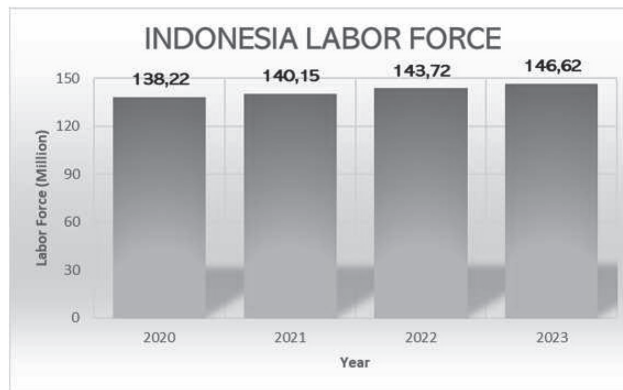
The Indonesian labor force shown in Figure 1 below demonstrates an interesting trend in the labor force. There is a significant increase from year to year. The composition of the labor force in 2020 was 138,221,938 workers with a composition of 128.45 million employed and 9.7 million unemployed persons. Continuing to 2021, the labor force increased by 1.93 million from the previous year. Until 2023, the Indonesian labor force reached its highest of 146.62 million with a labor force participation rate of 69.48%. This growing labor force indicates that the population and economic activity continues to grow.

Examining the division of labor by gender, there is an imbalance in employment opportunities between male and female workers. From the Figure 2, there are more than 85 million male workers which is higher at 61% compared to female workers. Meanwhile, those who are not in the labor force, consisting of individuals (both male and female) aged 15 years and above engaged in activities such as attending school, housekeeping, and other activities, totaled 7,855,075 people. Indonesia's labor force has various employment types, such as formal employment, informal labor, gig work, and remote work. Formal employment includes business status with the help of permanent workers. For example, government workers, health service workers, manufacturing workers and others. In Indonesia, the formal sector is considered relatively safe from turnover/layoffs due to its strong capital base.³

1. Achmad Nur Sutikno, "Bonus Demographi Di Indonesia" [Demographic Bonus in Indonesia], *VISIONER: Jurnal Pemerintahan Daerah Di Indonesia* 12, no.2 (December 2020): 421–439.

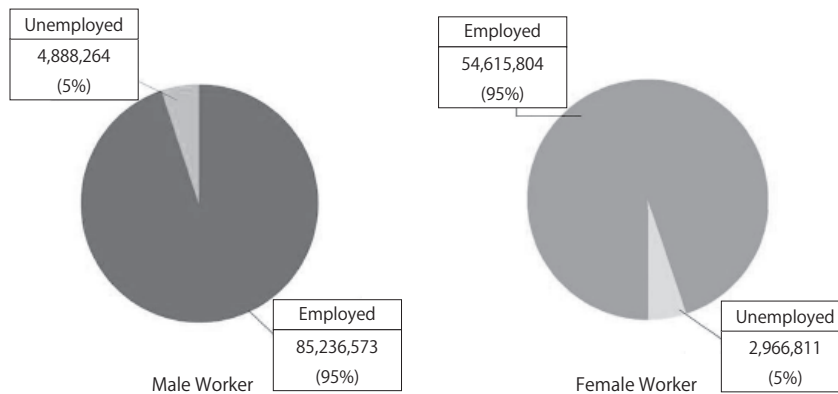
2. Zulkarnain Ibrahim, "Eksistensi Serikat Pekerja/Serikat Buruh Dalam Upaya Mensejahterakan Pekerja" [The Existence of Trade Unions: Labor Unions in the Efforts to Improve Workers' Welfare], *Jurnal Media Hukum* 23, no.2 (December 2016): 150–161, <https://doi.org/10.18196/jmh.2016.0076.150-161>.

3. Dewi Middia Martanti, Florentz Magdalena, Natalia Pipit D. Ariska, Nia Setiyawati, and Waydewin C. B. Rumboirusi, "Dampak



Source: Central Bureau of Statistics 2023.

Figure 1. Trend of the Indonesian labor force from 2020 to 2023⁴ (million persons)



Source: Central Bureau of Statistics 2023.

Figure 2. Indonesian labor force by gender, August 2023⁵ (million persons)

Meanwhile, informal labor is labor with self-employment status and unpaid labor in the agriculture and non-agriculture sectors. In the current evolving digital era, the gig economy phenomenon creates new forms of work. It produces gig workers/freelancers with more flexible jobs which attract many people. The presence of gig workers serves as an oasis amidst Indonesia’s labor structure which is dominated by informal workers, accounting for 59.11% of the total workforce.⁶

Gig work is generally known for its flexibility and minimal entry requirements, allowing individuals without formal qualifications to secure work, income, and greater control over their work. Since the

Pandemi Covid-19 Terhadap Tenaga Kerja Formal di Indonesia” [The Impact of Covid-19 Pandemic on Formal Labor in Indonesia], *Populasi* 28, no.2 (2020): 34, <https://doi.org/10.22146/jp.63345>.

4. Central Bureau of Statistics, *Kadaan Angkatan Kerja Di Indonesia* [Labor Force Situation in Indonesia: February 2023] (Jakarta: Badan Pusat Statistics Indonesia, 2023), accessed March 12, 2024, <https://www.bps.go.id/en/publication/2023/06/09/5ce5c75f3ffabce2d6423c4a/laborforce-situation-in-indonesia-february-2023.html>.

5. Central Bureau of Statistics, *supra* note 4, 7–11.

6. Central Bureau of Statistics. *Booklet Survei Angkatan Kerja Nasional Agustus 2023*, volume 6, nomor 2 [National Labor Force Survey Booklet August 2023, vol.6, no.2], (Jakarta: Badan Pusat Statistik, 2023), accessed March 12, 2024.

emergence of the gig economy, the open unemployment rate in major cities in Indonesia has decreased significantly.⁷ In Jakarta, for example, the unemployment rate decreased significantly from 2011 to 2014 by 5.79 percentage points, reaching just 11%. Amidst the gig economy, remote work also became popular, working with flexible working hours, and maximizing the use of technology such as virtual meeting applications, chat applications, and others.⁸ The phenomenon suggests that the diversification of work styles in Indonesia can be an opportunity to reduce unemployment rates.

