Indonesia country report

by Business Watch Indonesia

edited by SOMO

January 2004

towards democratic economic governance

BWI

sustainable • accountable • transparent

SOMO

Colofon

Indonesia country report

By:
Business Watch Indonesia

Edited & published by:
Stichting Onderzoek Multinationale Ondernemingen (SOMO)
Centre for Research on Multinational Corporatrions

This report is financed by:
The Dutch Ministry of Foreign Affairs and NOVIB

Additional copies are available from:
SOMO
Keizersgracht 132
1015 CW Amsterdam
Phone: +31 (0)20 6391291
e-mail: info@somo.nl
Download and ordering at www.somo.nl

The Business Watch Indonesia
Jl. Veteran Barat No. 79C,
Surakarta 57154, Indonesia
Phone: +62 (0)271-742522
e-mail: office@watchbusiness.org
website: www.watchbusiness.org

Contents

Introduction

The Centre for Research on Multinational Corporations (SOMO) based in Amsterdam has since 2003 been analysing and explaining the impact and role of the financial industry on poverty eradication and sustainable development. SOMO has asked Business Watch Indonesia (BWI) to carry out research about the functioning of commercial banking and insurance companies, both in public or private hands and national or foreign hands, with particular attention to the impact on the poor, the environment and the needs of societies (including respect for human rights). In addition, SOMO has asked BWI to explain the Indonesian context and relations in society in which the financial industry operates, in order to assess in how far the financial sector meets the needs of society and what the possibilities or pittfals in corporate social responsibility are for the financial sector in Indonesia.

The Bahasa Indonesia version of this Indonesia country report has been published by BWI as well as the report on the financial sector in Indonesia. SOMO has edited this English version of the country report and has assisted BWI in the course of its research.

January 2004

Myriam Vander Stichele

Chapter 1
Indonesia after the financial crisis of 1997-'98

1.1. Introduction

Indonesia is a country populated by 231,328,092 inhabitants[1] with a 1.54% population growth rate per year. The growth of the population is becoming an important problem for Indonesia, especially after the financial crisis happened. The large population requires extensive employment. And to provide a high growth rate of employment, a high economic growth is needed. However, the financial and political crisis has made it hard to be achieved.

The second quarter economic growth rate in 2003 was 3.76%. Meanwhile, the economic growth rate in year 2002 was 3.6%[2]. The financial crisis has made economic growth to experience a significant slow down. During 1998 – 2002, the average economic growth rate was minus 0.3%. Thus, there was no positive economic growth in this period. As a result of monetary, economic, fiscal, and banking policy of the government of Indonesia, which was under pressure and supervision of the International Monetary Fund (IMF), the annual average economic growth rate has been expected to increase. It is estimated that up to the end of 2003, the economic growth rate will have reached 4.1 %[3]. Growth is estimated to be between 3 to 4% in the next 3 to 5 years at current levels of productivity, investment and government accountability[4].

The economic growth, however, is predicted to be unable to tackle the swift increase of the labour force. Up to the end of 2002, based on the result of National Labour Force Survey (SAKERNAS)[5] in 2002, the number of jobless people in Indonesia reached 9,132,000. Annually, there are 2.5 million people seeking for employment, while every 1% GDP increase will only create employment for 350,000 people.

The amount of abovementioned unemployment has not yet included workers who are laid off. Since the crisis in 1997, there has been a growing number of industry moving their factories out of Indonesia and this had caused many people to be laid-off.

As will be explained in other chapters, the financial crisis and the economic decline of Indonesia cannot be separated from entrepreneur behaviour, that was based on corruption and developed in the period 1966 - 1997 without applying any risk management. All the main businesses had some particular relationship and closeness with President Soeharto.

---

[1] 2002 data.
[2] Data from Indonesian Financial Statistics, Bank Indonesia (www.bi.go.id).
[3] Predicted by Bank Indonesia.
[4] Interim Consultative Group on Indonesia, Economic and social update, 2 June 2003 (see www.worldbank.or.id)
[5] SAKERNAS is a survey conducted by National Statistic Bureau (BPS).

After Soeharto stepped aside, collusion, corruption, and nepotism happened in most of all level. The state owned enterprises (BUMN) were one of the greatest targets for corrupt people. Given the fact that political situation then became conducive for establishment of many political parties, the risk of money politics was also greater.

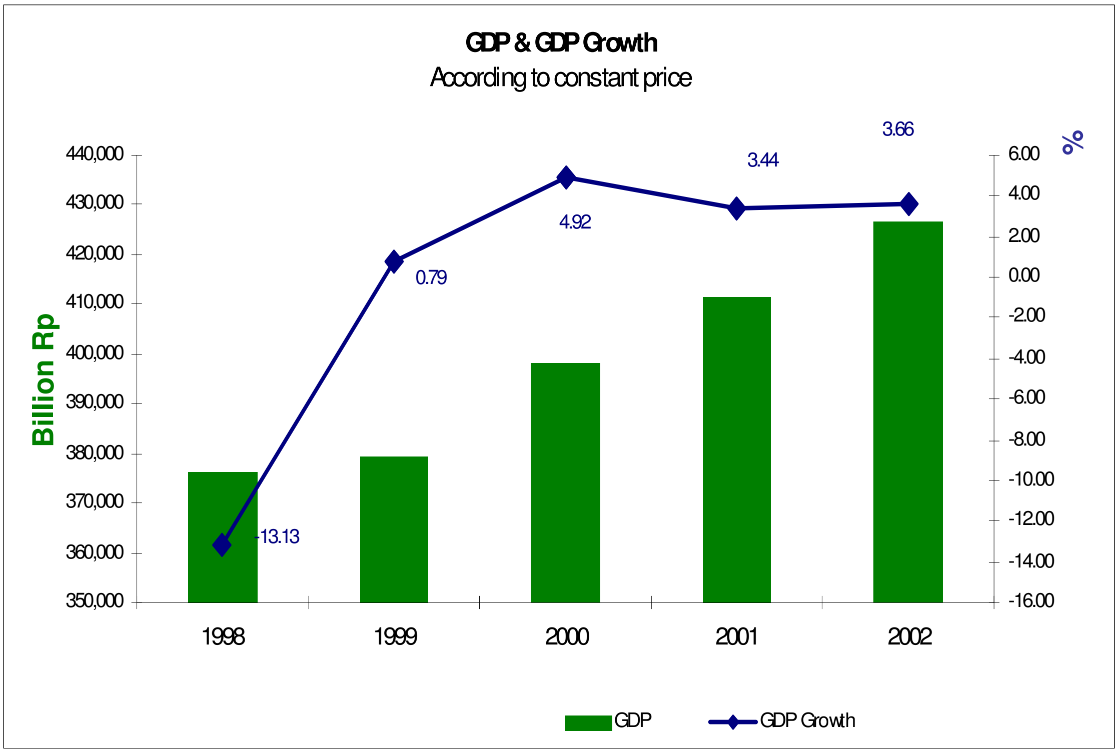
1.2. Several major economic indicators

1.2.1. Economic growth indicator

In 2003, economic growth was positive. Previously, the economic growth rate had felt to a level of minus (–) 13.13% in 1998. The highest annual growth rate since the crisis was 4.9% in 2000.

The Indonesian sluggish economic growth (compared to other Asian countries) was mainly caused by the political stability problem –with 3 times presidential replacement in less than 5 years. The event of Bali bombing, Marriot Hotel and bomb terror in another place, the SARS epidemic, the slowness in law enforcement that would create business certainty, and the failure of institutional development, have all resulted in creating an un-conducive environment for business.

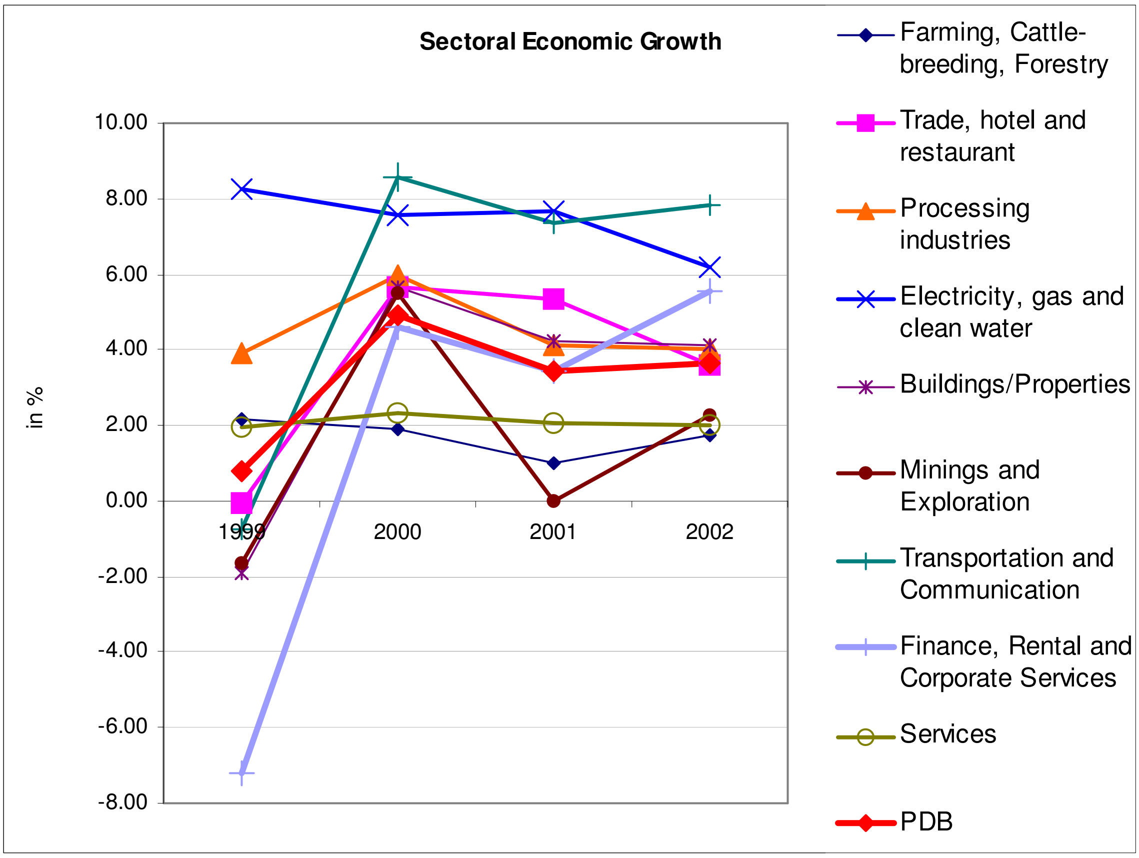
Figure 1. Economic growth of Indonesia



Source: data derived from Bank Indonesia's monthly report and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

In the financial sector, the slowness of corporate and banking restructuring have caused stagnant economic growth. The labour-employer conflicts have also coloured the Indonesia economic transition. The slow economic growth is also caused by lack of investment growth, compared to consumption. Obviously, economic growth that is only pushed by consumption has limitations.
The data of sectoral economic growth shows that the most severe sectors affected by the economic crisis are the financial and corporate services sector. Since 2000 this sector was experiencing recovery in which growth rate was above 4%. In 2001, it tended to slowdown and by the end of 2002 it approximately reached 5,8%. The trading, restaurant and hotel sector, which experienced growth that reached almost 6% in 2000, decreased after 2001, especially caused by the terrorist attacks.
Generally, Indonesia's sectoral economics started to experience a recovery and stabilization just in 2000. Almost every economic sector had a positive growth trend since 2000. The sector that was not affected by the crisis was the electricity, water and gas sector. Since this sector is related with people's basic needs, this sector remains needed by people despite the crises.

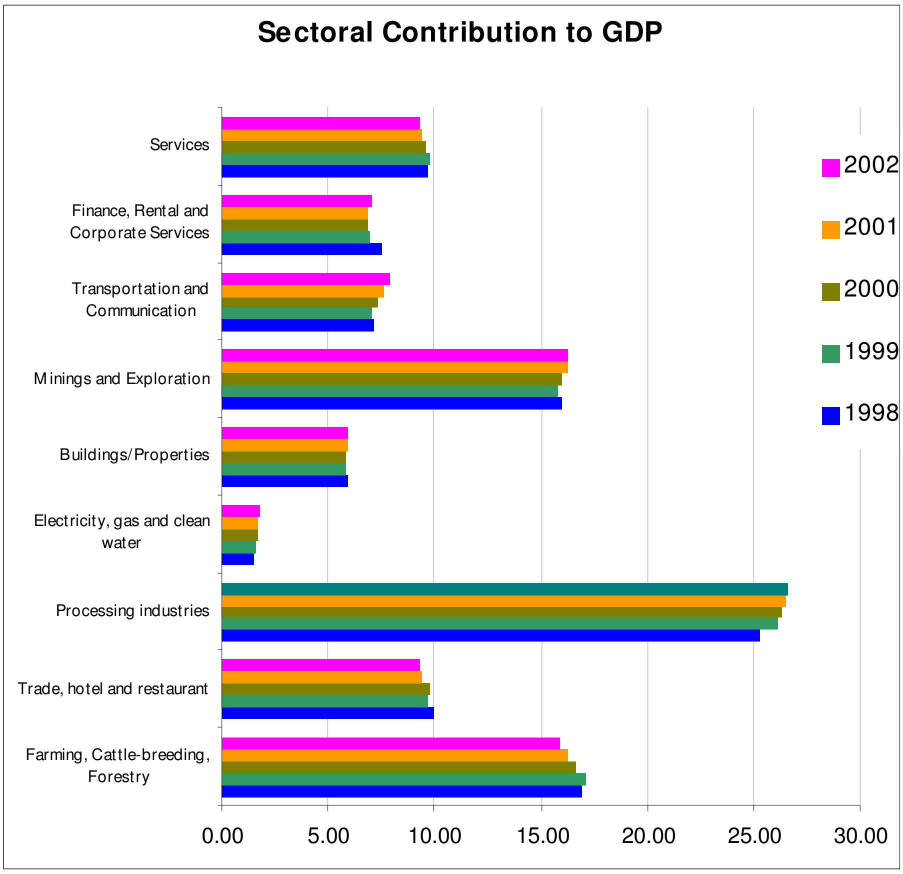
Figure 2. The Indonesian economy sector by sector



Source: data derived from Bank Indonesia's monthly report and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

Up to 2002, the sector which grew above the average growth rate (above the GNP growth/*Red line)* is the financial and corporate services sector (mark with bluish line). This sector is experiencing a keen increase due to banking restructuring. Another growing sector is electricity, water and gasses sector (Blue Line). The growth of this sector can be made as a leading indicator to the increasing informal activity. Transportation and communication sector (Green Line) shows an above average growth rate too. The recovery of air transportation sector and the boisterous investment in telecommunications sector has caused this sector growth.

