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EXTRACTING LABOR FROM ITS OWNER

Private Employment Agencies and Labor Market Flexibility in Indonesia

Benny Hari Juliawan

ABSTRACT: The Asian economic crisis in 1997 helped bring down Suharto's authoritarian regime in 1998. At the same time it paved the way for more measures of economic liberalization. Some of these measures have taken the form of labor market liberalization, which aims to increase the labor market's ability to adjust to changing economic conditions by clearing what are seen as burdensome regulations, or "rigidities" as they are known in economic parlance. An important instrument in this effort is the private employment agency, which the Manpower Act no. 13/2003 introduced in 2003. This article argues that the introduction of these agencies has created opportunities for various actors in society to take advantage of the less-protected workers in the uncertain waters of the post-Suharto labor regime. In the process, the nature of industrial relations has also been changed in a way that is more predatory than liberal. Ultimately the agencies help erode the hopes for a better life for workers and undermine the revival of labor political rights in Indonesia.

On May Day 2006, Indonesia recorded the largest street protest by workers in that country since the mid 1960s. Hundreds of thousands of workers took to the streets in many cities across the country, with more than 40,000 workers demonstrating in the capital city Jakarta alone, watched over by 14,000 security personnel who had been deployed to guard the march.¹ In cities where street protests had quickly turned violent before, events all went peacefully, fulfilling the promise organizers had made prior to the protests.

What brought the workers to the streets in full force was the government's proposed revision of the Manpower Act no. 13/2003. The stated goal of this revision was to improve Indonesia's investment climate, but many who studied the articles in the proposed revision concluded that this simply meant making the Indonesian labor market more flexible by relaxing several labor protection measures. The proposed revision included the introduction of flexible employment, more outsourcing practices, and reduced severance pay. The government and the business community argued that the revision was badly needed to revive the fledgling Indonesian economy, which had not fully recovered since the Asian economic crisis of 1997. Prospective investors wanted a more flexible labor market in order to meet the demands of a global market economy. The workers, on the other hand, complained that the existing regulation was not enough to protect them from mistreatment and any effort to relax safeguards would only worsen their plight. After several months of intense debate and street protests, in early April 2006 the government put the proposed revision on hold and asked academics from five state universities to carry out an assessment of the Manpower Act. To remind the government that they were watching the process very closely, a month later, on May Day, workers took to the streets in record numbers.

The events surrounding May Day 2006 marked a new chapter in the history of economic liberalization in Indonesia. The Asian economic crisis had helped bring down Suharto's authoritarian regime; at the same time it paved the way for more measures of economic liberalization. An important part of these measures took the form of the creation of labor market flexibility, a policy intended to increase the ability of the labor market to adjust to changing economic conditions by clearing away what were seen to be burdensome regulations, or "rigidities" as they are known in economic parlance. In essence economic liberalization is about the introduction of more market forces and the removal of protective measures in the labor market.

An important instrument in pursuit of this goal of efficiency in Indonesia is the private employment agency (PEA). Introduced in 2003 by the Manpower Act no. 13/2003, PEAs have effectively become the frontline institutions in bringing about labor market flexibility. As we will see below, by relaxing the rigidity of the labor market, PEAs have disaggregated and individualized labor power, extracting it from its owner (the worker) and effectively turning it into a commodity. In the process, PEAs have set in motion an array of societal forces that are better described as predatory rather than liberal. In fact, I argue that the introduction of PEAs has created new incentives and opportunities for various actors in society to take advantage of the less-protected workers in the uncertain waters of the post-Suharto labor regime.

This discussion of the role of PEAs aims to shed more light on the political consequences of the policy of labor market flexibility in two respects. First, from the beginning of attempts to theorize the working of the market, the idea of la-

1. See "Peaceful May Day rally gets message across," *Jakarta Post*, 2 May 2006.



Demonstrating workers blocking traffic in Jakarta's business district with a banner that reads (topmost print) "No to the amendment of Act no. 13/2003." (Credit: The Jakarta Post/ Arief Suhardiman)

bor as a commodity has been problematic. Classical political economists such as Adam Smith, David Ricardo, and Robert Malthus represent labor as a commodity, but recognize at the same time that the labor market includes a historical process of social reproduction in which social norms and institutions as well as material processes determine the reproduction of labor.² In his analysis of the buying and selling of labor power, Karl Marx states clearly that "labor power exists only as a capacity, or power of the living individual."³ Therefore, in the value of labor power there enters a historical and moral element that distinguishes it from other commodities. Karl Polanyi provides the strongest rejection of the commodity status of labor. For him labor is a "fictitious commodity" because it is reproduced in the context of social relationships that are seldom commercial or contractual in nature. To treat labor as a commodity, therefore, is to ignore its relations with other activities of life, and thus it takes the "smashing up of social structures to extract the element of labor from social structures."⁴

Second, whilst economic frameworks tend to view this policy strictly in terms of increasing efficiency and expanding formal employment, I seek to demonstrate that the same policy might ultimately erode workers' hopes for a better life and undermine the revival of labor political rights that has been taking place in the post-New Order era. PEAs, I have concluded, prevent the consolidation of labor political power, not by adopting antilabor measures directly, but

2. Picchio 1992.

3. Marx 1976, 45.

4. Polanyi 1957, 164.

through the commodification of labor, or, as I call it, by “extracting labor from its owner.”

Fieldwork for this essay was conducted between July and September 2006 in Tangerang, a main industrial center in Banten Province, to the West of Jakarta. Information was collected by interviewing managers of four employment agencies, activists from three trade unions, officials from the local office of the Ministry of Manpower, and several figures in the Indonesian Employers' Association (Apindo).⁵ I also interviewed about a dozen contract workers. Secondary sources of information such as newspapers and documents published by labor nongovernmental organizations (NGOs), research centers, and government bodies have been drawn upon to supplement the data from interviews.

The structure of this article falls into four main sections. First, I outline the main arguments usually proposed in favor of labor market liberalization and, in particular, labor market flexibility. Then I move to the Indonesian context and identify the voices or sources of labor market liberalization policy that emerged after the fall of Suharto. The section that follows describes the operation of PEAs and their consequences for workers. Finally, I discuss how employment agencies have changed the nature of industrial relations in Indonesia. My arguments are summarized in the Conclusion.

Arguments for Labor Market Flexibility

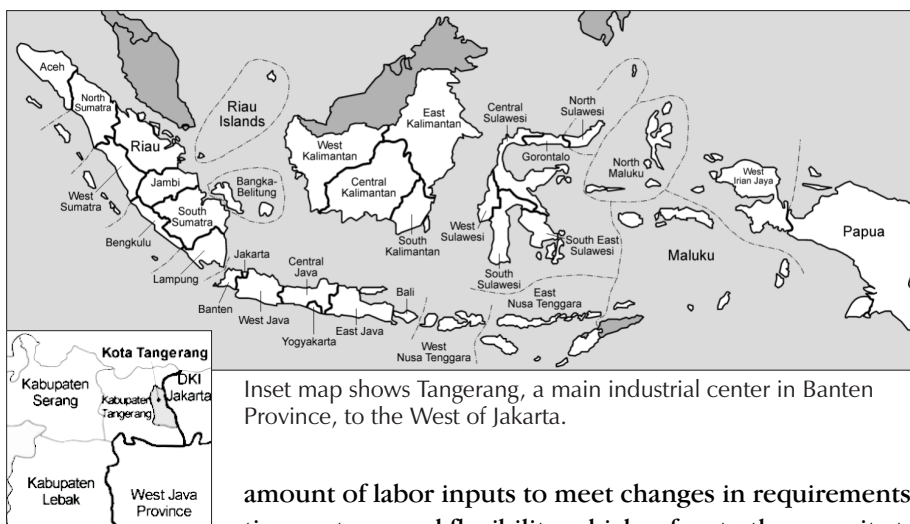
Proponents of labor market liberalization base their arguments on a neoclassical economic belief that institutional interventions create distortions in the market. Government regulations on wages, stipulated social funds, collective bargaining, and job security guarantees all prevent the market from exercising its law of equilibrium, and hence they create distortions. Clearly the underlying assumption is that in the absence of such interventions, the unfettered market reaches its optimal efficiency, while government interventions in the labor market potentially lead to the misallocation of labor, a waste of resources through rent-seeking, an impaired adjustment to shocks, deterred investment, and, ultimately, reduced rates of growth.⁶ Regulations governing job security, in particular, can have adverse effects because they raise the costs of workforce reductions, thus affecting the speed of adjustments and reducing overall employment. In this condition, the labor market is called “rigid” as opposed to “flexible.” Thus, the argument goes, the battle now is to eliminate these rigidities by introducing measures to make the labor market more flexible.