These employment types and their new forms of work need to be balanced with the protection of workers' rights through the role of labor unions. Labor unions, which play a protective role for workers, are sometimes viewed as threats by certain employers, leading to workers often face threats from employers.⁹ The government's commitment to protect workers' rights is realized through the enactment of the Law No. 21 of 2000 concerning Labor Unions. The legalization of labor unions under the law is because labor unions are one of the world's largest representative organizations, with more than 251 million members worldwide, which could assist with balancing out the much-needed bargaining power.¹⁰ Additionally, labor unions also play a significant role in combating workplace discrimination, thereby ensuring greater protection for workers.¹¹ Hence, for an emerging economy such as Indonesia with its developing law, labor unions are important in ensuring that employers does not violate or mistreat their workers.

Unfortunately, the current Law No. 21 of 2000 concerning Labor Unions has failed to address the needs of new forms of workers such as gig workers and remote workers. The law, which is supposed to be a stage for all kinds of workers to get security, focuses more on formal labor rather than informal labor or other workers. For example, the Media and Creative Industry Workers Union for Democracy (*Sindikasi*) has revealed that the vulnerability of freelance workers' status in Indonesia's legal framework makes companies prefer to hire freelancers rather than permanent employees.¹² Instead of giving freelancers a breathing space in this volatile economy, companies are looking for loopholes to minimize disputes between workers and employers. Employers take advantage of the fragmented work style of freelancers, leading many workers to adopt a passive stance when confronting employers with issues such as violations of rights.

In addition to freelancers, gig workers from several app-based online drivers such as *Gojek*, *Grab*, *Maxim*, *inDrive*, and others play a significant role. In 2023 alone, the number of app-based drivers involved in the online transportation sector reached 4 million individuals. Hence, with their increasing numbers and strategic functions, society relies on these service providers. However, it is regrettable that the category

7. Central Bureau of Statistics, *Keadaan Angkatan Kerja di Indonesia Agustus 2015* [Labor Force Situation in Indonesia: August 2015], (Jakarta: Badan Pusat Statistik, 2015), accessed March 12, 2024, <https://www.bps.go.id/id/publication/2015/11/30/311dc33e7624d47529ec4800/keadaan-angkatan-kerja-di-indonesia-agustus-2015.html>.

8. Centia Sabrina Nuriskia, and Andriyanto Adhi Nugroho, "Perlindungan Hukum Pekerja Dalam Penerapan Sistem Remote Working Sebagai Pembaharuan Sistem Kerja" [Legal Protection of Workers in the Application of Remote Working System as a Work System Renewal], *Jurnal Usm Law Review* 5, no.2 (2022): 679, <https://doi.org/10.26623/julr.v5i2.5555>.

9. Charina Lucky Pratiwi, and Aries Harianto, "Pencatatan Serikat Pekerja/Serikat Buruh Berdasarkan Asas Kebebasan Berserikat" [Registration of Trade Unions Based on the Principle of Freedom of Association], *Interdisciplinary Journal on Law, Social Sciences and Humanities* 2, no.1(May 2021): 3, <https://doi.org/10.19184/ijl.v1i2.21975>.

10. International Labor Organization (ILO), "How Are Trade Unions Adapting to Changes in The World of Work?" last modified June 2, 2023, accessed March 11, 2024, https://www.ilo.org/actrav/media-center/news/WCMS_883756/lang--en/index.htm.

11. Iqbal Faza Ahmad, and Syaefuddin Ahrom Al Ayubbi, "Kronik Gerakan Serikat Buruh di Indonesia: Peta Dan Sejarah" [Chronicles of the Trade Union Movement in Indonesia: Map and History]. *Journal of Social Movements* 1, no1. (2024): 12, <https://doi.org/10.62491/jsm.v1i1.2024.1>.

12. Rio Apinino, "Meningkatkan Kekuatan Freelancer dengan Berserikat" [Increasing the Power of Freelancers by Unionising], *Indoproggress*, March 9, 2022, accessed March 12, 2024, <https://indoproggress.com/2022/03/meningkatkan-kekuatan-freelancer-dengan-berserikat/>.

of informal worker acts as a barrier for online drivers to have the opportunity to unionize. Moreover, the relationship between online drivers and corporations, which is limited to partnerships, restricts them to form official unions.¹³

The above explanation could illustrate challenges faced by workers in non-traditional employment arrangements. The lack of employment and social protection for workers is a major shortcoming of the Law No.21 of 2000 concerning the Labor Unions. This Law focuses more on workers under legitimate employment agreements such as formal worker while there are many new forms of work nowadays. Therefore, the Law No.21 of 2000 concerning Labor Unions and the Law No. 13 of 2003 concerning Manpower are unable to accommodate the diverse developments in the world of work.

The adaptation of policies is necessary due to the dynamic nature of today's working environment. There has been a notable shift in attitudes towards work-life balance, flexibility and career mobility. The implementation of work-life balance designed to reduce work-life conflict has become a current trend, with the aim of improving workers' effectiveness in performing their jobs.¹⁴ This shift reflects modern workers' evolving expectations for greater work-life balance, while valuing flexibility, and career advancement. The impact of these changes affects labor unions' ability to represent and mobilize workers effectively. To remain relevant and impactful, labor unions must adapt to these changes by exploring innovative strategies. For instance, in Jordan, the government has set up an office within the labor union to help refugees obtain work permits.¹⁵ Labor unions should include the concerns of current and future worker in their social dialogue and broader agendas.

II. Labor Relations Laws in Indonesia

From a legal perspective, prior to the enactment of labor union regulations, in protecting and ensuring the basic rights of workers and ensuring equal treatment opportunities without any discrimination to achieve workers' welfare, workers were given the right to associate as stated, in Article 28E of the 1945 Constitution of the Republic of Indonesia. Specifically, the rights protected by the Constitution are the "freedom to associate, assemble, and express opinions."