Figure 3. Sectoral contribution to economic growth

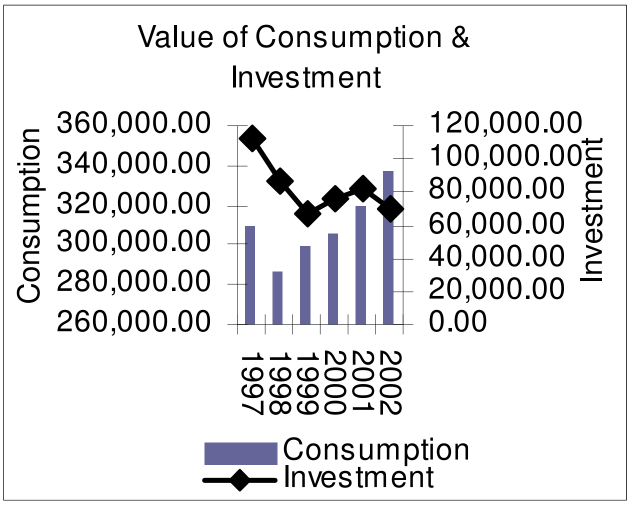


Source: data derived from Bank Indonesia's monthly report and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

1.2.2. Consumption and investment

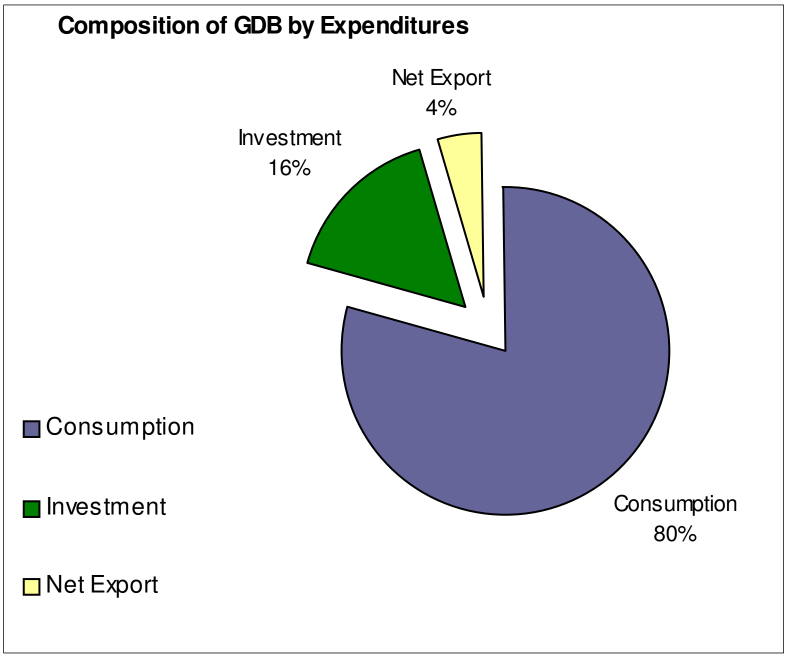
Public and Government consumption is increasing while investment declines. In other words, it can be said that after the crisis, the economic growth of Indonesia is moved more by consumption (either governmental consumption or that of the public) and not by investment. It can be seen that in the year 1997, the investment value far exceeded the consumption value. However, since 2001, the consumption value starts to match the investment value. And in the year 2002, the consumption value has resided in far above investment value. After the crisis, the investment growth keeps on being subdued, whereas the consumption growth progressively increasing.

Figure 4. The value of consumption and investment in 1997 - 2002



Source: data derived from Bank Indonesia's monthly report and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

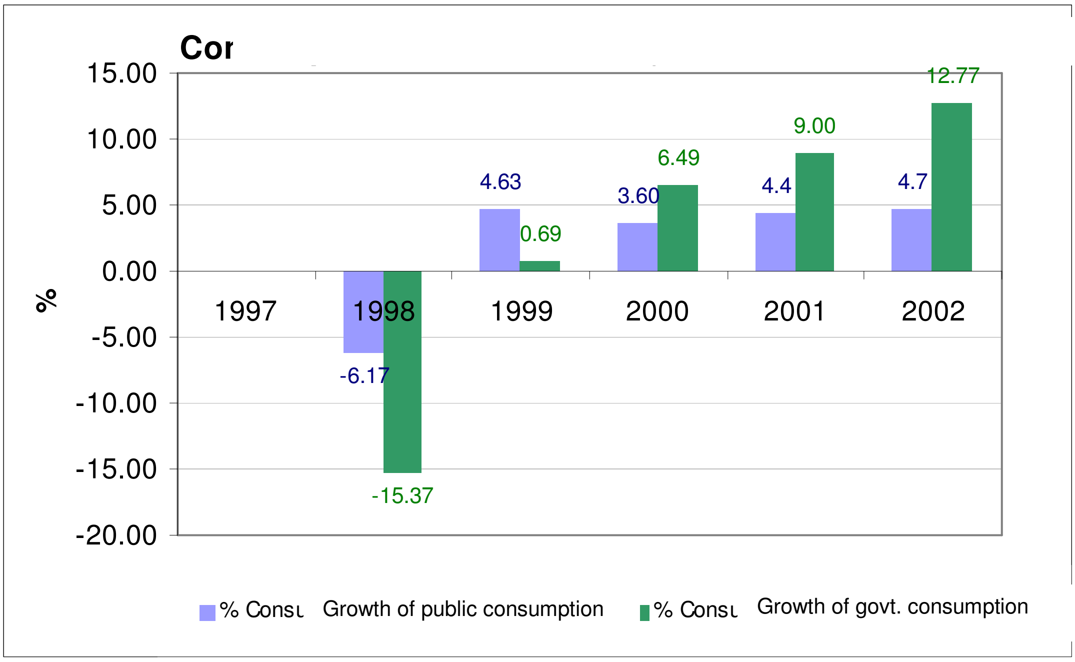
Figure 5. The role of consumption in economic growth



Source: data derived from Bank Indonesia's monthly report and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

The growth of consumption is dominated by governmental consumption. In the midst of low public consumption, the government continues to boost expenditure in order to sustain the economy. Although proportionally, it is the public consumption that dominantly sustains the economic growth with 70% of GDP portion.

Figure 6. Public and governmental consumption growth

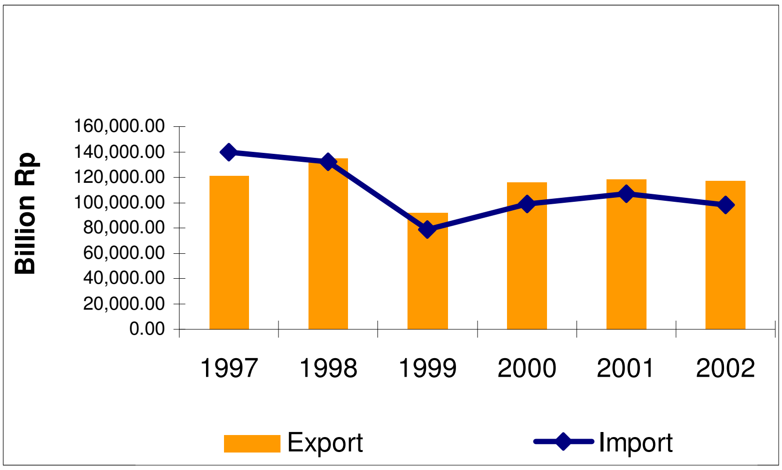


Source: data derived from Bank Indonesia's monthly report and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

1.2.3. Export and import

The export demand was weakened up to 2002 due to the world economic slowdown, Indonesia weak competitiveness, and domestic structural problem.

Figure 8. Export-import development



Source: data derived from National Statistic Bureau (BPS) and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

Ready-to-wear apparel (or garment) represents one of the non-oil and gas export commodities, which has a significant economic contribution. In 2002, the economic statistics of Bank of Indonesia recorded that the value of garment production to the total export of non-oil and gas commodity was as much as 13.76%. The production of garment in Indonesia, for all this time, had benefited from two special qualities of comparability, i.e. relatively cheap labour wages, and the export quota.

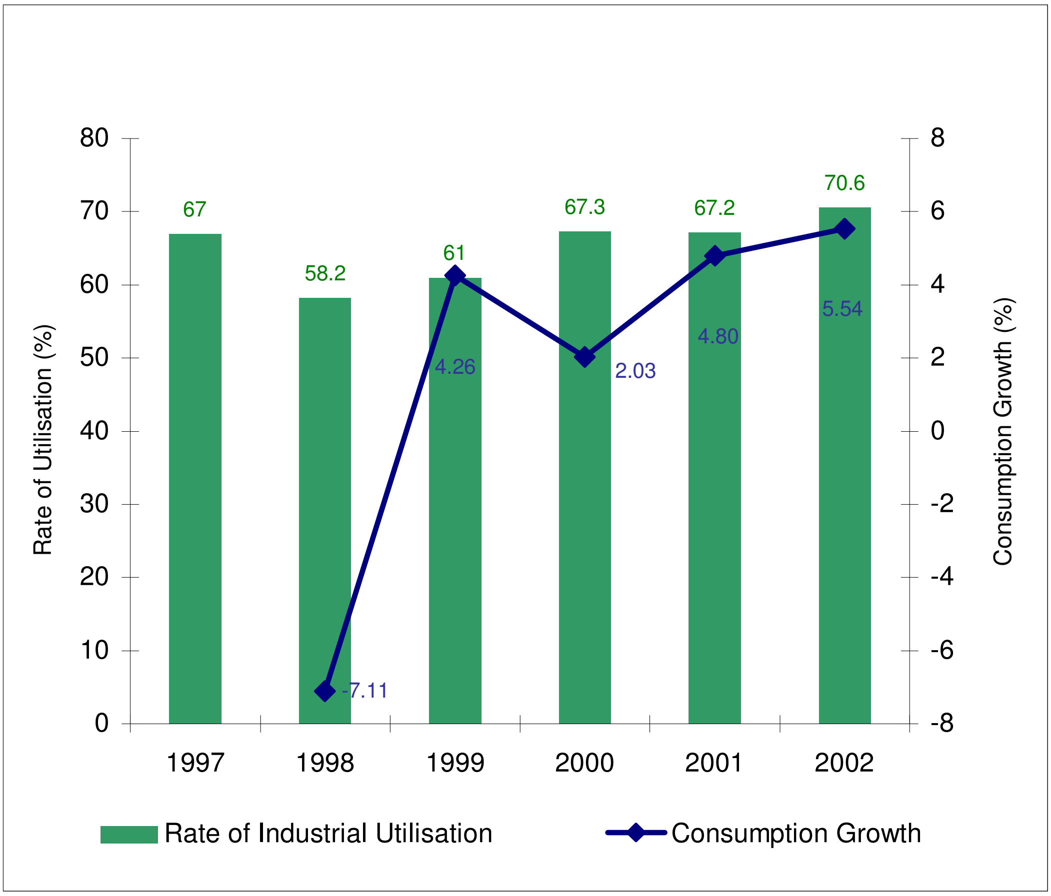
In the future, the role of garment export is estimated to decline, because many industries have started to relocate their factories to other countries, which have low-cost workforce, like Vietnam and China. It is aggravated by the revocation the garment exporting quotas from developed countries due to rules of the World Trade Organisation (WTO). Both factors will constrain the development of garment production in Indonesia.

Meanwhile, several commodities of forest crops, if jointly calculated, will significantly contribute to the overall value of Indonesia's export. In 2002, plywood contribution to the total export was as much as 5.54%. Whereas natural rubber was 3.68 %, saw timber was equal to 0.42%, pulp & paper as much as 8.71%, and oil palm & kernel reached 7.50 %. If those products were combined, their contribution to the total export value would equal to 25.85 %. In other words, the crop production resulted from Indonesia's forest is the prime commodity in the non-oil and gas export. If they were combined, the proportion of forest commodities would provide more than a quarter from the total value of non-oil and gas export commodity[6].

1.2.4. Production capacities

The slowdown of investment credit is because the business sector does not need to enhance its production capacities. The capacities they have now are still able to meet the demand growth. This can be seen in the graphics of utilisation/the usage level of production capacities (70%).

Figure 9. Rate of industry utilisation and consumption growth



Source: data derived from Bank Indonesia's monthly report and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

Along with the increasing of consumption both of domestic and foreign demand (exporting), the usage level of production capacities will also increase to 70%. It is expected that upon the economic growth and the increasing of consumption, industries will by itself add production capacities so that in the end investment improves and brings employment.

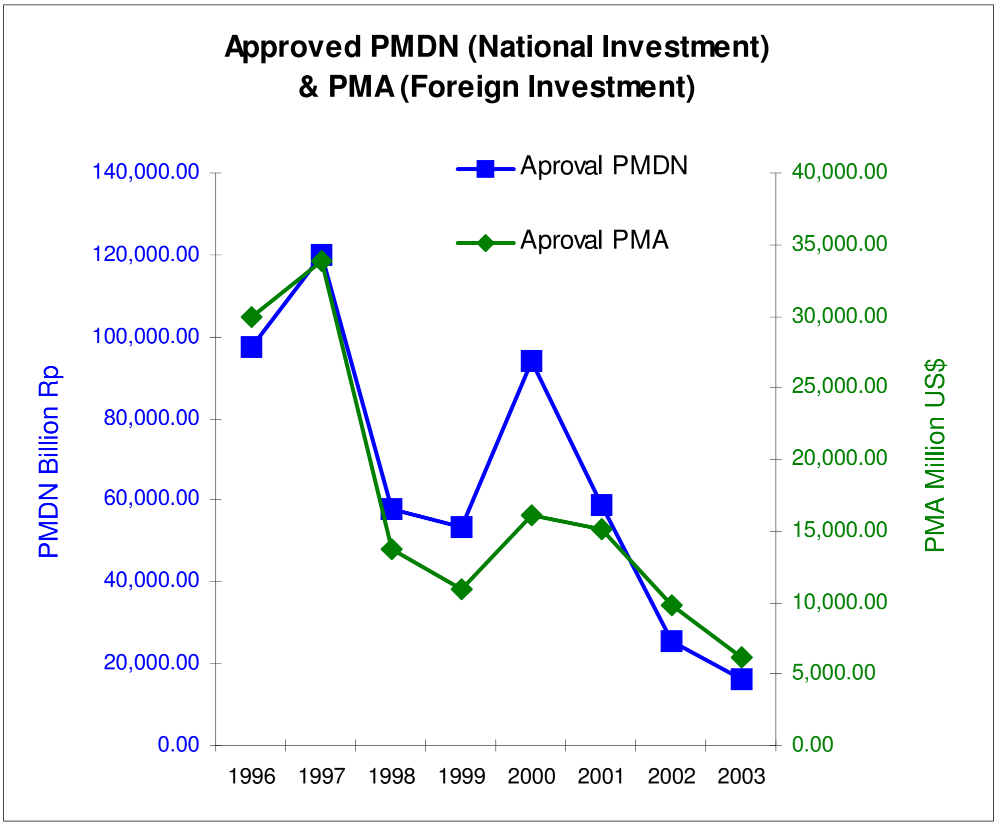
[6] Source: Economic Statistic of Bank Indonesia, September 2003.

The data indicates that in reality the economy has not developed, because the existing production capacity, which had been merely used, only counted at 70 %. It means there is another 30 % excess capacity, which is not in use. This happened because prior to crisis, the economic growth was 7% and during the period of 1998 - 2002, it turned to minus 0.3 %. Hence, it can be concluded that the installed industrial capacity has not been entirely utilised.

1.2.5. Investment approval and lack of interest to invest

The slowdown in the supply side can be seen from a significant decline in project value both by PMDN (domestic investment) and PMA (foreign investment) since 1997. The delay of investment and also investment reallocation abroad may be the cause of lack of interest to invest in general in Indonesia, as well as uncertainty in the monetary and financial areas such as inflation, the exchange rate and the interest rate, and political and security factors.

Figure 11. Domestic and foreign investment



Source: data derived from Capital Investment Coordinating Body (BKPM) and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

1.2.6. The labour problem

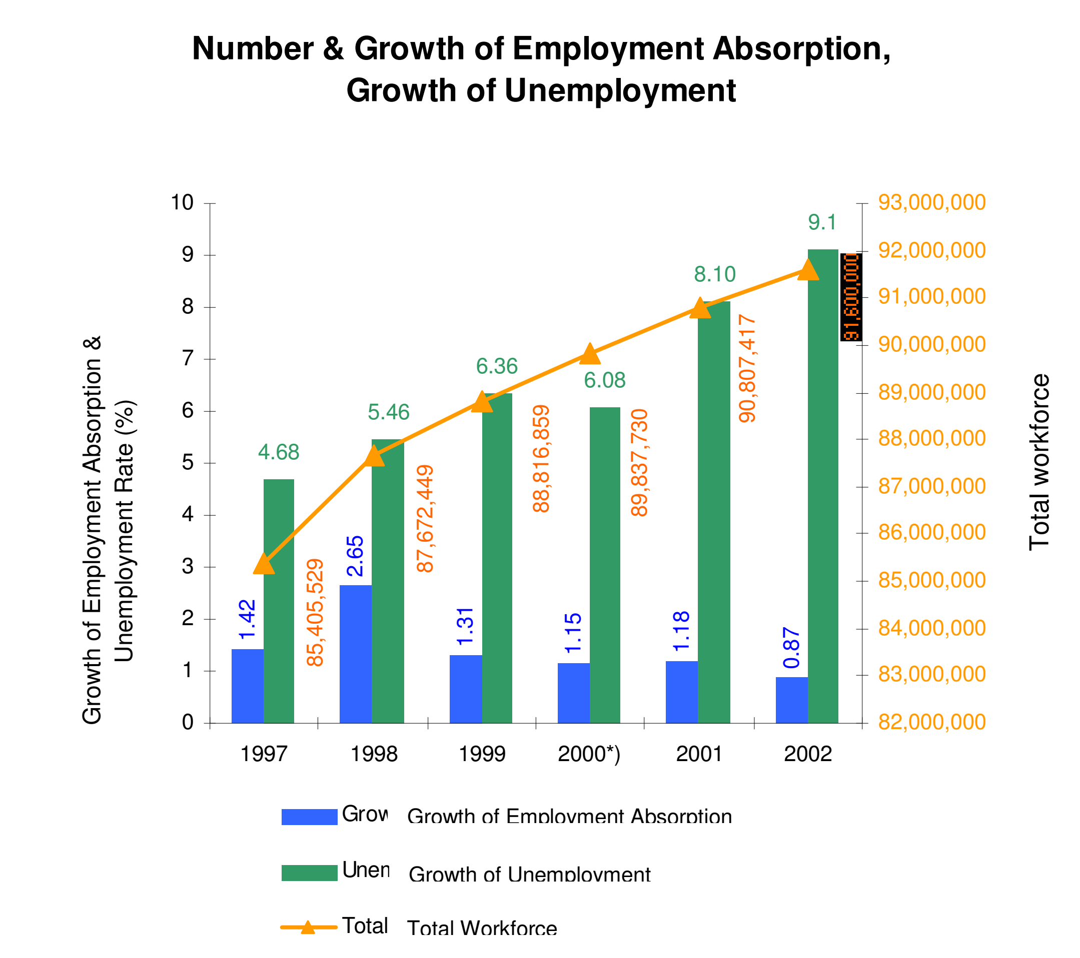
The impact of the labour problem to the production growth can be seen from the frequency of strikes and the loss of working hours and production activity. The frequency of strikes and the lost working hours reached their top at the end of the fall of the Soeharto's regime in 1998 (widely known as 'reformation'), after which the level of strike lowered. However, due to high living cost and the increased number of layoffs the labour sector still faces many problems in Indonesia.