A flexible labor market, according to the *Economist*, is one “in which it is easy and inexpensive for firms to vary the amount of labor they use.”⁷ Scholars have identified a number of forms of labor flexibility, categorizing them according to the following typologies:⁸ numerical flexibility, meaning the ability to adjust the

5. The management of one of these agencies actually declined the request for an interview and the information about this particular agency was then gathered from workers who had had contracts with it.

6. See Freeman 1993.

7. URL: <http://www.economist.com/research/Economics/alphabetic.cfm?letter=L#labormarketflexibility> (accessed 18 August 2008).



Inset map shows Tangerang, a main industrial center in Banten Province, to the West of Jakarta.

amount of labor inputs to meet changes in requirements; time or temporal flexibility, which refers to the capacity to vary hours of work, employ shift systems, and introduce temporary work; functional flexibility or employee interchangeability between different tasks; and pay or wage flexibility, which sees greater individualization and variability in pay to reflect individual and organizational performance and changing labor market conditions.⁹ The flexible labor market scheme requires the adoption of flexible forms of employment, which consist of labor contracts of limited duration such as “fixed-term and short-term contracts, agency work or work for a fixed short-term period arranged by an employment agency, part-time employment, multiple-job holding and work agreements between two parties for a certain task.”¹⁰ These forms differ from permanent employment, meaning jobs with permanent contracts or at least long-term ones with a range of benefits and allowances.

In simple terms, labor market flexibility means the freedom of employers to hire and fire workers at short notice and the freedom to outsource parts or all of their business to other companies. This strategy lowers production costs, and thus attracts foreign investment, which is perpetually searching for higher profit margins around the world. Its proponents argue that overall employment will grow because workers will be absorbed into the expanding sectors of a dynamic post-liberalization economy created by the lure of cheap labor. At the same time, flexibility supposedly encourages labor mobility across sectors, with workers benefiting from skills upgrading opportunities. The net result, it is argued, is growing employment.

This particular approach to labor market policy has emerged over decades, beginning in the late 1970s when the West struggled to respond to a series of economic difficulties following the rise in oil price.¹¹ The response was a major change in economic policy that took place in university economics departments

8. See Furaker 2005 for a survey of these typologies.

9. See Atkinson and Meager 1986; Theron and Godfrey 2000.

10. Cazes and Nesporova 2004, 26.

11. See Robison and Hewison 2005.

and in the treasuries and finance ministries of several Western governments. The new economic orthodoxy — neoliberalism — emphasized a vision of efficiency delivered by self-regulating markets, with prices ensuring the correct allocation of resources. The role of the state was to maintain monetary and fiscal stability. In effect, this new orthodoxy replaced the Keynesian welfare state, which promoted full employment by stimulating demand in the decades after World War II.

The new orthodoxy marked a structural transformation in labor market policy-making in many parts of the world. States began to use macroeconomic policy, essentially monetary policies, to control inflation rather than to guarantee full employment, which was now relegated to the domain of microeconomic policy enacted through institutional and regulation reforms.¹² The new approach provided a justification for favoring “productivity” over “employment.” In the words of Jeffrey Harrod and Robert O’Brien, “it became legitimate to promote unemployment to enhance productivity, to reduce the workforce to increase shareholder and executive salaries.”¹³ Indeed, labor security, which was held out as one of the main objectives of postwar development, was now seen as an obstacle to economic productivity and national competitiveness.

In today’s globalized economy, a combination of exogenous factors, i.e., transformed markets, external market liberalization, and accelerating technological change, also contribute to the pressures for flexibility. Many industries have generated global oversupply, creating what is called buyers’ markets. In such markets, customers enjoy expanded choices and competitive markets. As Frederic Deyo and Richard Doner describe it, “global buyers stress competitive price, good quality, quick delivery time, and heightened responsiveness to changing demand requirements.”¹⁴ These factors put pressures on industries to make the supply side equally flexible. In the developing world the pressures for cost and quality are transferred to local companies through the opening of external markets. East Asia in particular has seen a rapid development in the direction of opening their external markets. Many countries in the region have moved toward tariff reductions as a condition of membership in the World Trade Organization (WTO) and participation in the Asean (Association of South East Asian Nations) free trade agreement. In export-oriented textile, clothing, and footwear industries, in particular, pressure builds on firms to respond quickly to the volatile demand for a wide range of products. And this requires relatively short production runs.¹⁵

In the constant restructuring of the relations between labor and capital that characterizes capitalist social relations, the changes in perspective, policy, and economic emphasis on productivity and efficiency rather than on employment reflect a shift of primacy from the less-mobile factor (labor) to the more mobile factor of production (capital). As capital has become increasingly mobile in the

12. Standing 2002.

13. Harrod and O’Brien 2002, 11.

14. See Deyo and Doner 2001.

15. See Deyo and Doner 2001 and Lui and Chiu 2001.

global economy and countries have to compete to attract investment, the burden now falls on labor to make the process of production more efficient and competitive and, in essence, cheaper. This process ultimately transfers economic risk, which used to be associated with employers, to employees through shortened job tenure and contingent employment and remuneration.¹⁶

Sources of Flexibility in Indonesia

The call for labor market liberalization in Indonesia was preceded by the onset of the economic crisis. Economic crises are important in the process of economic liberalization for two reasons. First, they can undermine coalitions that oppose liberalization; second, they can consolidate coalitions that support liberalization.¹⁷ International financial institutions saw the 1997 crisis as an opportunity to strengthen liberalization policies and to get rid of what they called the “crony capitalism” that characterized the economies of Indonesia and other East Asian nations.¹⁸ From 1997 to 2003 the International Monetary Fund (IMF) imposed a comprehensive reform agenda on Indonesia as part of its bailout program of the economy. At its peak, the IMF program involved more than five hundred conditions, relating mostly to the control of inflation, the recapitalization of failed banks, and the privatization of state-owned enterprises.¹⁹

Inherent in this seemingly exclusively economic perspective was a political objective: to promote democracy by breaking up “distributional” coalitions of key interest groups, which had hitherto benefited from rent-seeking arrangements, thereby allowing the emergence of a genuinely productive bourgeoisie capable of coping with the discipline of the market and developing the country. This new class would defend its gains by resisting government dominance. Thus, the dynamics of economic reform would lead to political reform.²⁰ This political objective is important to note because, as we will see below, the policy and practices of labor market flexibility do not always create productive and progressive societal forces.

The liberalization of the labor market in Indonesia was not a straightforward process: before “burdensome” regulations could be eliminated, pro-liberalization forces first had to negotiate around existing pro-labor legislation. Less than a month after gaining power on 21 May 1998, the Habibie interim government ratified ILO Convention no. 87 on freedom of association (on 9 June). A year later, in May 1999, the government ratified three more ILO Conventions: no. 105, on the abolition of forced labor; no. 111, on abolishing discrimination; and no. 138, on the minimum working age.²¹ With the ratification of these four conventions, In-

16. Heery and Salmon 2000.

17. See Rosser 2002.

18. See Robison and Hewison 2005.

19. Chowdury et al. 2004, 43.

20. Despite this inherent assumption, some scholars also point out that proponents of neoliberal policies are ambivalent about the necessity of democracy for economic reforms, but in the Indonesian case, they generally welcomed the democratic transition that followed the demise of Suharto. See Hadiz and Robison 2005 and Robison and Hewison 2005.