During the leadership of Indonesia's first president, President Sukarno, the government issued the Law No. 21 of 1954 concerning Labor Agreements between Labor Unions and Employers. This regulation became the first legal basis after Indonesia's independence, regulating the relationship between labor unions and employers.¹⁶ A year later, the government issued Ministerial Decree No. 90 of 1955 concerning the Registration of Labor Unions.

The government's commitment to safeguard labor rights became more evident when it ratified International Labour Organization (ILO) Convention No. 87/1948 concerning Freedom of Association and Protection of the Right to Organize through Presidential Decree No. 83 of 1998. Additionally, it ratified ILO Convention No. 98/1949 concerning the Right to Organize and Collective Bargaining, which was also ratified by the Indonesian government through the Law No. 18 of 1956 concerning the Ratification of ILO

13. Oka Halilintarsyah, "Ojek (motorcycle) Online, *Pekerja atau Mitra?*" [Online Ojek, Worker or Partner?], *Jurnal Persaingan Usaha* 1, no 2 (2021) :54–73, <https://doi.org/10.55869/kppu.v2i.24>.

14. Zeni Rahmawati, and Janti Gunawan, "Hubungan Job-related Factors, Work-life Balance dan Kepuasan Kerja pada Pekerja Generasi Milenial" [The Relationship Between Job-related Factors, Work-Life Balance and Job Satisfaction in Millennial Generation Workers], *Jurnal Sains dan Seni ITS* 8, no.2 (2019): 419, <https://doi.org/10.12962/j23373520.v8i2.47782>.

15. ILO, *supra* note 10.

16. Arifuddin Muda Harahap, *Introduction to Labor Law* (Malang: Literasi Nusantara, 2020), 27.

Convention No. 98 of 1949 on the Right to Organize and Collective Bargaining. This commitment was further solidified by the enactment of the Law No. 21 of 2000 concerning Labor Unions, which aimed to modernize labor relations in Indonesia. Under this law, labor unions are recognized as independent and democratic organizations dedicated to advocating for workers' rights and improving their welfare. The legislation ensures that the formation and registration of labor unions remain free from interference by companies, government entities, or political parties, allowing workers to exercise their organizational rights without constraint.

Additionally, the Law No. 21 of 2000 concerning Labor Unions explicitly prohibits any actions that obstruct or coerce workers from forming or joining unions, protecting them from various forms of retaliation or discrimination. Article 28 of the law outlines specific prohibitions, including termination of employment, wage withholding, intimidation, or anti-union campaigns. By establishing these protections, the government aims to foster a more equitable and respectful work environment where workers can freely associate and engage in collective bargaining without fear of reprisal.

While the Law No. 21 of 2000 concerning Labor Unions in Indonesia recognizes the ability of workers to unionize, there are still some regulations that is deemed to be strict on labor union movement. First, the law still present barriers for workers to organize. For example, Article 5 of the Law No. 21 of 2000 concerning Labor Unions requires that a union can only be formed if it has at least 10 members. Informal workers, on the other hand, generally have less than 10 members and are therefore not required to form a union.¹⁷ Further restrictions can be found in Articles 14 and 16 of the Law No. 21 of 2000 concerning Labor Unions, which set out restrictions on the relationship between workers, trade unions, federations and confederations. The clause restricts workers from being members of more than one trade/labor union in the same workplace. Secondly, the clause states that a union can only be affiliated to one trade/labor union federation, and one federation of trade/labor union can only be affiliated to one trade/labor union confederation.

Furthermore, the Law No. 21 of 2000 concerning Labor Unions creates a barrier to the recognition of collective bargaining agents. According to Article 25, the prior consent or approval of the authority is required to engage in collective bargaining. Therefore, labor unions must be registered to exercise their statutory negotiation rights. Additionally, there are excessive requirements regarding labor union representativeness, or the minimum number of members required to engage in collective bargaining.

Labor Unions are also regulated by the Law No. 13 of 2003 concerning Manpower, specifically stipulated in Article 104 of this law. Article 104 of the Law No.13 of 2003 concerning Manpower grants every worker the right to establish and become a member of a labor union. The permissive climate in the formation of labor unions facilitates workers in establishing a labor union. The formation of labor unions is regulated in detail by Minister of Manpower and Transmigration Decree No. KEP.16/MEN/2001 concerning Procedures for the Registration of Workers Union/Labor Unions. This ministerial decree was issued in response to the numerous labor unions that disregarded the proper procedures for their formation, leading to instances where members of labor unions often pursued their rights independently.¹⁸

The presence of labor unions plays a crucial role in advocating for workers' welfare. One of these roles is stipulated in Article 116 of the Law No. 13 of 2003 concerning Manpower, which states that the function of labor unions is to negotiate collective labor agreements with employers. Through these collective agreements, labor unions can advocate for workers' interests such as wages, working hours, leave, and other matters.

17. Ibrahim, *supra* note 2, 152.

18. Pahrur Rizal, Habibi Habibi, and I Putu Pasek Bagiarta W, "Urgensi Serikat Pekerja Dalam Mewujudkan Kesejahteraan Pekerja" [The Urgency of Trade Unions in Realising Workers' Welfare], *Jurnal Hukum Agama Hindu Widya Kerta* 5, no.2 (November 2022): 103, <https://e-journal.iahn-gdepudja.ac.id/index.php/WK/article/view/763>.

Despite the close relationship between labor unions and employers, disputes between them are inevitable. Therefore, the government regulates procedures for resolving disputes between labor unions and employers in the Law No. 2 of 2004 concerning Settlement of Industrial Relations Dispute.