The level of labour force absorption keeps decreasing. Nominally, the economic growth since 1997 had caused absorption of 91.6 million workers, with the absorption growth equal to 1% - 2% per year. In spite of that, the unemployed quantity keeps on increasing by 9% per year in 2002. This is because of, at the same time, there is labour force addition. Total available labour force is approximately 101 million people. The difference between labour force and labour absorption capacity (which is only of 91.6 million labour) has caused the unemployment in 2002 reside at the level of 9.1 million people.

Assuming that every 1% of GDP growth will absorb 350,000 workers, economic growth, which is required to absorb the labour force addition, should be around 7 - 8% so that the unemployment would stabilize at 9%. Certainly, to decrease the unemployment level to be below 9%, it requires a high economic growth above 8% annually.

Generally, as the total of labour force gets higher, on the contrary the employment absorption gets smaller, so that the amount of unemployment gets bigger. The crisis accompanied by the economic halt has resulted in lack of jobs. With the existing industrial reallocation trend, the ability of industrial sector to absorb labour is diminishing.

Figure 12. Labour force absorption

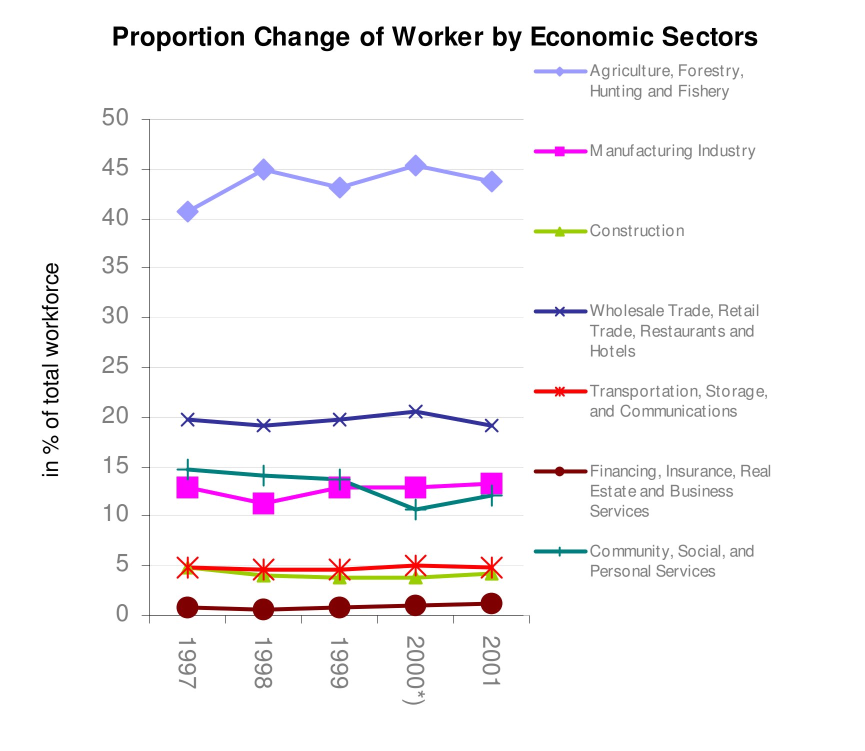


Source: data derived from National Statistic Bureau (BPS) and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

The agricultural sector represents the biggest sector in absorbing labour equal to 40 - 45%. This sector becomes the Indonesian labour backbone, followed by the retail trading sector and restaurant sector that absorb around 20 % of total labour force. The other important sector is the manufacturing industrial sector.

Observed from its structure, it can be seen that the Indonesian economy growth has been imbalanced. On one side, the agricultural sector that absorbs 45% of labour force, only gets 15-20% of the national income. Meanwhile, the manufacturing industry that only absorbs less than 15% of labour force, gets the biggest portion, i.e. 27% of national income.

Figure 13. The change of the proportion of jobs per economic sector

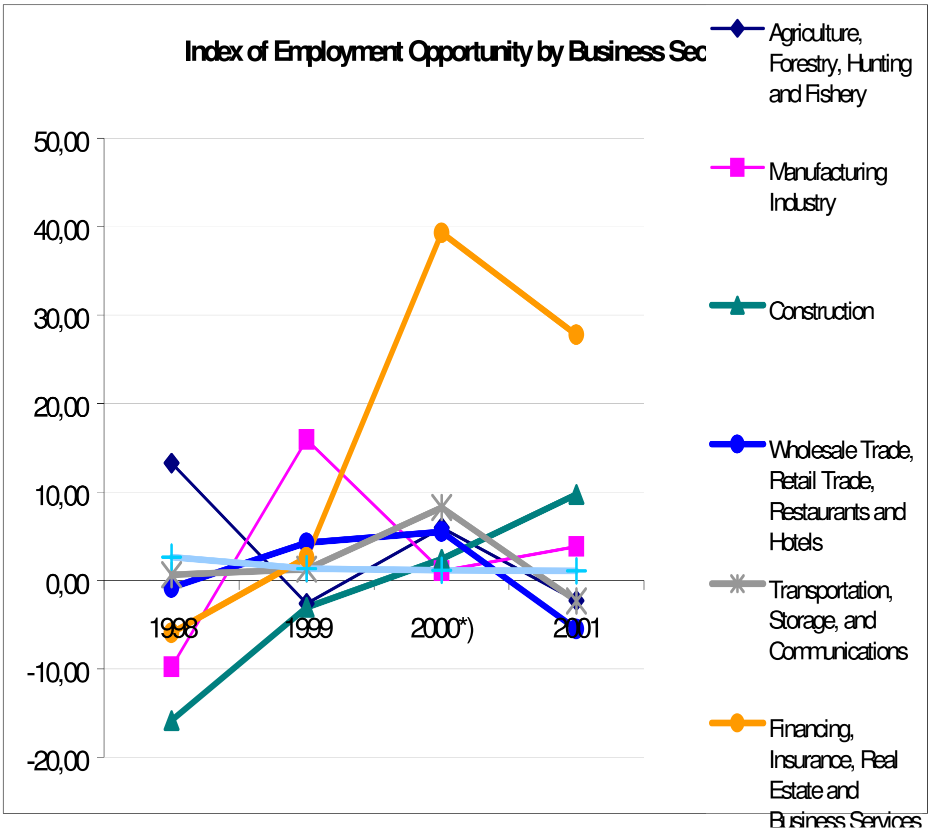


Source: data derived from National Statistic Bureau (BPS) and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

Observing the growth in labour absorption, it can be seen that the financial, insurance, real estate and services sector (orange line) shows a growth rate far above average rate (dark blue line). Banking restructuring and other financial sectors have caused a high demand on labour force in this sector. Besides, successful corporate restructuring in the property sector –marked by the success of the BPPN's property asset auction– has caused a high growth for this sector, though in total the portion of labour working at this sector remains modest. (see the tables of labour proportion according to economic sector).

Other sectors that grow above average rate are the construction sector and manufacturing industrial sector. The initialisation of governmental and private infrastructure project, low interest rate, and stable exchange rate has contributed recovery to these sectors growth. On other side, the high public consumption level has also caused an additional absorption of labour force for manufacturing industrial sector.

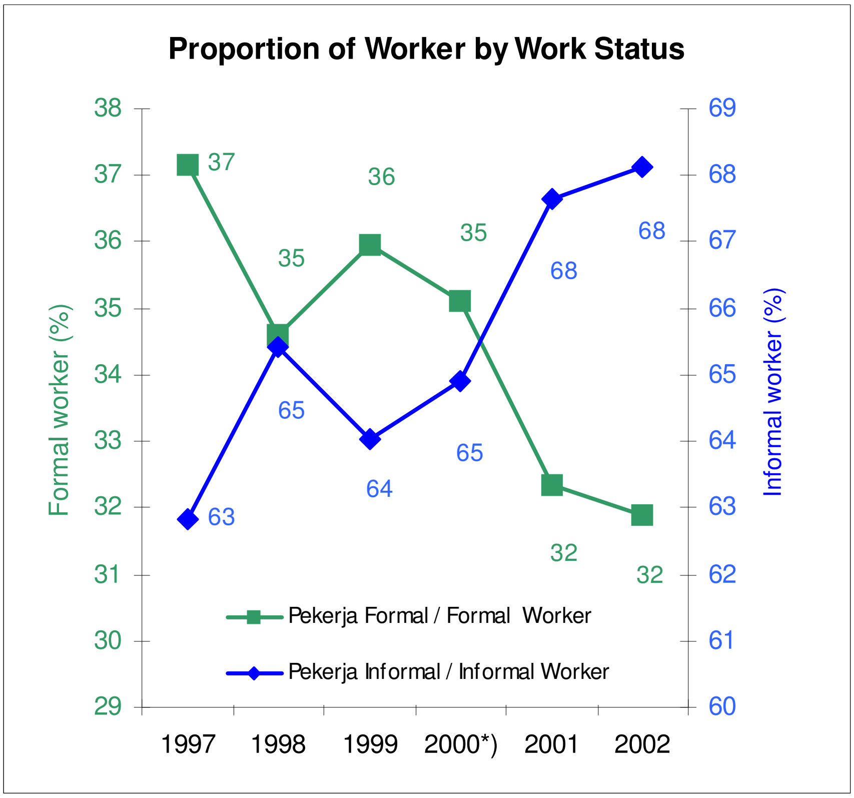
Figure 14. Index of Employment Opportunity Growth According to Business Sectors



Source: data derived from National Statistic Bureau and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

The proportion of labour that works in the formal sector continues to decrease, while workers in the informal sector, on the contrary, increase. Unabsorbed labour, in addition to the laid-off labour, has increased the growth of the informal sector. Other reasons for this phenomenon are efficiency, meaning that even if legal enterprises continue to grow, yet they choose to employ only a few people, so that informal sector becomes an alternative choice for those who are not absorbed in formal sector. More specifically, those who are working in informal sector choose to work as self-employed, to be assisted by family (possibly household enterprise), or even work with uncertain income (unpaid worker).

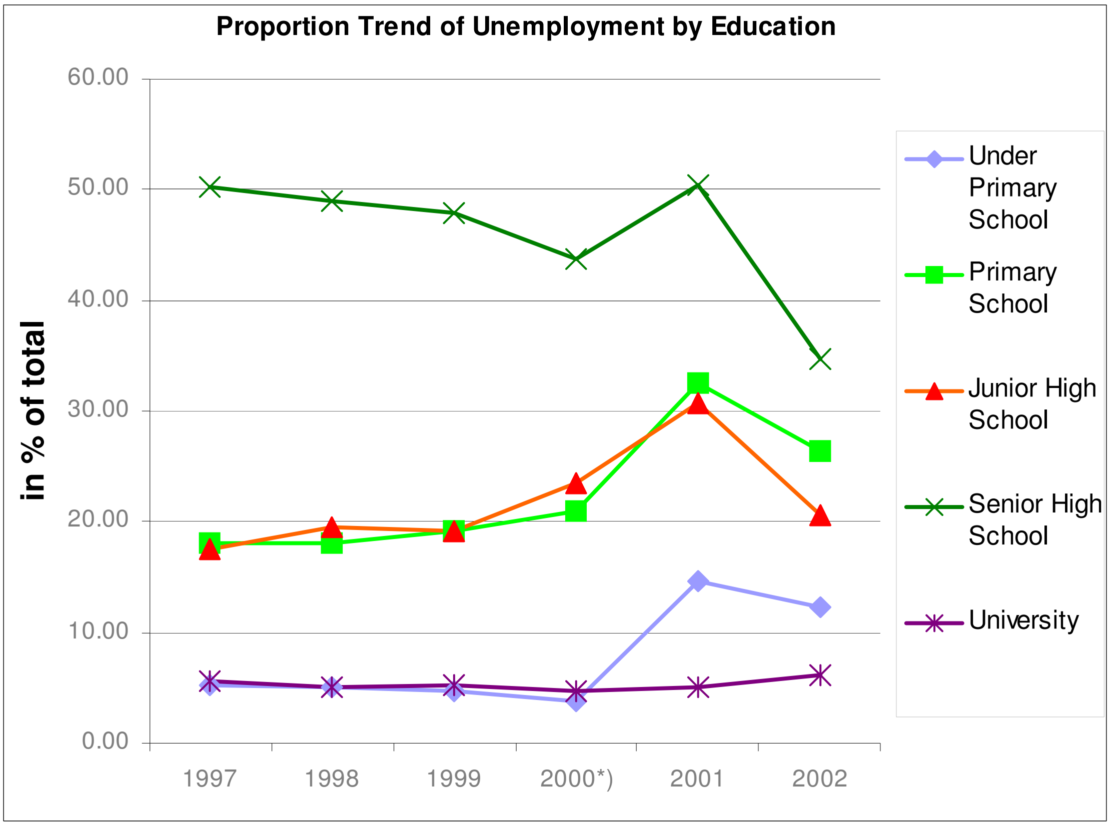
Figure 15. The proportion of jobs according to job status



Source: data derived from National Statistic Bureau (BPS) and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

Observing the state of education levels, labour fluctuation happened for those whose education level was below SMA (Senior High School), whereas the unemployment proportion of university graduate workers is stable at 5-6% of total unemployment. This indicates that every changes in economic conjuncture/business cycle, will heavily affect those with low education status. Up to 2002, it can be seen that the unemployment of workers with education status below SMA/SMU decreases; meanwhile the unemployment portion of university graduate has slightly increased. This 'disguised unemployment' symptom (or hidden unemployment), may cause the slight increase of unemployment of university graduates. The 'disguised unemployment' is an unemployment phenomenon where they choose to not work due to unfitted/unexpected type of joba. This phenomenon is not likely to happen for those with low education status as a result of their limited qualification. Unemployed labour with education status below the primary school occupies the second lowest unemployment level next to university alumni.

Figure 16. Unemployment in relation to the level of education



Source: data derived from National Statistic Bureau (BPS) and processed by CFPS (Center for Financial & Policy Studies), Jakarta, November 2003

1.3. Conclusion

The economy has started to grow again after negative growth because of the financial crisis. Economic growth remains modest, between 3 and 4 percent. The main problem is that such an economic growth rate is too low to absorb new labour force and the high number of unemployed. Unemployment is still raising and poverty is hardly being reduced. 110 million people still live on less than $2 a day. The increasing trend of unemployment rate is a serious problem since it induces other increasing social problems, such as criminality. Criminality is a terrifying phenomenon in Indonesia, not to mention the problem of fundamentalism, which is rooted amongst others in poverty, related to the lack of employment opportunities.

Reasons for the modest economic growth are the low levels of investment, the burden of corruption, a weak justice sector, messy decentralisation and governance problems. At the same time however, government and external debt was reduced, the value of the currency, the Rupiah, strengthened, and inflation was down. The World Bank and donors acknowledge that corruption is the basic problem and assume that governance reforms and better public services can increase economic growth and decrease poverty.