21. See Suryahadi 2003.

Indonesia has now ratified all seven ILO core conventions.²² In August 1998, the government invited an ILO Direct Contacts Mission to assist with labor law reform.²³ The result was three new laws: Trade Union Act no. 21/2000; Manpower Act no. 13/2003; and Industrial Dispute Settlement Act no. 2/2004. I briefly describe only the first two laws; the third is not directly relevant to this article.

The Trade Union Act guarantees freedom of association by sanctioning four main provisions: a minimum union registration procedure; multi-unionism in a firm; the right of workers to determine the form of their organizations; and equal treatment for all unions. This initiative was a welcome improvement after three decades of union repression. In the euphoria of post-Suharto political freedoms, workers and employers voiced only minor complaints about the new Act.

The Manpower Act, meanwhile, is less accommodating to workers. On the one hand, it boosts the welfare of workers by stipulating a regional decent standard of living (Kebutuhan Hidup Layak [KHL]) as a basis for assessing minimum wages. This effectively stopped the practice of using an index of minimum physical needs (Kebutuhan Hidup Minimum [KHM]) in determining minimum wages. The new law also increased the rates of severance and long-service pay. The number of months of pay that firms have to give to workers who are dismissed for economic reasons is now three to five times higher than that paid to workers in China, India, Korea, and Malaysia, although it is lower than in the Philippines and Thailand.²⁴ On the other hand, the law introduced provisions that undermined workers' gains. It allows, for instance, contract work that can "last for two years and can be extended for another year" (article 59) and sanctions outsourcing practices that allow for non-core and temporary works (article 65).²⁵ Collective bargaining at all levels is encouraged, but the law clearly promotes bargaining at the enterprise level rather than at the sectoral or national levels.

These two new labor law reforms were a mixed blessing for workers: the Trade Union Act effectively restored their political rights, while the Manpower Act demanded more compromises from unions.²⁶ Although not quite the full-fledged liberalization one might expect from a country emerging from an economic crisis, the new laws paved the way for a more flexible labor market nonetheless, especially with their contract work and outsourcing provisions.²⁷

22. The other three ILO core conventions are no. 29, on abolishing forced labor; no. 98, on the right to organize and collective bargaining; and no. 100, on equal remuneration. An eighth core convention, ILO Convention no. 182, on the elimination of the worst forms of child labor, was issued in 1999. The Indonesian government ratified this convention on 28 March 2000.

23. Caraway 2006.

24. Manning 2004.

25. Contract work was first legislated in Ministry of Trade Decree no. 264/Kp/1989. The Decree was introduced specifically for the garment industry in the special economic zones. Further details were then regulated in the Circular Letter of the Ministry of Trade no. SE-08/Men/1990 and the Ministry of Manpower Regulation no. Per-02/Men/1993. For details, see Saptorini and Suryomenggolo 2007.

26. See Caraway 2004.

27. For accounts of the power struggle involved in the drafting of the laws, see Caraway 2004 and Suryomenggolo 2004.

The passing of favorable laws, however, does not automatically guarantee workers' basic rights. Before the middle of 2002, approximately one-third of labor disputes were related to noncompliance with normative demands such as minimum wages, severance pay, and freedom to unionize.²⁸ Official data on strikes and protests between 2000 and 2005 also indicates that normative demands still feature prominently.²⁹ (See table 1.)

Table 1. Data on Strike Demands Nationwide 2000–2005

	2000	2001	2002	2003	2004	2005
Number of strikes	273	194	220	161	125	96
Normative demands	176	142	120	112	80	
Other demands	376	300	312	290	255	184

Source: Unpublished data from the General Directorate of Industrial Relations and Labor Social Insurance, the Ministry of Manpower, Jakarta.

The increase in the basic wage and in severance and long-service pay, among other provisions that benefited workers, quickly drew a reaction from the business community and from government bodies that favored liberalization. For them improved labor standards can only mean more distortions in the labor market. Labor protection in the form of minimum wages, collective bargaining, severance pay, independent unions, and legal safeguards for hiring and firing imply a potentially hefty pay bill for the employers.³⁰ As labor costs go up, other costs being constant, the overall production costs must go up too, hurting the country's competitiveness in the global competition for investment. This is seen as bad for business and the economy especially in the aftermath of one of the worst economic crises in modern history.

In an executive summary of a labor market policy analysis, the Indonesian government's Ministry of Manpower and the National Development Planning Agency (Bappenas) argued that "labor market flexibility is an important part of the process to create employment, to raise incomes, and to reduce poverty."³¹ Interestingly, the document described how the government had been "very zealous" in enforcing labor protection regulations, clearly indicating the political struggles at work between competing interests in state institutions. Arguing

28. See SMERU 2002.

29. This information (*Perkembangan Data Pemogokan/Unjuk Rasa*, or Data on Strikes/Protests) comes from the Ministry of Manpower in Jakarta, compiled from the information provided by provincial offices of the Ministry of Manpower.

30. For examples of this perspective, see analyses by Manning 2000, Manning 2004, and Feridhanusetyawan 2002. A different take on the same issue is given by Dhanani and Islam 2001, Islam et al. 2001, and Islam 2002.

31. Bappenas 2003, 3.



Garment factory, Tangerang. "...official changes recommended by the government [in the Manpower Act] and the revisions proposed by the employers' association were designed to make the Indonesian labor market more flexible, allowing employers to hire and fire workers at a much cheaper cost and giving them more freedom to vary the size of their workforce without the usual legal safeguards." (Credit: author)

that labor protection had gone too far and was endangering employment expansion, the document quotes estimates by the SMERU research center that a 20 percent increase in the minimum wage in 2002 had reduced formal sector employment by 2 percent, the employment of women and young people by 6 percent, and low-skilled employment by 4 percent.³² This analysis became official when in 2004 the Central Bureau of Statistics (CBS) and the Ministry of Manpower published *National Labor Policy Planning 2004–2009*, which made the same points. Indonesia's *Poverty Reduction Strategy Papers* (PRSP), a document that is one component of the conditionalities the World Bank imposed on Indonesia, declared that rigidities in the Indonesian labor market "had increased labor cost in the long term and made firms reduce their workers, and in turn put downward pressures on wages in the informal sector."³³ To add a multi-lateral voice, an Asian Development Bank (ADB) labor market research report in 2003 noted that "[d]uring the last three years labor market policies in Indonesia have become more 'union' friendly (populist)."³⁴ This development, the ADB concluded, had had a negative impact on the investment climate.

On a different front, Indonesian business delegates who traveled abroad often returned with reports that prospective foreign investors were put off by Indonesia's poor investment climate, with labor regulations cited as one contrib-

32. The SMERU research center originated as a social monitoring and early response unit of the World Bank in 1998. Since then SMERU has developed into an independent research center funded mainly by AusAid and the Ford Foundation.

