POLICY RESEARCH WORKING PAPER 1673

Indonesian Labor Legislation in a Comparative Perspective

A Study of Six APEC Countries

Reema Nayar

Current labor legislation in Indonesia is a mixed bag of laws protecting workers' welfare but controlling organized labor. The country must take care not to favor centrally mandated labor standards over those negotiated between workers and their employers.

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Summary findings

Nayar compares Indonesian labor legislations with labor policies in five other APEC countries: Chile, the Republic of Korea, Malaysia, Mexico, and the United States. She focuses on legislation affecting union regulation, minimum wages, nonwage compensation, and working conditions.

Current legislation in Indonesia is a mixed bag of laws protecting workers' welfare but controlling organized labor. Indonesian laws restrict the ability of labor organizations to effectively represent workers to management at the plant level. In this, they are similar to Malaysian laws and, to less extent, new Korean legislation. They provide a stark contrast to current legislation in Chile and the United States.

But Indonesian legislation governing minimum wages, mandated nonwage benefits, and other labor standards appear to be at least as generous as legislation in the five other countries, which all have substantially higher per capita incomes.

Indonesia is under pressure to ease restrictions on unions. Nayar suggests that allowing effective plant-level bargaining could give workers more of a voice at the workplace, but that improving industrial relations will require more than legislative changes. Careful changes in legislation and in industrial relations — and increased deregulation and competition in product markets — could help unions play a more positive role, while downplaying labor's more negative role.

She cautions against centrally mandating labor standards instead of letting workers and their employers negotiate them at local plants.

This paper is the first in a series of studies on labor market issues initiated by the Bank's East Asia and Pacific Region, Country Department III. Copies of this paper are available free from the World Bank, 1818 H Street NW, Washington, DC 20433. Please contact Reema Nayar, room J4-007, telephone 202-473-3468, fax 202-473-8299, Internet address rnayar @worldbank.org. October 1996. (55 pages)

INDONESIAN LABOR LEGISLATION IN A COMPARATIVE PERSPECTIVE

A Study of Six APEC Countries

Reema Nayar

This paper is the first in a series of studies on labor market issues initiated by the Country Department III of the East Asia and Pacific Region of the World Bank. It was prepared in the Fall of 1994 when the author was a Young Professional in the department. Helpful discussions with Nisha Agrawal, Arup Banerji, Ajay Chhibber, Dipak Dasgupta Alejandra Cox Edwards and Farrukh Iqbal are acknowledged. Tity Hernawati provided assistance in the field.

INDONESIAN LABOR LEGISLATION IN A COMPARATIVE PERSPECTIVE

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I. INTRODUCTION

The rapid growth in manufacturing exports and employment since the mid-eighties in Indonesia has been accompanied by increasing attention abroad to the rights and welfare of Indonesian labor. Formal complaints of Indonesia's record in labor affairs were issued by two major bodies in 1987-88. The International Confederation of Free Trade Unions (ICFTU) complained to the ILO, Geneva about the lack of trade union freedom in Indonesia, and in 1987 the AFL-CIO (The American Federation of Labor and Congress of Industrial Organizations), petitioned the US Trade Representative (USTR) to remove Indonesia's GSP privileges because of its poor record on worker rights. In June 1992, Asia Watch and the International Labor Rights Education and Research Fund (ILRERF) petitioned the USTR to review Indonesian labor rights practices. The charges include violation of rights to freedom of association, to bargain collectively and strike, and of the ban on forced labor. A review was initiated in 1992 to determine Indonesia's compliance with the worker rights provisions of the GSP law1/.

Within Indonesia, there has been a marked increase in labor unrest in the 1990's. Wages, especially failure to comply with minimum wage legislation2/ and inequitable impacts of minimum wage legislation, and restrictions on freedom of association were among the most frequent causes of strikes. Workers also demanded non-wage compensation such as paid vacation and sick leave, participation in the social insurance scheme, and improvement of working conditions. Labor leaders and a number of NGOs (in particular, the Legal Aid Institute, YLBHI) in Indonesia have voiced protests over abuses of labor rights and have been pressing for change in a number of laws that restrict the freedom of workers to organize particularly in laws relating to the resolution of disputes (military involvement, treatment of striking workers and labor activists) and also on registration of independent unions.

In late 1993 and early 1994, the government responded to these criticisms by announcing its sympathy for worker rights and welfare. The government also repealed a controversial decree on the involvement of the military in labor disputes, increased the minimum wage, set a deadline for compliance with minimum wages and union representation, granted permission for organizations other than the single officially recognized union to engage in collective bargaining, etc. The criticisms however, continue as does the labor unrest, and Asia Watch and other NGOs charge that a number of the legislative changes are superficial and inadequate.

The international concern for labor rights and standards in an increasingly integrated world economy has at least two distinct motivations. The first is a humanitarian one, basic human rights considerations on the use of prison or forced labor, child labor, blatant restrictions on freedom of association and organization, etc. The concern is that the growth resulting from increased trade and investment should not be at the cost of workers; rather that they should be able to share in the benefits of growth. The economic motivation to impose international labor standards is based on the argument

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1/In June 1993, the U.S. Government had given Indonesia until mid-February 1994 to demonstrate progress in protecting worker rights provisions of the GSP law. A US Trade Delegation visited Indonesia in September 1993 on invitation by the Indonesian Government. On Feb 16, 1994 the US Trade Representative decided to "suspend but not finally terminate" its review of Indonesian labor rights policies and to revisit the issue in August.

2/ The government responded to the increasing international scrutiny with a strengthening of the minimum wage legislation beginning in 1989. The reluctance of employers to comply and the increased awareness by workers of rights was associated with further unrest.

that low-wage developing countries have lower labor costs as a result of denial of decent wages and working conditions which gives them a competitive edge in an inter-linked world economy. Some fear that this will force producers in countries with high labor standards to lower their standards, thus leading to a "destructive race for the bottom.3/" Developing countries, on the other hand, charge that developed countries are motivated by protectionist intentions: linking unrealistic labor standards with trade raises labor costs in developing countries and protects their own positions in world trade.

This paper puts Indonesian labor legislation in a comparative perspective. Labor market policies in Indonesia are compared with those in five other APEC countries: Malaysia, Korea, Mexico, Chile and the United States. The paper focuses on legislation regulating unions, minimum wage laws and payroll taxes and employer mandates for non-wage compensation, and other labor standards (such as hours of work, etc.), areas which are the subject of current concern in Indonesia. It should be noted that important labor market policies relating to training, severance pay, etc. are not covered.

The comparison shows that Indonesian labor market policies are a mixed bag of protectionist legislation and controls over organized labor. While legislation regulating unions does make it difficult for workers to organize and enter into effective collective bargaining with employers (in this respect being very similar to the other two East Asian countries, and indeed, Chile until the end of the last decade), Indonesian minimum wage legislation and labor standards are at least as generous as those in the other countries studied, all of which are at a considerably advanced level of development. The paper suggests that there may be a positive role that effective plant level collective bargaining can play and cautions against using centrally mandated labor standards in lieu of terms of employment negotiated in a bipartite manner.

Section II presents a brief background of Industrial Relations in Indonesia, drawing mainly from a recent paper by Chris Manning (1993). Section III presents Indonesian labor market legislation and compares them with those in the other five countries discussing in turn collective labor relations, minimum wages, social security systems and other labor standards. Section IV concludes.

II. A BRIEF BACKGROUND OF INDUSTRIAL RELATIONS IN INDONESIA

In a recent survey article, Chris Manning4/ contrasts the tightly controlled industrial relations system which emerged in Indonesia after 1965 with the labor activism of the Sukarno era. An extensive labor protection system (including a 40-hour work week, and the right to maternity and menstruation

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3/These concerns have led to unilateral decisions by individual governments or regional grouping to introduce a "social clause" in their external relations, linking trade with labor standards (The US Omnibus Trade and Competitiveness Act of 1988 makes violation of labor rights an "unfair" trade practice actionable under section 301 of the U.S Trade law.). The social clause is the subject of current debate which is concerned with issues such as the extent to which such concerns should be expressed in a charter, where the line should be drawn, and whether trade policy instruments should be used. While there is more consensus on prohibiting blatant human rights violations, and having international labor standards that are consistent with the level of development of the country, there is less agreement over specifics. Moreover, the debate over whether trade policy is the appropriate instrument is far from resolved.

4/Manning, 1993 is an excellent survey of the evolution of the Indonesian industrial relations system and labor welfare in the New Order period. This section draws heavily from that article.

leave for women) was introduced in Indonesia after independence and was supplemented by the mid 1950s by additional laws regulating industrial accident compensation and procedures, labor inspection, child and female work, and the drawing up and reporting of collective labor agreements. These policies on labor protection and trade unions represented a radical change from the pre-colonial period. By the mid-1950's the union movement comprised of a total membership of around 2 million, representing about 20% of all employees, in 13 federations with close links to political parties. About half of all registered union members were in the communist supported SOBSI (All Indonesia Workers Organization). However, the difficulty of reconciling union freedom and industrial disputes with the requirements of economic stability and growth, and the perceived threat from organized labor to economic stability led to the introduction of increased controls (such as the dispute resolution law, Basic Law No. 22, 1957, which is currently in effect) and measures which set the precedent for military intervention in labor affairs.

These controls were intensified after the military assumed power in 1965, partly for political reasons, but also because the new government was not prepared to allow the possibility of labor unrest to discourage private investment, which it began to regard as essential for economic rehabilitation. The banning of the communist party (PKI), the much more direct role of the army in political life and the elimination of effective political opposition was associated with parallel changes in the labor movement. The leftist union was banned and its leaders removed from the industrial relations scene, the close links between political parties and labor were broken by an extension of government control over and fusion of political parties, and military and police intervention in labor affairs increased. A unified trade union movement was now considered essential for political and economic stability and growth. Thus, what is now the SPSI5/ was formed in 1973, consisting of members of existing trade unions who disbanded and joined the new organization. The government introduced '*panca sila*' labor relations, based on principles rejecting conflict between interests of workers and management and emphasizing cooperation and conciliation; and this served as the ideological framework behind a policy agenda which emphasized control of labor unrest and strikes in order to encourage investment. The SPSI grew to become a large and complex organization and had an estimated membership of slightly under 1 million in 1991. Although membership figures suggest that unions were represented in about one-third of all enterprises with 25 employees or more, the percentage of all employees or only manufacturing employees (5-10%) that were even nominal union members in the early 1990's was much lower than during the Sukarno period. As seen in Table 1, the proportion of the non-agricultural labor force that is currently unionized is by far the lowest in Indonesia while being roughly comparable in the other 5 APEC countries.

Following a spurt of labor unrest and recession in the late 1970's to mid-1980's6/, the government introduced further controls over labor. The increased unrest was in part due to macroeconomic conditions and in part due to inefficient dispute mechanisms and tight government control over the SPSI which did not serve as an effective representative of workers in enterprises. The continuing conditions of labor surplus was probably the driving reason for the workers' lack of bargaining power. Moreover, in this pre-manufacturing exports era/liberalization era, international and domestic criticism of labor conditions was not a major issue of concern. However, further controls were introduced due to continuing government anxiety not to discourage new investment considered central to economic strategy in the post-oil boom period. The new measures weakened the SPSI even further, reduced the independence of unions at the enterprise level, discouraged genuine collective bargaining and increased the responsibility of the Ministry of Manpower in labor affairs. This was also the period in

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5/It was then known as the FBSI (the All-Indonesia Labor Federation).

6/See Table 2.

which the controversial Ministerial Decree No. 342 (recently repealed in response to international criticism) strengthening the role of the military on labor affairs, was passed.

About the same time (mid-eighties), the Government began to make a serious policy commitment to manufacturing exports. This was closely associated with greater international scrutiny of labor standards which in turn fuelled mounting domestic criticism. The Government, now more concerned about the international (and domestic) scrutiny, responded particularly by focusing on minimum wage legislation beginning in 1989. As seen in Tables 2 and 3, the lack of compliance with the new legislation (aggravated by the limited enforcement mechanisms, too few inspectors and lack of effective plant level unionism and dispute resolution mechanisms) was one of the major reasons for the increased incidence of strikes in the early 1990's. In addition to tight labor controls, Chris Manning attributes the rise in unrest (which was now more concentrated in the relatively low wage but typically large, export oriented textiles, clothing and footwear industries than in the high wage, capital intensive industries particularly in the greater Jakarta region) to the greater vulnerability of the government to international and domestic criticism, higher levels of awareness and education among workers and to rising expectations about labor standards rather than to lower wages in the export oriented industries relative to other industries or to the rest of Indonesia. The stagnant trend in real wages (in agriculture as well as industry during the second half of the eighties) was a direct result of the continuing labor surplus conditions.

III. INDONESIAN LABOR LEGISLATION IN A COMPARATIVE PERSPECTIVE

The range of labor legislation existing today in Indonesia (a mixed bag of pro-welfare legislation and labor controls) can thus be understood in part in the historical context outlined above. In the following subsections key features of the labor laws are compared with those in five other APEC countries to see which aspects are relatively more pro-labor and which aspects are more repressive and to get a sense of Indonesian labor standards relative to its level of development. Indonesian policies are compared with those in two other East Asian countries (Korea and Malaysia), two Latin American countries (Chile and Mexico), and the United States. The other East Asian and Latin American countries have (purchasing power corrected) per capita incomes that range from 2.5-3 times that of Indonesia's. United States per capita income is about 8 times that of Indonesia's. Following the comparison of each labor market institution is a discussion of the rationale for and potential impacts of each set of institutions and brief summary of available empirical evidence.

The primary sources of the legislation are the official labor codes in the various countries. For Indonesia, the discussion is based on legislation that is valid at the time of writing. For all the other countries, the legislation discussed was valid at least until the early 1990's. The discussion focuses on legislation that applies to the majority of wage workers in the private sector.

A. Collective Labor Relations

In 1993, the U.S. Trade Representative put Indonesia on a list of developing countries that risk losing tariff concessions now received on some of their exports to the US under the generalized system of preferences (GSP). The decision on whether to suspend Indonesia's privileges was initially due in February 1994 at which time the review of Indonesian labor rights policies was suspended and the issue was to be revisited in August. A GSP mission visited Indonesia in August/September 1994 and the dialogue is still in process.

The main criteria used by the U.S. for evaluating labor market practices are the extent to which countries afford their workers basic rights which include the freedom to form unions and to bargain collectively, as well as a minimum working age, prohibition of forced labor, and minimum standards for wages, hours and health and safety. The most important of these issues in the case of Indonesia concern the rights of workers to organize and to bargain collectively, and the involvement of the military in labor affairs (security forces are apparently used to arrest picketers and workers trying to organize collective bargaining and to monitor workers). In the rest of this section, legislation regulating collective labor relations in Indonesia are compared with those in the other 5 APEC countries.

Workers organizations in these countries range from powerful politically linked trade unions in Mexico to weak union systems in the other two East Asian countries which have a common history of elimination of communist unions and delinking of unions with politics, to Chile where a similar weakening and repression of unions was followed by the implementation of labor policy reform in the early eighties. The powerful trade unions in Mexico operate in close alliance with Mexico's dominant political party (the PRI)7/ through the Mexican Workers Confederation (CTM)8/; these close links are said to have negative impacts on union democracy. In Korea, the only legally allowed and not yet independent center (the FKTU) now coexists with several independent unions which have formed regional and industrial councils, reflecting the recent history of alternating repression and unrest and some liberalization of labor controls9/. In Malaysia, relatively independent unionism is weakened by the considerable government power in the regulation of unions which it has been using in recent years to impose in-house unions in preference to industry unions. Moreover, freedom of association is restricted in export processing zones. In Chile, there has been a steady increase in the proportion of the workforce affiliated to unions, in the affiliation to federations and confederations and in the number of collective bargaining agreements signed, particularly since 1989. And in the U.S., decentralized collective bargaining has typically determined labor contracts; the steady decline in the proportion of the workforce that is unionized and a decline in the prevalence of collective bargaining are issues of current concern in labor-management relations.

Freedom of Association, Formation of Independent Worker Organizations and Collective Bargaining

The Indonesian Constitution10/ says that "freedom of association and assembly" shall be prescribed by statute. There are two such laws which clearly guarantee the right to form unions. The first is Law No. 18 of 1956 which made the ILO Convention No. 98 on the Right to Organize and Bargain Collectively, ratified by Indonesia in 1957, a law. The second is the Basic Law No. 14 of 1969 which explicitly states "the right to set up and to become a member of a manpower union." Unionization rates in Indonesia, however, are substantially lower than those in the other five countries and are among the lowest in the world. There is only a single legally recognized union in the private sector, the SPSI (All Indonesia Workers Union), which is for all practical purposes a government

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7/Despite the statutory prohibition against "interfering in political matters".