III. The state of labor union in Indonesia and the challenges they face

After independence, the dynamics of labor union formation in society became increasingly widespread. Understandably, the formation of labor unions stemmed from the deterioration of working conditions under Dutch colonial rule. As a result, workers organized collectively, giving birth to labor unions.¹⁹ Among the many labor unions formed during the post-independence period, there were at least 4 major federations of labor unions. These were the Central All-Indonesian Workers Organization (*Sentral Organisasi Buruh Seluruh Indonesia*, SOBSI) with 2,661,970 members in 1956, the All Indonesia Labor Congress (*Kongres Buruh Seluruh Indonesia*, KBSI) with 800,000 members in 1953, the Indonesian Islamic Labor Union (*Serikat Buruh Islam Indonesia*, SBII) with 275,000 members in 1956, and the Indonesian People's Labor Union (*Kesatuan Buruh Kerakyatan Indonesia*, KBKI) with 95,000 members in 1955.²⁰ Overall, the number of unionized workers in the 1950s was estimated at 3–4 million.

In the New Order era (1966–1998, second Indonesian President Suharto from his rise to power until his resignation), the dynamics of governance at the time influenced labor unions in Indonesia. In 1969, the Minister of Manpower of the Republic of Indonesia established the Indonesian Labor Consultative Assembly (*Majelis Permusyawaratan Buruh Indonesia*, MPBI) with the intention of unifying the forum for the struggle of Indonesian workers.²¹ However, the presence of the MPBI was perceived as insufficient to address labor issues at the time.

Moreover, the workers often engaged in actions that were interpreted as subversive acts of rebellion against the state rather than expressions of democratic political reality.²² As a result the All-Indonesian Workers Federation (*Federasi Buruh Seluruh Indonesia*, FBSI) was established in 1973 and later changed its name to the All-Indonesian Workers Union (*Serikat Pekerja Seluruh Indonesia*, SPSI). The birth of SPSI raised new hopes for a free, independent, and the democratic labor organization. This aligns with one of the goals of forming a labor union, which is to influence the parliament, the government, and the public administration to support the workers.²³

The development of labor unions further expanded after the fall of the New Order regime. Labor unions became increasingly active not only in the realm of labor relations but also actively voiced their opinions on Indonesia's social and political situation.²⁴ Moreover, workers became increasingly diligent in consolidating their efforts after the enactment of the Law No.21 of 2000 concerning Labor Unions. Article 5 of this Law allows workers to form labor unions in every business unit with a minimum of only 10 members.

The development of labor unions can be observed through the data compiled annually by the Central

19. Ahmad and Al Ayubbi, *supra* note 11, 4.

20. Sazalil Kirom, "Buruh dan Kekuasaan: Dinamika Perkembangan Gerakan Serikat Pekerja di Indonesia (Masa Kolonial-Orde Lama)" [Labor and Power: The Dynamics of the Development of the Trade Union Movement in Indonesia (Colonial-Old Order Period)], *Avatara* 1, no.1 (January 2013): 14, <https://ejournal.unesa.ac.id/index.php/avatara/article/view/1083>.

21. Ahmad and Al Ayubbi, *supra* note 11, 9.

22. Muhammad Zuhdan, "Perjuangan Gerakan Buruh Tidak Sekedar Upah Melacak Perkembangan Isu Gerakan Buruh di Indonesia Pasca Reformasi" [The Struggle of the Labor Movement is Not Just about Wages Tracking the Development of Labor Movement Issues in Post-Reform Indonesia], *Jurnal Ilmu Sosial dan Ilmu Politik* 17, no. 3 (2014): 274, <https://doi.org/10.22146/jsp.13086>.

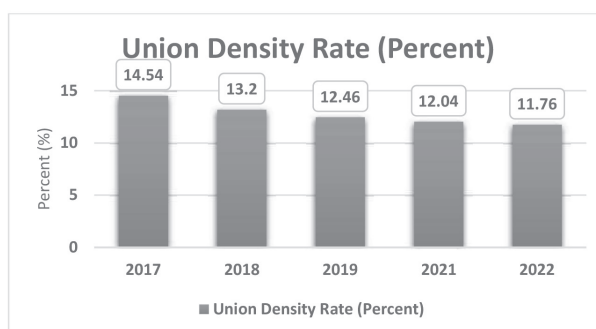
23. Ibrahim, *supra* note 2, 154.

24. Zuhdan, *supra* note 22.

Bureau of Statistics Indonesia.

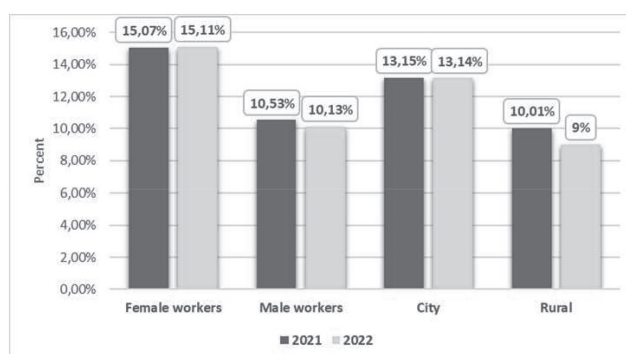
The Figure 3 provided by the Central Bureau of Statistics illustrates the dynamics of unionized workers, or Union Density Rate (UDR). When considering the growth of labor unions from the perspective of workers with the status of laborers/employees/staff and self-employed workers, the enthusiasm of workers towards labor unions has also decreased. This can be observed from the following figure.

The results of the *National Labor Force Survey* of the Central Bureau of Statistics show the development of labor unions within the scope of workers with employee status and self-employed workers specifically. From the figure below, it can be seen that the percentage of unionized male workers was 10.53% in 2021 and decreased to 10.13% in 2022. Similar to male workers, female workers have also experienced a decrease in union participation. In total, the Central Bureau of Statistics reports that around 7.53 million workers, or 12.94% of the workforce participated in labor unions. However, this number decreased in 2022 with only 7.50 million, or 11.76%, of workers being union members. In other words, in 2022, approximately 12 out of 100 workers with employee and self-employed status were union members.



Source: Central Bureau of Statistics 2023.