33. Bappenas 2004, 60.

34. ADB 2003, 2 (quotation marks and parentheses in original).

uting factor.³⁵ Likewise foreign business delegates and chambers of commerce members who visited Indonesia expressed similar complaints.³⁶ At the same time domestic business organizations were pressing the government to improve its economic performance by speeding up reforms in many areas including labor policies. Apindo, for example, argued that the Manpower Act of 2003 favored workers and was an obstacle to new investment both domestic and foreign.³⁷

These pressures seemed to bear fruit when in late 2005 the Yudhoyono government announced that it would revise the Manpower Act.³⁸ Its minister of manpower explained the government's action by saying that many foreign investors had questioned the Manpower Act, arguing that the Act is not conducive to improving the investment climate in the country.³⁹ In January 2006 the president issued Presidential Decree no. 6/2006 on improving the investment climate. The Decree set April 2006 as the target date for the completion of revisions to the Manpower Act. Two of the most controversial points in the proposed revision were the expansion of the period of contract work from two to five years and the permission given for the outsourcing of all types of activities, not just core activities. (In the garment manufacturing industry sewing and cutting are considered core activities, while catering and cooking services in a factory are non-core, side activities not directly related to the production of clothes.) Other revisions included a cut in the maximum severance pay from nine months to seven months and the added stipulation that the cut applied only to workers who earn less than or an amount equal to the level deemed free of tax. Workers who earn more have no right to severance pay as stipulated. Apindo had its own proposals for revisions to incorporate into the Act, many of which were similar to the government's, but theirs placed even more emphasis on the need for flexibility. For example, the employers' association advocated no limit at all on the period of contract work and a maximum limit of five months on severance pay.⁴⁰ In sum, the official changes recommended by the government and the revisions proposed by the employers' association were designed to make the Indonesian labor market more flexible, allowing employers to hire and fire workers at a much cheaper cost and giving them more freedom to vary the size of their workforce without the usual legal safeguards.

It was against this proposed revision that the large May Day protests in 2006 took place. In a climate of intense public debate, the protests, which lasted for

35. "Revisi UU tenaga kerja diselesaikan Januari 2006" [Manpower law revision to finish by January 2006], *Kompas*, 22 December 2005.

36. "US Businesses Upbeat about RI Reforms," *Jakarta Post*, 15 February 2006.

37. "Tussle Ahead over Labor Law," *Jakarta Post*, 29 March 2006.

38. See "Revisi UU tenaga kerja diselesaikan Januari 2006: [Manpower law revision to finish by January 2006], *Kompas*, 22 December 2005. According to an Apindo chairman, the plan to revise the Manpower Law was already agreed upon during a national tripartite conference on 19 January 2005. See "Pengusaha dan buruh ke Istana" [Employers and workers visit presidential palace], *Kompas*, 7 April 2006.

39. See "Revisi UU tenaga kerja diselesaikan Januari 2006" [Manpower law revision to finish by January 2006], *Kompas*, 22 December 2005.

40. Apindo's proposal, as it was quoted in "Tussle Ahead over Labor Law" (*Jakarta Post*, 29 March 2006), is consistent with a printed version dated 23 March 2006 that was obtained during the fieldwork for this article.

three months, forced the government to revoke the proposed revision of the Manpower Act. Despite this action, efforts to transform industrial relations in Indonesia continue — some of them backed by new forces that the existing Manpower Act set in motion in 2003. The next section illustrates how these forces work on the ground.

PEAs as Instigators of Labor Market Flexibility

The introduction of contract work in Indonesia in 2003 opened up new opportunities for businesses that specialize in providing contract workers and subcontracting services. These private employment agencies, or PEAs, are non-state organizations that offer employment services such as recruitment, training, skill upgrading, labor placement, and labor supply. PEAs also engage in consultancy services for human resource management such as advising on issues regarding administration of personnel, wages, and staffing needs. Some of these agencies are in fact an expansion of what used to be training and consultancy agencies.

The Manpower Act no. 13/2003 makes a distinction between “labor providing agencies,” or outsourcing agencies (articles 64, 65, 66) and “labor supplying agencies” whose task is to supply workers to be employed by their clients (articles 35, 36, 37, 38). In other words, labor providing agencies employ workers to do jobs given by other firms, whereas labor supplying agencies act only as recruiting agents for other firms.

In the course of my fieldwork I gathered information about four PEAs: Dasa Bhakti Taruna (DBT), Gama Prima Karya (GPK), Damarindo (DMI), and Synergy Mitra Sejati (SMS). DBT, GPK, and DMI were based in Tangerang municipality; SMS was based in Jakarta but had clients in Tangerang.⁴¹

- GPK was the oldest of the four agencies, established in 1996 as a store, selling building materials, and a training agency in sewing skills. By mid 2006, it had five branch offices in greater Jakarta with around two hundred client companies.
- DMI, which started as a computer and foreign language instructional center in 2001 and became an employment agency in 2003, was active in various sectors such as the security, garment, textile, and shoe industries.
- DBT has provided services for over two thousand workers, mostly in the shoe, textile, and garment industries. A DBT manager I interviewed noted that this agency was founded in 2003, taking advantage of the new opportunities offered by the Manpower Act that was enacted that year.
- SMS was established in 2004 as an expansion of its sister agency Seruni Sahabat Serumpun (SSS), which had been founded in Jakarta in 2000. SMS, the smallest of the four PEAs (operating from its owner’s home), provided drivers, security personnel, factory workers, and shrimp farm

41. As of July 2006, Tangerang municipality had issued fourteen licenses for labor-supplying agencies and eleven licenses for labor-providing agencies.



"Private employment agencies...are non-state organizations that offer employment services such as recruitment, training, skill upgrading, labor placement, and labor supply." Workers seeking jobs apply here at the front desk of PT Gama Prima Karya. (Credit: author)

workers. The manager said that it had plans to expand its operation to the neighboring province of Lampung in South Sumatra.

Many of the PEAs operating in Tangerang started by adopting the legal status of *yayasan*, or charitable foundation.⁴² In Indonesian legal terminology, a *yayasan* is a nonprofit organization that provides services for social, humanitarian, and religious purposes.⁴³ Many charities as well as private schools and hospitals register as *yayasans* and in this capacity receive various tax cuts and other government subsidies. Under the New Order dictatorship (1966–1998), a number of NGOs including labor organizations embraced the language of *yayasan* as a cover for organizing work they did independently of the state, i.e., underground. This was possible because the *yayasan* legal category covered a range of activities that by their nature eluded heavy-handed state repression. Perhaps the most celebrated example of a *yayasan* from the New Order period was the Yayasan Lembaga Bantuan Hukum Indonesia, or Indonesian Legal Aid Foundation (YLBHI),⁴⁴ which began in 1970 as an agency offering legal advice for the poor but then moved into underground labor organizing in the early 1980s. In the post-Suharto period, PEAs exploited the positive connotations associated with *yayasans* — at least in the early months of their operations — in order to ap-

42. I acknowledge the contribution from an anonymous reviewer who pointed out the need to explore this topic.

43. The law that regulates charitable foundations is the Charitable Foundation Act no. 16/2001; its amendment is Act no. 28/2004.

44. The others included Yayasan Annisa Swasti, Yayasan Bina Karya, Yayasan Buruh Membangun, Yayasan Forum Adil Sejahtera. See Ford 2003.

pear benevolent; some even pretended to be advocates for workers' causes. Most of the employment agencies that began as noncommercial yayasans, such as the four PEAs I studied, have now developed into commercial operations, but workers I met still referred to the agencies as yayasans. Only in recent times has yayasan become a dirty word, now that the hardships associated with flexible employment have become clear.

The PEAs all operate in ways that are largely similar. They receive contracts from client firms to provide labor according to certain specifications. They advertise job vacancies in local newspapers, through the local Manpower Office, and in public advertisement spaces. Upon receiving an application, the agencies conduct interviews and tests to determine skill levels and whether further training is necessary. When the suitability of applicants is established or their training is completed, the agencies send them to work for their client companies. In the case of labor-supplying PEAs like GPK, the agency-worker relationship ends once the workers are placed. Agencies such as DBT and SMS, which provide outsourcing services, sign a contract with their workers before sending them to work for a client firm. If the contract lasts longer than the assigned period of work, the agency finds new jobs for the workers until the contract expires. The law allows PEAs to sign workers to a two-year contract, with the option of a one-year extension.

In interviews, workers in PT Delifood, a food-processing firm, described a unique scheme regarding recruitment.⁴⁵ When they applied for work in the company, they were interviewed by the company's management, but once their application was accepted they were directed to sign a contract with an employment agency, and not with the firm itself. They felt tricked, they told me, but had no power to refuse the scheme.