8/Similar in many respects to the AFL-CIO in the U.S.

9/For a brief summary of the history of industrial relations in the two east Asian countries, see Freeman, 1993.

10/The right to form a labor union was explicitly mentioned in the provisional constitution of 1950. However, in the 1945 Constitution which was reinstated in 1959 and valid today, the right to organize was left to be determined in future laws. See Adiwinata, Katz and Katz (1974).

controlled institution. Further, although 8000 of the 37000 companies with more than 25 workers have collective labor agreements (cla) and 23000 of the remaining have company regulations in lieu of collective labor agreements11/, several observers and researchers claim that only a handful of these cla's represent the outcome of genuine collective bargaining between workers and employers.

The lack of genuine representation of workers and effective collective bargaining at the plant level is attributed in part to government regulation which makes it impossible to set up alternate legal worker organizations to the SPSI and its affiliated plant level organizations. The government has recently brought out new regulations in an attempt to address some of these criticisms. Until recently, the only recognized union was the SPSI. However, the government has for some time been considering decentralizing the SPSI, in effect returning to its earlier structure (when it was the FBSI) in which independent unions were affiliated to the FBSI federation. In October 1993, the SPSI began the process of decentralizing, and 12 of its 13 industrial sectors were subsequently given the right to register as independent industrial unions federated with the SPSI. The SPSI will now assume the role of national trade union center and the formal legal changes will be completed by the SPSI convention in October 1995. However, government decrees effectively prevent the formation of independent unions (see Fane 1994, American Embassy, 1994) as specific requirements have to be met for recognition.

While workers in the private sector, including those in export processing zones, are free to form worker organizations or company level unions, only registered unions can negotiate binding collective labor agreements with employers. In February 1993, a new regulation eased the organizational requirements for a union to receive recognition from the Department of Manpower. Yet the conditions for recognition are still considered to be rather restrictive12/. Recent regulations have also increased the ability of for new unions to form and negotiate contracts at the plant level. According to a Ministry of Manpower Regulation (No. PER. 01/MEN/January 1994), workers may set up plant level unions in companies with more than 25 workers which do not already have established unions as long as it is approved by more than 50% of the existing workers. Only one union is permitted in each company. These new unions (which may not include persons executing the functions of management13/) may enter into binding collective labor agreements. Other articles in the regulation say that the corporate unions "can establish cooperation with or be affiliated to the All-Indonesia Labor Union" (SPSI) and that they are "recommended to join the All-Indonesia Labor Union of relevant business sectors" within 12 months from their establishment thus raising questions about the independence of these new unions and their ability to represent the workers. The Ministry of Manpower reports that there are about 60 of these new plant level unions, and the first cla was signed this September. Several NGO's and observers also claim that these unions are basically "yellow unions" which are being set up by employers (and are being pushed by the government in response to the international criticism).

11/Unofficial numbers from the Ministry of Manpower.

12/ A federation of trade unions may register as long as it has representation in 5 of Indonesia's 27 provinces, a minimum of 25 branches at the regional level, at least 100 workplace/factory trade union units, and have a minimum membership of 10,000 in each of these levels.(MMR # Per-03/MEN/1993). According to MMR# KEP-438/MEN/1992, to form a trade union at the factory level, they must first obtain written permission from DPC SPSI and must be registered with the organization at the branch level (i.e. SPSI, since there is no other legal trade union).

13/This appears to be the first specific exclusion of people in management positions from a workers union.

Termination of employment on the basis of union membership is forbidden by law but Indonesian law does not specify the extent of union security14/. According to the law, union membership contributions and their distribution to different levels of the trade union organization is to be determined by the federation of trade unions (in this case the SPSI center). In a recent interview with SPSI officials we were told that the distribution of SPSI collections between different levels of the trade union were as follows: 50% plant level, 25% district level, 15% province level, and 10% national level. There is a check-off provision which determines that employers may automatically collect the regular contributions which are then sent to an account with the Ministry of Manpower and then to the trade union. In addition to members of the union, the Minister of Labor could require an employer to extend to the non-union employees the same benefits to which union members are entitled. The Minister of Labor can also decide that part or all of a collective labor agreement must be complied with by employees and employers who are not parties to the agreement but are in the same field of activity. The law does not appear to specify whether non-members who benefit from a collective agreement may be required to pay dues.

Reports on collection of dues are contradictory. On the one hand, NGO's working on labor issues claim that dues are collected from all workers where there are plant level SPSI units (and in some cases even when there are none) irrespective of membership; indeed to the extent that most SPSI units are unions "on paper only" and not true representatives of workers collection of dues from members versus non-members is an irrelevant issue. On the other hand, Chris Manning (1993) reports that "despite the introduction of check-off provisions15/ in 1977 and the subsequent revision of the law in 1984, the union's central body still depended on the government for its operating budget in the mid-eighties and many members made no financial contributions." At any rate, the routing of dues through the Ministry of Manpower is indicative of the extent of independence of the SPSI from the government, although the Ministry considers it as part of its role in the establishment and functioning of trade unions. Moreover, no change in the check-off laws have accompanied the recent regulatory changes on setting up of independent sectoral and plant level unions. The apparent lack of knowledge and understanding of check-off laws by workers no doubt exacerbates the lack of clarity in the law.

14/Union security provisions have to deal with the tradeoff between the ability of unions to be collective representatives of workers on the one hand and the excess union power or violation of an individual's right to work on the other hand. Unions claim that union security provisions which usually involve some kind of compulsory membership in the union as a condition of employment are necessary to prevent the "free-rider problem". In other words, unless workers are forced to join a union at the time of employment or within a period of time after employment, they may have no incentive to join unions and bear the costs associated with unionization if they are going to benefit from the unions negotiations by virtue of being employed by the firm or industry. Naturally, this would weaken the bargaining power of a union and its ability to function and some sort of union security is essential for unions to be able to represent workers collectively. Closed shops and union shops condition employment on union membership (In a closed shop, a worker must belong to a union before obtaining a job. Thus under a closed shop arrangement the right of management to select workers from the labor market is severely restricted; it extends considerable power to unions to regulate the supply of labor. A union shop requires union membership within a certain time period after the union member is hired. Thus it is less restrictive on the ability of management to hire labor but still contradicts a basic constitutional right-to work or right of disaffiliation). In an agency shop, workers do not have to belong to a union at any stage but are usually required to pay dues to the union if they benefit from collective agreements negotiated by it, thus addressing the monetary costs associated with the free rider problem.

15/Where employers collect contributions on behalf of the union and then transfer the funds to the union.

Tables 4 compares the ratification of ILO conventions on freedom of association, the right to organize and collective bargaining: three of the six countries (Korea, Chile and the U.S.) have not ratified either of the 2 conventions. Yet all the countries guarantee freedom of association in their constitutions and/or laws. Table 5 compares key aspects of the regulations governing the formation of workers organizations and the process of collective bargaining in Indonesia to those in the other five countries.

Only in one other country, Malaysia, do unions require prior authorization from the government in order to legally represent workers in collective bargaining. Indeed, Malaysian law gives considerable authority to the Registrar and the Minister of Labor16/, and to employers who have to "recognize" the unions in a rather lengthy procedure. The procedure for employer recognition of unions in Malaysia is reported to be quite exhaustive: for example only 33% of trade union attempts to prompt employers to take part in collective bargaining in 1988 succeeded outright; the remainder were still being reviewed or awaiting formalities. In all the other countries, prior authorization from the government is not required although registration may be necessary to function legally. While Chile and Mexico do require that unions must be of a minimum size (in Chile this varies with the size of the firm), Indonesian requirements particularly for unions beyond the plant level are far more stringent17/.

Legal plant or enterprise level unions may enter into collective contracts in all six countries. Korean law requires that all enterprises establish labor-management councils to decide working conditions18/. Chile and Mexico permit more than one union at the plant level. Chilean law is especially detailed on addressing potential conflicts that may arise from multiple unions and collective bargaining agreements at the plant level. Bargaining beyond the plant level, however, is more restricted in the majority of the countries.

As discussed previously, while Indonesian laws permit collective bargaining to take place at any level by a legal union, the laws regulating the establishment of legal unions in effect restrict collective bargaining to SPSI affiliated unions. The only exception is the recent law for independent plant level unions, the effect of which remains to be seen. In effect, collective bargaining cannot take place by non-SPSI unions beyond the plant level. In Malaysia, collective bargaining may take place at the enterprise or higher level as long as unions are legal (and have been recognized by the employer) which also means that they must consist of workers from a single trade or industry. The active encouragement of in-house unions is a relatively recent policy in Malaysia (attempt to "look east" at Japan) although in-house unions existed prior to the initiative. Malaysia has unique provisions for export processing zones: pioneer companies, mainly foreign owned that set up production facilities under the tax benefits conferred by the Investment Incentives Act are also privileged by the Industrial Relations Act Employers in these industries may simply conform to the minimum standards laid out in the Employment Act. There is a period of prohibited collective bargaining: which is usually 5 years coinciding with the tax holiday period

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16/The registrar has the power to refuse or revoke registration under certain circumstances. The Minister of Labor has extensive powers in the Trade Union Act and may suspend unions which in his opinion are being "used for purposes prejudicial or incompatible with the interests and security of public order of the country.." as long as it is cleared with the Internal Security Minister and published in the gazette. While the Minister has the overall ability to change rules and regulations made under the Trade Union Act or to suspend individuals or classes of trade unions, the Registrar has considerable immediate power over the routine administration of trade unions.

17/ However, until the recent past, the minimum representation stipulations in Chilean law were considered rather restrictive to the establishment of unions.

18/Historically, these were introduced to weaken unions

but the Minister can extend beyond the 5 year period and also extend the decision to any other industry as long as he/she notifies in the gazette.

In Chile, workers affiliate to enterprise level unions and while plural enterprise unions, as well as federations, confederations, central are permitted, collective bargaining beyond the firm level requires the voluntary cooperation of employers. Collective bargaining is also allowed only after the first year in operation of an enterprise.

A collective contract in Mexico can assume different forms. Some labor agreements, entered into by one or several unions with various employers or employers' organizations, cover entire branches of industry rather than simply companies, and are made mandatory by federal decree. Such an industry-wide collective contract is known as a *contrato-ley*. This in effect grants the government another mechanism of control over the labor relations process; the government decides whether to issue a *contrato-ley* and whether to make it mandatory. Thus, this can apparently deprive a significant proportion of the organized workers and employers in an industry of the right to bargain independently.

In the U.S. the bargaining unit appropriate for collective bargaining is determined by the National Labor Relations Board on a case by case basis and typically is determined by the autonomy of the unit (plant, local plants, company etc.). An employer must bargain collectively with different company unions on a coordinated or coalition basis. There are many thousand local unions, many of which represent the employees in one establishment or company, some of which represent those in a given craft, and some of which represent employees in the same industry working for different employers. They play a significant role in collective bargaining, with many contracts signed between a single local and management or between a coalition of locals of a multi-plant enterprise and representatives from management. In many unions, moreover, full agreement between management and labor requires not only an overall national or master contract between the union and employer(s) but also local agreements designed to deal with the problems and needs at specific sites. Virtually all local unions are members of national or international unions which are often important in collective bargaining and wage determination. More than one industrywide union can exist.

All the countries exclude from the right to collective bargaining, individuals in management or supervisory positions, etc.. In the U.S., professional employees may form separate unions but managerial employees are excluded.

In all the six countries, a collective contract applying to the majority of the workers may be applied to all other workers in the enterprise (or establishment). In Indonesia, this decision is made by the Manpower Minister, in Chile by the employer and in the other four countries it is automatic. The intention is to ensure that inferior conditions are not negotiated with other workers. One potential problem that could arise from this for the union, however, is a free-rider problem where workers would not have the incentive to bear some of the costs associated with unionism while potentially benefitting from it. On the other end of the trade-off of course that considerably strengthen unions are union security provisions such as the closed shop. Mexico is the only country that explicitly permits closed shops to be negotiated in a contract. Closed shops are illegal in the U.S. and Chile. While union shops are illegal in Chile, they may be negotiated in collective agreements in Korea and in the U.S. in the case of intra-state trade as well as in states that have not forbidden all forms of union security ("right-to-work" states). Indonesian and Malaysian law do not have any specific reference to union security.

In the United States, union shops are permitted in collective contracts but they can be "deauthorized" or voted out according to specified rules. Also, since national law states that the only condition under which workers can lose their job for non-membership is the non-payment of dues, it

functions like an agency shop. Moreover, national legislation applies only to inter-state trade and states can enact their own laws outlawing union or agency shops for intra-state trade. Until 1987, 20 states had enacted "right-to-work" laws and prohibited all forms of union security. These were mostly southern and south-western states. Union shop clauses were found in 81% of all labor contracts in 1987 reflecting to some extent the historical prevalence of industry in the north and northeast. Still, in right-to-work states where even agency shops are prohibited, the laws undermine the ability of unions to bargain collectively.

Thus, to summarize, laws regulating unions while permitting plant level collective bargaining may restrict plant level collective bargaining by independent worker representatives by restricting their organization as in the case of Indonesia and Malaysia by restricting their formation into legal organizations. On the other hand the imposition of contrato-ley type contracts by the government in Mexico19/ provide another way of restricting work relations governed by contracts negotiated between workers and management. Chilean and U.S. laws are more favorable to genuine plant level collective bargaining by independent worker organizations. On the one hand, Mexican laws strengthen unions through union security provisions while at the other extreme there is no reference to union security in Malaysian and Indonesian laws and all forms of union security are prohibited in most right to work states in the U.S.

The Resolution of Disputes in the context of Collective Negotiations and the Right to Strike

Restrictions on the right to strike, apparent inefficiencies and delays in the process of resolving disputes between workers and employers, and the intervention of the military in labor affairs are said to further undermine the ability of Indonesian workers to organize and act collectively. The procedure for resolving disputes arising in the process of collective bargaining is provided in Act No. 22 of 1957 on the Settlement of Labor Disputes. This act was promulgated to limit strikes and lock-outs and in effect also establishes compulsory arbitration. In response to the recent criticisms, three ministerial decrees on the implementation of the act (Decree Nos. Kep. 342/MEN/1986, which explicitly sanctioned coordination by the MOL conciliator with the Regional Government, Police Resort or Military District to overcome possible physical violence in the case of a strike, Kep. 1108/MEN/1986 and Kep. 120/MEN/1988) were repealed and replaced with a new Ministerial Decree (No. Kep. 15A/MEN/1994) in January 1994.

According to the existing legislation, the settlement of disputes in industrial relations should go through stages including a corporate or bipartite level settlement, mediation by an official appointed by the Minister of Labor, and settlement by regional and central committees. If direct bipartite negotiations between employers and registered labor unions fail and arbitration is not chosen, strikes and lock-outs should as far as possible be avoided and mediation may be requested. Mediation must be conducted by an official appointed by the Minister of Labor within 7 days. If mediation does not work, the case must be transferred to the regional committee (P4D). Regional Committees consist of 5 representatives each from government (representatives from 5 ministries), labor and employer circles appointed and discharged by the Ministry of Labor according to a government regulation.

Only if conciliation does not work or if employers refuse to negotiate may workers strike legally. However, they must notify the employer as well as the Chairman of the Regional Committee of their intention to strike. Workers must receive an acknowledgement of such a notification from the Chairman, which must be sent within 7 days of the receipt of the original notification to strike. If mediators notice

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19/And Korea and Indonesia.

any strike and/or slowdown, they must visit the location and attempt to negotiate with the parties. If this fails, they must transfer the cases to the regional committee20/.

Regional committees may make binding decisions unless an appeal of such a decision is lodged within 14 days and the matter is not of a specific local character. If there is such an appeal or if the Central committee (P4P, based in Jakarta and consisting like the P4D of representatives from government, labor and employers appointed/discharged by Cabinet through Presidential Decrees upon proposal of the MOL through government regulations) decides to withdraw a dispute for settlement by itself, the dispute is then transferred to the Central Committee whose decision is binding unless the Minister of Labor nullifies it or postpones its execution. Decisions of the P4P and P4D are upheld by the civil courts. Nullification or postponement of a Central Committee decision by the Minister of Labor may only take place if it is necessary in his opinion to maintain public order and to protest the interests of the state and may only take place after consultation with the other 5 ministers who are represented in the Central Committee.