Figure 3. Indonesia's union density rate from 2018 to 2022²⁵ (%)

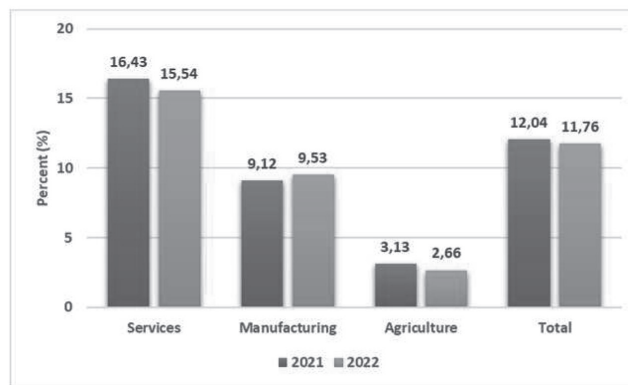


Source: Central Bureau of Statistics 2022.

Figure 4. Indonesia's union density rate by gender, 2021–2022²⁶ (%)

25. Monavia Ayu Rizaty, "Baru 11,76 % Buruh Indonesia Berserikat pada 2022" [Only 11.76% of Indonesian Workers Will Be Unionised by 2022], *DataIndonesia.id.*, May 11, 2023, accessed March 15, 2024, <https://dataindonesia.id/tenaga-kerja/detail/baru-1176-buruh-indonesia-berserikat-pada-2022>.

26. Central Bureau of Statistics, *Indikator Pekerjaan Layak di Indonesia Tahun 2022* [Indicators of Decent Work in Indonesia by 2022] (Jakarta: Badan Pusat Statistik, 2022), <https://www.bps.go.id/en/publication/2023/04/17/65695a2b5a039c58071d23b6/decent>



Source: Central Bureau of Statistics 2023.

Figure 5. Union density rate by industry, 2021–2022²⁷ (%)

By industry, the Figure 5 shows that workers in the service sector have the highest number of labor union members compared to other sectors, with a membership of 5,350,899 workers, or 16.43% out of the total of 32,572,678 workers in 2021. However, there was a drastic decrease in the number of labor union members in the service sector in 2022, with only 5,256,254 workers, or 15.54% of the workforce. A similar trend was observed in the agriculture sector, which also experienced a decline in 2022. In contrast, the manufacturing sector saw an increase in labor union membership in 2022, reaching 2,018,194 workers, or 9.53% of the workforce out of a total of 21,187,598 workers. In the previous year, the proportion of labor union membership in the manufacturing sector was only around 9.12%, or 1,894,146 workers.

The fluctuations in union membership over time can be influenced by various factors. As independent organizations, labor unions are affected by changes in the labor market. For example, advances in technology and the green economy are creating opportunities for new work styles such as the rise of remote work. In addition, as the green economy leads to the emergence of new employment sectors, such as renewable energy, unions can fight for the rights of workers in these new sectors. However, these new sectors also pose challenges for labor unions to continue standing up for workers' rights.²⁸ Moreover, the number of young workers joining labor unions in Indonesia has declined over the past 5 years. One reason for this is the changing work styles of today's workers, who tend to prefer non-binding employment relationships with companies such as freelance work.²⁹ Overall, these shifts underscore the need for labor unions to adapt and evolve in response to changing labor market dynamics to effectively represent and advocate for workers' interests.

Changes in work styles have also made union membership less popular among young workers. Young workers tend to see earning an income as the primary goal of work, rather than joining a union.³⁰ This situation should be an opportunity for labor unions to intensify their recruitment efforts with an approach tailored to the trends among young workers. However, this phenomenon is not unique to Indonesia.

-work-indicators-in-indonesia-2022.html.

27. Erlina F. Santika, "Pekerja yang Gabung Serikat Buruh di Indonesia Mengalami Penurunan pada 2022" [Workers Joining Labor Unions in Indonesia to Decline in 2022], *Databoks*, April 18, 2023, accessed March 15, 2024, <https://databoks.katadata.co.id/datapublish/2023/04/18/pekerja-yang-gabung-serikat-buruh-di-indonesia-mengalami-penurunan-pada-2022>.

28. ILO, *supra* note 10.

29. Oleh Mediana, "Pekerja Muda Enggan Bergabung ke Serikat Pekerja" [Young workers' reluctance to join unions], *Kompas.id.*, January 8, 2024, accessed March 12, 2024, <https://www.kompas.id/baca/ekonomi/2024/01/08/pekerja-muda-enggan-bergabung-di-serikat-pekerja>.

30. *id.*

Superpowers like the United States have experienced similar trends. According to the U.S Bureau of Labor Statistics, it noted that the union membership rate fell from a record low of 10.1% to 10.0 % in 2022.³¹

Indonesia's new employment relation system, which began in early 2010, is also a reason for the decreasing union density rate. The growing prevalence of short-term or non-permanent contract work in recent years has discourages workers from joining labor unions.³² Contract workers, who often have received fewer rights and benefits compared to permanent employees, have the perception that involvement with a labor union will not provide substantial advantages. On top of that, the high turnover rate also makes it difficult for contract workers to build a stable membership base.

From a regulatory perspective, the presence of the Law No. 21 of 2000 concerning Labor Unions has indeed raised issues for labor unions.³³ The issue that arises is the restriction on workers' right to organize. In such situations, companies view workers' involvement in labor unions as potential impediment to productivity.³⁴ As a result, many workers face pressure and even restrictions from their companies to refrain from involving themselves with labor unions.³⁵ From the 230,000 registered companies, only 7000, or almost 3% of companies have labor unions.³⁶ There is a huge disparity between the number of companies and labor unions in Indonesia.

Another challenge in establishing labor unions is the fragmentation of organizations based on the interests of companies. However, Article 3 of the Law No. 21 of 2000 concerning Labor Unions has emphasized one of the principles to be held in the establishment of labor unions, which is the principle of freedom of association. This principle ensures that members of the labor unions can carry out their activities without pressure or interference from any party, be it employers, the government, or political parties. Additionally, the existence of the Law No. 21 of 2000 concerning Labor Unions is seen as failing to protect the interests of informal workers and gig workers such as online drivers. In fact, the scale of informal labor in Indonesia dominates over the formal sector, as shown in the Figure 6.