The banking sector which was hard hit by the crisis and governmental corruption scandals, became healthier but is not yet fully restructured. The continuing weakness of the banking sector means that an important aspect for economic recovery is inadequate. Banks could somewhat rebuild their profitability amongst others by not passing on the declining official interest rates to their borrowing clients, which helped them to make profits, increase reserves and improve their capital requirements. At the same time, non-performing debts were converted into equity, which delays the debt problem. Credit to consumers is still higher than for investment in the production sector which does not need to expand its current production capacities at the current level of domestic demand[7]

[7] In addition to information from this chapter, information was added from Interim consultative Group on Indonesia, Economic and Social Update, 2 June 2003; World Bank, *Good Govrnance for growth and poverty reduction*, press release, Jakarta, 3 December 2003; (see www.worldbank.or.id)

Chapter 2
Problems of corporate governance

The economic decline of Indonesia is not only due to the financial crisis but is also rooted in the way how business developed in the New Order era under Soeharto (1966 - 1997). Business was developed brutally by entrepreneurs who, simply said, did not apply any risk assessment. The main source of business power, apart from money, was the closeness to political power. If carefully examined, almost every business group in Indonesia had a particular relationship and closeness to the centre of power at that time that was President Soeharto. Thus in turn, only entrepreneurs close to Cendana family were capable to survive in the New Order era (1966 - 1997). There was no –even not one- business conglomerate during the Soeharto era which did not have relationships with Cendana's family (Soeharto's family). Conglomerates who were 'glorious' in the New Order era had initiated their business by developing their closeness with General Soeharto when he was still a military executive in Central Java. It is from this closeness that conglomerates developed their business emporium. Liem Sioe Liong and Bob Hasan are examples of conglomerates who developed their business through contiguity with Soeharto.

Furthermore, collusion, corruption, and nepotism (KKN, stands for *Korupsi-Kolusi-Nepotism*) happened widely in the context of social, economics and politics characterised by 'patron-client' relationships.

After Soeharto stepped aside, KKN happened in most of all level. BUMN (state owned enterprises) were one of the biggest targets for corrupt people (see chapter 3). Given the fact that the political situation then became conducive for establishment of many political parties, the risk of money politics was also greater.

The collapse of Indonesia conglomerations has lead to the establishment of an institute, which is in charge of managing problematic assets of the collapsed businesses, i.e. IBRA (Indonesian Bank Restructuring Agency). IBRA was formed in January 1998 and is under the authority of the Minister of Finance. Supposedly, the emergence of IBRA should be of assistance to overcome the non-performing-debt problem and the collapse of corporations, but in fact, IBRA is the part of the corrupt system.

2.1. The fall of Soeharto's cronies

Soeharto started his career in business in 1950 when he became the commander of Diponegoro Division in Central Java[8]. He developed a strong relationship with a Chinese entrepreneur, namely Liem Sioe Liong –known in Indonesian name as Soedono Salim—and Bob Hasan. In the beginning, both of them became provider for all Diponegoro Division needs, including food needs of all soldiers under Soeharto. In 1960, Soeharto moved to Jakarta and became commander of the Army Reserve Command (Kostrad). When he was the commander of Kostrad, Soeharto formed the Darma Putera Kostrad foundation. After Soeharto came to power as the second president of Indonesia (1966), this foundation became his first business unit.

In its progress, Soeharto successfully established a huge business empire through his children. Soeharto has 3 sons and 3 daughters, whom each of them manage some business units that he has initiated for some time. Some of them are successful in developing their business into conglomerates and so are Soeharto's close relatives and friends –they are successful in developing their own business empire. Probosutedjo, as an example, is one of Soeharto's relatives who successfully managed his business. Salim and Bob Hasan are other examples of Soeharto's close relatives who are successful in developing their business as a result of their closeness with The President.

2.1.1. The businesses of Soeharto's Children

→ The Bimantara Group

The Bimantara group was founded in 1981 by Bambang Trihatmojo (Soeharto's second child). The Bimantara Citra as a holding company was firstly listed on the JSX stock market (Jakarta Stock Exchange) in July 1995. The Bimantara Citra Holding Company had 7 business lines consisting of telecommunication, broadcasting, infrastructure, transportation and automotive, chemicals, hotels & property and financial services.

As the result of the crisis, this group failed to pay (defaulted on) its obligations. Bimantara's unpaid debt to IBRA equals to IDR 3.9 trillion. In May 1998, finally, Bambang left his position as the President Director of PT Bimantara Citra. In June 1999, Bambang sold 31.2% of his shares in Try Polyta Company to an entrepreneur, which is another Soeharto's cronies, Prajogo Pangestu[9].

---

[8] Diponegoro division is the name of Military Commando Area –Indonesia was (and is) divided in several military regions– of Central Java region. Diponegoro division home base is in Semarang (Central Java) and led by Lieutenant General Soeharto, which later became President of RI in 1966.

[9] Data derived from Indonesian Connection 16 June 2000, UBS Warburg

→ The Humpuss Group

The Humpuss Group was founded by Hutomo Mandala Putra or publicly well known as Tommy Soeharto in 1984. Tommy is Soeharto's youngest child, who was often referred to by the Indonesian mass media as the 'beloved child'. Share ownership of Humpuss group was divided into two portions –Tommy owned 60% and Sigit Harjojudanto –Soeharto's eldest child—got (40%).

The conspicuous parts of Tommy's business, which showed his father political support, were the clove plantation and the national car project. In the case of clove plantation, Humpuss succeeded to get the license of becoming a single buyer of clove from farmers in Sumatra. Besides, as a reason to develop the national car industry, Humpuss also succeeded to get permission to establish PT Timor Nusantara as national car producer that received a lot of facilities.

When IMF started to take a part in Indonesia's economics reform, both of Humpuss business units, i.e. the clove commerce and national car, were disbanded because of their violations of many laws. This group then finally became the third largest debtor to IBRA due to the economic crisis that affected most of its entire business sector. The total of non-performing loan of Humpuss to IBRA equals to IDR 5,5 trillion, in which IDR 3 trillion of it, is the debt on the project of national car[10].

2.1.2. The businesses of Soeharto's connections

→ 1.2.1. The Salim Group

The Salim Group was founded by a Chinese immigrant who came to Java in 1937. A Chinese, Liem Sioe Liong (Sudono Salim), started his business as a small goods trader. During 1950's, Salim succeeded to become main provider for military needs in Diponegoro division through a contract with the head of the purchasing and financial department. Later on, he became close to the leader of Diponegoro division military area, Soeharto. After Soeharto came into power as President in 1966, their closeness continued so that Salim could develop its business emporium becoming the biggest private sector business group in Indonesia

Salim's business group was however not solid. This was proven by the economic crisis that devastated his business empire. Most of his company asset became managed by IBRA as a guarantee to his non-performing-loan. The fall of this group was triggered by the bankruptcy of their bank, BCA, in May 1998[11]. In September 1998, Salim agreed to the takeover his assets that

[10] Indonesian Connection 16 June 2000, UBS Warburg, page 16
[11] In May, The Bank of Indonesia started to funds BCA in term of Bank Indonesia Liquidity Support as much as IDR 35 trillion.

amounted to IDR 48 trillion as guarantee to his debts. Of its surrendered asset, equal to 24% is PT Astra International asset[12].

→ Bob Hasan's Group

Bob Hasan is General Gatot Soebroto's adopted child, one of the Indonesian armed forces founder. Because of his father, most of all Bob's businesses were always managed in close relation with military. One of them was Soeharto who was the commander of Diponegoro division, in Semarang, Central Java

During his presidency, Soeharto founded a charitable foundation called Nusamba and run by Bob Hasan. From there Bob's business connection was developed. The Bob Hasan Group managed several industrial groups, such as a wood-based industry (forestry-industry) and a financial industry –the two biggest groups. The wood-based industry was derived from The Kalimanis Group while the financial industry group consisted of Bank Umum Nasional (BUN, *National Public Bank*) and Bank Palapa. These banks were then taken over by IBRA as a result of their default to meet its obligations. Among those liquidated banks, BUN was liquidated in August 1998, whereas Bank Palapa was taken over in March 1999.

The Kalimanis Group was one of the biggest deforestation perpetrators in Indonesia that had cut down forest in Andalas, Sulawesi and borneo. Several big companies in this group were PT Kalimanis Plywood Industries (plywood), PT Kiani Lestari (Forest Concession), PT Kiani Kertas (paper) [13].

2.1.3. The current environment for doing business in Indonesia

Fundamentally, the crisis has demolished almost the entire business units in Indonesia. Affected mostly by its impact is the manufacture sector, as well as the garment, textile, shoes and electronics industry, etc. Meanwhile, the consumption sector managed to survive. For example, multinational companies such as Unilever, which produces daily basis needs, like soap, detergent, tooth paste, and also Danone, which produces beverages and snacks were even expanding. According to the internal information of a Unilever's Public Relation staff[14], the company's profit even escalated sharply after crisis. This can be understood as the single sector which is still able to sustain after crisis, is the consumption sector. In addition, banking support was extensive in boosting the society purchasing power by distributing credit in the consumption sector (see chapter 1).

Companies that were able to survive in the middle of the crisis, were those active in mining and agriculture. Big companies like PT Astra International, although experiencing a great loss in its

---

[12] As PT Astra International – one of Indonesia automotive industries - is discussed particularly in box 1.
[13] Indonesia Connection, 16 Juni 2000, UBS Warburg, hal 9
[14] From informal interview conducted in November 2003 – name not to be revealed due to its confidentiality

automobile production, managed to survive since it received support from its business units, which are active in mining and forestry, while in fact, forestry and mining are not its core competencies since the basis of PT Astra International's industry is automobile producer[15].

To foreign investors, the financial collapse of companies in Indonesia had become an interesting business opportunity. Most of the big companies (including banking) were able to survive after obtaining capital injection from the incoming foreign investors which bought company shares under restructuring programmes. The case of PT Astra International may be able to give an insight about the business growth in Indonesia. In the beginning, it subsisted by protection, low-cost credit extension, later on collapsed due to and recovered by capital injection from foreign investors[16].

The collapse of big corporations in Indonesia provided an opportunity for the awakening of small and medium enterprises. Bank of Indonesia through two government banks, i.e. PT Bank Negara Indonesia (BNI) and PT BRI (Bank Rakyat Indonesia) were distributing credit to small and medium enterprises. The attention to improve small and medium enterprises' performance was even greater after the crisis happened.

However, it does not mean that corruption behaviour subsided from business in Indonesia. Recently, fraud occurred at those abovementioned banks, i.e. BNI and BRI. The financial scandal at BNI involved astonishing figures, i.e. 1.7 trillion Rupiah (around 200 million USD). While at BRI, the fraud had resulted in a potential loss as much as 294 billion Rupiah (around 35 million USD).

The modus of fraud at BNI was counterfeiting the 'letter of credit'; document (L/C). Initially, PT Gramarindo Mega Indonesia[17] proposed an export-import defrayal from BNI branch in Kebayoran Baru, South Jakarta. Gramarindo required the facility to defray the export of some commodities, like quartz sand and residual oil to African and Middle East countries. Without verifying the procedure of transaction-authenticity, the Head of BNI branch granted the proposed loan.

[15] PT Astra International has business units, which are active in forestry, i.e. PT Astra Agro Lestari that produces CPO (crude palm oil) and PT Sumanlindo Lestari Jaya that is active in wood-based industry. Astra also has business units active in mining like PT Berau Coal (mining coal), PT Pamapersada (mining), PT United Baulk Transfer-AUS (material handling) and also some other business units in heavy equipment for mining industry.

[16] See Box 1.

[17] PT Gramarindo is a company, which is active in exporting industrial products. Some of fund poured out by BNI was being used by PT Gamarindo to build a marble factory area in East Indonesia region. According to the statement of its management, the factory will turn out to be the biggest marble producer in South East Asia. However, the pouring out of fund equalled to 1.7 trillion by BNI had violated the procedure in credit extension and that the fund was not distributed to production sector. There were funds, which lost without knowing the whereabouts. Hence, the pouring out of the loans had generated scandal of bank fraud.

In this case, it is obvious that some internal functionaries of BNI were involved in the bank fraud. In fact, some correspondent banks appointed by Gramarindo were rarely heard of, e.g. Wall Street Bank Corporation in Cook Islands or Dubai Bank of Kenya. However, the Head of BNI branch remained liquefying the fund which totally equalled to 1.7 trillion Rupiah. The technique used to counterfeit the documents and the liquefying mechanism of the fund proved to be smart and systematic. Thereby, the fraud obviously was well-planned and involving many parties, including internal party of the bank.

In the BRI case, the fraud also involved insiders. In the early October 2003, a group of entrepreneurs from PT Delta Makmur Ekspresindo were transferring a 'fictive' fund equal to 294 billion Rupiah through real time gross settlement facility to three BRI branches[18]. Afterwards, PT Delta Makmur acquired credit from BRI as much as 294 billions Rupiah from those three branches. The disbursement of the loan was using a previous deposit guarantee that had been transferred to the three BRI branches. In reality, those deposits were fictitious. Apparently, this succeeded because it was supported by internal party of the bank, especially the Heads of those three BRI branches.

These both cases of fraud seemed to be happening in sequence. By the end of 2003, these cases were still handled by Public Attorney and Police Department[19]. Regarding the suspects, i.e. the Head of BNI branch in Kebayoran Baru – South Jakarta- confessed that the fund also flew into one of the president candidates of Golkar Party (ruling party during Soeharto's regime) as a campaign fund. Afterwards, various analyses about the relation between the bank frauds with the General election in 2004 emerged. Later on, the confession was officially withdrawn by his attorney. Possibly, he could not endure the terror done by various parties related to his confession[20].

That is the dilemma of business situation nowadays in Indonesia. Big businesses are not improving; banking is stagnant in distributing credit to corporate sector. Small enterprises are not developing yet, meanwhile the bank scandals, which involved medium scale companies, happened and entangled government banks.

[18] Those BRI branches are BRI Atrium Senen and BRI Tanah Abang, both are located in Central Jakarta. The other branch is BRI in Bogor, a small, satellite town of Jakarta.
[19] The cases of BNI and BRI had become headlines in almost all national mass media for days. Some medias which gave details are those like TEMPO Magazine (weekly), edition 3 – 9 November 2003 and TRUST (business and law magazine-weekly) consecutively in edition 4, 6 and 9, year 2, 2003.
[20] The news around the involvement of president candidate was analysed in TRUST weekly, edition 4 year 2, 2003.

Box 1: The case of PT. Astra International

One of the characteristics of the relationship between business and the state during Soeharto's regime (1966-1997) was the provision of protection to some industrial sectors. One of them is automotive industry. PT. Astra International (AI) is one of the companies experiencing transition from a period of protection to liberalisation.
AI was founded in 1957 by Tjia Kian Liong (Soeryadjaya) as a small trading company. Due to Soeharto's governance policy of opening the economicy to foreign parties, Astra expanded rapidly. Astra succeeded to build link with automotive companies in Japan, especially Toyota Motor. In a relatively short time, Astra became an importer and automotive machine assembler.
This company benefited from the governmental policy that protected infant industries. The government run a protectionist policy through Import Substitution, in which the government gave a lot of facilities to industrial sectors so that they could develop better and substitute import. One of the protected industries was the automotive industry, and Astra was the most important company in the sector.

Besides getting government's protection, Astra was also managed by a reliable management team. It was not a surprise, thus, that it grew very fast. Before 1997 crisis, AI had 199 domestic companies and had 5 foreign affiliated companies. Its business portfolio covered 32 trading companies, 12 chemical industry companies, 60 metal processing industry companies, 38 plantation companies, 19 financial service companies, 4 telecommunication companies, and there were still companies run in other various business areas. In 1996, AI had total asset of US$ 8 billion and occupied the fifth rank of the largest business group in Indonesia.
Unfortunately, AI failed to fully develop its automotive industry. So that, when the protection to this industry was terminated, AI got in trouble. One of the evident examples of AI's unsuccessfulness to develop its industry was the presence of very high import component. After 40 years of its operation (1957-1997), it was even unable to produce a very simple car. Up to 1997, the imported components were still more than half of entire input items of a car production.