A regional/central committee may decide to hold an inquiry either if it requires additional information or if a strike (or lock-out) is contemplated or has been taken by either of the disputing parties. In this case the right to strike is suspended and the decision of the regional/central committees is binding.

Thus, dispute resolution procedures are quite elaborate and the right to strike exists, at least in the law. Yet there appear to be several problems with this which in effect limit the ability of workers to negotiate with employers. First, the law assumes that workers will be adequately represented in disputes by unions which does not appear to be the case. Second, the process is often subject to delays. Third, NGO's question the independence of the labor tribunal or the central committee. Fourth, the procedure in effect sets up compulsory arbitration. Fifth, the right to strike is severely restricted. Finally, the military is often involved to some degree or the other.

Chris Manning (1993) attributes the increase in labor unrest in the late seventies and early eighties at least in part to the dispute resolution mechanisms and to the lack of confidence of workers in the SPSI as true representatives of workers at firm level. "Dispute resolution mechanisms were inefficient, and did not have the confidence of workers. Delays of several months often occurred in the settlement of disputes through the regional and central government dispute committees. Many firms which had connections with military and political leaders were able to resist formal government and union attempts to resolve disputes and to impose decisions which went against the firms' interests. The close involvement of military (and civilian) officials in business....explains how even medium-scale businesses could gain decisions in their favor or stalemates despite major transgressions of the labor code. There are also reports of corruption among members of the committee and of their tendency to favor employers. Moreover, decisions arrived at by the committees have no formal status in the civil law code, yet workers could not afford to take matters further to civil courts if, as often happened, SPSI failed to negotiate a satisfactory outcome on their behalf." and "The SPSI remained under tight government control and did not develop into an effective national union organization or support the growth of genuine form level union activities.....At the enterprise level, the fact that the SPSI was relatively powerless to represent workers in case od dispute considerably undermined worker confidence in labor's formal representatives. Some SPSI units, especially those operating in large and more established foreign and

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20/The new regulation also says that "in the case of disputes in industrial relations arising beyond the provisions in labor laws, the settlement shall be integratedly conducted with the relevant agencies pursuant to their respective duties and functions," a clause which being interpreted as still sanctioning military involvement by NGO's.

domestic firms, were active in negotiating working conditions through collective labor agreements, and in representing workers in labor disputes. But many were little more than token labor organizations, with leaders appointed by management and often coming from the ranks of management-personnel managers or supervisory staff. They received little support from their local branches especially since many members of the regional boards of SPSI were military officials or members of Golkar." (Chris Manning, 1993).

Workers thus typically by-passed the normal industrial relations procedures and sought assistance from the national or regional parliaments or from the Legal Aid Institute. Strikes did not last long but there were protracted negotiations between management and labor representatives who were often dismissed subsequently.

Because strikes are only permitted within the restricted set of circumstances described above, most strikes that do take place are illegal. Finally, there is a ministerial regulation, No. 4, 198621/, which permits an employer to dismiss workers if they are absent for 6 consecutive days. This regulation has apparently been used to justify dismissal of striking workers. Moreover, Indonesian law does not appear to specify the extent of worker rights to reinstatement or replacement or wage payment in the case of legal strikes. Since strikes are typically not legal, this is of course currently irrelevant. Dismissal cases of individual workers are to be resolved through regional committees and mass dismissals through a central committee.

Even critics acknowledge that there has been a fundamental change in the attitude of the government in recent years. Military involvement in labor relations while still prevalent is said to be lower, particularly in recent months. Employers have reported that the military has refused to respond to their calls to intervene. Yet, even after the repeal of Ministerial Decree No. 342 on January 4, 1992, the military were reported to be involved in 23 labor disputes to a greater or lesser extent in the month of January alone22/. NGO's and observers argue that military involvement in labor affairs is still permitted through other regulation, in particular a Bakorstanas (National Intelligence) 1990 decree. They also report that a major stumbling block is the lack of independence of the labor tribunal or the P4P from the government. Labor is still reported to be fired for attempts to organize.

As discussed earlier there has been a sharp increase in the number of strikes in the 1990's, and particularly in the last 2 years primarily associated with lack of compliance with (and more recently worker demands for increases in) minimum wages. The inability of workers to engage in productive negotiations with employers stemming from a lack of confidence in unions and their limited representation of worker causes and in the dispute resolution process and its independence can encourage wildcat strikes and walkouts as one of the limited options available to workers.

Table 6 compares Indonesian dispute resolution procedures and the right to strike with the other five countries. Indonesian laws in this area are in many ways very similar to those in Malaysia (and to a lesser extent in Korea) where the right to strike is very restricted and in fact the Minister of labor has substantial powers to intervene in the dispute resolution process and may impose compulsory arbitration through the Industrial Court. Neither the Malaysian Constitution nor any statutory law provides the trade union with a specific "right to strike". But this can be inferred by a whole range of statutory provisions in the Trade Union Act and Industrial Relations Act. A strike, to be legal, must be called by a registered

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21/This is based on reports from various people. I have not been able to locate the regulation.

22/American Embassy, 1994

trade union on behalf of its members and must receive two-thirds majority in a secret ballot23/. Sympathy or political strikes are not permitted: the strike must relate to a dispute between a group of workers and their employer. Just as in Indonesia there is a cooling-off period of 7 days after the Registrar has been notified of the intention to strike and a strike must be suspended if the Minister calls an inquiry or investigation. In fact it must be suspended if the matter is with the industrial court. Malaysian law does however specify that workers who have gone on strike lawfully cannot be dismissed on grounds of absence from work and workers may be represented by organizations other than a registered trade union in the industrial court. Workers may not strike over the enforcement of a collective agreement since it is recognized in the industrial court and is to be dealt with there24/ nor can it take place over issues considered "management prerogative" as collective bargaining over these is not permitted.

The arbitration procedure in the industrial court is reported to be often slow and protracted, due to participation of lawyers. The industrial court in Malaysia has its origin in emergency legislation passed in 1964 when external military threat (due to the Indonesian Confrontation) was at its height. Prior to that, arbitration was voluntary. The award of the industrial court may not be challenged for 3 years.

There has been a steady reduction in strikes since the 70's in Malaysia and in the workforce involved. Of course illegal and wildcat strikes exist and are never recorded. Still, the effect of government sponsored amendments to laws in recent years have made it practically impossible for a well run trade union to maintain a strike for any length of time. Strikes in Malaysia are rare and do not last long. In 1988, 5784 days were lost to strikes, little more than half for the previous year, though they included a major dispute in the plantations with the National Union of Plantation workers, the country's biggest union. There were 988 disputes of all kinds during the year, according to the Ministry of Labor.

Korean laws also similarly set out elaborate dispute resolution mechanisms and the laws on strikes resembles those of the other two east Asian countries. Once again, workers must notify the Administrative Authority as well as the Labor Relations Commission (a tripartite body) and the employer of the intention to strike and there is a cooling off period of 10 days. Administrative Authorities (Minister of Labor, Mayors, Provincial Governors) may suspend the strike if it prevents normal operation of safety protection facilities of workplaces and factories. Just as in Korean Trade Union Law, the Dispute Adjustment Law specifically prevents third party intervention in various collective labor activities and in a strike in particular. Strikes are also prohibited outside the place of business, over interpretation of mediation proposals and for 15 days following referral of a dispute to arbitration. The Minister of Labor has the right to emergency adjustment which may lead to suspension of a strike. While the law does specify that an employer may not be allowed to claim damages which have been suffered from a labor dispute against a union or worker, it does not appear to be specific on suspension or replacement of striking workers.

Despite its paternalistic traditions, Korea does not lack for tripartite structures. There are no Labor Courts, but there are tripartite Local and Central Labor committees which together provide a dispute resolution procedure which can lead on to civil courts. As discussed earlier, all firms with more than 100 employees must have a labor-Management Council, meeting at least quarterly with equal representation from each side. After some disagreement the government accepted in the autumn of 1989

23/The ballot is valid for 90 days.

24/A newly concluded agreement must be deposited by the parties with the registrar of the industrial court and may be amended there.

an FKTU proposal that there should be a broad tripartite committee to discuss a wide range of employment issues.

The other three countries on the American continents provide a contrast in their dispute resolution mechanisms and especially in the right to strike. The labor codes of all these three countries are also more specific on liabilities of workers in case of strikes. Chilean legislation is particularly detailed on the right to strike. Mexico requires notification of strike intention and has a cooling off period of at least 6 days (which varies across industries) while United States legislation does not require notification of strike intentions and does not have a cooling off period. Chilean law dictates that a strike may become effective on the third day after a majority vote.

In Mexico, after the notification of the intention to strike is received by the Conciliation and Arbitration Board (to which the employer must respond in 48 hours), the board summons both parties for a conciliation in an attempt to avoid a strike. If the attempt fails and work stoppage begins, at the request of any interested party within 72 hours, the Board establishes the legality of the strike. Solidarity or sympathy strikes are permitted in Mexico which distinguishes these from "justified" strikes which may be attributed to the employers although workers do not have rights to wage compensation in the former. Strikes are permitted over demanding compliance with a collective bargaining agreement. In the case of legal "justified" strikes the employer must compensate them for lost days of work. For all legal strikes, wage contracts are suspended and even temporary replacement workers cannot be hired. In illegal strikes workers must return to work in 24 hours after illegality is established. Workers may not terminate workers except in an illegal strike.

In Chile, when parties have not reached an agreement and the term of the current collective labor contract has expired or more than 40 days have passed after a draft collective contract affecting one or more enterprises was submitted, the workers bargaining committee may chose to call a vote by which the workers decide whether to accept the employer's last offer or to strike. Of course, the negotiation must not be subject to compulsory arbitration, voluntary arbitration must not have been chosen and the vote must be called and carried out according to law. For collective contracts concerning two or more enterprises, the workers of each enterprise must state whether they accept the last offer or strike. If it is the latter, strikes exclusively comprise the workers of the enterprise or enterprises in question. A strike is effective if more than 50% of the workers involved stop work. Once a strike has been declared and become effective, the employer may declare the total or partial lockout. A lockout may be declared if the strike affects more than 50% of the total workers in an enterprise or establishment or if the strike implies parallelization of activities which are indispensable to safeguard the functioning of the enterprise or establishment irrespective of the proportion of workers on strike. The judicial procedure in case of dispute rests on the labor courts if the contract does not designate an arbitrator. Arbitration decisions may also be appealed at these courts.

In Chile, during a strike, the employment contract is suspended, workers are not obliged to work, employers are not obliged to pay wages, benefits or economic privileges from the employment contract. Workers may pay voluntary contributions to pension fund and social security. Employers are prohibited from offering workers on strike individual resumption except as in the law. Substitute workers may be hired from the first day of the strike, or striking workers may be allowed to work if certain requirements are met (i.e. they must be hired on the same terms as those existing prior to the strike but adjusted and adjustable in the future for the CPI). Permanent replacement workers may be recruited and workers on strike may return to work after 15 days of the strike under similar conditions. The legal maximum duration to a strike has been removed in the new labor code, but a strike is considered ended if more than 50% of the workers return to work. Then all remaining strikers must return to work within 2 days. The 1987 code on the other hand favored individual resumption of work over collective resumption thus

weakening collective action. Workers can also vote on a settlement by arbitration, acceptance/refusal of last offer, acceptance/refusal of written proposal of the employer. Compulsory conciliation which was used until 1973 is no longer used to resolve disputes.

In the U.S., although no notification of intention to strike is required, the law does require notification before termination or modification of a contract at which point the Federal Mediation and Conciliation Services assigns a mediator. Strikes in violation of no-strike clauses in collective bargaining agreements are illegal. Legal strikes are classified as "Unfair Labor Practices" (for example when an employer refuses to bargain) or "economic" strikes. The distinction which is often difficult to determine is established by the NLRB. Employers may hire replacement workers in a strike. While in case of un unfair labor practices strike the employer must hire returning strikers even if replacement workers are to be displaced, this is not required in economic strikes. Employers must however place returning strikers on a priority list to be hired in future vacancies.

In the U.S., while mediation may be made available even without a request from the parties, there is no requirement that the parties use the services of the FMCS and mediation awards are not binding. In 1990, over 28000 contracts were negotiated and the FMCS assisted in about 7000 of them. There were 711 strikes which amounts to about 2.5% of contract negotiations. There is a reliance on collective bargaining to set forth dispute resolution procedures and available services and this explains why there are very few strikes over the enforcement of collective bargaining agreements; almost every private sector agreement has a grievance procedure. They frequently provide for arbitration of disputes a procedure which has been successful in the U.S. Unfair labor practice charges are settled through NLRB procedures.

Latin American countries despite showing a preference for arbitration in their legislation, do not appear to use it frequently or successfully. This is true in Chile. In Mexico too, there is a preference for direct settlement, conciliation through special authorities and settlement by courts. Mediation and binding arbitration are less widely practiced. Of course, voluntary conciliation, mediation or arbitration may be chosen in all six countries.

To summarize, important regional similarities emerge in a comparison of the procedures for resolving disputes and in the right to strike. The East Asian countries restrict the right to strike in several ways: through requiring notification of strike and a cooling-off period, restricting the subjects over which strikes are legal, and by suspending the right to strike under various circumstances. In Malaysia and Indonesia conciliation by a MOL official typically occurs even before a strike is anticipated, and can lead to a process which is compulsory and in which decisions are binding. The right to strike is much less restricted in the other 3 countries, even though Chilean legislation for example does not permit sympathy strikes and Mexican law establishes a cooling-off period in strikes. Collective bargaining contracts typically establish processes for the resolution of disputes in the U.S. and frequently provide for arbitration, a procedure which has worked rather successfully in the U.S. in contrast to Latin American countries. Although strikes are easier, for example in Chile and in the U.S., the number of strikes as a proportion of contract negotiations (2.5% in the U.S. in 1990, 4% in Chile in 1991/92) is small.

Economic Impacts of Unions

It is now agreed that unions can have both positive and negative impacts on the economy (see box). The "monopoly" face of unions can be associated with higher wages in the organized sector, a consequent misallocation of resources, loss in output due to strikes and restrictive work practices negotiated by unions, high low-wage employment in the unorganized sector which disproportionately

Underlying Theories on Union Impacts

According to traditional economic models of unionism, unions function as monopolies and introduce *inefficiencies* in several ways, reducing total output. First, by setting wages above competitive levels they cause a misallocation of resources as firms in the organized sector respond by hiring fewer workers, using more capital per worker, and hiring more skilled workers than is socially optimal. By potentially increasing unemployment, they further reduce output. Second, by calling strikes in order to force management to concede to union demands, unions cause a disruption in production and hence lower output. Finally, through collective bargaining, unions succeed in setting limits on loads that can be handled by workers, restrictions on tasks and staffing requirements and thus reduce the substitution of other inputs for labor, lowering the productivity of labor and capital. Managerial discretion is reduced and a standardized compensation structure could provide inoptimal work incentives.

Unions are also held responsible for greater *income inequality*. This is because the higher wages in the unionized sector displaces workers from the unionized sector and leads to higher employment and lower wages in the non-unionized sector. The displacement disproportionately affects lower skilled disadvantaged labor and benefits those who already have higher earnings capacity.

Finally, union leadership can extract the rents associated with union monopoly power by coercing union workers to participate in strikes, preventing non-union workers from obtaining jobs at unionized firms, charging high entry fees and practicing other forms of corruption and undemocratic behavior.

On the other hand several economists have pointed out that unions are not the simple textbook monopolies. They do not set wages but negotiate wages with employers. Their ability to obtain wage gains will be limited in competitive industries as they would raise the costs of competitive firms thus drive them out of business. To survive in such markets, unions would have to organize the entire industry or sector. Alternatively, unions are more likely to exist in monopolistic industries or where some enterprises have cost advantages over their competitors. Thus with increasing competition and deregulation in product markets, it is unlikely that unions can extract substantial monopoly wage gains.

Moreover, to the extent that unions care about employment, their ability to raise wages in any industry will be limited by the fact that employers will respond by reducing employment. Employment losses will be smallest, and hence the ability of unions to raise their members' wages will be largest, in rapidly growing industries with inelastic labor demand curves. The "derived" demand for labor will be more inelastic (i) the more essential is union labor to the production of the final product, (ii) the more inelastic the demand for the final product, (iii) the smaller the ratio of cost of union labor to the total cost of the product, and (iv) the more inelastic the supply of the other factors of production. Unions consist of members with very different preferences and there is no single well developed theory of union preferences. Moreover, union goals are likely to differ across circumstances. It is likely that under some circumstances unions may seek a high wage at the cost of employment while under others, it may be more moderate in its wage demands to preserve jobs. This makes a union quite different from a monopoly in product markets where profit maximization is the sole goal.

