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The process leading to the establishment of an employment insurance scheme in Indonesia from an ILO perspective

A brief history of social protection in Indonesia since 2002

Indonesia's social protection system is still evolving. Since being amended in 2002, the Indonesian Constitution recognizes the right of all people to social security, as well as the responsibility of the State in the development of social security. Further progress includes the enactment of the National Social Security Law (Law No. 40/2004) and the Social Security Service Providers Law (Law No. 24/2011), which aim to extend social security coverage to the whole population in the areas of health, work injury, old age and death of the breadwinner. The National Social Security Law follows a staircase approach, with non-contributory schemes for the poorest people, contributory schemes (with nominal and subsidized contributions) for the self-employed and informal economy workers, and statutory social security schemes (with contributions set at a percentage of wages) for formal sector workers and their dependents.

In 2014, social security schemes managed by four state-owned companies were consolidated into two public social security administering bodies: BPJS Kesehatan (Health) and BPJS Ketenagakerjaan (Employment). The new BPJS Ketenagakerjaan (Employment) was launched on 1 July 2015, replacing the former PT Jamsostek, which had previously managed the private companies' provident fund for old-age lump sum payments, employment injury benefits and funeral benefits.

Previous ILO review of the employment insurance system

Between 2000 and 2002 – that is, prior to the passage of the 2004 National Social Security Law – the ILO and the Ministry of Manpower and Transmigration undertook a series of studies on restructuring the social security system in Indonesia. The study found that it was not yet appropriate to introduce unemployment benefits with wide coverage or of long duration due to the predominance of informal employment and frequent underemployment due to the lingering impact of the 1997 Asian financial crisis (ILO 2003). The limited scope of existing employment-related services at the time was another reason for this recommendation. Nevertheless, the report recommended the continuation of discussions with social partners regarding the priority, timing and funding of an unemployment benefit and the implications such a benefit would have on the existing system. It was also suggested to build the capacity of PT Jamsostek to administer a future unemployment benefit.

Emerging political will and requests for ILO technical assistance in overhauling the social security system

After more than a decade of discussion, the establishment of an employment insurance system as part of an improved social protection policy has become a priority among national stakeholders.

This process was actively supported by the ILO/Japan project [“Promoting and Building Social Protection in Asia](#)

(3rd Phase): Extending Social Security Coverage in ASEAN¹

(1 April 2016 to 31 July 2019). With funding from Fast Retailing Co., Ltd, the ILO subsequently launched the project [“Unemployment Protection in Indonesia – Quality Assistance for Workers Affected by Labour Adjustments”](#) (hereafter referred to as the “ILO/Fast Retailing project”), which covers the period of 1 August 2019 to 31 July 2022. The ILO/Fast Retailing project is a unique public–private partnership that aims to strengthen mechanisms for unemployed workers in Indonesia by designing an effective employment insurance system, expanding re-skilling training, and improving public employment services.

It has been widely acknowledged that under the current mechanisms, workers in Indonesia were not effectively protected in case of job loss. In the absence of an employment insurance provision, statutory severance pay and lump-sum withdrawal of old-age savings were their main sources of income replacement against unemployment. However, these schemes were not designed to guarantee an adequate level of benefit, and in the particular case of enterprise insolvency, schemes based on employer liability often cannot be relied on to protect unemployed workers. Public employment services and re-training programmes are also expected to play an important role to protect unemployed workers by promoting reemployment and shifting workers from declining sectors to emerging ones. Under the given circumstances, Indonesian stakeholders had been actively debating the possibility of establishing a comprehensive unemployment protection system that effectively harmonizes unemployment benefits, public employment services and re-skilling programmes. The ILO/Fast Retailing project has been contributing to the country's efforts to better protect unemployed workers.

National social dialogue process assisted by the ILO prior to the Omnibus Bill

An important objective of the ILO activities supported by the ILO/Fast Retailing project has been the facilitation of a national dialogue process on the possible introduction of an employment insurance scheme in Indonesia. An important part of this process has been to develop knowledge and awareness among public and private

stakeholders about the meaning and potential parameters for unemployment protection in the Indonesian context. For that purpose, the ILO held several workshops, discussions and meetings during 2018 to discuss international experiences and to share expertise. During those meetings, important views and information were also conveyed to the ILO by Indonesia's tripartite constituency.

In January 2018, the Minister of Manpower committed in Parliament to conduct a study towards the establishment of an employment insurance system. During a high-level tripartite dialogue with the ILO, workers and employers confirmed their willingness to move this agenda forward with ILO assistance under the Decent Work Country Programme 2018–2022. The ILO's focus in this regard has been to facilitate informed national discussions among stakeholders.