The growing share of informal workers in Indonesia was the largest contributor to the country's labor force. In 2022 alone, there were 59.31%, or 80.24 million informal workers. This, together with the low level of education in the country,³⁷ makes informal activities an important part of improving living standards from an economic, social and political perspective. However, the Law No. 21 of 2000 concerning Labor Unions, which is supposed to be a framework for informal workers to receive protection, focuses more on workers under legitimate employment agreements such as formal workers. Meanwhile, informal workers such as daily wage laborers and online motorcycle taxi drivers do not receive the same protections, including the opportunity to establish labor unions.³⁸

31. Dan Burns, "US Union Membership Rate Hits Fresh Record Low in 2023-Labor Dept," *Reuters*, January 24, 2024, accessed March 12, 2024, <https://www.reuters.com/markets/us/us-union-membership-rate-hits-fresh-record-low-2023-labor-dept-2024-01-23/>.

32. ILO, "Chapter 7: Stability and Security of Work," in *Decent Work County Profile Indonesia* (Geneva: ILO, 2011), 41–46.

33. Abdul Rachmad Budiono, "Hak Kebebasan Berserikat Bagi Pekerja Sebagai Hak Konstitusional" [The Right to Freedom of Association for Labour as a Constitutional Right], *Jurnal Konstitusi* 13, no.4 (December 2016): 792, <https://media.neliti.com/media/publications/113585-ID-hak-kebebasan-berserikat-bagi-pekerja-se.pdf>.

34. Syaefuddin Ahrom Al Ayubbi, and Maryani Maryani, "Permasalahan Implementasi UU 21 Tahun 2000 Tentang Serikat Pekerja/Serikat Buruh" [Implementation Issues of Law 21, Year 2000 on Trade Unions/Labor Unions], *Journal of Social Movements* 1, no.1(January 2024): 41–69.

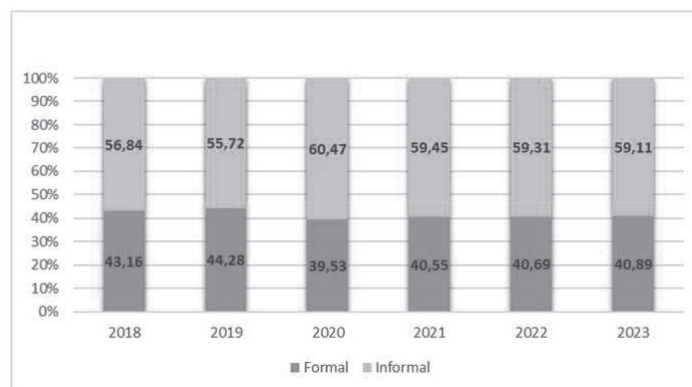
35. Pratiwi and Harianto, *supra* note 9, 1–27.

36. Mondiaal FNV and Danish Trade Union Development, *Labor Market Profile 2020* (Copenhagen: Danish Trade Union Development, 2020), 1. https://www.ulandssekretariatet.dk/wpcontent/uploads/2020/04/lmp_indonesia_2020_final_version-1.pdf.

37. *id.*

38. Al Ayubbi and Maryani, *supra* note 34, 42.

Similar inequalities are also endured by informal and migrant workers.³⁹ Whereas the Law No.21 of 2000 concerning Labor Unions tends to focus more on formal workers with valid employment agreements, consequently leaving informal workers, such as freelancers and even app-based drivers, in an informal labor status. There is a need for special attention from the government to provide protection for migrant workers, including granting them legal and social opportunities or conditions to unionize. Moreover, as a country, “one of the largest contributors of migrant workers in Southeast Asia,”⁴⁰ migrant workers living in Indonesia are often subjected to abusive treatment.⁴¹ Certainly, this has implications for the bargaining position of labor unions, especially in protecting their members while also serving as controllers of the quality of Indonesia’s human resources.⁴²



Source: Central Bureau of Statistics 2022.

Figure 6. Share of formal and informal workers in Indonesia, 2018–2023⁴³ (%)

IV. The role of the state, labor unions, and other worker representatives

4.1. The role of government in the dual-structure labor market

Currently, the disparities between formal and informal workers in Indonesia persist due to insufficient programs by the government. Generally, formal workers are more protected in terms of their wages, benefits, job security and social protection than informal workers. For example, in terms of social security, it is governed through the Law No. 40 of 2004 concerning National Social Security System and the Law No. 24 of 2011 concerning Social Security Agency. For non-formal workers, including informal workers, the government has opened a healthcare program called BPJS *Bukan Penerima Upah* (BPU). While BPU still covers death benefits and work accident, it does not have a retirement fund program which is covered in

39. Ibrahim, *supra* note 2, 153.

40. Erna Setijanigrum, Asiyah Kassim, Rochyati Triana, and Reza Dzulfikri, “Going Back with Glee: A Case Study of Indonesian Migrant Workers Engaging in Circular Migration,” *Journal of ASEAN Studies* 11, no.1(2023): 219–243. <https://journal.binus.ac.id/index.php/jas/article/view/8610>.

41. Ministry of Manpower, *Employment in Data Edition 2 Year 2023* (Indonesia: Centre for Manpower Data and Information Technology, 2023).

42. Patrick Quinn, “Freedom of Association and Collective Bargaining: A Study of Indonesian Experience 1998–2003,” ILO Working Papers 993665633402646 (September 2003), accessed March 11, 2024, https://webapps.ilo.org/public/libdoc/ilo/2003/103B09_291_engl.pdf.