(continued....)

affects low-skilled, disadvantaged workers, and rents associated with undemocratic behavior which are extracted by union leadership. On the other hand, the "collective voice" or "institutional response" face of unions can be associated with greater productivity and efficiency by providing a "voice" for workers; by improving the flow of information between workers and management and by representing the majority of the workers, especially at the level of the enterprise, unions can help establish more productive work relations associated with fewer quits and design of compensation that better matches the preferences of workers.

This voice/response view of unionism directs attention to the possibility that, because of incomplete information, lack of coordination in an enterprise, and organizational slack, management can respond to unionism in more creative ways, which may be socially beneficial and can use the collective

bargaining process to learn about and improve the operation of the workplace25/. On the other hand, if management responds negatively to collective bargaining (or is prevented by unions from reacting positively), unionism can significantly harm the performance of the firm. While management giving in to exorbitant union wage demands can be associated with a decline in the organized sector, their reaching sensible agreements with labor could be mutually beneficial. On the other extreme is the case where management cooperates with racketeers who suppress union democracy and offer "sweetheart" contracts, i.e. contracts imposed by management without input from representatives of labor.

Several studies have attempted to measure the impacts of unions on wages, employment, output, total compensation, productivity in the U.S. Unfortunately, there are very few comparable studies for developing countries. Even the empirical evidence for the U.S. is mixed and is based on varying data sources, time periods and methodology. On the whole, the union relative wage advantage in the private sector in the U.S. lies in the range of 10 to 20%26/27/ which vary over time and across demographic groups. The union relative wage advantage tends to be larger during recessionary periods. Unions appear also to have improved the economic well-being of black men relative to white men, and to reduce women's wages relative to men since women workers are considerably less likely to be union members than are males. The overall effect of unions on the dispersion of earnings appears to have been positive28/ in the U.S.. Available empirical evidence on the loss of output or the "social loss" from unions suggests that the loss of output from the union wage differential, restrictive work practices and strikes associated with unions was estimated to be about 0.8% of GNP in the U.S.

On the other hand there is considerable evidence in the U.S. that unions do reduce worker quit rates, alter the entire package of compensation allotted to fringe benefits and union workers were found to be more productive in many sectors than non-union workers (although less productive in others). Unions effects on productivity are neither constant nor always positive and vary across industries and time periods as industrial relations practices vary; increased wildcat or illegal strikes associated with poor industrial relations practices have been associated with loss of productivity.

The limited evidence from union impacts from developing countries (including Malaysia and Mexico) suggests similar impacts as in developed countries29/. In most developing countries, even when the right to strikes is not restricted, strikes are not common; most unions lack strike funds and most workers lack the savings to carry out strikes. The success of the East Asian "miracle" countries (Korea, Singapore, Malaysia, Taiwan) in the 1980's and the mid-1980's success of Chile raises the question of whether suppressing unions contributes to economic growth. While the hypothesis has not been handled

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25/See Freeman and Medoff, 1984.

26/Evidence from data between 1965-75 approximately. See Ehrenberg and Smith for a summary of empirical evidence of union impacts. Earlier summaries are available in Freeman and Medoff (1984) and Lewis (1986) for relative wage effects.

27/ Since unionized workers tend to have better non-wage benefits, tend to be represented in less flexible, more structured and more hazardous work settings, and could potentially be more able, ignoring benefits in such wage advantage calculations may understate union compensation differentials while ignoring non-pecuniary conditions of employment or worker ability may lead to an overstatement of union total compensation advantage.

28/Work by Richard Freeman suggests this. See Farber (1986?) on exercising caution in interpreting some of the available empirical evidence on union impacts.

29/See Freeman 1993 and references therein. Also Panagides and Patrinos for Mexico.

Underlying Theories of Union Impacts (continued)

An alternative view to the monopoly approach to unionism is the "institutional response/collective voice" view of unions. Proponents of this view argue that there are important ways in which unions can raise productivity of organized workers and can be associated with greater efficiency. Unions provide workers with an effective "collective voice" at the workplace that may generate productivity improvements given appropriate institutional responses from management. Stated more broadly, this view is based on the premise that for various reasons, the economy may differ from a Pareto optimal world. The existence of important public goods and externalities at the workplace, monopsony and barriers to exit and entry in labor markets, imperfect information, profits and quasi-rents (associated with barriers to entry and differing cost structures) provide opportunities for unions to increase economic efficiency and productivity.

The productivity enhancing potential of the collective voice model of unionism lies in the public goods nature of several working conditions and rules in the workplace (safety, lighting, heating and the firm's personnel policies-formal grievance procedure, pension plan, layoffs, work-sharing, cyclical wage adjustment, promotion). These policies affect the entire workforce and one person's consumption does not exclude someone else's. Moreover, the costs to an individual of changing any of these are likely to be higher than his or her share of the benefits. Competitive markets will provide less of these goods than is socially optimal as there is an incentive for individuals to "free-ride." Workers increase their bargaining strength by forming labor unions. The availability of collective voice makes it less risky for workers to reveal their true preferences as most countries have laws that prohibit firing employees because of membership in a union. To enforce equivalent laws that protect individuals who express their preferences from job loss could be more difficult and costly.

Proponents argue further that unions collect information about the preferences of all workers and enable firms to choose a more efficient mix of wage and personnel policies. Unions are likely to represent the interests and preferences of the "average" worker as opposed to the "marginal" worker (as would be the case in the absence of unionism) in the determination of some of the public goods at the workplace. Thus for example, outcomes of collective bargaining such as pension or health insurance plans versus take-home pay will take account of all workers and appropriately consider the sum of preferences for work conditions that are common to all workers. Such contracts can be more efficient than the contract that would result in the absence of unions.

Finally, unions constitute a source of worker power enabling better enforcement of worker rights, diluting the authority of management, and offering members protection through a system where many workplace decisions are based on rules rather than simply supervisory judgement or whim and where disputes over proper managerial decision making on work issues can be resolved. The ability of unions to enforce labor agreements, particularly those with deferred claims, creates the possibility for improved labor contracts and arrangements and higher efficiency.

Thus, the voice/response theory of unionism argues that unions increase efficiency, improve income distribution among workers and can be expected to be democratic. The efficiency and higher productivity results from the socially optimal provision of public goods and design of compensation between wage and non-wage benefits, the increased flow of information between workers and managers especially at the level of the enterprise can lead to more productive work relations, and the lower quite rates associated with improved "voice" lead to lower training and hiring costs, less disruption, increased incentives for investment in firm-specific skills. Positive union impacts on income distribution could arise out of a political process in which the majority rules and the greater dependence on rules to reduce managerial discretion. Finally, unions could be expected to be democratic and important social organizations because they require the approval of a majority of members and could represent the political interests of lower income and disadvantaged persons.

in careful empirical work, Freeman (1993b) and Fields (1994) argue that labor market repression is not necessary for economic growth and may been associated with high costs, while unpublished work for Korea shows that suppression of labor in Korea had high costs in terms of high accident rates and a "disgruntled" work force. Chris Manning argues that the continuing conditions of labor surplus rather than government policies towards private sector unions was the driving reason for labor's low bargaining power and real wage stagnation in the late eighties although the lack of sufficient mechanisms for worker voice may have contributed to the worker unrest and wildcat strikes. In other words, controls over unions are unlikely to be the reason for low wages; which have more to do with underlying market conditions.

Strikes

The strike is perhaps the most important source of union bargaining power. Unions are able to win concessions at the bargaining table because of their ability to impose costs on management, which typically take the form of work slowdowns and strikes. A strike is an attempt to deny the firm the labor services of all union members. Whether a strike or the threat of a strike can enable a union to win a concession from management will depend on (i) the profitability of the firm and its ability to raise prices without losing its market, (ii) the ability of a union to impose costs on the firm, (iii) whether the firm has the financial resources to withstand losses during a strike and (iv) whether union members have the financial resources to withstand losses during a strike.

Given that a strike apparently reduces total output thus necessarily involving losses on both sides, economists have puzzled over why they occur. Various models of strike activity include explanations such as imperfect or asymmetric information, the need for unions to strike periodically to retain their credibility, political models of strike activity (Ashenfelter and Johnson, 19?), and total costs models of strike activity.

In the Ashenfelter-Johnson political model of strike activity, there is a divergence of objectives between union leaders and members. The former are concerned with the survival and growth of the union ad their own personal political survival in addition to the terms and conditions of employment. Union leaders, who have more information than the rank-and-file, may have lower wage expectations. Rather than risk dissension with the union, however, they can recommend a strike, which will serve the purpose of bringing the expectations of the unions in line with those of the leaders. Thus union wage demands will fall during a strike. Although the model is based on many restrictive assumptions, it provides an explanation of why strikes increased in the U.S. in 1959 with the passage of the Landrun-Griffin Act which increased union democracy and therefore the chances that the union leaders could be voted out of office if they failed to satisfy union members' expectations at contract negotiation time. It focuses only on strikes that result from disagreement over economic issues ignoring those that may result from conflict over recognition procedures, grievance procedures, unsafe working conditions, etc.

In the more recent asymmetric information models of strike activity, either firms or unions or both do not have perfect information about the other party's willingness to make concessions or to resist. In such situations the process of bargaining may increase the accuracy of the information to each party but the bargaining process will be slower the greater the initial level of uncertainty. A strike, by increasing the costs to the parties of prolonged bargaining, increases the incentive to each party to reveal its true position more rapidly thus leading to a quicker solution. Thus, a greater initial level of uncertainty about an employers willingness to pay (for example in the case of firms with widely varying profitability) for wage increases should increase both the probability and the duration of a strike.

In total costs models of strike activity, because strikes impose costs on both parties, they will try to reduce the costs of strikes, for example by starting to bargain well in advance of the expiration of a contract. However, strike avoidance has a price so that strikes will be more likely to occur when they involve lower joint costs to managers and unions, for example in the case of durable goods industries, goods where inventories can be built up, industries where there are fewer domestic and foreign competitors providing substitutes, and the higher the strike funds available to unions and firms.

Indonesia is under pressure to ease restrictions on unions. In considering future policy, it would be important to consider that effective, democratic plant level worker organizations, by providing "voice" at the workplace may be able to play a positive role and reduce some of the cost associated with worker unrest. Legislation encouraging collective bargaining at the enterprise level could enable workers and managers to negotiate outcomes relevant to the plant or enterprise that would enable workers to be more productive in the enterprise30/. Improving the dispute resolution mechanism and the ability of

30/Collective bargaining at the industry or national level could potentially give considerable monopoly power to unions (Note, however, that the efficiency implications and the extent of monopoly power associated to different levels of bargaining will depend on the market structure, extent of monopsony, competition, etc.). On the other hand, restricting bargaining to company unions has historically been a tool to weaken unions (for example in Chile

workers to be heard can reduce the incidence of illegal or wildcat strikes. What would be needed, however, would be more than legislative changes. In order to move to a mutually beneficial industrial relations system, appropriate and responsible changes in behavior from employers and workers in addition to government are called for. Careful changes in legislation, industrial relations practice and increased deregulation and competition in product markets could improve the positive role that unions can play while controlling the "negative" role.

B. Minimum Wages

The Indonesian Government responded to the greater international scrutiny of labor standards in the late eighties by focusing particularly on minimum wage legislation. In 1989 it revised the existing system of minimum wages which had been introduced in most regions from the early seventies. Minimum wages are currently regulated through Ministry of Manpower Regulation No. PER-05/MEN/1989 (amended in 1989 and 1990). The minimum wage refers to a lowest basic wage/salary plus permanent allowances where the basic wage/salary must be 75% of the minimum wage. Minimum wages are to be fixed based on considerations of "minimum physical need", costs of living and labor market conditions. There is no national minimum wage but regional minimum wages (established separately by sectors and sub-sectors) are fixed through Decisions of the Minister of Manpower. The 1989 regulation states that minimum wages must be reviewed at least every two years. A 1990 decree requires that the minimum wage be adjusted once a year in proportion to the CPI. Regional wage surveying boards31/ propose regional (sectoral and sub-sectoral) minimum wages which have to be approved in stages by the Governors/Heads of Local Government and the Minister of Manpower. A National Wage Surveying Board provides technical guidance to regional boards.

Ministerial decrees announcing new minimum wages clarify further that the minimum wage constitutes money received in cash, excluding benefits of an incentive nature. They also state that sectoral minimum wages also apply to workers paid per contract/ unit/piece, to workers on probation, women workers, and apprentices. Minimum wages are established with a standard 7 hour workday and 40 hour workweek and are announced daily wages. Legislation introduced in 1990 requires that increases in the minimum wage be proportional to increases in the CPI. While in 1994, minimum wage decisions for different regions came out in three groups at three different times in the year, the Manpower Ministry plans to regularize this further, announcing new minimum wages once a year for all regions. The gap between minimum wages and minimum physical needs has been closing and the Manpower Ministry expects that in 1995, the average minimum wage will be above average minimum physical needs. As discussed earlier, failure to pay the minimum wage (and more recently demands for increases in minimum wages) has been the major cause of strikes in the past couple of years.

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under the Pinochet regime, earlier legislation in Korea, current legislation for independent plant level unions, and decades ago in the U.S..) Yet, since collective bargaining at the plant or enterprise level can be important for the flow of information, for example relating to specific working conditions, between workers and managers at a decentralized level, it should be actively encouraged by the law.

31/This are quadripartite bodies consisting of representatives from labor, management, government, and universities. They also establish basic-needs figures (Minimum Physical Needs or "KFM") for each province which refer to monetary amounts considered sufficient to enable a single worker or families of various sizes to meet the basic needs of nutrition, clothing, and shelter. KFM's are apparently much higher than poverty lines estimates but are widely accepted as important indicators for evaluating welfare trends. Several researchers argue that the KFM is actually "quite low."

Table 8 compares key features of the minimum wage legislation with the other five countries. It is clear that minimum wages provisions in Indonesia are at least as generous as in any of the other countries. Malaysia stands out as the only one of the six countries with no minimum wage. The other four countries either have more exclusions in coverage for example for apprentices or workers on probation (U.S., Korea) and/or permit certain non-wage benefits to be counted as wages (U.S. and in Korean law), and, at least at first glance have minimum wages set at lower levels relative to average manufacturing wages. The minimum wage as a ratio of an average manufacturing wage was 0.51 in Indonesia in 1991 and is likely to be slightly higher in 199432/. The real value of minimum wages fell through the eighties in the U.S., Mexico and Chile33/. In the first quarter of 1993, approximate calculations based on available data reveal that approx one-third of all manufacturing industry workers had monthly income below 1.2 times the minimum wage while about 15% had monthly incomes below 0.8 times the minimum wage34/. While not cast in stone, these estimates suggest that the minimum wage may be more binding in Indonesia than in the other countries being studied35/36/

Minimum wage provisions are usually designed to guarantee each worker a reasonable wage for his or her work effort and thus to reduce the incidence of poverty. Proponents also argue that they increase productivity. Neoclassical economic theory, on the other hand, suggests that such legislation could have unintended adverse consequences. Even in the case of full coverage, repeated minimum wage imposition as in the case of the U.S.37/ could be associated with a cycle of short run employment losses, inflation reducing the real value of the minimum wage and restoring employment, and then an increase in the minimum wage starts the process all over. In a growing economy with complete coverage, the net effect of a one-time increase in the minimum wage is to reduce the rate of growth of

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32/Minimum wages in Jakarta, for example, in 1994 are about 1.5 times their 1991 value. Wage trends in 1993 Sakernas data show that nominal manufacturing wages increased at about 11% between 1991 and 1992. Assuming the same rate of growth for the next 2 years and assuming manufacturing growth rates in Jakarta are the same as the Indonesia wide rates, this would make the ratio slightly above the 1991 ratio. At any rate, with annual indexation to the CPI, this ratio is unlikely to decrease without real wage increases.

33/Although in Chile real minimum wages have grown at 7% per annum since 1989 while average wages have grown at 4% per annum in real terms.

34/These are approximate calculations based on available published tabulations from the Sakernas household surveys. In Chile, about 5-6% of workers are reportedly at the minimum wage and almost no workers are below the minimum wage. In Bell (1994) 1988 household survey data showed that 2.16% of formal sector workers were below the minimum wage, 24.18 were below 1.5 times the minimum wage and 48.02% were below twice the minimum wage. For full time male workers in the informal sector, the corresponding numbers were 16.48, 44.74 and 62.94 respectively.