Since the January 2018 announcement by the Minister of Manpower that the Government would consider the possibility of introducing an employment insurance scheme in Indonesia, there have been several technical advisory missions to advance a collaborative process between stakeholders. The culmination of these activities was a meeting of the LKS Tripartite Council on 4 December 2018 where, in the presence of ILO experts, a decision was made by Indonesian stakeholders to proceed with one or more feasibility studies on employment insurance and related issues.

Summary of technical advisory missions

In response to requests from stakeholders, the ILO conducted two missions in April and May 2018 to prepare the project design for employment insurance in Indonesia. During these missions, the ILO proposed a project strategy and received positive responses and commitments of support from the Ministry of Manpower, BPJS Employment, the Ministry of National Development Planning (Bappenas), the employer group APINDO¹ and trade unions. The tripartite stakeholders expressed their willingness to actively participate in the national policy dialogue toward the introduction of an employment insurance system for Indonesia.

A fact-finding mission was conducted in August 2018 to elicit stakeholders' views and comments on the possibility of introducing an employment insurance system and on

¹ APINDO is short for Asosiasi Pengusaha Indonesia (or Indonesian Employers Association).

related labour market and employment issues. Meetings were held with the following institutions: Ministry of Manpower, BPJS Employment, Statistics Indonesia (BPS), National Social Security Council (DJSN), Ministry of Finance, Asian Development Bank, World Bank, and Better Work².

Summary of national consultations

During September 2018, three significant national consultation workshops were facilitated in collaboration with Better Work Indonesia: (1) consultation workshop with trade unions; (2) consultation workshop with employers; and (3) consultation workshop with interested departments of the Ministry of Manpower. For the national consultations, the ILO proposed several policy options in the employer, worker and government workshops and assisted in preparing a possible position paper on behalf of these groups. The results of these consultations showed that there was a wide discrepancy between employers and workers on the key issues of who should pay contributions and at what rate, qualifying conditions, and monies on separation. However, there was also somewhat of a consensus on coverage, the waiting period and the length of benefits. It clearly emerged that there was a need for further national dialogue on these and other issues and for the development of a position paper for each stakeholder group (that is, workers and employers).

Post-consultation meetings

In November 2018, a series of meetings with employers, workers and government officials were conducted by the ILO to facilitate discussion on the development of position papers concerning the elements of an employment insurance scheme. This mission was intended to improve the understanding of unemployment protection among social partners and to further enhance the development of a national dialogue between the main stakeholders (employers and workers). Despite these renewed efforts, it was not possible to elicit position papers from workers' and employers' organizations.

The following were the results of the November 2018 discussions with employers and workers:

Common ground: Streamline the complicated procedures to resolve industrial disputes in the case of layoffs (too

long for both parties as well as too expensive); restructure and modernize vocational training managed by various ministerial and provincial agencies; assign BPJS Employment as the administrator of employment insurance; and present the government's position/concept at a tripartite workshop.

Worker concerns: Workers' representatives were willing to actively discuss the designs of employment insurance further in depth, but their major concern was the elimination or reduction of severance pay provisions. Workers were interested in the following policy options: (a) the current ceiling of contribution (8 million rupiah per month was seen as too low); and (b) both the scenarios of a flat replacement rate and a declining benefit rate to incentivize the unemployed to return to work quickly (as in Malaysia).

Employer concerns: Employer representatives were interested in the revision of severance pay and existing social security schemes in order to avoid potential overlaps with employment insurance. Employers were particularly interested in – or apprehensive about – several policy options regarding Active Labour Market Policies (ALMPs), for example, how does the new Skills Development Fund link to unemployment benefits?

Neither workers nor employers were comfortable with proposing positions, and they asked the ILO to provide policy options and to present/discuss them at the LKS Tripartite Council Meeting in December 2018.

LKS Tripartite Council Meeting

The National Tripartite Committee (LKS Tripnas) is comprised of employer representatives, worker representatives and government officials from the Ministry of Manpower. A tripartite meeting was set for 4 December 2018 to discuss unemployment protection, and specifically a proposed employment insurance scheme for Indonesia. It was the first time in recent years that the tripartite representatives discussed employment insurance at a formal committee meeting. Presentations on relevant ILO Conventions, social insurance principles and administration of employment insurance were followed by a roundtable discussion on the merits of a proposed employment insurance system for Indonesia and the need to review and streamline current existing

² Better Work is a collaborative programme of the ILO and the International Finance Corporation that brings together all levels of the garment industry to improve working conditions and respect of labour rights for workers, and to boost the competitiveness of apparel businesses.

social security schemes in Indonesia. The key conclusions of the meeting can be summarized as follows:

- The Council endorsed that the ILO should conduct a full feasibility study of a proposed employment insurance scheme for Indonesia and discuss the results of findings.
- The Council requested the ILO to assess the entire social security system (JKK – worker injury; JKm – death benefits; JHT – provident fund; JP – pension; as well as Tapera – Housing) in order to identify overlaps or deficiencies.
- A broad review of the Law Concerning Manpower (No. 13/2013) – Indonesia’s principal labour law – could also be considered, including an assessment of the mechanism for resolving industrial disputes.