In GPK and DMI, applicants had to pay two kinds of fees: a training fee and a placement fee. The training fee had to be paid in advance, but the placement fee could be paid in several installments. From a worker recruited by DMI, I gathered that the agency deducted the placement fee from the wages received by the workers.⁴⁶ Other PEAs did not demand prior payments from applicants, but once they started work the client firms paid a monthly management fee for every worker the PEA had provided. The amount of the fees varied depending on the job the applicant wanted, and the policy of the agency. Typically, a sewing job in a garment factory was two or three times cheaper in this regard than a security job.

PEAs lower the cost of production in several ways. First, client firms shift some of the costs to employment agencies. As table 2 shows, more than half of the costs associated with labor input can be externalized by hiring labor from employment agencies. Hiring means that firms can skip paying the benefits and allowances that are accorded to permanent workers. Also client firms do not put up with complaints from hired agency workers about poor working condi-

45. Interview with a worker of PT Delifood, 21 August 2006.

46. Interview with a worker of PT Indosafety, 21 August 2006.

tions; they simply ask the agency to replace disgruntled workers. Strikes and absenteeism are irrelevant because employment agencies agree to supply their clients with a definite unit of labor⁴⁷ and the liability for any disruption in that supply falls on them, not on their clients. In practice the mechanism that supplies workers on the basis of an agreed-upon number of worker-hours translates labor *power* into labor actually performed (labor *unit*) and effectively turns labor into a commodity.

Even social responsibility–related costs can be externalized. This is especially true when firms, directly or indirectly through PEAs, “hire” local leaders to recruit workers. These local “strongmen” do the screening as well as the disciplining, and they use their patronage networks in the local community to prevent workers from demanding more concessions from the firms.⁴⁸ This is a cheaper way to engage locals in the surrounding neighborhoods rather than undertaking a true community development scheme that would address housing needs or put environmental protections in place, such as waste treatment and pollution reduction facilities.

Table 2. Labor costs⁴⁹

No.	Type of cost	Notes
1.	Basic wage	Regional minimum wage
2.	Overtime	Government-stipulated rates
3.	Insurance	Government-stipulated insurance scheme
4.	Benefits*	Annual leave, sick leave, maternity leave, religious festivity leave, and annual bonus
5.	Allowances*	Transport, meal, health, lodging, performance bonus
6.	Tax	Income tax
7.	Work conditions*	Costs related to physical environment of the factory and to human resources management
8.	Strike*	Lost work hours, missed targets
9.	Redundancy*	Severance pay and service pay
10.	Training*	Basic training and skill upgrading
11.	Administration*	Recruitment and overhead costs of keeping employees
12.	Community*	Good relationship with the local neighbourhood
13.	Others*	Uniforms, collective bargaining, and union-related costs

* costs that can be externalized

Competition among employment agencies, which puts downward pressure on the price of labor, is the second way that PEAs lower production costs. As more players have entered this field,⁵⁰ competition among the agencies has become a serious issue. Managers of several PEAs told me that they were open to

47. “Unit of labor” means a specified number of worker-hours, or the amount of work performed by an average worker in the agreed-upon number of hours independent of breaks or time off that workers normally take.

48. Elmhirst 2004 and Warouw 2006 give accounts of a community leader in Tangerang turning into a disciplining force for migrant workers who see him as a paternal figure.

49. An SMS manager gave me this table to illustrate the attractive benefits his agency could offer prospective clients.

negotiating management fees and the range of facilities included in the packages they offer. SMS, for instance, has offered free motivating sessions for workers twice a year as a bonus for their clients. DBT keeps its management fees down to between 5 to 10 percent on top of the workers' wages. Managers in these two agencies admitted that they faced competition from unscrupulous agencies that cut workers' wages rather than include a management fee in their packages.⁵¹ Allowances such as for meals and transportation were also negotiable. Scaling down these allowances allowed the agencies to offer prospective clients a more attractive package.

The third way in which PEAs lower production costs is, curiously, by cooperation. For example, the owner of a garment factory told me that he once dealt with excess demand by hiring an employment agency that then turned around and subcontracted parts of the work to a third party because the contracted agency's own supply of labor was limited.⁵²

Another example of cooperation is evident in relations between formal employment agencies and informal actors. In a typical instance, a community leader in one of Tangerang's dense urban neighborhoods, acting as a middleman, used his patronage networks to find and channel job seekers to a particular PEA. The term "informal actors" refers to two groups of actors. One is a myriad of societal organizations based on a Banten and Islamic identity, e.g., youth clubs, prayer groups, and martial art associations. The other refers to prominent individuals in the local community such as religious leaders, village or neighborhood heads, and local strongmen. Both categories of informal actors have gained power since the lid on civil society movements was removed following the collapse of the New Order in 1998. These organizations and individuals have their origins in two different but related sources. One is the patronage network nurtured under Suharto's corporatist regime, namely, the military, local bureaucrats, and local religious and customary leaders who were recruited in the past to control the local population. The other source is made up of the new societal forces that have arisen in response to the weakening government control over the population.⁵³ Many of these latter forces claim the authority to represent local interests on the basis of local identity. Some local leaders had been groomed by the New Order, but when that regime collapsed, they managed to transform themselves as new leaders who champion local causes in the name of democracy.

As Tangerang, a city of 1.4 million in 2006, has become a magnet for people from different corners of Indonesia, hometown associations are thriving as a way of asserting migrant identity and of pooling resources.⁵⁴ Some of the PEAs in

50. In the absence of data on the growth of PEAs, it can be assumed that prior to the Manpower Act of 2003 PEAs were simply nonexistent. Thus their number has increased since then. Trade unionists and workers I interviewed all confirmed this and comments by PEA managers about growing competition from other agencies implies a growth in number.

51. Interview with a manager of DBT, 16 August 2006; interviews with the owners of SMS, 25 August 2006.

52. Interview with Mr. Yohannes, 2 September 2006.

53. See Nordholt 2004 and Sidel 2004 for a discussion on the resurgence of these actors.

Tangerang were, in fact, founded on the basis of such informal and patronage networks. The management of DMI was run by a group of migrants from Palembang, Sumatra, whom workers dubbed the “Palembang mafia.” The dodgy character of DMI’s management had earned the agency a bad reputation among workers and unions. Trade unionists and workers who had tried to find jobs with the agency complained to me about the agency’s tendency to intimidate prospective workers into accepting unfair contracts and about the array of pay cuts the agency imposed on the workers.⁵⁵ At one point, the DMI agency was forced to remove its company name from the building façade after workers and unionists picketed the office. In the case of SMS, its managers were members of an association of Roman Catholic personnel managers called the Sumberdaya Rasuli (Apostolic Human Resources). This association organized gatherings and prayer meetings in which the managers of SMS met their prospective clients. They also used their church networks to recruit workers especially from rural areas in Central Java.⁵⁶

The ease of hiring and firing workers and all the advantages that come with this have persuaded employers to adopt this flexibility with enthusiasm. The general secretary of Apindo in Jakarta emphasized that employers should take advantage of the new opportunity; if blame needed to be placed, he said to me, “Blame the law!”⁵⁷ The personnel manager of PT Pelangi Cimandiri Textile in the neighboring city of Bekasi explained that outsourcing enabled him to reduce labor costs and increase predictability. “I like outsourcing services very much,” he added.⁵⁸

The enthusiasm employers voice about the benefits of Indonesia’s new industrial order is expressed concretely in the burgeoning numbers of temporary (or contract) workers. (These numbers are also a way to chart the growing influence of PEAs, since it is these agencies that recruit and supply non-permanent workers.) Calculating the precise numbers of non-permanent workers is, however, difficult. In 2006 unionists could only tell me that in Tangerang’s total workforce of 666,862 “there were already more workers on temporary contracts.” The government should be tracking the numbers of these workers, but that doesn’t happen. The law does oblige employers and employment agencies to register their contracts with the local Manpower Office, but compliance is generally low and the local government appears to be unwilling to enforce the law strictly.⁵⁹ Official statistics for 2006 show that 4.9 percent of the workforce in Banten Province (where Tangerang is located) had worked for more than one employer in the industrial sector in the previous month, indicating a casual

54. Tangerang is home for organizations such as JOKER, for migrants from Jogjakarta, IWAK, for migrants from Klaten Central Java, and SH Teratai, for migrants from Madiun East Java.