35/See Bell, 1994 for minimum wages relative to income distributions in Mexico and Columbia. The numbers for Indonesia appear to be more like the Columbia numbers where distortionary impacts of minimum wages were found. Note that the Columbia numbers were from manufacturing firm data and may underestimate the number of workers at the lower end of the income distribution.

36/Interviews with employers inn Indonesia suggested that smaller labor intensive firms such as small garment firms appeared to find the minimum wage somewhat problematic whereas the minimum wage was not an issue for the larger less labor intensive firms.

37/In the U.S. the minimum wage was typically fixed in nominal terms at about 55% of current average wage. Rising wages in the rest of the economy gradually erode the minimum wage and eventually the process is repeated.

employment. In the case of incomplete coverage, which is far more typical in developing countries given the huge size of the informal sector, the imposition of a minimum wage may be associated with lower employment and higher wages in the covered sector and higher low wage employment in the uncovered sector (as is the case with union negotiated wages that are too high)38/. Thus there are both winners and losers, the losers more likely to consist disproportionately of the less advantaged (lower skilled, younger workers, women with interrupted work experience) workers. There is reduction in total output, either through unemployment or through a misallocation of resources.

As discussed in the next section, minimum wages that are set too high could increase the employment loss associated with employer mandates and payroll taxes. If wages are free to adjust downwards, employers will typically pass on a substantial fraction of the costs of such mandates to workers thus reducing potential employment losses that could result. Minimum wages that are set too high introduce rigidity and prevent employers from passing on these costs to workers thus potentially leading to higher employment costs than in the absence of minimum wage.

In developing countries with a large informal sector (where it is more difficult to enforce minimum wages) in which women are more likely to be found, minimum wages benefit men disproportionately. Because a larger fraction of women are also in jobs with more flexible hours of work or part-time work, minimum wages set on a hourly basis may have fewer disincentive effects for hiring women than those set on a more lump-sum basis such as monthly wages39/. Minimum wages are set on a monthly basis in Chile, on daily basis in Indonesia and Mexico and on an hourly basis in the other 2 countries.

In the U.S., although the precise magnitudes of the relationships are yet to be pinned down, it is now widely agreed that increases in minimum wages do reduce employment opportunities, especially among teenagers. Most research has focussed on unintended consequences employment reductions. Very little research has addressed the question of whether minimum wage legislation is achieving its intended goal of reducing the incidence of poverty. The few for the U.S. that have considered this have found that minimum wage legislation has only a minor effect on the distribution of income. This finding is not surprising because not all low wage workers are members of low income families: e.g. teenagers. In other words, minimum wages more directly affect low wage workers, not low income families. Empirical evidence from Mexico based on data from formal sector manufacturing firms (Bell, 1994) shows virtually no disemployment effects for unskilled workers primarily because the minimum wages are set rather low relative to the distribution of wages. However, the use of household level data did suggest that the minimum wage had an important effect on the unskilled wage distribution in the informal sector, affecting in particular women and part-time workers.

It may be politically difficult to argue for elimination of minimum wage and countries face immense pressure to introduce or raise minimum wages as they develop. In the U.S., instead of elimination, people are arguing for youth sub-minimum or training wage. However, such sub-minimum wages for particular groups while retaining minimum wages for the rest may end up benefitting these groups relative to others, for example, in the U.S. teen employment at expense of adult.

38/ Mincer argues that under some circumstances, it may be rational for workers to remain unemployed for a while to search for jobs in the covered sector.

39/See Gill, Sedlacek and Nayar (forthcoming),

It should be noted that there are at least two reasons why increases in minimum wages that are set too high may not have dramatic employment effects. The first relates to compliance. Enforcement could be expensive and typically limited resources are spent on it40/. Enforcement is particularly difficult when a large share of employment is in the informal sector, such as Indonesia (the share of informal workers as a percentage of non-agricultural workers around 1990 was 63% in Indonesia compared to 31% and 25% in South Korea and Malaysia respectively). Non-compliance with the minimum wage outside of large businesses in Mexico are common41/. Moreover unions, which could potentially be very important in enforcing minimum wages are virtually absent in Indonesia. In Mexico too, union leaders are apparently not very active in enforcement.

Second, employers may respond to increases in minimum wage by reducing other forms of non-wage compensation that are not covered by minimum wage law. e.g. holiday, vacation, sick-leave pay, health insurance and retirement benefits are now a large and growing share of total compensation. There has been recent evidence of this in Indonesia where employers have been withholding holiday bonus payments in response to higher minimum wage imposition. Therefore minimum wages that are set too high can paradoxically have smaller costs and employment effects.

In conclusion it will be argued that any likely disemployment effects of minimum wage laws that are set too high will be countered by non-compliance and downward adjustment of other benefits. However, introducing unrealistically high minimum wages and the inevitable non-compliance that will accompany it will be associated with higher costs associated with worker unrest and protest. While it may be politically impossible to eliminate minimum wages, reliance on minimum wages as a poverty reduction tool should be reduced, focussing on alternate poverty reduction measures, particularly given the limited evidence on the impact of minimum wages on poverty and its success in targeting the poor. Moreover, collective bargaining procedures may in any case establish wages above the minimum.

C. Non-Wage Compensation: Employer Mandated Benefits and Social Insurance Systems

In Indonesia, the Jamsostek law was enacted on February 17 1992 in Law No. 3 of 1992 on Workers' Social Security. Subsequent government regulations laid down implementation instructions for the law (Government Regulation No. 14, 1993, Minister of Manpower Regulations Nos. Per-05/Men/1993 and Per-04/Men/1993).

Jamsostek provides the following social security benefits to workers: (a) life insurance; (b) retirement (provident fund) benefits; (c) free health care for workers, their spouses and upto three children; and (d) workers compensation insurance for work related accidents and illnesses. Every worker is entitled to Jamsostek coverage, although there is provision for participation to be phased in over time. The current implementation regulations restrict initial participation to firms with 10 or more employees or a payroll of more than one million rupiah. For the health insurance program, employers who already have health maintenance programs with superior benefits need not participate initially.

40/In the U.S. limited resources spent on enforcement and penalties are small. Similarly, in Indonesia, although the government is stepping up enforcement regulations and penalties, they are clearly inadequate as witnessed by the recent strikes and stop-work actions to protest non-compliance with minimum wages.

41/Goldin, 1990, Bell 1994

Rationale for government role for providing or mandating employee benefits

In most countries, workers are legally entitled to minimum levels of certain non-wage benefits (maternity and sickness benefits, health, old age pensions, etc.). These are either provided publicly (e.g. public social security programs, typically funded through a payroll tax, although with varying degrees of government subsidy) or they could take the form of legal mandates that employers provide a minimum amount of these benefits (privately or by contributing to private schemes).

Several arguments, some often hotly debated, are usually put forward about why governments should be involved in the market for employee benefits for example by providing social insurance. The arguments are centered around market failures arising out of individual irrationality (merit goods rationale), externalities, incomplete markets in the insurance against certain risks(to entire cohorts, adverse selection, and moral hazard[1]). For example, according to the paternalism or merit goods argument, individuals may value some services too little. They may irrationally underestimate the probability of catastrophic health expenses or of sustained leave required due to a child's illness for example. Positive externalities may be associated with health insurance, for example through its impact on the prevention of contagious diseases. In particular, societies may be unwilling or unable to deny care to those in desperate need even if they cannot pay: in the U.S. these costs associated with the uninsured are passed on to the insured in the form of higher costs. Finally, adverse selection considerations may discourage the provision of fringe benefits: for example, if employees have more information about whether they will need parental leave or face high medical bills than their employers do, then employers that provide these benefits will receive disproportionately more applications from employees who require benefits. In addition to intervention on efficiency grounds, government social insurance programs also have income redistribution goals. For example, the pension system in most countries aim to facilitate income transfers over time (saving), to redistribute income (collective action to redistribute income to the poor who do not earn enough during their working lives to maintain adequate consumption levels in their old age) and to provide insurance against inadequate income from age-related events (old age, disability, death, longevity). The same is true for national health insurance systems which could serve both redistributive and insurance purposes.

In addition, non-wage benefits often are incentive devices in labor contracts which have intentional (e.g. attract workers, etc.) as well as unintentional consequences (can discourage mobility, shirking on the job, actively encourage retirement, etc.) on labor market incentives.

[1] An alternative argument towards the same conclusion is that in a non-competitive labor market such as one with efficiency wages or monopsony power, there is no assurance that efficient compensation packages will be attained.

Most of the cost of the new social security program is to be funded by contributions from employers, with a much smaller contribution (2% of wages for the old age provident fund program) from workers. These are fully funded programs, without any provision for government subsidy. The legislation requires the entire program to be administered by PT Astek, a state-owned enterprise, which has thus far been responsible for administering the previous program which was more limited (there was no health component; contribution amounts were smaller).

The Indonesian old-age program is a fully funded, contribution defined program. The benefits to be received at age 55 are the total contributions paid in plus accrued interest. In 1991, Astek (on the original program) reported a gross rate of return of only 14.4% on its investment fund (i.e., before allowing for administrative costs) while the average return from State Bank time deposits ranged from 20-22% depending on maturity42/. Employer contribution is 3.7% of payroll and employee contribution is 2% of payroll. The health insurance program provides comprehensive medical benefits for the worker, spouse and three children. The employer contributions are independent of the number

42/Chapter by Ross McLeod in Indonesia Assessment 1993. See also, PT Astek, 1994 for investment returns and prospects.

Economic Impacts of Employer Mandated Benefits and Social Insurance Systems

As discussed earlier, it may be optimal for the government to intervene in the provision of goods that some employers provide their workers. Governments tend to either provide these goods themselves (such as social security) or to mandate that employers provide some minimum benefits. In what follows, I discuss briefly some distortions that may arise due to these.

A payroll tax is of course a simple tax on labor. Similarly, employer mandated benefits could be perceived as a hidden tax on labor with the same efficiency and incidence implications. In particular, both payroll taxes and employer mandated benefits could reduce the demand for labor, leading to lower employment in the covered sector. Traditional payroll tax incidence models suggest that some portion of the rise in employer costs may be shifted to wages, mitigating the fall in employment. And perhaps more importantly, if employees value the social insurance program being funded through the payroll tax, the theory of compensating wage differentials suggest that wages will fall even further than in the case of a pure payroll tax, further reducing the employment decline[1]. In the limit, if the value the employees place on the social insurance is equivalent to the employers' costs of providing insurance, wages will be reduced by the full cost of the benefit and employment will be unchanged. A similar argument holds in the case of a mandated benefit[2]. Thus in terms of their allocational effect on employment, both payroll taxes and mandated benefits **only represent a tax on labor at a rate equal to the difference between the cost to the employer and the employees valuation of the benefit.** In other words if employees value the benefit at its cost, there will be no effect on employment and the entire cost can be passed on to the employee in the form of lower wages. The extent to which costs can be passed on to employees also depends of course on the responsiveness of labor demand and labor supply to wages[3].

Summers (1989) argues that mandated benefits may be less distortionary than a payroll tax for at least 2 reasons: (i) They would only affect those employers where this minimum benefit has not already been negotiated. (ii) For those who are affected, mandating the benefits could in many cases be associated with a closer correspondence between the rate at which the benefit costs the employer and that at which the employee values it. Payroll taxes, on the other hand, are usually determined for each employee on the basis of what it costs the government. For example, unless public parental leave programs were exactly tied to the number of hours an employee worked in the past and to his or her wage[4], mandated benefits which would entail a closer link between costs and benefits would be more efficient. In the case of health insurance, the benefits are lump sum (i.e. independent of hours worked). Here the appropriate non-distortionary tax is a benefit tax. Since lump-sum taxes on employees are not considered, one case in which a mandate could be less distortionary than a tax financed benefit program is when labor force participation is quite inelastic but hours are more elastic. Of course, even when the efficiency effects are the same, mandated benefits allow more choice to employers and employees than public provision.

It should be noted that the designs of various systems can have unintended side-effects in the labor market: for example poorly designed old age pension programs can induce early retirement, non-portability of employer provided programs can be associated with lower employment mobility and the quasi-fixed or lump-sum nature of some benefits can additionally provide disincentives for the hiring of part-time workers including women. As in the case of minimum wages, non-compliance with employer mandated employee benefits can be significant (thus reducing potential disemployment effects in addition to not serving the purpose of the mandate).

[1] See Ehrenberg and Smith (1991)
[2] See Summers (1991)
[3] The less responsive the supply of labor is to wages received, the more the cost of the payroll taxes/mandated insurance program that can be shifted to workers. And the less responsive the demand for labor, the more employers will be willing to pick up themselves and the lower will be the fall in employment (and the proportion of costs passed on in the form of lower wages).

of children although they are double for married relative to single workers. The services are to be provided by a list of approved doctors, clinics, hospitals, pharmacies, opticians etc. throughout Indonesia. Each of these is to enter into a contractual arrangement with Astek which will specify the scope of services offered, billing and payment procedures, fee or price for each kind of service, etc. The work injury program is funded by employer contributions which vary from 0.24%-1.74% according to the

industry. It medical benefits as well as disability pensions defined as a proportion of earnings varying with the degree of disability.

Tables 8-10 compare the legislated social security program with those in the other five countries. In the case of old-age pensions, the U.S. has a payroll tax financed, pay-as-you-go, benefit defined, mandatory social insurance system as do Mexico and Korea. Malaysia, like Indonesia, has a contribution defined provident fund systems provided publicly, while Chile has contribution defined, mandatory private insurance. Schemes such as those in the U.S. are likely to have a large wedge between benefits and costs and therefore could induce distortions in the form of lower employment and output (see box). These problems are aggravated by an aging population and a higher ratio of beneficiaries (current old) to contributors (current workers). Financial viability even in the short run, therefore would call for relatively high contribution rates which are even more out of line with the benefit rates (lower for successive generations). High contribution rates in pay-as-you-go benefit defined systems are likely to be seen as a tax by workers, not the price for a service received. High tax rates could potentially lead to evasion which further undermines the financial viability of such a plan. Employers who cannot pass on taxes workers, cut back on employment, reducing output43/. There is also considerable evidence of early retirement effects in the U.S, system.

In the provident funds in Malaysia and Indonesia, which are contribution defined, at least in appearance the wedge between costs and benefits does not exist. The Malaysian system requires a much higher level of contribution (employee 10% and employer 12%, compared to 2 and 3.7% in Indonesia). On the other hand, publicly managed mandatory saving plans or provident funds have a record of misuse44/ and are often associated with low or negative returns for the pension funds. They can therefore essentially be a hidden tax on labor, subject to misuse precisely because they are hidden. To the extent that employees do not value these at their cost employment losses will result. The new Chilean system on the other hand is a contribution defined mandatory private insurance scheme where the insured person contributes 10% of wages. There is a small redistributive component to the Chilean program.

Table 10 shows that the other countries all have similar work-injury programs primarily funded by employer contributions. Malaysia has a publicly provided and primarily publicly funded (although fees are charged according to ability to pay) health care program. In Chile, workers may opt for and contribute towards a public or private provision. The minimum benefits which consist of cash and medical benefits are defined in the public system; benefits in the private system vary although they must provide benefits at least comparable to the public system. The U.S. has programs targeted to the elderly and poor with different degrees of government contribution. Chile, Mexico and the U.S. also have unemployment insurance and family allowance programs.

To summarize, new legislation in Indonesia has introduced a social security program that is ambitious in coverage and compares favorably to those in the more developed APEC countries. Disemployment and income distribution impacts of such a program will depend on the extent to which it constitutes a tax on employers and the extent to which employees value the benefits. The greater the extent to which the benefits are out of line with their costs, the higher is going to be the extent of evasion

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43/ These impacts are likely to be stronger in developing countries which have limited tax enforcement capacity, imperfect labor markets, and large informal sectors.

44/Internal Draft Bank Report on Old Age Systems.

or non-compliance. Public provision of the program necessarily raises questions of efficiency, returns, corruption etc45/.

D. Other Labor Standards: Hours of Work, Leave, Minimum Age of Employment

Table 11 compares Indonesian minimum standards with those in the other 5 countries. The table illustrates that they are at least as generous as those in the other five countries. In Malaysia, pioneer companies cannot negotiate collective agreements that grant better terms and conditions than those provided in the Employment Act; in other words, these minimum standards are actually "maximum" conditions of work in these companies. In the U.S., there are fewer federally mandated standards: states may have their own laws, but most terms and conditions of employment are established by free collective bargaining between labor organizations and employers or by agreement between individuals and employers if no union has been certified/recognized. Federal law does lay down the minimum age of employment however. In addition to annual leave, Indonesian law mandates leave with pay on 12 official holiday. With the exception of Federal legislation in the U.S., legislation in all other countries specifies public holidays. Indonesian law is particularly generous relative to the other countries, in laws mandating maternity and menstrual leave for women.