Crisis had hit AI from two sides at the same time. As the rupiah exchange rate soared[21], the price of production materials, that were mostly still imported, increased sharply. Meanwhile, the domestic market of AI (demand) decreased by 90%. The two to three fold increase of selling price had made consumers unwilling to buy automotive product.
The impact of the crisis on AI's financial performance was very significant. In 1996, AI's net profit was equal to IDR 471 billion while in 1997 it was experiencing a loss equal to IDR 276 billion. The worst situation happened in 1998, where AI's negative net profit (loss) equaled IDR 3,689 billion. The total amount of debt increased and more than tripled from IDR 5,801 billion in 1996 to IDR 13,185 billion in 1997, and this increased again in 1998 into IDR 17,075 billion due to AI's debt that was mostly in dollars[22].

In 1996, because of financial difficulty on one of his business unit, Soeryadjaya was forced to sell AI's share to Putra Sampoerna, Bob Hasan (Nusamba group), Usman Admadjaja (Danamon group) and Anthony Salim (BCA group). And in 1998, as a result of difficulties on one of its biggest shareholders (i.e. Anthony Salim, due to BCA's bankruptcy), AI shares were passed to IBRA. Hereinafter in March 2000, IBRA sold 39.8% of AI shares to a consortium led by Singapore's Cycle & Carriage for US$ 506 million. Nowadays, this consortium becomes the majority shareholder of PT Astra International.

[21] Before 1997 crisis, the rupiah exchange rate was Rp 2.700/1 US$. After the floating exchange rate policy (no more fixed exchange rate policy), Rupiah keeps on fluctuating. The highest rupiah exchange rate was Rp 19.000/1 US$.
[22] Data from Djisman S. Simandjuntak's paper, *Good Corporate Governance in Post-Crisis Indonesia : Initial Conditions, Windows of Opportunity and Reform Agenda.* 2000. Prasetiya Mulya Business School, Jakarta.

2.2. The IBRA predicament

2.2.1. Failure to restructure banks' assets

The Indonesian Bank Restructuring Agency (IBRA) has two major divisions, the Asset Management Credit (AMC) and the Asset Management Investment (AMI). AMC is responsible to IDR 220 trillion assets by taking over the ownership of companies who owned bad debts (unable to meet their debt). Meanwhile, AMI is responsible to sell back assets that have successfully been managed.

At the ministerial meeting on 19 November 2003, it was decided to dissolve IBRA immediately, while a substitute institution had not been thought maturely yet. However, it was clear that assets, which are not sold yet, would be managed a by holding company.

Managing assets under IBRA is not an easy matter. Since it was established in 1998, IBRA's director changed six times. Consequently, there have been many inconsistent policies, including the policy that is aimed at solving the conglomerate non-performing loans. Since elected, Sjafrudin Tumenggung, the 7th head, has expressed his intention to close IBRA immediately. According to the target agreed by the government of Indonesia and IMF, IBRA was to stop operating in February 2004.

As a result of the pressure to close this institution in a very short period of time, the IBRA executives are racing to sell asset under their management, regardless the very cheap price. Up to the end of 2003, IBRA have conducted property auction twice. Total value of assets managed by IBRA reaches Rp 650 trillion –and various programs are carried out to perform a large-scale sale of this asset.

Actually, according to National Development Law (Propenas) the expected rate of return from IBRA's asset sale programme would equal to 70%. Yet, in reality, the actual rate of return is much lower. In 2002, its rate of return only reached 26%[23]By December 2003, IBRA has returned Rp. 160 trillion (or US$ 19.5 bn) to the government, which represents a recovery rate of 28%, and which the Coordinating Minister for Economic Affairs[24] calls a "respectiable" recovery rate. This means that the low recovery rate will have to be compensated with tax payers' money. This situation is, yet, understandable due to problems of valuation of conglomerate's collateral assets that were used to guarantee their debts. For example, The Salim Group's debt equals to Rp 52 trillion, yet the collateral assets is actually only valued at Rp 18 trillion. The same thing happened to Sjamsul Nursalim's assets, owner of BDNI that was

---

[23] Lihat Mingguan Bisnis dan Hukum TRUST edisi 47 tahun 1 yang banyak mengulas tentang penjualan aset-aset BPPN (www.majalahtrust.com)

[24] CGI Remarks by Dorodjantun Kuntjoto-Jakti, Coordinating Minister of Economic Affairs at the The Thirteenth Meeting of The Consultative Group on Indonesia, Jakarta, 11 December 2003 (see: http://www.worldbank.or.id/eap/eap.nsf/CountryOffice/Indonesia/DonorsMeeting?OpenDocument)

liquidated. When given to IBRA in early 1999, the value of collateral assets according to the calculation of 3 distinguished auditors were equal to Rp 27.4 trillion. The three appraisers are Credit Suisse First Boston, Lehman Brothers, and Bahana. However, when the assets were about to be sold and there was a re-audit of its assets value, it was only valued at Rp 4.1 trillion. Thus, there has been significant amortisation (decrease of value) in its assets, in which one of the causes was the bad performance of the business unit (which are taken as the collateral).

In BCA's case, there has been a huge problem –seen from the value of its collateral assets, BCA seemed to be unable to meet all of its debt. And based on the agreement made by IBRA and Salim, it was stated that Salim would be freed from its debt responsibility if all of its existing asset have been sold. Whereas, according to market price in the end of 2002, Salim's sold assets was only valued at Rp 4 trillion. Is Salim's debt, which is actually worth Rp 52 trillion would be considered equal to Rp 4 trillion? If only Salim would be free from his debts, it is thus obviously unfair. Until now (2003), it is true that Salim has not been yet stated free from debts; even so, he has no additional asset that can be sold as collateral. Apparently, conglomerates who are unable to meet their debts should be judicially punished in court. But it does not happen in Indonesia.

The same thing happened in Sjamsul Nursalim's case. Up to the end of 2002, as the owner of Bank Dagang Negara Indonesia (BDNI) and Gadjah Tunggal business group (the biggest tire producer in Indonesia), he was only able to pay its debt as much as Rp 1 trillion even though his debt is Rp. 27.4 trillion. Despite the fact, this conglomerate had never been processed judicially. Even, using his health reason to get intensive medication out of the country, he succeeded to escape from Indonesia and currently resides abroad.

Thereby, IBRA has committed actions against regulations, which are its own *raison d'etre*. According to the Government Regulation No. 17/1999, it is clearly stated that the main duty of IBRA is to 'heal' Indonesian banking sector, to restructure assets and to return state's fund. Observing the result of banking sector restructuring, it cannot be said that banks under IBRA have shown maximal restoration. For example, Bank International Indonesia (BII), Bank Lippo, Bank Mandiri, and Bank BCA altogether are still very dependent on the interest of the government bond. Their performance is not yet restored fully.

2.2.2. IBRA as a big spender

Besides its inability to settle conglomerates' debts and pay them back to the state, it is proven that ironically, IBRA is also very extravagant in using its money. Just for embellishing the room of its head and deputy, IBRA spent Rp 1.2 billion –while whenever IBRA's head changes (it has been 5 times), there have always been renovation. The average budget provided to renovate the rooms is very high, reaching Rp 2 billion, not to mention the expenses for the leisure of its heads. For example, when Putu Gde Ary Suta became the head of IBRA, there was a budget allocation of Rp 20 million per month to buy bullets for his shooting hobby.

The case of IBRA spending Rp 1.2 billion for room renovation happened when Sjafrudin Tumenggung was elected as the head of IBRA. As a comparison, the expense is equivalent to the sum of fund needed to build 16 elementary school buildings or 48 community health centres (Puskesmas) in remote countryside.

IBRA's expenses are indeed very high. A deputy, besides getting basic salary around Rp 150 million, is still getting a lot of facilities –for example, Rp 200 million for house rent, Rp 15 million for gasoline, among others. In addition, even a very small expenditure is facilitated by IBRA office. For example, on request no 0483/PNAT/HRD/0302 in March 2002 it was revealed that even cellular phone voucher card expense of IBRA's deputy of head was paid by the institution[25]. So, the expenses to facilitate IBRA's executives are unnecessarily very big.

The other problem is the money collected by military high officers from this institution. In 2002 it was noted an expenditure of Rp 123.5 million as the operational fund for Military Regional Commando of Jakarta Raya region (Kodam Jaya). It can be predicted that these kinds of collection are also allegedly given by IBRA, to military and/or political parties.
According to an internal informant of IBRA, the operational budget quota of this institution in 2003 is equal to Rp 1.4 trillion, including Rp 15 billion used as public relation fund.

Another not less important problem are the numerous briberies given by IBRA to DPR (House of parliament) members each time IBRA has to ask approval from the legislators for a banking divestment programme (the sale of private bank shares under IBRA). Some legislators of Partai Demokrasi Indonesia Perjuangan (the current ruling party) stated that at the meeting in Park Lane Hotel Jakarta, which discussed the plan to sell 51% share of Bank Niaga, each legislator got an envelope with US$ 1,000 inside. The more difficult the problem that the legislators had to approve, the bigger the amount of money that was given to them. This amount even reached US$ 15,000 per legislator.

Certainly, this institution has extravagantly used state funds despite of its failure to perform its main duty. Moreover, the institution whose duty is to heal and restructure the national banking sector finally, on the contrary, became a corrupt institution. Thus, how can the banking sector healthily grow, and corporations correct themselves?

[25] Result of TEMPO weekly magazine Investigation, 29 September 2002 edition.

2.3. Conclusion

The Business environment in Indonesia is complex. Since the period of New Order (1966), business has been run without the principles of good management and governance. Almost all of the successful entrepreneurs during that period were simply having a close relationship with one of the businesses managed by *Cendana Family* (the family of former President, Soeharto). Those entrepreneurs enjoyed various facilities such as protection, concession of projects, etc. that enabled them to gain extraordinary profit. They succeeded in building business empires before the crisis of 1997 hit the conglomerate system.

One of the important matters in the conglomerate system was the role of the banking sector as the capital provider to expand each business group. There were many cases of lending by banks which exceeded the legal lending limit in order to be used in the business of the same conglomerate to which the bank belonged. Thereby, it cannot be denied that the banks, which can be created easily due to the deregulation policy starting in 1988, have been misused to enlarge the businesses of its own the conglomerate group. Each conglomerate group had its own private bank.

When the economic crisis happened in 1997, all banks collapsed because many companies that had taken a loan from banks were unable to pay. Non-performing loans were wide spread, which resulted in the national banking system as a whole experiencing lack of liquidity. This lack of liquidity resulted in the central bank, Bank of Indonesia, to start a policy of Liquidity Support of Bank of Indonesia (BLBI, *Bantuan Likuiditas Bank Indonesia*) to prevent the total collapse of the banking sector. Meanwhile, to overcome the problem of non-performing loans, the government founded IBRA. In accordance to the Government Regulation No. 17 / 1999, the main duty of IBRA is to make the national banking system healthy by restructuring and recapitalising non-performing loans of corporations.

In accordance to agreements with the IMF, IBRA had to complete its duty by February 2004. However, in reality, IBRA was not able to finalise its duty as foreseen. Before being closed, IBRA seems not have well performed its function to restructe banks so that many assets were sold in accordance to the expected prices. As a result, the rate of return equal to 70%, as recommended, was not reached. One of the causes of IBRA's failures was bad management. According to some claims in the press, IBRA wasted its funds to pamper all its senior officials. Evidence for this can be found in the fact that the income from IBRA to the government's treasury was very low, whereas IBRA's operating expenses were very high. In addition, there are indications that IBRA bribed many legislative (DPR) members to get approval of the sales related to some large banks.

The financial crises that destroyed the national banking system did not result in a lesson learned on the importance to monitor and control government banks. Even when they had not fully recovered, two government banks were suffering from fraud, which involved large amounts of money. These losses became a burden to the state's finances while profits of these banks should have accrued to government's treasury. Moreover, the fraud generated mistrust in the national banking system, especially by foreign investors.

Chapter 3
Corruption in various public companies

The fact that public services in Indonesia perform worse and worse, has a clear cause. It is because of rampant corruption that takes place in almost all public service sectors. How can such institutions give optimal services if their job allocation is inefficient? Since long, state-owned corporations and public institutions have been an enormous field of corruption.

There are at least three main kind of actors that make corruption practice thrive. First, there are the executives in those public companies. Second are investors (both foreign and domestic) who are racing to exploit the opportunity to get projects. Their orientation is simply to get projects from a public company and generate as much profit as possible. Worse, the third actors, judicial institutions, are unable to perform their function well. They always fail to find the suspected corrupt persons. Even if a case has been brought to court, the suspect mostly manages to escape a punishment.

Below follow some examples of how corruption at different public institutions with the involvement of private companies uses up public finances.

3.1. Pertamina (a state owned oil company) and corrupt projects

Pertamina is one of the state owned enterprises (*Badan Usaha Milik Negara* or BUMN) that are managing the very large assets of the state. This company is well known as a 'cash cow' to the ruling political party. Even in 1970's, when world oil price was at the highest level, Pertamina was trapped with debt and unable to settle it.

In addition, nepotism practices have been colouring many of its business activities. In the past, a lot of projects were given unfairly to certain parties. An investigation conducted recently found indications of corruption taking place in various Pertamina's projects that involved businesses of the Cendana family (family of former President Soeharto) in the past. The following case happened in 1991, but up to today, it remains an unfinished and unsolved case at the courts due to lengthy delays and it is now under threat of not being solved judicially.

Two important business groups have been suspected of corruption, Pertamina and PT Triharsa Bimanusa Tunggal (TBT) owned by Siti Hardiyanti Rukmana or Tutut. A pipeline project costing US$ 306.64 million project was funded by TBT from domestic and foreign debt after Pertamina gave a contract characterizing as *build and transfer agreement*. But in the middle of the project, TBT's management sent a letter to cancel the contract, accompanied with a request for compensation of US$ 31.49 million. This compensation was asked because TBT claimed that they have finished 14,48% of the total project. The reason of this project's cancellation was 'force majeure': the President's Decision no. 39 in the year 1991 to limit overseas debt also covered the piping project which was thus not allowed to continue.

The managing director of Pertamina at that time, Faisal Abda'Oe, paid the claim, although State's Auditor Body (BPK, *Badan Pemeriksa Keuangan*) suggested refusing to pay because it was not Pertamina's fault. But, since the company was owned by President Soeharto's daughter, Tutut, this suggestion was not possible to be taken into account. Actually, according to research conducted by Pertamina, the project was only finished by around 5% (not 14,5% as claimed by TBT). The too high claim has been harming the state's finances by approximately US$ 20.4 million or Rp 183 billion. This indication of corruption in the form of project granting has up till now not been settled.

According to the Head of Law Information Centre of the Attorney General Office on 19 June 2003, the Attorney General has done investigations of 23 corruption cases of Pertamina involving Cendana's family. Eleven cases have been brought up to prosecution while, according to investigations conducted by Pertamina, there are 159 existing contracts indicating corruption involving Cendana's family.

Up to 2003, Pertamina remained in the news. The latest case was the problem of the nomination of BUMN Minister, Laksamana Sukardi, as the chair of the Supervisory Board of Pertamina. Members of Parliament (DPR) are heavily questioning the election of Laksamana because it would, allegedly, generate new problems. According to the Corporate Law, the Chair of the Supervisory Board has an important responsibility when a company goes bankrupt. Would there not be a conflict of interests when a minister becomes a member of the Supervisory Board of a state owned enterprise? Besides, Sjafrudin Tumenggung's position as member of the Supervisory Board of Pertamina is also questioned due to his workload as the head of IBRA. It is impossible for anyone to hold two important positions that at the same time which require full attention. This fact proves that membership of Supervisory Boards in Indonesia still is a political position that is used to deliver positions and money.

In addition, the election of Pertamina's management may also generate problems. Ariffi, the new managing director, has been involved in corruption in one of Pertamina's projects in Balongan which had earlier been checked by the Attorney. Ariffi was suspected to be involved in a case of unduly increasing the value of a US$ 400 million project in 1992. At that time, Ariffi was the head of off-shore mining in the north of West Java.

The composition of the new Board of Managing Directors and the new Supervisory Board, which allegedly generates problem, was announced on 17 September 2003.

Law cases involving Pertamina in 2002

The 159 cases of corruption, collusion & nepotism (KKN)

In 2000 it was revealed that Pertamina was suspected to be involved in 159 cases of corruption, collusion and nepotism (KKN). Of the 23 cases clearly indicating KKN, nine were still under in investigation by Attorney General in 2003. The rest of the 136 cases could only be brought to investigation phase if 'novum' was found. All the 159 KKN cases initially focussed on the question whether or not nepotism existed. Through the Director Decree No. Kpts-030/C0000/2000-S0 on 27 April 2000 Pertamina formed a join team with Attorney General to follow up the findings.