55. Management’s refusal to grant me an interview (see footnote 5 above) made it impossible for me to check these complaints against DMI with the agency itself.

56. There is a disproportionately large population of Roman Catholics in Central Java compared to other parts of the island.

57. Interview with Mr. Djimanto, 4 August 2006.

58. Interview with Mr. Wuryono, 15 September 2006.

59. Interview with Mr. Suaman of Tangerang municipality Manpower Office, 7 August 2006. In this interview, Mr. Suaman stated that the Manpower Office had not received reports about con-

work status.⁶⁰ This figure represents an increase from 3.6 percent in 2002 — not a dramatic increase in itself, but workers with contracts longer than one month were excluded from these statistics. These latter workers were registered instead as regular employees in the statistics. Another way to measure the increasing number of non-permanent workers is to compare the absolute figure of casual workers with that of regular employees. In 2006 in Tangerang, for every eight regular employees there was one casual worker; four years earlier the ratio was ten to one. A 2004 field survey conducted by a group of independent trade unions of fifty-two firms in Tangerang revealed that 25,780 out of 82,419 workers surveyed (roughly 30 percent) had non-permanent status.⁶¹ In neighboring Bekasi, a 2005 survey of 11,056 workers by two unions (SPSI and SPN) found that more than 40 percent were contract workers.⁶² Newspaper reports suggest that this trend has been increasing. In one such report, the chairman of KSPSI, the largest union confederation, complained that many employers used contract workers in their core business, a practice that violates the law, in order to avoid paying benefits and allowances. The national director of the Industrial Dispute Division of the Ministry of Manpower acknowledged that there were violations of the law on non-permanent workers and that there were loopholes in the law that were open to exploitation.⁶³

The Price Workers Pay for Casual Work

Diminished Sense of Security and Livelihood

Since the enactment of the Manpower Act in 2003, union leaders and workers have reported an increasing trend among employers to introduce contract workers into their factories.⁶⁴ Employers, as we have seen, have gradually expanded the scope of work to be outsourced and have raised the percentage of non-permanent workers in the employment structure.⁶⁵ They have done this incrementally by claiming a need for extra capacity to deal with sudden surges in demand. A small number of employers have taken more drastic measures by replacing the majority of permanent workers with contract ones in one sweep-

tract works as stipulated, and he explained that there was no penalty sanctioned by law for the failure to register a contract. Generally speaking, the performance of the Manpower Office here is low, partly because of lack of resources (human and financial) and vague regulations.

60. Central Bureau of Statistics, National Survey of Workforce in August 2001, August 2002, August 2006.
61. The survey was conducted by Komite Buruh Cisadane, or Cisadane Workers' Committee (KBC), a loose coalition of four non-mainstream trade unions in Tangerang (FSBKU, GSBL, SBN, and SBJP).
62. "Buruh kontrak hanya untungkan pengusaha" [Contract labor only benefits employers], *Tempointeraktif*, 20 April 2005.
63. "Depnakertrans perlu razia perusahaan 'outsourcing'" [Ministry of Manpower should raid "outsourcing" companies], *Kompas*, 24 December 2005.
64. See the KBC survey in 2004 cited in note 61, and "Buruh kontrak hanya untungkan pengusaha" [Contract labor only benefits employers], *Tempointeraktif*, 20 April 2005.
65. According to the Institute for Ecosoc Rights based in Jakarta, in East Java, the percentage of contract workers increased to 68 percent in January 2006 from only 7 percent in 2003. See also "Hak-hak yang dilanggar itu" [Rights that are violated], *Kompas* 16 December 2006, and "Perbaiki kontrak, pengusaha enggan mengangkat sebagai pekerja tetap" [Contracts need improving, employers reluctant to recruit permanent workers], *Kompas*, 18 May 2007.



Migrant workers in Pasar Kemis, Tangerang, discussing a possible “whitening” (*pemutihan*) move by their employers. (Credit: author)

ing move, an act that is illegal according to the Manpower Act.⁶⁶ Workers call such measures *pemutihan*, meaning literally “whitening,” referring to the clean white sheet of paper that remains after employment records have been erased.

The Manpower Act stipulates that dismissals for efficiency reasons (downsizing, mergers, or closures) should lead to higher rates of severance pay than in cases of dismissals for reasons of company bankruptcy or changes in corporate

ownership. In order to avoid paying higher rates of severance pay, employers have adopted strategies that workers and unions see as ways of circumventing the regulations for dismissal. In a typical case of *pemutihan*, rumors about the company’s financial difficulties begin to circulate among workers *prior* to the employer claiming bankruptcy. After a while management issues a statement confirming the rumors and shows a modified version of its financial reports for the previous two years, as the law requires. In negotiations with unions and workers over the layoffs the company claims are necessary, management tries to reduce severance pay further by stating that the company’s assets are insufficient. As negotiations drag on, workers lose patience and their cash income dwindles, making management’s minimal offer look attractive.

Workers of PT Sarasa Nugraha, an export-oriented garment manufacturer, had this experience.⁶⁷ They waited for nine months (February to December 2004) before a settlement was reached. The dismissal itself happened after workers demanded a wage increase in accordance with the regional minimum wage. During the nine-month waiting period, vigilantes associated with a particular youth group in Tangerang harassed the workers. Management also withheld wages from workers, forcing a significant number of them to accept management’s minimal severance package.⁶⁸

66. Numbers are difficult to come by, in large measure because employers go to great lengths to hide their illegal acts, but the example of PT Sarasa Nugraha, below, is one case in point.

67. Another case is the story of PT Buntara Multi Industry, which had just undertaken a *pemutihan* in 2006. Interviews with three workers from PT Buntara Multi Industry, 12 August 2006.

68. There were 1,652 workers, but the reports available (<http://www.cleanclothes.org/urgent-actions-list/770> [accessed 25 November 2009]) did not mention how many of them actually received the severance package. However, from the remaining number of workers at the end of

The authorities have the power to intervene in cases like this and enforce the law regarding dismissal due to bankruptcy, but for a variety of reasons this rarely happens. First, the shortage of labor inspectors, not to mention failings in determination and competence, results in weak law enforcement.⁶⁹ Second, local authorities are under pressure to create a “business friendly” environment and they therefore try to avoid pushing employers too hard, especially when a foreign investment company is involved. Indeed, most workers and unionists I interviewed believed that the local authorities had already made secret deals with employers. A union official from FSBKU (Federasi Serikat Buruh Karya Utama) told me that she suspected that certain individual officials in the local Manpower Office “acted” more as a consultant to employers than a regulator, advising them on how to exploit loopholes in government regulations.⁷⁰

When authorities receive and determine the validity of complaints from workers, they send a “notification” letter to the employer saying that the company has violated the law. Union officials confided to me, however, that these notices were nothing more than a way for the authorities to avoid responsibility and ignore the real issues in labor disputes because authorities rarely do anything beyond issuing the notification letter.⁷¹ Given these suspicions, unions and workers are reluctant to involve the authorities at all since in their view this only complicates negotiations and gives advantage to the employer. When a company files a bankruptcy claim the Manpower Act stipulates that the claim must be validated by a public accountant and accepted by the Manpower Office. The next step is to resume operations under a different name or new management. (The true nature of such a change generally remains unknown, however, as union officials and workers made clear to me. See the example of PT Sarasa below.) Management then has the option of recruiting a completely new workforce or reemploying its former workers either directly or through the service of an employment agency, but this time as contract workers. In the PT Sarasa Nugraha example, the company changed its name to PT Panca Brothers Swakarsa and reemployed fewer than half of its former workers, some of them as “trainees” and with much reduced wages. Only after a sustained international campaign by groups such as the Worker Rights Consortium, Campaign for Labor Rights, and Clean Clothes Campaign, did the firm reemploy most of its former workers in August 2005.⁷²

the case (around 800 workers to be reinstated) in December 2004, we can assume that the other 800 received the severance package along the way.