Key issues identified

As a result of the fact-finding missions and consultation workshops, several key issues were identified to be considered for the successful implementation of an employment insurance scheme for Indonesia:

National elections in April 2019 – The Ministry of National Development Planning (Bappenas) stressed that the Government should have a neutral position during the election period, as some candidates are backed by interest groups such as labour unions and employer groups. This could impact plans to have the proposed National Medium-Term Development Plan (RPJMN³) in place by September or October 2019, just before the next presidential inauguration. Also, the World Bank seemed to have plans to conduct major work on the employment insurance system project after the presidential election.

Changes to Law No. 13/2003 in regard to the payment of termination benefits, including severance pay –

Unions firmly opposed any changes to Law No. 13/2003, which governs the payment of termination pay. These payments include: (1) severance pay; (2) reward for working time; (3) compensation of rights; and (4) separation pay (voluntary or negotiated) (Tsuruga and Wedarantia 2020). During the breakout sessions with workers, all worker groups insisted that Law No. 13/2013

must be maintained and that these payments should not affect the start date of a claim for employment insurance benefit. Employers, on the other hand, called for these termination payments to be reduced or eliminated in any discussion on employment insurance. This issue was felt to have the potential to be a major obstacle to dialogue on an employment insurance scheme.

The need for streamlining current social protection (including unemployment) schemes –

Many stakeholders, including the Ministry of Finance and APINDO, indicated the need for a complete review of various social protection schemes. The Ministry of Finance stated clearly that there will be a need for a review of current laws surrounding severance payments, the old-age savings provident fund and housing regulations. The provident fund allows unemployed beneficiaries to withdraw their accumulated savings one month after resigning or immediately after being laid-off, potentially compromising their capacity to save for old age. In addition, the Ministry of Public Works and Housing has been preparing for the introduction of a housing allowance for poor workers, which would require an increase in contributions. There has been a need for a review of these and other social protection schemes and how employment insurance would impact the benefit architecture as a whole.

Omnibus Law on Job Creation

The Government submitted a draft Omnibus Law on Job Creation to the House of Representative on 12 February 2020. The law attempted to overwrite many regulations and laws, including in relation to employment, social security and many other socioeconomic issues, in order to improve business environments and to cope with changing employment arrangements. In relation to social security, the law clearly reflected recommendations made by the ILO/Fast Retailing project. The draft bill states: (1) unemployment benefits (JKP) are newly established and provided using a social insurance principle (that is, social security contributions shared by stakeholders); (2) unemployment benefits should be linked to public employment services and reskilling programmes; (3) BPJS Employment (the operator for social insurance in Indonesia) will be the operator of JKP; and (4) a

³ The RPJMN (Rencana Pembangunan Jangka Menengah Nasional) constitutes the basis for all Indonesian ministries and government agencies in formulating their respective Strategic Plans. Local governments must take the RPJMN into account when formulating their regional development policies. The proposed RPJMN referred to here would cover 2020–24.

government regulation will determine the detailed design of JKP.

As of 31 July 2020, the House continued to review the draft bill. At that time, the Government expected the bill to pass earlier, but had been experiencing a delay because of the COVID-19 crisis and strong objections from workers. Since April 2020, the Government had been prioritizing the development of a so-called stimulus package aimed at mitigating the impacts of the COVID-19 crisis; while workers started calling for dialogue about the Omnibus Bill. Regarding unemployment benefits, it seemed clear from the media and ILO partners that stakeholders recognized the importance of the bill, particularly in times of crisis. Another development during early months of the pandemic was that the Government increasingly recognized the necessity of comprehensive social protection reforms, as they observed that the current social protection system did not effectively protect people in times of crisis.

To pass the bill, the Government had to submit a so-called “academic paper” to support the bill that discussed the pros and cons of the new scheme, and to determine detailed rules based on evidence and analysis. In response to the Director’s request, the ILO submitted the discussion paper “Exploring Policy Options to Design an Employment Insurance Scheme in Indonesia” in March 2020, which was subsequently published (Tsuruga 2020) and used as a basis for drafting the so-called academic paper and the subsequent actuarial study.