IV. CONCLUSIONS

Current labor legislation in Indonesia is a mixed bag of protectionist legislation and controls over organized labor; the former a result of the immediate post-independence protectionism as well as government response in recent years to increasing criticism, and the latter, as seen in the monolithic government run trade union structure, a result of responses of subsequent regimes to a perceived threat from organized labor to economic and political stability.

Whatever the motivation for the international criticisms, a comparison of Indonesian labor legislation with those of five other APEC countries showed that Indonesian laws do indeed restrict the ability of workers organizations at the plant level to effectively represent workers to management. In this respect, they compare with Malaysian laws and to a lesser extent the new Korean legislation. In part, this is because Indonesian laws, like Malaysian laws, have restricted the ability of workers to legally establish such organizations (although some legislative changes have taken place this year). Lack of clarity in the written law on union security, unfair labor practices etc. have left room for considerable intervention by employers (and the state) in industrial relations practice. Restrictions on the right to strike, apparent inefficiencies, delays and partiality in the process of resolving disputes between workers and management, and the intervention of the military in labor affairs have further undermined the ability of workers to organize and act collectively. In all these respects, Indonesian legislation provide a stark contrast from current legislation in Chile and the U.S. where legislation appears to be more favorable for plant level collective bargaining.

On the other hand, Indonesian policies on minimum wage, mandated non-wage benefits and other labor standards appear to be quite generous for a country at its level of development; indeed, on the whole, they appear to be at least as generous as the countries studied here, which have (purchasing power corrected) per capita incomes of at two and a half times that of Indonesia. Minimum wage legislation,

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45/discussed in greater detail in the chapter by Ross McLeod in Indonesia Assessment, 1993.

which has been the reason for the majority of the recent labor unrest in Indonesia, has broader coverage (fewer exclusions) and appears to be at a higher level (relative to average manufacturing wages) in Indonesia and is now indexed to the consumer price index to maintain its real value. Yet, Indonesia has the largest informal sector employment, very few resources for inspection and enforcement, and very few well functioning plant level worker organizations and grievance mechanisms; factors which make enforcement of such legislation difficult. These factors and management practices of reducing non-wage compensation in response to increases in minimum wages raise questions about the reliance on the minimum wage as a poverty reduction tool. On the one hand, minimum wage legislation if enforced, could potentially benefit better off workers relative to less advantaged workers. On the other hand, lack f compliance with the legislation defeats the purpose of such legislation. Increased expectations on the part of workers, on the other hand has been associated with growing unrest.

A similar message emerges about other labor standards where lack of compliance is likely to be significant. The implications of the generally protectionist standards for potential labor costs suggests that low labor costs are probably not the motivation for government policy and controls in the labor market. Further, relatively low wages are more likely to be associated by the labor supply conditions rather than controls over organized labor. Indonesian standards compare favorably with those in other countries and compliance will increase as the country develops further. Care must be taken not to increase reliance on centrally mandated standards over those established through negotiations between workers and employers.

Indonesia is under pressure to ease restrictions on unions. This paper has tried to emphasize that there may be a positive role that effective, democratic plant level worker organizations can play by providing "voice" at the workplace. However, changing such industrial relations practices in a way involves more than legislative changes. In order for such a move to be mutually beneficial, appropriate and responsible changes in behavior from employers and workers in addition to government are called for. Evidence from developed (and some developing) countries have shown that unions can have both positive and negative impacts on the economy and that the potential positive role may have been understated in traditional approaches to unions. Careful changes in legislation, industrial relations practice and increased deregulation and competition in product markets could improve the positive role that unions can play while controlling the "negative" role.

Finally, it should be noted that at least two of the countries (Chile and Korea) studied had legislation that was far more repressive of labor organizations until relatively recently. At least one of these, Chile, has taken a clear policy stance to reverse the anti-labor bias in its policies and has done this by emphasizing democracy and representation by worker organizations at the plant level.

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Table 1: UNION DENSITIES

Country	Density	Year
Indonesia	5%	1986*
Malaysia	over 10%	1988
Korea	22%	1989
Chile	11%	1992-93
Mexico	25-30%	1992-93*
U.S.	16.40%	1990

SOURCE: For Indonesian Figure, Economist Publication, Humana.
For all others, Longman Publication, Trade Unions of the World 1992-93.
* Approximate year.

Table 2: SELECTED DATA ON STRIKES, 1961-91
(Per Annum)

	No. of Strikes	No. of Workers Involved ('000)	No. of Working Days Lost ('000)	% of all Strikes in Manufacturing
1961-65	40	23	42	34
1966-70	2	(0.4)	(0.4)	20
1971-75	5	1	1	75
1976-80	66	11	28	92
1981-85	112	27	142	87
1986-90	46	13	99	82
(1991-92)	146	63	447	n.d.
1986	73	16	109	77
1987	37	14	49	87
1988	39	n.d.	n.d.	82
1989	19	6	31	68
1990	61	31	307	89
1991	114	60	385	96
1992	177	67	509	n.d.

n.d.: no data.
SOURCE: Chris Manning (1993).

Table 3: MAJOR CAUSES OF STRIKES, 1985-91
(%)

Cause	1985	1986	1987	1988	1989	1990	1991
Wages	58	38	32	61	69	58	67
Annual bonus (THR)[a]	6	26	19	5	-	-	9
Collective Labour Agreement	4	3	-	-	-	3	2
Formation of union	1	3	8	10	5	6	8
Social insurance	-	3	-	3	-	2	5
Other working conditions[b]	30	27	41	21	26	31	9
TOTAL	100	100	100	100	100	100	100
N=	78	73	37	39	19	61	113

[a] Tunjangan Hari Raya (Hari Raya allowance), the annual bonus for most workers
[b] Icluding dismissals/layoffs.
SOURCE: Chris Manning (1993).

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[a] Tunjangan Hari Raya (Hari Raya allowance), the annual bonus for most workers.

[b] Including dismissals/layoffs.

Table 4: RATIFICATION OF ILO CONVENTION NOS. 87 AND 98

	Ratified Convention No. 87 (Freedom of Association and Protection of the Right to Organize)?	Ratified Convention No. 98 (Right to Organize and Collective Bargaining)?
Indonesia	No	Yes, in 1957
Malaysia	No	Yes, by Peninsular Malaysia in 1961 and by Sabah and Sarawak in 1964
Korea*	No	No
Chile	No	No
Mexico	Yes, 1950	No
United States	No	No

SOURCE: ILO. (As of December 31, 1993).

* Membership in ILO is very recent (1991 or 1992).

Table 5: Union Registration, Extent of Security, Allocation of Collective Bargaining Rights

	Regulations on Formation of Legal Unions	Property Rights to Represent Workers in Collective Bargaining
Indonesia	A trade union at any level must be registered at the Ministry of Labor. Registration of a federation requires representation in a minimum number of provinces, regions, factory and minimum membership in each factory unit. A new law permits establishment of independent plant unions.	Unions must be registered to enter into binding contracts at any level. Collective labor agreements by "independent" unions beyond plant level are still effectively not possible in law.
Malaysia	Registration is required to have rights and activities of a union. Employer must recognize the union. Registrar has powers to refuse or revoke registration under certain circumstances. Minister of Labor has extensive powers and may suspend unions for security.	A union must be registered and also recognized by the employer by established procedure, as the proper body to represent the class of workers who form its membership. Members of a union must be of a similar trade or industry or within a single enterprise.
Korea	Workers may organize or join a trade union at liberty. Enterprises must establish a labor-management council to decide working conditions.	The representative of a trade union or those who are duly authorized by the trade union can negotiate a collective agreement. Unit trade unions may entrust the federation of unions to which it is affiliated with the power to negotiate.
Chile	Registration of Trade Unions does not require prior authorization at all levels. Law establishes minimum size and/or representation rules for unions depending on size of unit. Unions may affiliate with others; trade unions with confederations, federations, centrals.	Workers affiliate to enterprise level unions. Two or more enterprise level unions may coexist, unions may affiliate with others, but collective bargaining beyond the firm level requires voluntary cooperation of employers.
Mexico	Law guarantees freedom of association. Previous authorization is not required for establishment of a labor union which can be established with at least 20 workers in active service.	Only a trade union (not a coalition) may sign a collective agreement on behalf of workers. Unions can be craft, enterprise unions, industrial unions, national industry-wide unions, multi-craft unions. Union must represent majority workers in an enterprise/ establishment.
United States	Employees have right to form, join, or assist labor organizations. Unions must be selected by a majority of workers in the bargaining unit. Employer recognition of the union as the exclusive bargaining representative can be settled by elections conducted by National Labor Relations Board (NLRB).	Unit of employees must be appropriate for collective bargaining, i.e., employees must have substantially similar interests regarding wages, hours, working conditions. Bargaining unit may cover employees in one or more plants of the employer; apropriateness is determined by NLRB by case.

Table 5: UNION REGISTRATION, EXTENT OF SECURITY, ALLOCATION OF COLLECTIVE BARGAINING RIGHTS (Cont'd)

	Extent of Union Security	Application of Collective Contract	Union Dues
Indonesia	Termination of employment on the basis of establishment or union membership is not permitted. No specific reference to union security.	Manpower Ministry could require that the employer extend negotiated benefits to the non-union employees in establishment. Ministry can also decide that part or all of a collective labor agreement can be applied to other employers/ employees in same field of activity.	Member contribution is as determined by the Federation of Trade Unions and should be consistent with the constitution and internal rules of the union. Automatic check-off is routed through Manpower Ministry. The law is unclear on collection from non-members who benefit.
Malaysia	Laws guarantee freedom of affiliation and disaffiliation; discrimination on the basis of union status is forbidden. No specific reference to union security.	Collective agreement applies to all members employed at the time or subsequently in the enterprise to which the agreement relates.	As laid down in the rules and constitution of the trade union. Decisions on the imposition of a levy, like other rules, are arrived at through a mandatory secret ballot.
Korea	Employment discrimination on the basis of union status is forbidden. Laws guarantee freedom of affiliation and non-affiliation. Union shops are permitted if negotiated in collective agreements.	A collective labor agreement (CLA) that applies to majority of workers in an enterprise, will apply to all workers there. If two-thirds of workers of the same kind in a region are under a CLA, at request of one or both parties of a CLA or ex officio, the Labor Relations Commission may apply it to all similar workers in the area. A public announcement of such a decision must be made without delay.	Members must pay membership dues every month (less than two percent of the wage thereof).
Chile	Laws guarantee freedom of affiliation and disaffiliation; discrimination and conditioning employment on the basis of union status is forbidden (i.e., closed and unions shops are illegal). There is emphasis on freedom of disaffiliation and an agency shop provision.	Employer may apply the benefits stipulated by collective contracts to workers occupying similar positions or functions as the workers on the contract. In that case, non-members may be required to pay up to 75% of the normal contribution	Unions are funded by voluntary contributions of members as determined by the union. Union fees are determined by union statutes and must be approved by absolute majority, secret voting. Non-members may be required to pay up to 75% of the normal contribution if they benefit from a CLA.
Mexico	Law states that "no one may be forced to join or not join a union". Yet, a collective bargaining agreement may contain a "closed shop" provision as long as workers employed prior to the agreement who are non-members of the union are not "prejudiced".	The provisions of a CLA cover all the employees of the enterprise or establishment even if they are not members of the union. It may exclude employees in positions of trust whose contracts must however not be inferior.	Through member contributions.
United States	Closed shops are illegal. Union shops are permitted in inter-state trade but they function more as agency shops due to law. States can enact their own laws for intra-state trade and can prohibit union security. 20 states prohibited union security in 1987.	A collective contract applies to all workers in a bargaining unit irrespective of membership status.	Unions are funded through dues, fees and assessments which are voted upon by members.

Source: Republic of Indonesia, 1988, 1992; Encyclopedia of Labor Law 1994; Republic of Korea, 1991; Secretaria de trabajo.... 1992; unpublished document from Embassy of Chile, 1993; Taylor and Witney, 1987.

Table 6: DISPUTE RESOLUTION AND THE RIGHT TO STRIKE

	Procedure for Resolving Disputes arising in Collective Negotiations	The Right to Strike	Suspension or Replacement of Striking Workers
Indonesia	Settlement of an industrial relations dispute must go through stages including bipartite negotiations, mediation by a Ministry of Labor (MOL) official and settlement by regional and central committees. Central committee decisions are binding unless nullified by the Labor Minister.	Workers may strike only if negotiations with the official fail or the employer refuses to negotiate. Workers must notify the employer and the Chair of the Regional Committee of their intention to strike and may only strike after the Chair has acknowledged the receipt of the notification (which should be done in 7 days). A strike must be suspended if there is an inquiry.	The law is not specific. But workers may be fired if don't show up for work for 6 consecutive days.
Malaysia	If direct negotiations fail, conciliation by official of Ministry (or as decided by the Director General, Industrial Relations) may be requested. The Minister is provided with the overriding power to contain disputes through the power to intervene. The Minister may impose compulsory arbitration through independent court or call investigation/inquiry.	Yes, if the strike is called by a requested Trade Union on behalf of its members. Sympathy/ political strikes are illegal. The decision must be voted on by secret ballot, receive 2/3 majority and the results communicated to Registrar in 14 days. A strike can only be called 7 days later . It is illegal to strike if there is an inquiry/ investigation or if the matter is with the Industrial Court.	Workers who have gone on strike lawfully cannot be dismissed on grounds that they have been absent from work without reasonable excuse for more than 2 consecutive days as provided in Employment Act.
Korea	If independent negotiations fail, then upon notice of the dispute, the Labor Relations Commission (LRC) appoints conciliation by a conciliation commission. If it fails, the LRC undertakes mediation through a mediation commission. Voluntary conciliation, mediation or arbitration may be chosen. The MOL may decide if there is need for emergency adjustment in which case the "dispute" is suspended and the Central LRC may decide on arbitration.	The majority of the union must cast an affirmative vote on the decision to strike. Notice of the labor dispute to Administrative Authority and to the LRC must be made and a strike can only take place 10 days later. The Administrative Authority (MOL/mayors/ Provincial Governor) may suspend a strike with approval from LRC under certain circumstances.	The law is not specific.
Chile	Apart from self-settlement, voluntary mediation or arbitration may be chosen. Mediation may only last 10 days after the appointment of a mediator. If no agreement is reached, the mediator calls a hearing where last proposals are submitted and the mediator must present a proposal and parties must reply in 3 days.	If no agreement is reached and the contract term expires or more than 40 days after a draft collective contract has been submitted, the workers' Bargaining Committee may call a vote to accept the employer's last offer or to strike. A strike is effective on the third working day after approval if more than 50% of workers in enterprise stop work.	Substitute workers may be hired or striking workers may be allowed to work under the same terms as prior to the strike (but adjusted and adjustable by CPI). The employment contract is suspended, workers are not obliged to work, employers are not obliged to pay wages, but workers may continue to contribute to social security.

Table 6: DISPUTE RESOLUTION AND THE RIGHT TO STRIKE (Cont'd)

Mexico	Labor disputes can be resolved by direct settlement, conciliation, mediation, arbitration, or by settlement by Courts. A hearing must be held at conciliation and arbitration board to seek settlement of a proposed strike. Within 72 hours of a strike its legal status may be requested from the board.	Partial strikes are not allowed within establishment/enterprise. Solidarity and "justified" strikes are permitted. Notification of the intention to strike must be given at least 6 days before. The union must file the petition with the Council and Arbitration Board, addressed to the employer, who must respond in 48 hours.	For legal strikes all employment contracts are suspended and even temporary replacement workers cannot be hired. If it is a "justified" strike, the employer must meet the workers' demands plus pay wages for lost days. Workers do not have the right to wage compensation in sympathy strikes. If the strike is determined to be illegal, workers must return to work in 24 hours.
United States	Voluntary mediation, conciliation and arbitration available. While parties are not required to use the Federal Mediation and Conciliation Service (FMCS), neutral conciliation is available through it and its decision are not binding.	Yes. Strikes in violation of no-strike clause in CBA illegal. Legal strikes may be "Unfair Labor Practice" or "Economic" strikes. No notification of a proposed strike is required but notification before termination/ modification of contract is required to FMCS which is used to assign mediators to cases and for consulting.	Employer may hire replacement workers. In case of ULP strike, employer must rehire the returning strikers even if replacement workers are displaced. In an economic strike, the employer is not required to displace replacement workers but must put returning strikers on preferred list for future vacancies.