69. Since 2001, with the policy of decentralization, regional governments have transferred almost 60 percent or 900 of 1,500 registered labor inspectors to other jobs outside their expertise (Hidayat and Widarti 2005, 34). In fact, 89 districts and municipalities in Indonesia have no labor inspectors at all. Given that each individual inspector only had the capacity to inspect eight companies per year, fewer than 5 percent of all companies, numbering around 179,000, would be subject to inspection in a given year (Kelly 2002, 44).
70. Interview with Ms. Kasminah, from the FSBKU, 30 July 2006.
71. Interviews with Ms. Kasminah, from the FSBKU, and Ms. Lusi, from SPN, 30 July 2006.
72. The story is available online at <http://www.cleanclothes.org/urgent-actions-list/770> (accessed 25 November 2009) and in the *ICFTU Annual Survey of Violations of Trade Union Rights in 2005*, which is available online at <http://www.icftu.org/www/pdf/survey05/Survey05-EN.pdf> (accessed 18 August 2008).

The growing influence of PEAs in Indonesia burdens non-permanent workers in several ways. First, their wages are reduced to a basic level without the benefits and allowances that permanent workers receive.⁷³ More importantly, they are at risk of not being covered by the state-run social insurance scheme (*Jamsostek*) because PEAs are able to bypass this stipulation. The basic wage is generally in line with the regional minimum wage, but out of this meager income workers sometimes need to pay fees to the employment agency that recruited them.

Second, non-permanent workers have lost the sense of job security that they once had as permanent workers. In extreme cases, workers are employed for a one-week period and must wait for the start of the second week to see if the firm received enough orders to keep them employed. Day workers are employed on a piece-rate basis; their contract terminates as soon as they finish the pieces given to them. This unpredictability makes it difficult for them to plan for the future, creating anxiety and a sense of helplessness. In the absence of a formal insurance scheme, workers waiting for their next contract often have to take jobs in the informal sector, for example as petty traders, housemaids, motorcycle taxi drivers, rickshaw drivers, or (for male workers) seasonal construction.

Third, non-permanent workers suffer from worsening living standards because they have to reduce their expenses in line with the reduced incomes. In 2005, a group of union leaders and labor NGO activists called the FPBN (National Forum of Labor Activists) conducted a survey of workers in several industrial cities in Java. The survey indicates that workers adopted a wide array of coping mechanisms to adjust to declining incomes. Most of the mechanisms involved a lowering of the workers' quality of life.

Irrelevant Freedom of Association

In developed economies, unionized workers can turn to their unions for support and protection when they feel that their welfare is under threat. This is not the case in Indonesia. In fact, the growing numbers of contract workers render trade unions increasingly irrelevant. Non-permanent workers are not members of trade unions for several reasons. First, their short contract period renders membership in any work-related organization irrelevant despite the Trade Union Act's guarantees regarding freedom of association. Companies that hire day workers know that they will not be part of unions. Second, contract workers recruited by employment agencies cannot form a union in their place of work because their work placement is temporary and unstable. Third, even if they have the courage and a chance to join a union, contract workers are concerned that union membership might be seen as an act of dissent and would jeopardize their already fragile employment. (Permanent workers, of course, are reluctant to become union members for this same reason.) Fourth, union membership means having to pay union dues, an unwelcome further deduction on already

73. For an example of the range of benefits and allowances accorded to permanent workers, see Quinn 2003, 41.

depressed incomes. Fifth, workers simply do not have time to be active in organizations such as unions. Not surprisingly, they have to do overtime work or take up side jobs to earn extra money; their main concern is daily survival.

The three unions I studied during my fieldwork, SPSI, SPN, and FSBKU,⁷⁴ all reported the loss of older members and described their difficulties in attracting new recruits. They furnished no figures, however. When they did approach workers to join unions they explained that they would often be asked, “Will you be able to extend my contract or even make me perma-

nent?”⁷⁵ The SPN did not keep records of non-permanent workers simply because they were unable to track the constant flow of contract workers in and out of the companies where SPN operated. The fluctuation would complicate the process of verifying membership at a time when this process determined unions’ place in the regional tripartite institutions. SPSI unionists explicitly mentioned that they only recruited permanent workers, though even these workers expressed worries about joining the union because they did not want to be seen as “vocal” or “loud” and put their valuable permanent contract at risk.

Declining membership seriously affects unions at their core and can render them irrelevant as worker representatives. This is especially true now because the new regime of industrial relations is based on numerical representation.



Street vendor. “In the absence of a formal insurance scheme, [non-permanent] workers waiting for their next contract often have to take jobs in the informal sector, for example as petty traders, housemaids, motorcycle taxi drivers, rickshaw drivers, or [for male workers] seasonal construction.” (Credit: Damar Harsanto)

74. The SPSI (Serikat Pekerja Seluruh Indonesia [All-Indonesia Workers Union]) is the former government-sanctioned union; the SPN (Serikat Pekerja Nasional [National Workers Union]) is a new union that has emerged from the SPTSK, a splinter union from within the SPSI; the FSBKU (Federasi Serikat Buruh Karya Utama [Federation of Virtuous Work Trade Unions]) is a radical union that originated in a labor NGO during the repression era.

75. Interviews with Ms. Kasminah, from the FSBKU, and Ms. Lusi, from the SPN, 30 July 2006.

Only large membership guarantees seats in tripartite bodies. According to the Ministry of Manpower Decree no. 201/2001, which regulates representation in tripartite bodies, a union has to be present in at least 10 companies or have 2,500 members to obtain the right to nominate its representatives in a tripartite body at the district or municipal level. The requirements increase to 30 companies or 5,000 members at the provincial level and to 150 companies or 50,000 members at the national level.⁷⁶ Apart from helping in the fight for seats in the tripartite institutions, large membership numbers are useful to enhance a union's bargaining power. Indeed, since the dawn of democracy, a public show of force organized by various societal groups has become a routine event in Indonesia's streets. Unionists often boast that they can mobilize their members in the thousands or tens of thousands in a short period, if necessary. (For this purpose unions have been known to exaggerate their membership figures.)⁷⁷

Collecting union dues has never been easy, but shrinking membership rolls make the effort even harder. Union dues vary according to each union's statutes, but generally they are very small. In the SPN case monthly dues were just 0.5 percent of the regional minimum wage per worker. (In Tangerang city in 2006, 0.5 percent of the regional minimum wage was equivalent to US\$` 0.40.)

Their own financial difficulties also limit the services unions can offer their members. By and large, unions have been unable to provide even basic services such as cheap credit to their members.⁷⁸ At a time when more and more workers have been reduced to non-permanent employment and the need for financial support is all the greater, the inability of unions to offer help to contract workers is tarnishing their reputation as the champion of workers' interests.

Unions do have an opportunity to make themselves relevant, at least on paper, by taking over the role of employment agencies and organizing the supply of workers themselves. In so doing they would be minimizing the abuse and exploitation associated with the PEAs. If unions acted as workplace recruiting agencies, for contract or permanent workers, in a transparent and fair way, this would increase their bargaining power vis-à-vis employers and at the same time enhance their appeal with prospective workers. Such a move could open the door to a more meaningful economic role for unions in the labor market. After all, unions in Indonesia have not been active players in the *economic* realm. The strength they have shown is in organizing labor protests, not in being economic players. When I asked unionists from the three unions to comment on this possibility, no one supported the idea. Their unreserved contempt for the agencies does not allow them to think of becoming one of them.

76. In addition, trade unions must have leadership structures or branch offices in at least 20 percent of all the subunits in the province and nationally.