To promote social dialogue and to better understand the perspectives of workers and employers, the ILO organized the “Training Workshop on International Labour Standards on Social Security and Employment Insurance” (20–23 January 2020)⁴ in collaboration with the Government of Japan and the Japan International Cooperation Agency, and facilitated the “National conference on international experiences of protection against unemployment and its relevance for Indonesia” (3 March 2020)⁵, and the “Tripartite workshop on employment insurance parameters in Indonesia” (4 March, 2020)⁶. The national conference saw the participation of former or current policy makers on unemployment benefits from Japan, Malaysia, Republic of

Korea, Thailand and Viet Nam. The conference attracted attention not only from ILO stakeholders but also from the media⁷. The ILO considered the results of the tripartite discussions and the presented international practices to develop the above-mentioned discussion paper submitted to MOM.

It is noteworthy that in July 2020, the Government including MOM, BPJS Employment, the Ministry of National Development Planning (Bappenas) and the National Social Security Council (DJSN) invited the ILO to present its views on JKP and more comprehensive social protection reforms. This reflected an increased presence of the ILO in the area of unemployment benefit in particular and social protection in general.

Following the passage of the bill as Law No. 11/2020 Concerning Job Creation on 3 November 2020, the Government requested the support of the ILO. Consequently, the ILO has been assisting the Government in formulating regulations governing the new unemployment protection scheme. Following the provision of technical assistance based on international labour standards and internationally identified good practices, the Government published an enforcement regulation for the implementation of Law No. 11/2020 on 2 February 2021. The regulation stipulates in detail the policy design of the employment insurance scheme. To assist the Government in the design of an effective employment insurance scheme, the ILO built a comprehensive knowledge base by:

1. conducting comparative studies on employment insurance schemes and transitional arrangements (see Bédard, Carter and Tsuruga 2020a);
2. reviewing the existing social security system in Indonesia in order to ensure harmonization among the social security schemes (see Bédard, Carter and Tsuruga 2020b); and
3. conducting legal, financial and administrative analyses for an unemployment system in Indonesia.

⁴ For more information, see: [ILO, “ILO Introduced International Standard on Social Protection to Indonesia”](#).

⁵ For more information, see: [ILO, “National Conference on International Experiences of Protection against Unemployment and Its Relevance in Indonesia”](#).

⁶ For more information, see: [ILO, “Tripartite Workshop on Employment Insurance Parameters in Indonesia”](#).

⁷ The conference was covered by 14 journalists, and 24 articles were written about it.

Tripartite dialogue has also been facilitated to determine desirable policy options for the employment insurance system. For that purpose, separate or tripartite consultations were facilitated, and training workshops were implemented with the objective of improving the understanding of tripartite partners on employment insurance-related issues.

In relation to Law No. 11/2020, the Director of the Social Security Directorate of the Ministry of Manpower⁸ was in charge of drafting a government regulation on an employment insurance scheme (Jaminan Kehilangan Pekerja, or JKP). The ILO, through the ILO/Fast Retailing project, has been providing the Social Security Directorate with technical inputs on employment insurance and other social security issues. Specifically, the ILO contributed to the development of the enforcement regulations for the implementation of Law No. 11/2020, and on 4 February 2021, the Government enacted Government Regulation No. 37/2021 concerning the implementation of unemployment benefit programme, which stipulates the detailed policy design of the employment insurance scheme. Moreover, the ILO contributed to the development of Minister of Manpower Regulation No. 7/2021 concerning procedures for participant registration and implementation of the employment benefit programme, which was enacted on 1 April 2021. This regulation stipulates the operational procedures for the employment insurance programme.

In order to provide inputs for these highly technical subjects, the ILO conducted several knowledge creation activities, the results of which can be found in the reports:

- *Actuarial Analysis of a Proposed Unemployment Insurance Scheme in Indonesia* (Landry and Brimblecombe 2021);
- *Administrative Procedures of Social Security and Employment Services in Indonesia* (Nawangpalupi, forthcoming); and
- *Feasibility Study on Administrations and Operations for Implementing Employment Insurance in Indonesia* (Carter, forthcoming).

The ILO presented the findings of these reports at conferences and meetings, and shared the reports themselves with the Government as inputs for the development of regulations.

Looking forward, the establishment of an employment insurance scheme has led to the expressed need for more comprehensive social protection reforms in Indonesia. The ILO is committed to continuing to assist Indonesia in realizing these reforms to secure rights-based, universal, comprehensive, adequate and sustainable social protection systems, in line with ILO social security standards. Considering the nature of the reforms required, social dialogue needs to be at the core of the process, with strong participation by social partners. Meaningful and effective participation of workers, employers and other stakeholders not only helps ensure that social protection policies respond to people's needs; it is also key to building trust, public support and a sense of ownership, thereby facilitating the implementation of policies.

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⁸ The Social Security Directorate is under the Directorate General of Industrial Relations and Social Security, and is responsible for the development and reform of social security policies.

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