The case of a private foreign exchange company

In September 2002, Pertamina along with the police unfolded a malpractice case of foreign exchange conducted by two Pertamina's officers and a private moneychanger. While the case was being brought to the court of Central Jakarta, the two officers have been retired from the company. The total profit loss of Pertamina was equal to US$ 10 million; interest and delay of other transactions equal to US$ 940.8 million. End 2003, the case was being brought to the courts of Central Jakarta.

The case of KBC through international arbitrage

Pertamina and PLN were sued by Karaha Bodas Company (KBC) in 1998 through international arbitrage, relating to the delay of the project of Karaha Bodas by the Government. The decision of the arbitrage (final award) on 18 December 2000 condemned Pertamina and PLN. Pertamina was forced to pay US$ 261 million. However, on 27 August 2002 the Central Jakarta jurisdiction's judge cancelled the international arbitrage's final award. The Central Jakarta jurisdiction decree was based on the argument that the New York (NY) Convention 1958 that was legally used to sue Pertamina was indeed ratified by Indonesia (President Decree No. 34/1981) but that the composition of arbiters who issued the arbitrage's final award and the agreement between the disputed parties was not proper. The final award was also judged to be opposed to the public interest since the postponement of Karaha Bodas's project was based on a presidential decree and Pertamina did not have the power to refuse it. The Swiss arbitrage panel was judged to exceed its authority by handling this case because Indonesian law was not taken into account. The delay of development projects by the Government of Indonesia was a result of the Asian economic crisis in 1997 - 1998, economic judgement of the government (i.e. economic sovereignty) and part of Indonesia's economic restructuring based on IMF advice and conditions. This should have been considered as force majeure. The President Decree No. 39/2001 relating to 156 development projects - including the KBC project-, 75 projects were reconsidered, 81 projects were delayed including 27 of Independent Power Producer (IPP/independent power producers). From the 27 projects of IPP, only KBC undertook to sue for the delay process. In the end, President Decree No. 15 Year 2002 gave way for 27 IPP's projects to continue the postponed projects, including KBC's project.

The case of 'elpiji' (LPG = liquid petroleum gas)
Pertamina was sued by YLKI (Indonesian Consumers Institution Foundation, Yayasan Lembaga Konsumen Indonesia) and KAPAK LPG (Komisi Advokasi Pemakai Anti Kenaikan Harga LPG or The Advocacy Commission of Users Anti-LPG Price Hike). In 2003, this case was at appeal level. The class action of YLKI and KAPAK LPG does not seem have ended yet. Pertamina, the sued party which lost at Central Jakarta District Court level, and won at Jakarta Higher Court level, in reality still had to face the plaintiff at Supreme Court level (MA). This case concerned Pertamina's policy to increase the selling price of LPG (Liquid Petroleum Gas).
KAPAK LPG requested the court to command Pertamina to delay the implementation of SK No. Kpts097/C0000/2000-S3, on 2 November 2000, concerning increase of LPG (Elpiji) selling price until there was a fixed decision by the court. The Central Jakarta District Court Level refused KAPAK LPG's request. The DKI Jakarta High Court, (1) accepted the appeal application raised by the sued party, (2) cancelled the decision of the Central Jakarta District Court, and (3) stated that Central Jakarta District Court had no authority to judge the case, which became under the authority of PTUN DKI Jakarta.

3.2. The state electricity company (PLN) and too high prices

The corruption cases at PLN, a state owned company (BUMN), especially relate to too high estimates (mark up) of projects and PLN services. This practice widely happened at regional level. One example is the corruption case at PLN in region VI, which covered area of South Borneo, Centre Borneo, and East Borneo. The 'modus operandi' of the corruption was to report that the project was 'completely finished', so that the full payment could be made. But after checking on the ground, many projects were not yet completed -even worse, there was a project that had not been started. There was collusion between companies that managed the project and PLN executives at regional level. As a result, the state was faced with serious losses.

Deception by project mark up have already happened since 1995. For instance, the project for the extension of the electricity network in rural area of Borneo started in fiscal year 1995/1996 and continued until fiscal year 1997/1998. Twelve PLN executives and 21 entrepreneurs have been investigated by the Public Attorney about this project. However, the Public Attorney was not willing to provide information about this case when asked to do so although some persons had become suspects in the case. A Banjarmasin Post journalist suspects that money might have a role to play in this reluctance and the lack of transparency of the case. The final outcome of the case could not be covered by the journalist who was unable to report on how much loss the state had suffered due to the opaque proceedings and refusal to provide this information by the Public Attorney of South Borneo who handled the case.

The mark up practice in PLN projects also occurred at a very large scale. This was clear from the example of the project to provide electricity shelter boxes and extra-high-pulse electricity transmission in Tasikmalaya (West Java) and Kediri (East Java). The project was financed by export credit but based on massive mark up, reaching 200-300% of their real value.

The project started with a loan of US$ 41 million or Rp 386 billion (with exchange rate Rp 8,800/1 US$) which was agreed between the Department of Finance and a foreign financial conglomerate, *BNP Paribas Credit Agricole Indosuez*, on 25 August 2000. Meanwhile on 30 August 2000, a similar credit agreement with *Kreditanstal Fur Wiederaufbau Frankfurt Am Main* of US$ 34 million or Rp 342 billion was also signed.

However, if the project would have been calculated based on other similar projects such as in Depok area (West Java) the real cost should have been estimated at around US$15 million or Rp 136.7 billion. The mark up value of this project of around 250 % was was admitted by PLN Managing Director at that period, Kuntoro Mangkusubroto. However, there have never been prosecutions to follow up this mark up practice.

In fact, Tasikmalaya and Kediri project was only part of 17 projects, which had been signed by PLN in 1997. Each of the projects was increased by two to three fold of its real value. The total value of the entire project was US$600 million or equivalent to Rp 5.2 trillion. According to the calculation of Indonesian Corruption Watch, the project value was only US$200 million. Thus, there was potency of loss -as a result of project mark-up-equal to US$ 400 million.

Suspicion of corruption, nepotism and collusion in PLN projects became stronger when the tender winners were actually from Soeharto's cronies and family members. Other cases have been investigated, such as unduly charging municipalities for street lighting in south Sumatra and double financial statements made by PLN. However the investigation ended in a dead lock and the billions of rupiah's were never recovered.

According to the report of independent auditor Arthur Andersen who checked PLN's financial statements from 1995 to 1998, PLN's loss was particularly caused by its choice of business partners. Almost all of Soeharto's children -and even his grandchildren-and certainly Soeharto's cronies had contracts related to PLN's projects. Arthur Andersen also reported that in general, PLN had suffered from loss until Rp 5.6 trillion yearly -of which Rp 4.14 trillion due to wrong investmenta and the rest was due to operating expenses.

3.3. Foreign investors leave because of corruption at drinking water company (PAM)

Corruption also happened at the state water company (PAM), which was a service provider of an essential service for the whole population. The calculation of leakages could be easily done without accounting training because the total clean water produced by DKI Jakarta PAM was much higher than what was being invoiced to customers. The leakage level was estimated (between production and sales revenue) at 45% of total daily production. In other words, 45% of the daily water production had never yielded earnings to this state owned company. Moreover, this % leakage had been taking place for about 20 years. However, at the same time efforts to build the drinking water network (from water sources, through distillation to distribution to the consumer) were funded by loans from the Asian Development Bank and the World Bank.

To overcome the problem of corruption that generated "leakages" of funds, the government invited foreign investors to manage drinking water companies for Jakarta area. The foreign investors were *Lyonnaise des Eaux* of France and *Thames Water International* of Great Britain. They officially signed up a partnership contract in February 1998.

In the beginning, their presence was strongly opposed by some employees of the Drinking Water Company of Great Jakarta (PAM Jaya), who joined the Labour Union (SP) of PAM Jaya. Employees staged demonstrations and claimed that there were indications that the agreement was done with practices of KKN (Collusion, Corruption and Nepotism). They demanded for a halt of the cooperation agreement. In the beginning, the foreign investors came to Indonesia by holding local partners that were still part of Soeharto's crony. The French held Salim Grup, whereas The British cooperated with Ary Sigit. Among French local partners, there was Tommy Soeharto's name. In this way it could be said that they entered Indonesia through Soeharto's cronies.

Even after operating for some years, the foreign investors felt that PAM Jaya was too difficult to be cleared from KKN and that losses could not immediately overcome. During 3 years operation in Indonesia, these two foreign investors admitted to have lost up to Rp 300 billion. Even the solution to increase the price of water was unable to cover their loss. Finally, in 2003, the two investors publicly stated that they planned to leave their investment in Indonesia because of continuous too high losses.

3.4. Conclusions

The World Bank has been publishing a draft report on corruption and describes the situation as follows: "The nature of Indonesia's current transition makes it very difficult to develop and implement a comprehensive strategy to fight corruption. The current state of flux allows the informal rules and perverse incentives of the past to flourish, while new formal rules have yet to take hold. Vested interests remain powerful, law enforcement institutions are weak, and the ability of the state to implement an integrated program of anti-corruption measures is limited." The World Bank however argues that this environment could well favour solutions based on local level or sector-based initiatives in selected regions with a genuine commitment to governance reforms.

The World Bank report calls for a two track approach to deal with corruption: "The first is to help strengthen demand for reforms at the local level. The second is for the central government to pursue a core program of reforms that create an enabling environment for the pursuit of localized solutions."

Chapter 4
Society responses: Workers and the anti-state movement

4.1. The movement of 'professionals'

Students did not act alone in order to push president Soeharto out of office. Almost all community groups were involved and cooperated to actively fight for political change. One of the important groups was the professional's group, i.e. trained employees and managers working in the modern industrial sector and private enterprises, forming the middle-class. Though other groups emerged between 1997-1999, the professionals were very active and directly participated during the period of reform.

One way of involvement was direct action, e.g. supporting student activists who were on the streets fighting actively against the military. The support given by the professionals was in the form of logistic supplies (meals, medicines, etc.), or even access to national figures. They also actively facilitated meetings to take place for groups of students, intellectuals, political figures and political party leaders.

They even emerged as a real political power group, organised protests and demonstrations in the Jakarta Stock Exchange (JSX) area and in the protocol roads of Jakarta, i.e. Jl Sudirman. Those organised in such group were professionals who worked daily in the elite business environment and held positions as middle managers.

Nineteenth May 1997 was an important moment for some young professionals in Jakarta. On that day, they organised a massive demonstration just in front of JSX building, Jl Sudirman Jakarta. They brought banners, which for example read, "The game is over, Mr. Soeharto", or "Professionals need a new president". In front of the JSX building, the symbol of money circulation in Jakarta, the professionals publicised their demand entitled "Statement of Indonesian Professionals in the Third National Revival"[26].

The table contains groups that actively pioneered the professional's movement from groups being formed as charity to groups established as a political movement. These groups emerged since 1997 and became vigorous in 1998 until 2000.

---

[26] In the history of socio-political movement in Indonesia, there were two big momentums previously taken as national revival symbol. First was the movement in 1908, pioneered by Dr Cipto Mangunkusumo, a very persistent intellectual who fought against the Dutch. Cipto and friends became the symbol of the movement of intellectuals in the era of Dutch colonization. The second revival took place in 1928, as Indonesian youth expressed the-so-called *Sumpah Pemuda* (Youth Declaration). This movement was also pioneered by young intellectual groups like of Soekarno and Hatta who finally led Indonesia as President and vice president when Indonesia has become independent.

Table: The Professional Groups which joined FPPI (Indonesia Professional Employees Forum).

The Group Name	Description
SUAB (Susu untuk Anak Bangsa), (Milk for Nation Children)	The main concern was to save the next generation through saving the children under five. The undertaken activity was to sell milk at subsidised prices equal to 50-80% of the market price. SUAB targeted families with children under five which earned under Rp 300,000 monthly. The group was very active during 1998.
MPD (Masyarakat Profesional untuk Demokrasi), (Professionals Society for Democracy)	Its activities were routine discussions, seminars, and field actions to support the student movement in 1997. It has been very active until the end of 1999.
PILAS (Profesional Indonesia Lulusan Amerika Serikat), (USA-Graduated Indonesian Professionals)	Consisted of USA's university alumni who had a social vision. Its activities covered routine discussion in some cafés in Jakarta and organised a '*humanity charity night*' and then channelled it to poor people. One such night provided aid to people in Borneo.
GERSANG (Gerakan Sabtu Siang), (Saturday Noon Movement)	Founded by ITB Alumni (Bandung Institute of Technology) who wereparticularly concerned with military matters. Its activity was to disseminate the results of the discussion on the role of the military in politics and economics. The group also organised press conferences referring to military brutal acts facing student movement especially during 1997.
APPI (Aliansi Pekerja Profesional Indonesia) (Indonesian Alliance of Professionals)	Also created by ITB Alumni. The group conducted panel discussions aimed at being a forum for gathering political parties.

Source: KOTAK's Publication (joined publication formed to raise fund for humanity), published in the middle of 1998. This publication has never reappeared along with the fading of Indonesian professional's movement in the end of 1999.

4.2. The labour movement

The labour movement in Indonesia has been facing very serious dilemmas. First, low labour wages became very attractive to foreign investors in Indonesia, especially in the manufacturing sector. As workers' demanded wage increases, however, many companies removed their factories to countries with lower labour wages such as China and Vietnam.

When the financial crisis strongly affected the workers in 1998, the labour movement escalated, more and more factories relocated and left, increasing the number of unemployed. The problem of employment creation is the most complicated problems of Indonesia given its high population growth.

The worker movement enhanced drastically after the start of the crisis. In 1998, there were 604 strikes, a record number[27]. Based on the data from the Ministry of Labour, in 1997 there were 93 companies that officially carried out *Disconnection of Working Relationship* (lay-off), mostly shoe, garment, and electronics companies. The number of unemployed resulting from the lay-offs in 1997 was officially amounting to 41,716 people. Based on the national formal survey of labour by conducted by Central Bureau of Statistic in Indonesia (BPS) up to August 1997, the number of unemployment is equal to 4.1 million people[28].

In 1998, when economic growth of Indonesia reached its lowest point, i.e. minus 13%, the number of companies that officially laid off their workers leapt to 831. The total number of workers who became unemployed was 127,735. In general, the number of unemployment mounted into 5.1 million people. The workers that had been hit most by the impact of lay-offs were the workers in construction and manufacture sector due to the fact that these sectors were the most affected ones of the economic crises.

In 1999, the number of workers who were again laid off started to decrease compared to the previous year, and reached 107,918. However, total unemployment at national level still escalated to 6 million people in 1999 because available jobs had constantly decreased due to the number of factories closing/stopping their activities since the start of the crisis.

As a result of the crisis, the level of poverty rose in 2003 to around 30% of the population or about 65 million people. According to the World Bank's press release in December 2003[29], 100 million people were living on less that $2 a day. Meanwhile, the amount of unemployed is about 40 million people. Due to the effects of the Rupiah's depreciation of about 70%, real income of labour has seriously decreased. This means that besides the problem of fewer job creation opportunities, the macro economic situation degraded the living standard of all workers. In 2003, labour wages only cover 80% of KHM (*Minimum Life Needs*) of an unmarried worker while the price of basic needs is crawling up by more than 40% and various social subsidies are withdrawn by the government.

The crisis affected directly all workers and entrepreneurs. The crises affected entrepreneurs by escalating production cost. The workers were affected by increased costs of living. Taking into account the purchasing power of the workers, the governmental issued a regulation to increase minimum wages. Until 2003, the minimum wage increased by 50% compared to the condition before crisis. However, this did not necessarily improve the living standard of the workers. The increase of the minimum wage was not in proportion with the living costs. For example, in 1997, during the crisis, a single worker would need at least 150,000 Rupiah a month to fulfil necessities of life –while minimum wage in Jakarta area was merely 135,000 Rupiah. A year

---

[27] See the table of labour strikes in Indonesia

[28] The data is sourced from the Ministry of Manpower and the state's Central Bureau of Statistic, which have been processed by the research and development division of KOMPAS daily newspaper.

[29] World Bank, *Good governance for growth and poverty reduction*, Press Release, Jakarta, 3 December 2003, p. 3.

later, the minimum wage increased up to 18%, but in 1998 of inflation reached 77.63% resulting in an increase of living costs equal to 23%. Similarly in 1999, although inflation was in control, the minimum wage was still not adequate to fulfil the minimum living standard. While the minimum living cost was equal to 253,000 Rupiah per person per month in 1999, the minimum wage only reached 207,000 Rupiah. The imbalance between the minimum wage and life necessities continued. In 2001, the minimum living cost was 343,000 Rupiah (per person per month), but the minimum fees reached 307,000 Rupiah. Thus, since the crisis the real minimum wage decreased and the living standard of the workers was further undermined[30].