77. Confessions regarding inflated membership numbers came from union officials themselves. See "20 serikat pekerja lakukan verifikasi" [20 unions conduct verification]. *Wawasan*, 27 October 2001; "Banyak SP/SB tak beranggota" [Many unions have no members], *Bisnis Indonesia*, 21 May 2003.

78. SPN gave small loans to members on a specific case-by-case scheme. FSBKU ran a small grocery shop where members could buy basic foodstuff on credit, but the shop had to close because of financial problems, not necessarily related to tighter union coffers.

The Predatory Nature of Industrial Relations

In this article I have sought to show how PEAs have facilitated the spread of labor market flexibility in Indonesia by creating the institutional arrangements that allow employers to bypass labor protections legally and to clear the bargaining arena of other intervening institutions such as trade unions. The agencies also provide employers with cheap, non-permanent workers who can be hired and fired at short notice. Beyond these direct, negative impacts, however, the operations of PEAs in all their forms and guises have reshaped industrial relations in a fundamental way. Indeed, the PEA push for labor market flexibility has given industrial relations in Indonesia a completely new character.

The Manpower Act, even without the proposed revision in 2006, introduced non-permanent work contracts and outsourcing practices to Indonesia's labor market. These measures have contributed to a bureaucratic involution in the labor market by creating a system through which prospective workers have to pay their way into the labor market while the income they earn is less than that of a regular worker. Workers now realize that in outsourcing practices, their immediate employer is not the one that gives them jobs but the agency where they are registered. Ironically these agencies have created a new kind of bureaucracy in the labor market, while acting in the name of clearing rigidities. As far as employers are concerned, this is the kind of bureaucracy that is needed to enable the extraction of labor from society at minimal costs. In other words, rather than reducing labor market regulations, labor flexibility is about providing alternative regulatory institutions that favor employers over workers.

Employment agencies are, of course, found in many developed countries. In Indonesia they thrive under different conditions: weak law enforcement and widespread corruption provide a climate in which employers are able to exploit the possibilities employment agencies put on offer, even when this means circumventing the minimum protections workers have left. Local state actors such as officials at the Manpower Office often turn a blind eye to these violations, and it is not surprising that workers suspect backroom deals between the agencies and such officials. In fact, PEAs appear to be a way to further discourage state interventions in the labor market.

Since decentralization, which began in 2001, the Ministry of Manpower has had to reallocate its resources to regional offices, which then became independent of the Ministry. Once they became independent, the scope and quality of their services depended on the often limited financial capacity of local governments.⁷⁹ In cases where local governments were unable to invest funds in training facilities, PEAs stepped in and took over the provision of worker training and job information. Local governments explain that training facilities are expensive and are, above all, purely social services that do not generate revenues

79. Before decentralization, the Ministry of Manpower ran 160 training centers located in all the country's provinces. Decentralization saw 154 of these centers transferred to local governments. Within two years, several local governments were already planning to return the management of these training centers to the central government because they could not or were not willing to cope with the running costs. (See ILO and Ministry of Manpower 2006, 60.)

for local coffers.⁸⁰ Small wonder that many such facilities have been left in ruins.⁸¹ The increased tendency to favor profit-oriented services such as the PEA-run training facilities has undermined government incentives to provide these public services.

The efficient running of public services also depends on the collection of accurate and extensive information on industrial conditions and the workforce. PEAs weaken government efforts here as well. The Manpower Office in Tangerang, for example, makes prospective workers obtain “work permits.” They have insisted on this requirement as a way to collect data on the local workforce. But even this requirement is no longer strictly enforced as firms increasingly recruit workers through agencies instead of through the Manpower Office.⁸² (A quick look at the job information board in the Tangerang municipality Manpower Office shows plenty of job-related advertisements from these agencies.) With such minimal information at hand, how can state officials intervene effectively in the labor market?

The links between PEAs and patronage networks in local communities are also a matter of concern. In Tangerang’s dense urban neighborhoods, patronage networks are an effective means of commanding discipline and obedience. One ubiquitous example is the networks around *jaro* or *jawara*. These are strongmen whose authority derives from their ethnic Banten identity, Islamic religion, and alleged supernatural prowess. Traditionally these individuals were the chiefs of the villages in agricultural Tangerang, before the arrival of industry. Industrialization offered them an opportunity to be middlemen with the power to allocate jobs for the villagers and to act as security agents responsible to the factories for ensuring the security of their villages.⁸³ Under the military dictatorship the ruling party, Golkar, co-opted these individuals and, in 1972, organized them into the Martial Artist Work Squad (SatKar Pendekar).⁸⁴ With their reputation as men of prowess in traditional self-defense, these strongmen were readily recognized as a disciplining force for workers and for the population of Tangerang in general. Their reputation perdures to this day as evident in occasional news reports that refer to their presence in various disputes over land, protection rackets, and labor strikes.⁸⁵

80. “Kesulitan dana, banyak daerah serahkan BLK ke pusat” [Because of financial difficulties, local governments hand over TC to Jakarta], *Kompas*, 17 July 2004.

81. “Rusak, sekitar 90 persen dari 156 BLK” [Around 90 percent of TC not functioning], *Kompas*, 21 April 2005.

82. The permit is a form (officially called the *kartu kuning*, or yellow card) that prospective workers looking for jobs through the Manpower Office are required to fill out.

83. Mather 1983.

84. Masaaki 2004 and 2008.

85. In 2001, for example, sixty jawaras were reportedly hired by PT TVM, a company producing computer monitors, to “guard the factory from protests by its workers.” See “Produksi berhenti, ratusan buruh terPHK gugat Philip” [Production stops, hundreds of laid-off workers challenge Philip], *Radar Tangerang*, 12 January 2001. The most recent news report covered an attack by villagers on a power plant building site in Kemiri subdistrict in Tangerang regency. Several jaros and neighborhood chiefs were reportedly the ringleaders in the attack. See “Perangkat desa dibekuk” [Village officials arrested], *Kompas*, 16 November 2008.

PEAs have been able to take advantage of these patronage networks and even to involve them deeper in industrial relations, as noted above. Moreover, they have strengthened these networks and enabled them to expand their constituencies by giving them the chance to provide flexible labor, while at the same time marginalizing the legitimate role of trade unions. The expanding influence of these informal actors was shown in a survey of Indonesia's investment climate published in 2005. It reported that 19 percent of the business actors interviewed admitted paying illegal fees to community groups and 8 percent to gangsters.⁸⁶ After all, informal actors have always acted as points of contacts and gatekeepers for factory employment in Tangerang.⁸⁷ Their involvement in the labor supplying business further entrenches the predatory networks that structure the labor market.

Conclusion

The operations of PEAs, as we have seen, have brought about a great degree of labor market flexibility in Indonesia and this new flexibility has reorganized industrial relations in a way that is akin to encouraging predatory interests in society. PEAs encourage society's power-holders, formal and otherwise, to manipulate the resources available to them to profit at the expense of workers: their networks of influence, money, and official authority. Employment agencies function in a way that separates labor from its owner (the worker) and sells it to client companies as a factor of production. In so doing, PEAs radically alter the social relations and institutions that are the backbone of a society, transforming them into a profit-making nexus and socializing them into market relations governed by the imperatives of efficiency and competition.

In all the rhetoric about flexibility, however, it is often forgotten that the subjugation of social relations to market imperatives creates the risk of glossing over the blunt reality of power struggles at the grassroots level. It is in this context of power struggles that the introduction of PEAs has transferred power to a myriad of competing societal forces that influence industrial relations in the labor market. To conclude, the heart of the matter points to the fact that the labor market has both economic and sociopolitical dimensions. Cliché though it may seem, the human aspect of the labor market demands that labor policy should not just be about ensuring optimal allocation of labor resources but also about reproducing socially and politically acceptable outcomes. The introduction of PEAs ignores these dimensions and, thus, threatens the reproduction of society as a whole.

86. KPPOD 2005, 20. These figures rose from 8.5 percent and 6.1 percent respectively from a similar survey two years earlier. See KPPOD 2003, 63.

87. Mather 1985.

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