43. Ridhwan Mustajab, “Mayoritas Tenaga kerja RI dari Sektor Informal pada Agustus” [Majority of Indonesian Workers were in the Informal Sector in August 2022], *DataIndonesia.id.*, November 30, 2022, accessed March 10, 2024, <https://dataindonesia.id/tenaga-kerja/detail/mayoritastenaga-kerja-ri-dari-sektor-Informal-pada-agustus-2022> and Booklet Sakernas BPS August 2023.

the healthcare program for formal workers. The premium (regular payment in order to maintain coverage under a social security or insurance program) is also at a fixed rate and fully paid by the beneficiary. In terms of workers' ability and willingness to pay, a survey about 1,709 informal workers in 2016 shows that their ability and willingness to pay is below the fixed rate.⁴⁴ Based on the qualitative interview of the study, it reveals that the main reason a worker does not continue their BPU is due to their income irregularities and different needs over time. As a result, informal workers are at risk of not having a secure retirement. In fact, there is a growing preference for gig work over contractual position since contract work doesn't always lead to permanent position, and the barrier to entry is lower.⁴⁵ Additionally given the precarious nature of gig work, there is a risk that an increasing share of the population will lack adequate retirement plans unless the government implements a targeted program for those with limited willingness or ability to pay.

The formalization of informal sectors has also been a popular theme in policymaking as this addresses one of the roots of the problem. In general, an informal economy is perceived as net loss mainly due to the tax revenue loss for the government, which leads to negative social security contributions for the rest.⁴⁶ One of the hurdles in collecting taxes on informal businesses is that collecting taxes on the informal economy in developing countries could raise costs higher than the tax revenue itself.⁴⁷ In regard to the tax revenue loss, an evaluation of the Indonesian economy from 2001–2013 concluded with an estimated potential tax loss of Rp. 11,172.86 billion (approximately 725.51 million US dollars) on average, or almost one percent of the GDP. With Indonesia's current demographic bonus, it also underscores the importance of such formalization to avoid further losses to the economy as informal sectors become more prevalent. Thus, it emphasizes the role of the Indonesian government in providing incentives for informal businesses to formalize. In Brazil, where the proportion of informal workers year of 2003 to 2014 decreased from 58% to 44%, a substantial growth of formalization has also been recorded, attributed to its *Simples Nacional* program.⁴⁸ A study argues that the main drivers of the program's success are the simplification of registration procedures, reduced taxes for small businesses and the implementation of organizational changes for labor inspectors and reform of their incentive structures.⁴⁹ An example of such reform is adding individual and group performance as a determinant of an inspector's wages. As such, further study of the best practices of countries that have implemented formalization programs may bring new perspectives for Indonesia.

4.2 The role of labor union in tackling current labor issues

As a collective, labor unions generally use collective bargaining, advocacy, and collaboration (including lobbying) to address labor concerns in the worker context. However, this report has found that union

44. Muttaqien Muttaqien, Hermawati Setyaningsih, Vini Aristianti, Harry Laurence Selby Coleman, Muhammad Syamsu Hidayat, Erzan Dhanalvin, Dedy Revelino Siregar, Ali Ghfuron Mukti, and Maarten Olivier Kok, "Why did Informal Sector Workers Stop Paying for Health Insurance in Indonesia? Exploring Enrollees' Ability and Willingness To Pay," *Plos One* 16, no.6 (June 2021), <https://doi.org/10.1371/journal.pone.0252708>.

45. Alex De Ruyter and Riani Rachmawati, "Understanding the Working Conditions of Gig Workers and Decent work: Evidence from Indonesia's Online *Ojek* Riders," *Sozialpolitik*, no.2, Article 2.4 (February 2020): 2–4, <https://doi.org/10.18753/2297-8224-159>.

46. Jayanty Nada Shofa, "Y20 Summit: ILO Calls for Formalization of Informal Economy," *Jakarta Globe*, July 20, 2022, accessed March 11, 2024, <https://jakartaglobe.id/business/y20-summit-ilo-calls-for-formalization-of-informal-economy>.

47. Tutik Rachmawati, "Informal Sector and Local Government Revenue: The Contribution of Street Vendors," *Jurnal Administrasi Publik* 11, no.1 (April 2014), <https://media.neliti.com/media/publications/73011-EN-informal-sector-and-local-government-rev.pdf>.

48. Marcelo Manzano, José Dari Krein, and Ludmila C. Abílio, "The Dynamics of Labour Informality in Brazil, 2003–2019," *Global Labour Journal* 12, no.3 (September 2021), <https://doi.org/10.15173/glj.v12i3.4434>.

49. Roxana Maurizio and Gustavo Vásquez, "Formal Salaried Employment Generation and Transition to Formality in Developing Countries: The Case of Latin America" (Employment Working Paper no.251, Employment Policy Department, ILO, Geneva, 2019). <https://www.ilo.org/publications/formal-salaried-employment-generation-and-transition-formality-developing>.

membership trend has been decreasing. As previously discussed, recent density rate in Indonesia is at 11.76%, which has followed a downward trend compared to previous years. The rise of an increasingly diverse informal workforce has contributed to this trend, as the very nature of the informal sector makes it more difficult for informal workers to organize and form unions. Other factors identified in this report include Law No. 21 of 2000 concerning Labor Unions that remains restrictive, although it recognizes freedom of association.

For gig workers, despite the barriers they face, labor unions can have an impactful role in helping to organize these workers. Even though gig workers are not entitled for forming a union by law, this does not stop them from advocating for the rights of gig workers.⁵⁰ For example, gig workers have joined the Aerospace and Transportation Workers division of the Federation of Indonesian Metal Workers' Union (*Serikat Pekerja Dirgantara dan Transportasi Federasi Serikat Pekerja Metal Indonesia*, SPDT-FSPMI), which is a labor union for workers employed in the aerospace sector and similar businesses. SPDT-FSPMI saw a lack of protection for app-based drivers by the government and employers, so they expanded the scope of their organization to include the land transportation sector so that app-based drivers could join.⁵¹ Now, SPDT-FSPMI is the only labor union that serves app-based drivers, enabling them to advance workers' rights in the app-based transportation sector.