Table 7: MINIMUM WAGE LEGISLATION

	Minimum Wage Established by Law?	Monthly / Daily / Hourly Wage?
Indonesia	Yes (early 1970's)	Daily wage based on a 7 hour workday and 40 hour workweek.
Malaysia	No (Historically some minimum wage fixing for special categories such as shop assistants, cinema workers etc. which is now redundant for all practical purposes).	Not applicable
Korea	Yes (Since 1988; law was passed on Dec 31, 1986).	Hourly. Also determined on the basis of a day, week or month but in these cases is also noted by an hourly wage.
Chile	Yes	Monthly
Mexico	Yes	Daily
United States	Yes under Fair labor Standards Act (FSLA, 1938). Applies to covered enterprises which have employees producing, or otherwise handling/selling/working on, goods for interstate commerce. States may set higher minimum wages.	Hourly

Table 7: MINIMUM WAGE LEGISLATION (Contd.)

	Specified nominally or relative to some other wage/price index?	Includes the value of Non-Wage Benefits?
Indonesia	Adjusted according to Consumer Price Index (CPI). Specified separately by regions & sectors/subsectors. Reviewed regularly in recent years. Proposal from regional (tripartite) wage boards to go through heads of local government to Minister of Labor. Based on minimum physical needs (KFM), cost of living and labor market conditions.	No. Includes basic wage and fixed allowances received in the form of money excluding incentive allowances.
Malaysia	Not Applicable	Not Applicable
Korea	Nominal. A national minimum wage is determined according to category of industry, once a year, by deliberations between Minister of Labor and Minimum Wage Council (tripartite). Based on cost-of-living, productivity, similar prevailing wages.	Not typically. But definition of "wage" in law is "money and goods paid to worker by employer in the form of wage, salary or other goods for labor service offered by worker." Wages regarded as inappropriate for inclusion may be defined by Minister of Labor.
Chile	Nominal. Based on a tripartite agreement, wages are adjusted as per the projected CPI and productivity.	No
Mexico	Determined annually by geographic zone and by occupation by a tripartite National Commission. Takes into account for each family satisfaction of material, social and cultural needs and to provide for mandatory education of children and condition of occupation.	No
United States	Nominal. In setting and adjusting the minimum wage, consideration is given to views of all segments of economy, including workers' & employers' organizations in open hearings in Senate and House. Since 1938, adjustments were made effective in: 1949, 55, 61, 63, 67, 68, 74, 75, 76, 78, 79, 80, 81, 90, 91.	Reasonable cost or fair value of board, lodging, or other facilities customarily furnished by the employer for the employee's benefit may be considered part of wages unless excluded under the terms of a bona fide collective bargaining agreement.

Table 7: MINIMUM WAGE LEGISLATION (Cont'd)

	Ratio of Current Minimum Wage to average Manufacturing Wage*	Coverage
Indonesia	0.51 in Jakarta in Nov 1991. Slightly higher ratio likely for 1994.	All industrial workers regardless of employment status. Includes contract/unit/piece workers, probationary workers and apprentices.
Malaysia	Not Applicable	Not Applicable
Korea	0.25 (estimate for 1993).	All businesses/workplaces with at least 5 permanent workers except only family/domestic workers. The minimum wage may apply to some places with less than 5 permanent workers and is determined separately for workers below the age of 18, with less than 6 months work, and for piece work workers etc. by Presidential Decree. It does not apply to workers on probation, training, or to handicapped workers.
Chile	0.2 (estimate).	100%
Mexico	1990: 0.13 of average unskilled manufacturing wages (as computed from firm level data). Estimates from household level data are higher.	Includes piece-rate and other workers.
United States	0.45-0.5 until April 1990; 0.38 in 1991.	All businesses with annual gross volume of sales/ business of at least $500,000. Employees of firms not covered may also be subject to FLSA minimum wage if they are individuals engaged in interstate commerce. Domestics are included. Exemptions are narrowly defined. Subminimum wages are certified by the Department Of Labor for handicapped workers, trainees, students, etc.

*Approximate estimates. For Indonesia this is based on available published statistics, Chile and Korea from Embassy Economic Units. Mexico, Bell 1994. Must be interpreted cautiously because of different sources.

Table 8: OLD AGE, DISABILITY AND DEATH PROGRAMS

	Type of System	Coverage
Indonesia	Provident Fund System (lump-sum, periodical and partial lump-sum benefits)	Establishments with 10 or more employees or a payroll of at least 1 million Rupiah a month and those already on earlier scheme. Coverage is being extended gradually to smaller establishments and to casual or seasonal workers. Voluntary coverage is available.
Malaysia	Dual provident fund (lump-sum benefits only) and social insurance systems (disability only)	Provident Fund: employed workers. Teachers and members of armed forces in equivalent private plans are excluded. Voluntary coverage for domestics. Disability pension: employees earning less than M$2000 a month (or when first covered),casual workers and domestics. Voluntary for those earning more than M$2000 a month if employer and employee agree.
Korea	Social Insurance System	Korean nationals 18-59 living in Korea, employed in firms with at least 5 workers. Voluntary coverage for smaller firms and self-employed. Private school teachers have separate systems (as do public employees, military personnel)
Chile (new system, 1980,81)	Mandatory Private Insurance	Mandatory coverage for wage and salary workers. Voluntary coverage for self-employed.
Mexico	Social Insurance System	Employees, members of producers', agricultural, and credit union cooperatives. Coverage is being extended gradually to rural areas. Coverage to be extended by decree to agricultural workers, small businesses, forestry, industrial cooperatives, self-employed, family workers, domestics. Voluntary coverage is available. System of Saving for Retirement (SAR) is mandatory for all employees, and members of agricultural and credit union cooperatives.
United States	Social Insurance System	Gainfully occupied persons, including self-employed. Exclusions: casual agricultural and domestic employment, limited self-employment (annual net income less than $400) and some Federal employees hired before 1984. Voluntary coverage for State, Local Government employees covered elsewhere, otherwise mandatory.

Table 8: OLD AGE, DISABILITY AND DEATH PROGRAMS (Cont'd)

	Source of Funds	Qualifying Conditions
Indonesia	Insured person: 2% of earnings; Employer: 3.7% of payroll (plus 0.3% of payroll for death benefit). Government: none.	Old Age Benefit: Age 55 or retirement. May be paid before 55 under certain circumstances. Disability: Total incapacity for work and under 55. Benefits may be paid to spouse or orphan children in case of death. Payable lump-sum, periodical or partly lump-sum.
Malaysia	Insured Person: 10% of earnings according to 306 wage classes for provident fund; disability insurance, approximately 0.5% of earnings according to 24 wage classes. Employer: 12% of payroll according to wage class for provident fund. For disability insurance, approx 0.5% by wage class. Government: none.	Old Age: Age 55 & retirement from employment. Disability: provident fund-permanently incapacitated before 55 with 2/3 loss of earning capacity, disability pension-24 months of contribution in the last 40 months or in 2/3 of months since entry into insurance with minimum of 24 months (reduced pension if contributions in 1/3 months with minimum of 24).Survivors Benefits: provident fund:nomination as beneficiary by insured. Survivor pension: death occurs while in receipt of disability pension on or before age 55. Death benefit:Insured was under age 60 at death.
Korea	Insured person:2% of earnings in 1993, rising to 3% in 1998; self-employed, 6% of earnings in 1993 rising to 9% in 1998. Employer:2% of payroll, rising to 3% in 1988. Government:Administrative costs.	Old-Age pension: Aged 60, insured 20 or more years. Reduced if age 60-64 and still working; if aged 60 or more and insured for 15-19 years; aged 55-59 and insured for 20 or more years; aged 45-59 on 1/1/88 and insured for 5 years after that date. Disability pension: Insured at least 1 year, not working. Survivor pension spouse/child/parent, of insured (insured at least 1 year) or pensioner. Lump Sum refund if insured has less than 15 years coverage, if requested
Chile (new system, 1980,81)	Insured Person: old-age-minimum 10% of wage or salary. Disability and survivor-approx 3.3% depending on pension fund administrator. Employer: None. Government: Special subsidies for guaranteed minimum provision. Maximum earnings (adjusted monthly to changes in the consumer price index) are established for contribution purposes.	Old age: men age 65, women age 60. 20 years contribution for new entrants. Early retirement permitted if pension at least 50% of average wage over last 10 years and is at least equal to 110% of minimum old-age pension. Disability: loss of 2/3 capacity to work. Partial disability payable if 1/2-2/3 loss of capacity. Survivor: deceased was covered or was pensioner at death .
Mexico	Insured person: 1.85% of average earnings. Employer: 5.18% of payroll. Government: 0.3% of payroll for most workers. System of Saving for Retirement (SAR): Employee: voluntary, Employer: 2% of payroll. Additional 5% up to 10 times of minimum wage to help finance housing. Government: none.	Old age pension: Age 65, fractions of pension for age 60-64 if involuntarily unemployed. 500 weeks of contribution. Retirement from employment not necessary if new job is with different employer and after 6 month waiting period. SAR: Age 65, eligible for social security pension or upon receipt of employer provided pension. Unemployed may withdraw upto 10% of savings, other specific withdrawals permitted. Disability: 50% reduction in usual earnings capacity. 150 weeks of contribution. Survivor: Deceased was pensioner or had 150 weeks of contribution at death. For funeral grant: 12 weeks of contribution in last 9 months or pensioner at death.

Table 8: OLD AGE, DISABILITY AND DEATH PROGRAMS (Cont'd)

United States	Insured person: 6.2% of earnings, Self employed: 12.4%; Employer 6.2% of payroll; Government: Cost of special monthly old-age benefits for persons aged 72 before 1968; whole cost of means tested allowance. Maximum earnings for contribution and benefit purposes established.	Old age 65 (62-64 with reduction);gradually increasing to 67 over 2000-27. Insured: 40 quarters of coverage (QC). Pension reduced for high earnings depending on age and earnings. Disability pension: (disabled at least 1year):insured : 1 QC for each year since age 21, upto year disability began; maximum 40 Qcs. Also 20 QC in 10 year period before disability began. More liberal requirement for young and blind. Survivor pension : Deceased was pensioner or had 1 QC for each year since age 21 and before the year of death; maximum 40 Qcs. Reduced requirements for orphans and non-age widow with eligible orphan.

Table 8: OLD AGE, DISABILITY AND DEATH PROGRAMS (Cont'd)

	Benefits	Administrative Organization
Indonesia	Total employee and employer contributions paid in, plus accrued interest	Ministry of Manpower-- general supervision. Public Corporation for Employees Social Security-- administration and operation of program
Malaysia	Old Age: contribution defined lump sum. Employee entitled to 1/3 of benefit at age 50 without retirement, receives remainder at age 55. Housing withdrawals specified & permitted. Permanent Disability: Pension-50% of earnings plus 1% for each 12 months of contribution over 24 months. Maximum (65% earnings) and minimum pensions (M$171.43 per month) are established. Maximum earnings M$2000 a month for disability benefit purposes. Disability Provident Fund-contribution defined lump sum if ineligible for pension and permanently incapacitated. Survivor pension- percent of actual or potential disability pension of the deceased depending on who survives upto maximum of 100%. provident fund contribution defined lumpsum payable to nominated survivors or legal heirs. Contribution defined death benefit. Funeral grant is M$1000.	Ministries of Finance and Human Resources, general supervision. Social Security Organization and Employees Provident Fund -- administration of program; managed by tripartite governing board.
Korea	Old Age: 2.4 times the sum of average monthly earnings of all insured persons in previous year and the average monthly earnings of retiree over entire contribution period. For each insured year more than 20, the monthly benefit amount is increased by 5%. Permanent Disability: Total disability--same as old age calculation. Partial disability--reduced by upto 40%. Survivor: percent of pension, varying with years of contribution.	National Pension Corporation, under supervision of Ministry of Health and Social Affairs
Chile (new system, 1980,81)	Old-age: Contribution defined benefits. Minimum pension (85% of minimum wage) guaranteed by government. At retirement insured may make withdrawals from account, regulated to guarantee income for expected life-span or buy annuity from private insurance company or a combination of the two. Disability: same as old age pension, minimum pension guaranteed by Government. Survivor: percent of pension varying with conditions of survivor(s) (widow/orphan etc.).	Superintendent of Pension Fund Management Companies-- general supervision; individual pension fund management companies-- administration of individual capitalization accounts.

Table 8: OLD AGE, DISABILITY AND DEATH PROGRAMS (Cont'd)

Mexico	Old age (new formula):Benefit amount based on multiples of minimum wage in the Federal District (1 to 6 times minimum wage);increases by 25% of minimum wage with average earnings and length of coverage. SAR: contributions made to a special account for the employee. Investment must yield at least 2% real return after commission and charges. Benefit may be paid as a lump sum or used to purchase annuity. Disability: same as old age pension including for the SAR. Survivor:percent of pension varying with condition of survivor (s). SAR: same as for old age pension. Maximum and minimum survivor pensions are defined. Funeral grant is two months minimum wage in Federal District. Christmas bonus: one month pension.	Ministry of Labor and Social Welfare-- general supervision. Mexican Social Insurance Institute-- program administration through regional and local boards in areas which coverage extended. Managed by General Assembly, Technical Council, Oversight Commission, & Director-General. SAR: Mexican Social Security Institute, program administered through SAR Technical Community
United States	Old age: Based on covered earnings averaged over period after 1950 (or age 21, if later) upto age 62 or death excluding the 5 years of lowest earnings. Available at age 62, but reduced for each month of receipt prior to 62. No minimu benefit for workers reaching age 62 after 1981. Monthly maximum for workers retiring at age 65 in 1993. Increment for each month that worker delays retirement at ages 65-69; amount depends on when worker reached age 62. Automatic cost of living adjustment and dependents' allowances are defined. Maximum family pensions are defined. A means-tested allowance is payable to needy under separate Supplemental Security Income (SSI) program. Disability pension: similar to old-age pension. Survivor pension: Percent of pension depending on age and conditions of survivors. Means tested allowance payable under Federal-State program to needy orphans.	Department of Health & Human Services-- general supervision. Social Security Administration-- in Department administration of program through regional program centers, district offices, and branch offices. Treasury Department-- collection of Social Security taxes through Internal Revenue Service, payment of benefits and management of funds

Table 9: SICKNESS AND MATERNITY PROGRAMS

	Type of System	Coverage	Source of Funds
Indonesia	Voluntary Social Insurance System (medical benefits)	Firms with at least 10 workers or expenditures of 1 million Rupiah, who do not have health maintenance program with superior benefits. Coverage being extended gradually to different industries and districts. Given to worker, spouse and up to 3 children.	Insured Person: None. Employer: 6% of payroll for married workers, 3% for single up to a maximum of 1 million Rupiah. Government: None.
Malaysia	Medical Care available in government dispensaries, hospitals and rural health centers. Nominal fees charged for persons able to pay.	Not Applicable	Not Applicable
Korea	Social Insurance System. Medical benefits only.	All permanent residents except for government and private school employees and those covered by Medical Aid program. Separate system for private school teachers and employees, and public employees.	Insured person: 1.5% to 1.9% of standard monthly wages. Self-employed, employees in small (less than 5 employees) firms, temporary workers: amount set by individual carrier. Employer: 1.5-1.9% of standard monthly wages. Government: partial costs of administration and of programs for self-employed, temporaries, small firm employees.
Chile	Social Insurance System. Cash and medical benefits.	**Public System**: All public and private sector workers, pensioners, persons receiving work injury, unemployment, or family allowance benefits . **Private System**: Covered workers and their dependents. Persons not receiving family allowance may contract in.	**Public System**: Insured person: Wage earners 5.74% of wage. Salaried employees 6.55% of salary. Employer: none. Government: partial subsidy. **Private System**: Insured person: Wage and salaried workers and self-employed: 7% of earnings. Employer: none. Government: none. Maximum monthly earnings for contribution purposes.
Mexico	Social Insurance System. Cash and medical benefits.	See Old Age Pension. Coverage is continued for 6 months for workers who lose their jobs.	Insured person: 3.125% of earnings. Employer: 8.75% of payroll. Government: 0.6% of payroll. Maximum and minimum earnings are established for contribution and benefit purposes.
United States	Medical benefits: Health insurance for disabled, health insurance for aged, cash benefits (5 states). Social Insurance systems.	Medical benefits: hospitalization, persons eligible for pension at least 65 years old, some others, disability pensioners on roll for more than 2 years, chronic kidney disease persons. Cash benefits: Employees in industry and commerce in 6 jurisdictions. Contracting out allowed except in Rhode Island. No. programs in other 45 states.	Insured person: hospitalization, 1.45% (self-employed 2.9%) paid by all workers covered for old age disability, death and some federal employees; cash benefits: up to 1.2% of taxable earnings according to state. Employer: hospital 1.45% of payroll; cash benefits vary. Government: hospital costs for some uninsured. Maximum earnings are established for contribution purposes.