In general, labour resistance happens sporadically in various areas and on different scales. Labour is generally not organised. There are only a few national or regional trade union movements that are able to organise wide protests and put pressure on the regional or national government, for example. As a result, the labour movement does not have an adequate bargaining position at the national level, though sporadically they managed to put pressure on entrepreneurs. Most of the entrepreneurs affected by the labour movement are entrepreneurs in the manufacturing sector such as garment, textile, husk products and shoes, which over previous years enjoyed obedient and cheap labour. The labour resistance can be seen from the following table.

Labour strikes in Indonesia

Year	1995	1996	1997	1998	1999	2000
Number of case	276	350	161	604	305	223
Total Involved Labour	128,855	209,257	100,440	141,495	48,232	91,595
Lost Working Hour	1,300,001	2,796,488	875,512	1,375,654	915,105	997,009
Lost Working Hour per-labour	10.1	13.3	8.7	9.7	18.9	10.8

Source: processed from Ditjen Binawas Depnaker (Directorate General of Control and Education, Dept. of Manpower, Rep. of Indonesia, as quoted in *Suara Pembaruan daily newsspaper*, 11 January 2001 edition

Responding to the increasing number of strikes, many companies finally closed down their business units in Indonesia –most of them were foreign investors who were attracted to Indonesia by its cheap labour. When the production costs escalated due to increases in labour wages, in addition to the conflicts with Indonesia's workers, they decided to remove their production to other countries with more competitive, i.e. cheaper, wages (e.g. China or Vietnam). Those relocating factories outside Indonesia, included NIKE, a shoe factory, and SONY, an electronic producer.

Table of number of labour strikes in Indonesia in 2000

[30] The calculation on the rate between the minimum wage and the minimum living cost is taken from research reported by KOMPAS daily newspaper based on the data from the Ministry of Manpower and the Central Bureau of Statistic. See '*Indonesia dalam Krisis 1997 – 2002*', Jakarta, KOMPAS press, November 2002.

TYPES OF DEMAND	NUMBER OF CASES
Welfare	187
Working Condition	5
Freedom to Associate	14
Layoff	47
Discrimination in workplace	7
Forced Work and child labour	4
KKB (Contract) violations	4
Others	56
THE NUMBER OF STRIKES	324

Source: Various sources, 2001

Workers and employees from various sectors and positions were pushed to go on strike in order to defend their legitimate interests, including 'white-collar' employees (i.e. professionals) who were "sterile" from labour malpractices before. Strikes were no longer "monopolised" by light-industry workers alone, although the manufacturing sector was still the sector in which most strikes happened.

Most workers' demands related to problems of income (wages, allowances, due payment), work certainty (lay-off, retirement allowances, employment status and job contract) and gender related working conditions. Some strikes and protest activities involved more than 10,000 people. An overview in the annex to this chapter illustrates the number of labour strikes in Indonesia between 1997 and 2002, i.e. along side the economic and socio-political transition.

4.3. The new Labour Law about labour flexibility

The Law No. 13/2003 on Labour ratified by President Megawati Soekarnoputri adopts an important principle that is significant to the dynamics of labour and their movements, i.e. the-so-called '*labour market flexibility*'. In the principle, labour market flexibility gives the opportunity to entrepreneurs to easily employ workers and make labour matters 'flexible'.
Some items of the law relate to labour problems, which were continuously highlighted by a number of activists, such as contract workers, '*outsourcing*', work contracts, strikes, and the role of trade unions which tends to decrease. For instance, Paragraph 51 explicitly mentions that a contract can be both written or oral. Many activists refuse this rule because there are no longer illiterate workers so that verbal work contracts are no longer relevant. Besides, with a verbal work contract, a worker is easily manipulated and disadvantaged.

From the government side, the new labour law was made due to the current economic crisis that has seriously affected entrepreneurs. As a result, working opportunities are getting scarce, whereas the number of job seekers is continuously increasing. Theoretically, the principle of flexibility can be a solution, because the number of job opportunities could increase as entrepreneurs are more flexible in employing their workforce. Companies may apply subcontracted employees for particular areas. The problem for the workers is that this policy weakens their bargaining power and position towards the entrepreneurs. They have to be always conforming and submissive to the entrepreneur, since otherwise, under the terms of their ‘contracts’, the entrepreneur can replace them legally with new employees.

4.4. Conclusion

Before the financial crisis, one of the economic competitiveness of Indonesia was its low labour wages. Foreign direct investment was directly attracted to Indonesia by those labour conditions. The government regulation of the minimum wage was also influencial: the official minimum wage was always set at a lower value than the minimum living cost. For example, in 1997, while a single worker required at least 150,000 Rupiah per month to cover his minimum living cost, the minimum wage in Jakarta area was only as much as 135,000 Rupiah.

During the New Order regime, the labour movement was always faced with oppression from the military. Many trade union activists were sent to jail and tortured, creating anxiety to other activists. Nevertheless, there were many strikes, which were pioneered by labour activists defending workers' rights. The economic crisis gave an impulse to the labour movement, along with democratisation movement, which was especially pioneered by the student movements. In 1998, the number of strikes reached its highest peak, i.e. 604 times.

The government's policy in determining the minimum wage clearly shows that the entrepreneur’s interests were more taken into account that those of the workers. With its new Law No. 13/2003, the government applied the principle of ‘labour market flexibility’, which makes it easier to entrepreneurs to treat employees arbitrarily.

In the meantime, the challenge is not only threatening the ‘blue-collar workers’ but also the middle-class workers (or the ‘white-collar workers’). During the crisis, the labour movement and the professionals' movement were hand in hand to push Soeharto from his presidency. But afterwards, they did not pursue a strategy of common interest or coordination, even in the face of the governments' new law. Also among the labour movement in general, there seems to be a lack of unity. This is an important factor that contributes to the weakness of the labour movement in Indonesia.

Annex 1 to chapter 4 - Demonstrations and Labour Strikes in 1997 – 2002

DATE	PARTICIPATION	LOCATION	CLAIMS
8 October 1997	Around 250 labour of PT. Cometa Can Corporation	Pluit, North Jakarta, DKI Jakarta	Removing Job Contract system.
10-13 November 1997	Around 40,000 labour of PT. Gudang Garam	Kediri, East Java province	Labour wages increases, premium and calculation of service to salary, overtime payment, weekly payroll system, and menstrual allowance.
26 November 1997	Around 400 labour of PT. JVC Electronics Indonesia.	Surya Cipta industrial area, Karawang, West Java province	Salary paid on first of month, removing wages omission for the dormitory and transport, and also clarity of status for monthly, daily and contracted labour.
15 December 1997	Around 3,000 female labour of PT. Hand Sum Tex	Tangerang city, Banten	Entrepreneur to cancel policy on labour to make a new application letter to the company. Labour also questioning their one-year overtime fee that has not paid yet
30 April 1998	Hundreds of labour of PT. Maha Keramindo Perkasa	Pasar Kemis Industrial area, Tangerang, Banten province	Reimbursement of labour overtime fee, around Rp. 17,000 per month.
1 May 1998	Around 160 layoff labour of PT. Uni Venus	Kecamatan Kragilan, Kabupaten Serang, Banten province	Reemployment from company, until decision of The Central Committee of Labour Dispute Settlement.
1 May 1998	Around 1,500 labour of PT. Starnesia Gament	Gatot Subroto street, Tangerang city, Banten province	Minimum wages increase equal to 15% of the moment wages.
12 May 1998	Around 500 labour of PT. Dai Cong	Hyundai Industrial area, Cikarang, Kabupaten Bekasi, West Java province	Company pay the unpaid wages, and wages increase too.
18 May 1998	518 labour of PT. Djiwon Djaya Indonesia	Kecamatan Cibitung, Kabupaten Bekasi, West Java province	To pay unpaid wages since they were laid-off in January 1998.
2-8 June 1998	Around 10,000 labour of Maspion Group	Waru dan Buduran, Kabupaten Sidoarjo, East Java province	Amending allowance for meal, transport, and premium totally Rp. 5,000 per day.
9 June 1998	Around 4,000 labour of PT.	Kecamatan Jatiuwung,	Payment of twice periodic

	Gajah Tunggal	Tangerang city, Banten province	wages increase in 1998.
27 July 1998	Around 1,000 labour of PT. HJ Ever Cotex	Balaraja, Kabupaten Tangerang, Banten province	Wages increase and clarity of involvement in Jamsostek programme, pregnant leave for female labour, and forming of SPSI.
1 September 1998	Around 1,000 labour of PT. Yasunlitex	Batuceper, Tangerang city, Banten province	Welfare amendment.
4 September 1998	Around 4,000 labour of PT. Indorama Synthetics	Kecamatan Jatiluhur, Kabupaten Purwakarta, West Java province	Wages increase equal to Rp. 150.000 per month.
Augustus 1998 until March 1999	Around 1,500 labour of PT. Tyfountex	Kartasura, Kabupaten Sukoharjo, Central Java province	Amendment of Labour wages from Rp. 115.600 per month, with calculation 26 workdays including Rp. 100 daily meal allowance, becoming Rp. 183.400 (30 workdays) including Rp 1,500 daily meal allowance.
10 October 1998	Around 1,000 labour of PT. United Rope	Yos Sudarso street, Medan city, North Andalas province	Meal allowance Rp. 3,000 daily
	Around 400 labour of PT. Masterina	Pasar Kemis, Kabupaten Tangerang, Banten province	Allowances increase.
16 December 1998	Around 450 labour of PT. Busana Kreasi Asri	Bekasi city, West Java province	Implementing the UMR Rp. 6.750 daily.
4 January 1999	Around 4,000 labour of shoe factory of PT. Tae Hwa Indonesia	Balaraja, Kabupaten Tangerang, Banten province	Pay THR bonus as late as a week before Iedul Fitri, the minimum THR is 100%of labour wages. Other demand, attendance premium is implemented again without deducting incentive allowance, night-shift worker have to get snack, increased meal allowance up from Rp. 1.000 to Rp. 2.000 daily.
5 January 1999	Around 500 labour of PT. Panggung Electric Corporation	Surabaya city, East Java province	Change of certain payroll system and increased THR from once become twice of monthly basic salary.
11 January 1999	Around 2,500 labour of PT. Mulia Industrindo	Jababeka Cikarang Industrial area, Kabupaten Bekasi, West	50% wages increase added with annual bonus and THR.

		Java province	
9-14 February 1999	Around 1,000 labour of PT. Maspion	Kabupaten Sidoarjo, East Java province	Meal allowance increase from Rp. 500 becoming Rp. 2,000, transport allowance from Rp. 1,000 becoming Rp. 3,500, and premium attendance Rp. 500
4 March 1999	Around 1,200 labour of PT. Hung-A	Hyundai Industrial area, Kabupaten Bekasi, West Java province	Withdrawing layoff decision given to four labours.
20 April 1999	Around 1,000 labour of PT. Mayora Indah	Jatiuwung, City of Tangerang, Banten province	Wages increase, other allowances, and abolition of income tax.
22 June 1999	Around 2,900 labour of PT. Tjipta Rimba Djaja	City of Medan, North Andalas province	Implementing hierarchal wages, additional meal allowance, and incentive allowance.
30 June 1999	Around 300 labour of PT. Yuti Tolia	Pabuaran, City of Tangerang, Banten province	Employed as fixed worker with monthly wages equal to UMR.
6 August 1999	Around 2,700 Labour of PT. Citra Sandang Graha	Kabupaten Deli Serdang, North Andalas province	Protection from one-side layoff decision.
22 November 1999	Around 4,500 labour of PT. Kong Tai Indonesia	City of Bekasi, West Java province	Rejecting mass layoff plan, labour are willing to be laid off only if its leaving money equal to five times of Minister of Manpower Regulation or equal to 15 times basic salary.
10 December 1999	Around 1,000 labour PT. Kumbong Container Indonesia	Balaraja, Kabupaten Tangerang, Banten province	Laid off labour demanding leaving money equal to five times of Minister of Manpower Regulation or equal to 15 times basic salary.
22 December 1999	Around 6,000 labour of PT. Astra Divisi Industri Sepatu	Balaraja, Kabupaten Tangerang, Banten province	Payment of THR equal to one months salary, added with allowance according to year of service
28 January	Around 20,000 labour of PT. HM Sampoema	Surabaya city, East Java province	50% wages increase.
7-14 February 2000	Around 1,000 labour of PT. Nyonya Meneer	Semarang city, Central Java province	Salary according to year of service, attendance premium, and transport and meal allowance.
2 March 2000	Around 400 labour of PT. Sony Indonesia	Kabupaten Bekasi, West Java province	Additional compensation on wages due to stand up working condition during 8,5

			hour daily.
1-11 April 2000	Around 800 transportation labour and 25.000 flexible labour of PT. Gudang Garam	Kediri city, East Java province	Protesting company action that only gave leave money equal to Rp. 12,000 per people for two ex transportation labours which have worked for 12 years.
9 May 2000	Around 1,000 labour of PT. Super World Wide Foodstuff Industry	Tangerang city, Banten province	Wages increase, improved daily worker status to become monthly worker, THR is fitted to labour year of service.
10 May 2000	Around 2,500 labour of PT. Lucky Indah keramik	Tangerang city, Banten province	Wages improvement
8 June 2000	Around 3,000 labour of shoe factory of PT. Universal Footwear Utama	Jatiuwung, Tangerang city, Banten province	Wages payment according to Tangerang's UMR, equal to Rp. 286,000 per month.
4 September 2000	Around 2,000 labour of PT. Sungai Budi Group	Tangerang city, Banten province	Increase of allowances (meal, transport, and overtime) and involved in Jamsostek programme.
9 September 2000	Around 8,000 labour of Adidas brand shoe factory, PT. Panarub Industry Co. Ltd.	Tangerang city, Banten province	Allowance improvement
18-23 October 2000	Around 1,000 labour of PT. Maspion	Kabupaten Sidoarjo, East Java province	Increase of meal allowance from Rp. 2,000 becoming Rp. 3,500 daily, transport allowance from Rp. 1,000 daily becoming Rp. 1,500 and abolition of contracted labour.
20-21 November 2000	Around 3,000 labour of PT. Group Shinta	Tangerang city, Banten province	Wages improvement, THR equal to two months salary, and changing of SPSI's local member.
25 November 2000	Around 20,000 labour of PT. Gudang Garam	City of Kediri, East Java	Uniform, works safety, retirement allowance of six bar cigarette daily and soap or menstrual allowance equal to Rp. 18,000 per month.
17 January 2001	Around 6,000 labour of PT. Prima Inreksa Indonesia	Cikupa, Kabupaten Tangerang, Banten	Welfare improvement
12 February 2001	Around 5,000 labour of PT. Argo Pantes	City of Tangerang, Banten	Wages as according to City Minimum Wage (UMK) of Tangerang city, equal to Rp. 426,500 per month and periodically wages increase
21 February 2001	Thousands labour of PT.	City of Semarang,	Wages increase as according

	Mega Safe Tires Industries	Central Java	to Semarang's UMK.
28 February 2001	Around 500 labour of furniture factory PT. Harapan Karya Indah	City of Tangerang, Banten	Wages as according to UMK, namely Rp. 426,500 per month.
16 April 2001	Around 3,500 labour of PT. Truba Raya Trading	Kecamatan Ciawi, Kabupaten Bogor, West Java	Implementation of Bogor's UMK equal to Rp. 576,000
29 April 2001	Around 700 labour of PT. Indoraya IV	Teuku Umar street, Tangerang city, Banten	Normative rights, such as menstrual leave, nativity leave, annual leave, and forming of labour union
28 May 2001	Around 5,000 labour of all Jakarta and roundabouts, and thousands of labour of Surabaya and Sidoarjo	DKI Jakarta and Surabaya city, East Java	Repealing the Decree Of the Minister Of Manpower and Transmigration Number 78 Year 2001.
1 June 2001	Thousands of labour of factories in Samarinda city.	City of Samarinda, East Borneo	Cancellation of the Decree of the Minister of Manpower and Transmigration Number 78 Year 2001.
9 June 2001	Thousands of labour of PT. Gudang Garam	City of Kediri, East Java	Change of promotion System because of it is assessed as inequitable and discriminative.
12 June 2001	Thousands of labour factories in West Java	City of Bandung, West Java	Government Repeals the Decree Of the Minister Of Manpower and Transmigration Number 78 Year 2001and Number 111 Year 2001. They also insist the government to enact the Decree Of the Minister Of Manpower and Transmigration Number 150 Year 2000
13 June 2001	Thousands of labour factories in Surabaya roundabouts	City of Surabaya, East Java	Repealing the Decree Of the Minister Of Manpower and Transmigration Number 78 Year 2001and its revision that is Number 111 Year 2001. They threatening to continue on protesting in street before East Java province enacts the Decree Of the Minister Of Manpower and Transmigration Number 150 Year 2000
14 June 2001	Thousands of labour factories in Bandung city	City of Bandung, West Java	Repealing the Decree Of the Minister Of Manpower and Transmigration Number 78 Year 2001and its revision that is Number 111 Year 2001.