Joining the SPDT-FSPMI has many significant benefits for app-based drivers. First of all, membership in this union allows online *ojek* (motorcycle) drivers to have access to hearings with the Ministry of Manpower, which allows them to voice their problems and needs directly to the authorities.⁵² In addition, membership in this union also provides an opportunity to conduct hearings with the Ministry of Transportation, which can assist in the discussion and formulation of policies relating to the online transport sector. Furthermore, membership in the union has also enabled the drivers to conduct a judicial review of the Law No. 22 of 2009 concerning Road Traffic and Transportation, which provides a legal means to fight for their rights constitutionally.⁵³ Thus, the joining the SPDT-FSPMI provides a strong platform for a common struggle to improve their working conditions and rights in the online transport industry for app-based drivers.

Labor unions are also actively involved in proposing regulatory changes to the government to promote workers' welfare. For example, when the Law No. 11 of 2020 concerning Job Creation was enacted, 15 unions united to make various efforts and approaches to the government and policymakers to highlight the negative impact of the law on workers.⁵⁴ The Confederation of Indonesian Labour Unions (KSPI), one of the

50. Riani Rachmawati, Safitri, Luthfianti Zakia, Ayu Lupita, and Alex De Ruyter, "Urban Gig Workers in Indonesia during COVID-19: The Experience of Online 'ojek' drivers," *Work Organisation, Labour & Globalisation* 15, no.1 (2021): 31–45, <https://www.jstor.org/stable/10.13169/workorglaboglob.15.1.0031>.

51. Editor of the *Koran Perdjongan*, "Mengenai Serikat Pekerja Dirgantara dan Transportasi (SPDT-FSPMI)" [Get to Know the Aerospace and Transportation Workers Union (SPDT-FSPMI)], *Koran Perdjongan*, March 26, 2017, accessed 14 March 2024, <https://www.koranperdjongan.com/mengenai-serikat-pekerja-dirgantara-dan-transportasi-fspmi/>.

52. Cab Bekashi, "Hasil Penelitian Universitas Indonesia Tentang Nasib OJOL di NKRI Membuat Hati Dr. Riani dan Masyarakat Terharu" [The Results of Research at the University of Indonesia on the Fate of ojol in NKRI Touched Dr Riani's Heart and The Community,] *Mutiara Indo Tv.*, May 31, 2021, accessed March 12, 2024, <https://mutiaraindotv.com/hasil-penelitian-universitas-indonesia-tentang-nasib-ojol-di-nkri-membuat-hati-dr-riani-dan-masyarakat-terharu/>.

53. Hanifer Sartika Putri and Amalia Diamantina, "Perlindungan Hukum Terhadap Keselamatan Dan Keamanan Pengemudi Ojek Online Untuk Kepentingan Masyarakat" [Legal Protection for the Safety and Security of Online Motorcycle Taxi Drivers for the Interest of the Community], *Jurnal Pembangunan Hukum Indonesia* 1, no.3 (September 2019): 393, <https://doi.org/10.14710/jphi.v1i3.392-403>.

54. Ni Luh Anggela, "Sederet Catatan Serikat Pekerja 2023, Perpu Cipta Kerja hingga PHK" [A Series of Trade union notes in 2023, Perpu Job Creation to Layoffs], *Bisnis.com*, January 1, 2024, accessed March 12, 2024, <https://ekonomi.bisnis.com/read/20240101/12/1728535/sederet-catatan-serikatpekerja-2023-perpu-cipta-kerja-hingga-phk>.

plaintiffs, filed 5 judicial reviews against the Law No. 11 of 2020 concerning Job Creation in November 2021. KSPI considers that the Job Creation Law eliminates guarantees of job security, wages and social security for workers, and makes it easier for foreign workers to enter Indonesia. As a result, the Constitutional Court declared the law “conditionally unconstitutional.” Labor unions see that this ruling affects not only formal workers but also informal workers such as farmers for the next 30 years.⁵⁵ The union’s efforts highlight the importance of active participation in policy-making processes and the protection of the rights of workers and other vulnerable groups in society.

V. Conclusion

In summary, Indonesia’s labor market has seen significant changes lately due to shifts in demographics, technology, and work patterns. Despite economic growth and a large working age population, there are still inequalities in job opportunities, especially between men and women across different types of employment. The rise of gig work and remote jobs offers flexibility but also raises concerns about workers’ rights and protections. Labor unions, which are essential for advocating for workers, face challenges in representing workers in these non-traditional employment arrangements. The current Law No. 21 of 2000 concerning Labor Unions mainly focuses on formal workers, leaving informal workers vulnerable to exploitation and lacking in collective bargaining power.

Despite these obstacles, labor unions have shown resilience by reaching out to gig workers and advocating for their rights. For instance, the SPDT-FSPMI has been instrumental in representing gig workers in the online transportation sector. However, labor unions continue to struggle with declining membership rates and restrictive laws. To address these issues, the government needs to promote formalization of employment and provide better social protections for all workers. Additionally, labor unions must adapt to changes in the labor market, such as the growth of remote work and the gig economy, in order to effectively represent workers’ interests.

In conclusion, while Indonesia’s labor market faces challenges, labor unions need to hold their ground in the face of the growing informal economy. Therefore, it is important for unionism to shift focus toward integrating informal workers, who are increasingly representing a larger share of the labor market, and to ensure their continued engagement and advancement of workers’ interests. Other than that, political function of the labor unions should also be used, as it has been in the past, to mobilize informal workers and advocate for labor reforms. The government also needs to review their labor regulation in controlling informal sectors, particularly since the growth of informal economy does not only negatively impact tax revenue but also the workers welfare.

Ike FARIDA

S.H., LL.M, Doctor of Law, Founder and Managing Partner at Farida Law Office.



55. BBC, “MK tolak lima gugatan serikat buruh dan kukuhkan UU Cipta Kerja: Apa yang digugat dan mengapa regulasi ini terus ditentang?”[MK Rejects Five Labor Union Challenges and Upholds Job Creation Law: What Is Being Challenged and Why Is This Regulation Being Challenged?], *BBC News Indonesia*, October 2, 2023, accessed March 14, 2024, <https://www.bbc.com/indonesia/articles/cn0q33n9p1qo>.