Table 9: SICKNESS AND MATERNITY PROGRAMS (Cont'd)

	Qualifying Conditions	Benefits	Administrative Organization
Indonesia	Sickness and maternity benefits. None. Medical Benefits: Current coverage	Medical benefits: Medical examination and treatment, hospitalization, medicine, and maternity care, dental care, eye care, family planning services and immunization. Duration: 2 months of hospitalization (may be extended in special cases). Same benefits for dependent.	Minister of Manpower-- general supervision. Public Corporation for Employees Social Security-- administration and operation of program.
Malaysia	Not Applicable	Not Applicable	Not Applicable
Korea	Current coverage, no qualifying period.	Workers: services by designated doctors, clinics, hospitals including medical exam, drugs, full maternity and nursing costs up to 2 children, ambulance. Patient copayments vary from 20-55% depending on type and place of care. No maximum. Duration: 180 days a year per insured person (may be extended under certain conditions) Dependents: same benefits but no maternity grant. Defined funeral grants.	Ministry of Health and Social Affairs-- general supervision. National Federation of Medical Insurance-- general guidance and support. Medical insurance societies (419 in total)-- administration of the program.
Chile	Cash sickness and maternity benefits: Wage earners and salaried employees currently covered, a total of 6 months and 3 months of contribution in last 6 months. Medical Benefits: all workers currently covered.	**Sickness and Maternity: Public System**: sickness—average net earnings in previous 3 months for private employees. Maternity—same, payable for 6 weeks before and 12 weeks after. **Private System**: vary with contracts, must be at least as good as public system. **Workers Medical: Public System** various types of care, no limit on duration. **Private System**: benefits vary with contract. Dependents: medical benefits same as for insured person. In private system, same as cash sickness and maternity.	**Public System**: Ministry of Health--general supervision. National Health Services-- administration of benefits and services. **Private System**: National Health Fund oversees individual health institutions.
Mexico	Cash sickness benefits: 4 weeks of contribution immediately preceding illness. For casual workers, 6 weeks of contribution in last 4 months. Cash maternity benefits: 30 weeks contribution by insured woman in last 12 months. Medical Benefits: currently insured or pensioner.	Sickness: 60% of average earnings. Minimum and maximum benefits are defined. Maternity: 100% of average earnings payable 42 days before and 42 days after, cash sickness available if can't work 42 days after, nursing allowance in kind. **Workers Medical**: medical services including hospitalization, dental, etc. Payable for 52 weeks , may be extended upto 104 weeks. Dependents medical benefits: same as for insured.	Ministry of Labor and Social Welfare-- general supervision. Mexican Social Insurance Institute--program administered through regional and local boards. Institute operates own hospitals, clinics, pharmacies, other facilities; also contracts use of some facilities.

Table 9: SICKNESS AND MATERNITY PROGRAMS (Cont'd)

United States	Cash benefits: minimum insured wage in last year ($300-$6600), specific weeks employment in last year (4-20), or combination of conditions. Medical benefits: hospitalization, pensioner 65 years or older, disabled and entitled to disability benefits for at least 2 years, or suffering from chronic kidney disease. Other medical services: meet requirements for hospital benefits, election of coverage and payment of required premiums.	Sickness benefit: percent of earnings varying by states. In Rhode Island: supplement per week per child upto 4 children. Maximum weekly benefit established. Maximum duration: 52 weeks. Maternity: same as cash sickness benefits. Workers Medical Benefits: services furnished by providers paid by directly by carriers or refunds to patients by carriers of part of medical expenses. Hospitalization: up to 90 days; deductibles defined according to duration. 20% copayment for most other medical services after deductable. Dependents' medical benefits: same as for insured worker.	Department of Health and Human Services-- general supervision. Health Care Financing Administration, national program administered in cooperation with National Health Service, Social Security Administration and State Health Departments. Private carriers and Public agencies, serving under contract as intermediary administrative agents, determine and make payments to providers of services or to patients. Includes nonprofit Blue Cross and Blue Shoeld plans, commercialinsurance companies, and group-practice prepayment plans. Cash Benefits: State employment security agencies (except in New York, Hawaii).

Table 10: WORK INJURY PROGRAMS

	Type of System	Coverage	Source of Funds
Indonesia	Social Insurance Program	Social insurance program: Establishments with 10 or more employees or a payroll of more than 1 million Rupiah. Coverage being extended gradually to smaller establishments. Voluntary coverage available.	Insured person: None. Employer: 0.24% to 1.74% of payroll, according to risk in industry. Government: none.
Malaysia	Social Insurance System	Employees earning less than M$2,000 a month (or when first covered, or voluntary agreement by employer and employee), self-employed, casual workers and domestic servants.	Insured person: none. Employer: 1.25% of payroll according to 24 wage classes. Government: none.
Korea	Compulsory insurance with public carrier.	Employees of industrial firms with 5 or more workers.	Insured person: none. Employer: 0.5% to 33.5% of payroll, according to risk in industry (average 2.21%). Government: costs of administration.
Chile	Social Insurance System.	Employed persons, government workers, students, and some self-employed persons.	Insurance person: none except if self-employed. Employer: 0.9% of payroll, plus 3.4%-6.8% of payroll according to industry and risk (for wage earners and salaried employees). Employers may contract out of system by offering equal or improved benefits. Government: none for private sector.
Mexico	Social Insurance System	See old age pension.	Insured person: none. Employer: 0.875 to 8.75% of payroll, according to risk; average rate 4.42% of payroll. Government: none. Maximum and minimum earnings are established for contribution and benefits purposes. Special system of rates and benefits for self-employed.
United States	Compulsory (elective in 3 states) insurance through public or private carrier (according to state) or self-insurance.	Employees in industry and commerce generally, and most public employees. Exclusions: agricultural employees (1/5th states); domestics (1/2 states); casual employees (3/5 states);employees of firms with fewer than 3-5 employees (1/6 states). Coverage compulsory except in 3 states.	Insured person: Nominal contributions in few states. Employer: whole cost in most states and most of cost in others, through either insurance premiums varying with risk or self-insurance. Average cost in 1991 about 2.4% of payroll. Costs of pneumoconiosis benefits for persons coming on rolls after 1973. Government: none. Whole costs of pneumoconiosis benefits for persons on rolls before 1974.

Table 10: WORK INJURY PROGRAMS (Cont'd)

	Qualifying Conditions	Benefits	Administrative Organization
Indonesia	Partial or total disablement before age 55. No minimum qualifying period.	Temporary Disability benefits: 100% of earnings for first 4 months, 50% after. Permanent Disability: varies with disability degree. Maximum 70% of previous monthly earnings times 60. Death: funeral costs plus cash benefit. Workers medical benefits: medical treatment, hospital care, medicines. 100,000-200,000 Rupiah for transportation , medical costs up to 3 million Rupiah.	Minister of Manpower-- general supervision. Public Corporation for Employees Social Security-- administration and operation of program.
Malaysia	No minimum qualifying period.	Temporary Disability: 80% of earnings. Daily minimum. Permanent Disability pension: 90% of earnings if total disability. Daily minimum. Constant attendance supplied up to maximum. Partial disability: proportion of full pension with degree of disability. Workers Medical: medical treatment, hospitalization, medicines (government hospital and contracted doctors). Survivor: pension and funeral costs.	Ministry of Human Resources-- general supervision. Social Security Organization-- administration of work-injury program; managed by tripartite governing board.
Korea	No minimum qualifying period.	Temporary Disability; 70% of average earnings up to 24 months. Permanent disability : Total disability- annual pension equal to 138-329 days average earnings. Partial disability- lump sum equal to 55-1,474 days earnings according to degree of disability. Workers Medical: free treatment, surgery, hospitalization, medicines, etc. transportation, rehabilitation. Survivor: lump sum equal to 1300 days average earnings payable to surviving family plus pension defined as percent of annual earnings according to number of people. Funeral grant:120 days average earnings.	Ministry of Labor Affairs-- general supervision.
Chile	No minimum qualifying period.	Temporary Disability: same as under cash sickness benefit (up to 52 weeks, may extend to 104 weeks). Permanent disability: pension: total—70% of base wage. Constant attendantance suppliment. Partial: 35% base wage. Lump sum grant up to 15 months base wage for less disability. Workers medical: medicine, rehabilitation, occupational training. Survivor: percent of pension depending on survivor. Funeral grant is 3 times monthly minimum wage.	Ministry of Labor and Social Welfare-- general supervision. Administration of contributions and cash benefits through Social Insurance Service, Private Salaried Employees' Welfare Fund, and other social security funds, and employers' non profit mutual insurance group. National Health Service-- provision of medical benefits.

Table 10: WORK INJURY PROGRAMS (Cont'd)

Mexico	No minimum qualifying period.	Temporary Disability: 100% of average earnings up to maximum. Permanent disability: pension—70% of earnings. Christmas bonus: 1 month's pension. Adjusted with minimum wage. Partial disability: percent of pension varying with amount of disability. Workers medical: full medical, surgical, hospital, medicines, etc. Christmas bonus: 1 month's pension. Survivor pension: percent of total disability pension of insured upto 100% depending on survivor. Christmas bonus: 1 month's pension. Minimum pension is same as old age pension. Funeral grant: two months minimum wage; pension adjusted in proportion to minimum wage in Federal District.	Ministry of Labor and Social Welfare-- general supervision. Mexican Social Insurance Institution-- administration of contributions and benefits through regional and local boards.
United States	No minimum qualifying period.	Temporary Disability: 2/3 of earnings in most states. Maximum benefit according to state; Payable if injury lasts 3 days - 6 weeks. Additional variation in benefits with state. Permanent disability: total-2/3 of earnings in most states. Defined monthly benefit for pneumoconiosis. Maximum weekly pension according to state. Payable for life or throughout disability in 4/5 of the states. Partial disability- proportional to loss. Worker's medical :care provided as long as required in all states. Survivor Benefits: pension-percent of earnings depending on who survives. Defined benefits for pneumoconiosis. Maximum pension defined. Lumpsum funeral grant according to State.	Program administered by State worker's compensation agencies, in about 1/2 of states; State Departments of Labor in about 3/8; courts in 3 States; pneumoconiosis: federal government and state. 1/3 States have government workers' compensation fund; Employers must insure with State Fund in 6 States; may insure with State or private carrier in 14 States; and may insure with private carrier in remainder. Most States allow self-insurance.

Table 11: OTHER LABOR STANDARDS AND MANDATED NON-WAGE COMPENSATION

	Hours of Work	Rest Period	Overtime
Indonesia	Maximum 7 hours a day or 40 hours a week. May be extended to 9 hours a day, 54 hours a week with overtime pay.	At least 1/2 hour rest after 4 successive hours of work. 1 day rest a week. May also change to 2 rest days a week under 8 hour workdays with agreement from workers.	1.5 times wages per hour for the first overtime hour. Twice wage per hour for every overtime work of the following days. Separate rates for holidays. Pregnant and young workers may not be hired overtime.
Malaysia	No worker should work more than 8 hours a day, in excess of a spread over period of 10 hours per day, more than 48 hours per week. By mutual agreement can increase to 9 hours a day up to 48 hours per week maximum. Law stipulates maximums for piece rate, etc. (12 hours per day).	At least 1/2 hour rest after 5 consecutive hours. If 8 continuous hours required, must get at least 45 minutes for meals and recreation. At least one day rest per week.	Work on rest day: if work is for less than 1/2 normal hours, 1 days wage at ordinary rate; if work is more than 1/2 but less than 1 full day's normal hours, 2 days wages at normal rate. For monthly salaried workers rates of pay are 1/2 and full days pay respectively. Rates are 3 times a days pay for longer hours and twice for holiday
Korea	Maximum 8 hours a day, 44 hours a week excluding rest period. May be extended up to maximum 12 hours a week with mutual agreement. Ministry of Labor approval needed and may order rest period/day-off corresponding to extensions.	Not less than 1/2 hour for every 4 hours and not less than 1 hour for every 8 hours during the course of work. Exclusions for hours per day and rest hours with approval from Ministry of Labor. One or more days off in the week. 1 day leave per month with pay.	More than 1.5 times normal wage for overtime work, night work and holiday work.
Chile	Maximum 48 hours per week, spread out over 5 or 6 days, maximum overtime 2 hours per day.	At least 1 day a week.	50% surcharge for overtime.
Mexico	Maximum 8 hours a day, 48 hours per week, 5 1/2 days or any other arrangement. 40 hours is more common.	At least one half hour per shift (day/night/mixed). One complete day of rest per week.	Must be paid at twice the hourly salary, including holidays. Overtime must be less than 3 hours per day and cannot be performed in more than 3 consecutive days. Overtime beyond 9 hours per week must be paid at 3 times the hourly rate.
United States	No maximum hours in Federal law.	No mandates in Federal Law	Federal law requires that employers must pay employees not less than 1.5 times regular rate for all hours worked in excess of 40 hours a week.

Table 11: OTHER LABOR STANDARDS AND MANDATED NON-WAGE COMPENSATION (Cont'd)

	Annual Leave with Pay	Minimum Age of Employment	Menstrual Leave
Indonesia	2 weeks, calculated as 1 day for every 22 days up to maximum 12 days a year. After 6 years in same organization, entitled to 3 months.	15 years. Conditions under which younger children may work specified in law.	Female employees shall not be obliged to work on first and second day of menstrual period.
Malaysia	8 days for every 12 months of continuous service with same employer, if employed less than 2 years; 12 days if 2-5 years; 16 days if more than 5 years. If worked less than 1 year, computed proportionately to completed months in service. Not eligible for leave if absent without leave for more than 10% of working days.	Part X, "Employment of Children and Young Persons", of Employment Act 265 has been repealed.	None.
Korea	10 days leave with pay for one full year service without absence; 8 days if not less than 90% attendance of one year's service. For workers with continuous service of at least 2 years, 1 day for each consecutive year. But may pay wage instead of allowing leave over 20 days.	Minor under 13 years shall not be employed except with employment certificate from Minister of Labor.	One day leave with pay for menstruation every month.
Chile	15 business days per year, with an increase of one business day for every 3 years after 10 years of service.	18 and above may be hired. Hiring of 14-18 with special permission and protection with regard to timetables, workdays, and type of work performed. Below 14 may not be hired.	None.
Mexico	6 vacation days after one year employment, 2 more days for each additional year, up to 12 days. From 5h year of employment, 14 workdays' vacation; every 5 years, 2 more days. Employers must pay vacation premium of 25% of salary earned during vacation days; must be taken within 6 months and when suitable to employer.	Not available	None.
United States	No mandates in Federal Law.	Minors under age 14 are under the legal age for employment, newspaper delivery exempted.	None.

Table 11: Other Labor Standards and Mandated Non-Wage Compensation (Cont'd)

	Maternity Leave	Bonus/Profit Sharing
Indonesia	3 months. 1.5 months before and 1.5 after. Maximum extension of 3 months before expected date with medical certificate	New ministerial decree (Sept. 1994) requires all companies to pay 13th month salary timed with religious holiday. This used to be strongly recommended previously, will now be compulsory. Includes basic salary and fixed allowances.
Malaysia	60 consecutive days and employer must pay a maternity allowance for this period. Maternity leave shall not begin earlier than a period of 30 days immediately before, nor later than day following confinement. No maternity allowance if at least 5 surviving children.	None.
Korea	60 days leave with pay. But more than 30 days shall be reserved for use after childbirth.	None.
Chile	6 weeks before delivery and 12 weeks after childbirth, with a state subsidy. Leave also available with state subsidy to care for sick child under 12 months (transferable to father).	None.
Mexico	Not Available	Christmas bonus at least 15 days salary considered part of the salary and must be paid before December 20. Employees must receive share of enterprise profits as determined by National Committee for Employees' Profit Sharing in Enterprise. Currently 10% of pre-tax income, some exclusions.
United States	No mandated maternity leave. However, discrimination on the basis of pregnancy, childbirthor related maternity conditions constitutes unlawful sex discrimination.	None.

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