19 July 2001	Around 1,000 labour of PT. Royal Korindo	Kabupaten Purbalingga, Central Java	Rejecting Management Decision of dismissing Chief of All Indonesia Labour Union (SPSI) in company.
6 August 2001	Around 2,000 labour of PT. Havilah	Jl. Gelora, Jakarta Pusat, DKI Jakarta	Welfare improvement
23 August 2001	Around 4,000 labour of PT. Eratex Djaja Ltd.	Kabupaten Probolinggo, East Java	Protesting rejection of annual product service bonus between 30 and 50%.
	Around 850 labour of PT. Kencana Gatmindo	Cikokol, City of Tangerang, Banten	Asking DPRD helps to demand improvement of meal allowance from Rp. 500 per day become Rp. 5.000 per day.
8-10 October 2001	Around 125 labour of PT. Wira Petro Plastindo	Kabupaten Semarang, Central Java	Wages increase, reemployment of their friend that laid off and also disbandment of labour union made by company.
7 November 2001	Around 1,600 labour of PT. Sragen Abadi Tekstil	Kabupaten Sragen, Central Java	Pushing DPRD to get involved on thinking their 844 friends that will be laid off by company.
8 November 2001	Around 800 labour of PT. Matahari Putra Prima	DKI Jakarta	Welfare improvement for all employees.
21 November 2001	Around 240 Labour of PT. Multi Raya Indah Abadi	Cikupa, Kabupaten Tangerang, Banten	Asking the local government to fight for wages improvement.
27 November 2001	Around 5,000 labour of PT. Starwin	Cikupa, Kabupaten, Tangerang	THR equal to 250% of salary.
	Around 500 labour of traditional medicine factory PT. Nyonya Meneer	City of Semarang, Central Java	THR for those who have worked more than one year is as accordance to year of service
29 November 2001	Around 500 labour of PT. Bali Intima Indah	Cikupa, Kabupaten Tangerang, Banten	Adequate THR
	Around 200 labour of PT. Dharma Agung Wood Industry	City of Samarinda, Kalimantan Timur	Cancellation of lay off plan to 79 flexible workers. They also demanded welfare improvement
23 January 2002	Around 5,000 labour of garment factory PT. Great River Internasional	Nanggewer, Kabupaten Bogor, West Java	Wages increase from Rp. 427,000 becoming Rp. 576,000 monthly, as according to Sub-Province Minimum Wage of Bogor in 2002.
	Around 1,000 labour of PT. Dwi Kelinci	Kabupaten Pati, Central Java	Asking the Association of Indonesia Bean Entrepreneur

			to stop terrorizing the labour.
24 January 2002	Around 1.000 labour of PT. Koinus Jaya Garment, of PT. Rajawali Citra Jaya, of PT. Sutera Indah Niaga	City of Tangerang, Banten	Payroll system improvement
30 January 2002	Around 300 labour of PT. Koinus Jaya Garment	City of Tangerang, Banten	Wages improvement as according to Tangerang's UMK in 2002, equal to Rp. 590,000 per month.
	Around 240,000 labour of various factories	Kabupaten City of Waringin Barat, Central Borneo	Welfare improvement
18 February 2002	Around 850 labour of PT. Hyun Indonesia Garment	Jatake, City of Tangerang, Banten	Allowance for meal and transport equal to Rp 2.700 daily
21 February 2002	Thousand of labours of PT. Mega Safe Tires Industries	Semarang, Central Java	Wages increase as according to Semarang's UMK.
7 March 2002	Hundreds of labour of PT. Maha Karya Rotanindo	Kabupaten Gresik, East Java	Reemployment of 170 labours laid-off by company.
26 March 2002	Around 700 labour of PT. Indolim Utama Garment	City of Tangerang, Banten	Wages as according to Tangerang's UMK in 2002, equal to Rp. 590,000 monthly, and January and February salary that have not been paid.
16 April 2002	Around 3,500 labour of PT. Truba Raya Trading	Kecamatan Ciawi, Kabupaten Bogor, West Java	Enacting Sub-Province Minimum Wage of Bogor, equal to RP. 576,000
29 April 2002	Around 700 labour of PT. Indoraya IV	City of Tangerang, Banten	Normative rights, such as menstrual leave, birth leave, and forming of labour union
1 May 2002	Thousands of labours	Jakarta, Bandung, Semarang, Yogyakarta, Surabaya, Bandar Lampung, Palembang, Medan, Padang, Samarinda, Pontianak, Makasar	World Labour Day 1 May specified as national holiday.
23 May 2002	Hundreds of labour of PT. Simone Accessory Collection	DPRD Kabupaten Bogor, West Java	DPRD assisting the process of forming labour union
28 May 2002	Around 100 labour of PT. Indometal Jaya Pratama	Balai City of Tangerang, Banten	Company have to reemploy laid-off worker. Performed intimidation, discrimination, and arbitrary Mutation (and also labour welfare improvement.
30 May – 1 June	Around 10,000 labour of	City of Kediri, East Java	Welfare improvement, such as

2002	PT. Gudang Garam		wages, calculation system of retirement allowance and monthly bonus system.
2 June 2002	Hundreds of labour PT. Simone Accessories Collection	Gedung DPRD Kabupaten Bogor, West Java	Pressing the Bogor Regent to facilitate contact between labour and company owner so that demand for labour union formation can be fulfilled.
4 June 2002	Around 2,000 plantation labours of PTPN II Tanjung Morawa, North Andalas	Kantor Gubernur, City of Medan, North Andalas	Managing Director of PTPN II, Suhairi Lubis, must step down.
18 June 2002	Around 1,000 contracted labour of Pertamina UP VI Balongan	Gedung DPRD, Kabupaten Indramayu, West Java	Wages increase
26 June 2002	Around 13,000 labours of PT. Maspion	Kabupaten Sidoarjo, East Java	Refusing five workday system applied by company.
5 July 2002	Around 500 labours of PT. Prima Rindo Asia Infrastructure, Bandung	Di depan gerbang Gedung DPR/MPR, Senayan, South Jakarta, DKI Jakarta	Asking Reebok to give order again to shoe industry in Indonesia so that they still able to work
6 July 2002	Around 200 labours which joined in SPSI and entrepreneur	Office of Tax Service in Batam, Batu Ampar, City of Batam, Riau	Tax and Duty-tax Service office in Batam is not allowed to collect PPN and PPnBM.
10-18 July 2002	Around 80 labour PT. Armindo Intercorp, Sidoarjo	DPRD Kabupaten Sidoarjo, East Java	PT. Armindo Intercorp withdrawing contractual job system and cancellation on one-side penalty, which have been given by company to 29 labours.
25 July 2002	Around 700 labour Pelabuhan dari berbagai tempat di Indonesia	In front of Istana Merdeka, Central Jakarta, DKI Jakarta	Repealing of Managing and Protection of Manpower and Industrial Relation Settlement bill.
29 July 2002	Around 500 labour which joined in Komite Anti Penindasan Buruh (KAPB), (Committee on Anti-Exploitation of Labour)	In front of Istana Merdeka, Central Jakarta, DKI Jakarta	Rejecting PPK bill and PPHI bill and also demanding government to withdraw Bill Number 25 Year 1997 concerning work force principles.
6 August 2002	Around 500 labour of PT. Perkebunan Nusantara (PTPN) II	DPRD office, North Andalas	State's Minister of BUMN and all stockholder change the board of directors of the plantation company as they are assumed unable to response employees worry to company condition which progressively worse by loot and company swollen debt.

11 August 2002	Thousands of labour which joined in Forum Lima	DPR/MPR building, South Jakarta, DKI Jakarta	Pressing DPR to delay the enactment of PPHI bill and PPK bill which assessed as lack of labour aspiration.
19 August 2002	500 labours of Cimahi	DPR/MPR building, South Jakarta, DKI Jakarta	Opposing PPHI bill and PPK bill.
30 August 2002	Around 500 labour of labour union (SP) of five merger bank	Aetna Danamon building, home base of IBRA, Central Jakarta, DKI Jakarta	Employees' involvement in merger process.
2 September 2002	Around 1,000 labour of PT. Gunung Himalaya Jaya	PT. Gunung Himalaya Jaya office, Randu Garut street Km 14, Semarang, Central Java	Company removed contractual works system which unclear all the time and had harmed labour.
3 September 2002	Around 250 worker of PT. Eternit Gresik	Office of Gresik's Regent, East Java	Regent to get involved in dispute settlement between employees and management of PT. Elternit.
4 September 2002	Around 1,000 labours of PT. Gunung Himalaya Jaya	Semarang's DPRD building, Central Java	Asking DPRD assistance to fight for their condition in which they do not get their rights as worker
10 September 2002	Hundreds of labour which joined in Forum Komunikasi Serikat Buruh/Serikat Pekerja (Fokus) Central Java, (Labour/Worker Union Communication forum)	DPRD building, Central Java	Refusing PPHI bill and PPK bill.
12 September 2002	Around 200 worker and labour of Gondang Baru sugar factory AFD Ceper Baru	Klaten's DPRD building, Central Java	Criticising and protesting on circulation of imported sugar.
	250 representative of eight sugar factory (PG) PT. Perkebunan Nusantara (PTPN) IX Central Java	Central Java's DPRD building, Semarang, Central Java	Criticising and protesting on circulation of imported sugar
	Around 500 sugar factory worker of various places in East Java	Office of East Java Governor in Pahlawan street, Surabaya, East Java	Criticising and protesting on circulation of imported sugar, which have threatened the existence of domestic sugar industries.
16 September 2002	Around 150 labour which joined in Komite Anti Penindasan Buruh Bekasi (KAPBB), (Committee on Anti-Suppression of Bekasi	DPRD Kabupaten Bekasi, West Java	Refusing PPHI bill and PPK bill.

	Labour)		
	Hundreds of labour and NGO's activist which joined in Fokus	Simpang Lima and Central Java's DPRD yard	Refusing PPHI bill and PPK bill.
23 September 2002	Around 1,000 factory labours of various area	DPR/MPR building, South Jakarta, DKI Jakarta	Cancellation of PPHI bill and PPK bill
23 September 2002	Around 300 labour which joined in Front Nasional Perjuangan Buruh Indonesia (FNPBI), (National Front of Indonesian Labour Struggling)	DPRD building and office of South Sulawesi Governor	Government repelling Bill Number 25 Year 1997 and demanding all company to increase labour wages 100%.
24 September 2002	Thousands of protester of various elements such as labour, farmer and students	DPRD/MPR building, South Jakarta, DKI Jakarta	Refusing PPHI bill and PPK bill. Farmer and People Front for the Agrarian Renewal (FRPA) demanded the renewal of Agrarian as soon as possible
	Around 2,000 labour from various company in West Java	Near Leuwigajah market, Cimahi, West Java	Labour wages Increase 100%, refusing lay off, rejecting PPHI bill and PPK bill along with its revision, and reject Bill Number 25 Year 1997.
	Around 500 labours in City of Semarang	Central Java's DPRD building	Rejecting PPHI bill and PPK bill.
25 September 2002	Around 500 labour as representative of several labour elements in Kabupaten Sidoarjo	Sidoarjo's DPRD building, East Java	Rejecting PPHI bill and PPK bill, and demanding to increase Provincial Minimum Wage of East Java as according to nowadays needs.
2 October 2002	Around 200 electronics company labour of PT. Dwidaya Mendrasakti	West Java's DPRD building	Company gives permission to the establishment of labour union as one of their basic rights
	At least 2,000 labour which joined in Forum Komunikasi Serikat Labour dan Serikat Pekerja (Fokus) Central Java	Office of Manpower and Transmigration Service, and Central Java's DPRD building	Recalculation of Provincial Minimum Wage in 2002 as much as Rp. 350,000 monthly, which is assessed as already improper.
5 October 2002	Around 800 garment labours of PT. Pacific Rimasri Garment	PT. Pasific Rimasri Garment (PRG), Mercedes Benz street, Gunung Putri, Kabupaten Bogor, West Java	Company board of directors pay entire wages, which during the time had been procrastinated.
22 October 2002	Around 250 labour of PT. Dwidaya Mandrasakti, an	West Java's DPRD building	Company reemploy 13 workers who act as committee on

	electric company in Kecamatan Bojongsoang, Bandung, West Java		forming of labour union, and withdraw penalty to hundreds of labour who protested.
23 October 2002	Around 250 labours who joined in Federation of All Indonesia Labour Union (FSPSI)	Office of Batam's Major, Riau	The Batam local government to control the price of basic needs commodity. They even press the DPRD and Batam local government to immediately release regional law concerning the pricing.

Source: The report by The Research and Development Division of KOMPAS Daily, as quoted from 'Indonesia dalam Krisis 1997 –2002', *Jakarta, KOMPAS press, 2002*

Chapter 5
Corporate social responsibility (CSR) Initiatives

5.1. The Anti-Bribery Pact

On 1st October 2003, there was an interesting progress in the business sector in Indonesia. All entrepreneurs of the Indonesian Chamber of Commerce and Industry declared the-so-called 'war against bribery' –and to mark the moment, they signed an anti-bribery pact. The pact was signed by 45 individuals representing entrepreneurs, associations and business groups, education institutions, co-operatives, small and medium enterprises, and national mass media.

According to their planned schedule, they will start with the National Anti-Bribery Campaign in 2003-2004 and form a National Anti-Bribery Movement in 2005-2006. The entrepreneurs who initiated the pact stated that they targeted to increase the *Corruption Perception Index* becoming 6.0 in 2015. In 2002, The *Corruption Perception Index* of Indonesia is currently 1.9 and Indonesia was ranked 96th of 102 countries. The other goal is to improve its ranking of competitiveness from the 49th place worldwide in 2002 to 20th place. In addition, the pact is also aimed at improving Indonesia's human development index from its 102th place (in 2002) to 50th place of 120 countries. The main goal of the pact is to increase per capita income (PCI) from US$700 in 2002 to US$9,000.

Of course, the targets are still open for debate. However, the anti-bribery pact is indeed an interesting issue that catches our attention because entrepreneurs initiated this moral movement while entrepreneurs are the main actors of bribery. Thus, through this entrepreneur-led moral movement, there is a high expectation that the improvement of the system will be thoroughly done.

Previously, in a national seminar held at the University Gadjah Mada Yogyakarta, academics and intellectuals strongly criticized the broadening of corruption practices. In the seminar, the academics warned if the corruption practices would not be seriously tackled, all pilars of the state would disintegrate. Seemingly, this warning was welcomed by other society movements.

Following the establishment of the anti-bribery pact, the public figures of Moslem social organisations also declared war against corruption. On 15 October 2003, the two biggest Moslem organisations in Indonesia, i.e. Nadathul Ulama and Muhamadiyah, signed a joint agreement to fighting against corruption in Indonesia.

5.2. Good corporate governance

In order to enforce the principle of good corporate governance, at the moment, there are ideas circulating to prohibit government (high) officials from having double roles by holding positions as members of the Advisory or Supervisory Boards in state-owned enterprises (BUMNs). For the moment, membership of such boards seems to be simply to give out money to government (high) officials. Currently (2003), there are 466 governmental (high) officers holding position as members of the Advisory or Supervisory Board in various BUMNs[31]. The State Minister of BUMN is even the chair of the Advisory Board in Pertamina of which Sjafrudin Tumenggung (head of IBRA) is also a member.

Table 1. The Distribution of Commissionership in 29 BUMNs

No	Department/Ministry to which the officials belong	Chair of Advisory Board	Member of Advisory Board
1	Ministry of Transportation	19	62
2	Ministry of Finance	24	44
3	Ministry of Industrial and Commerce	22	61
4	Ministry of Forestry and Plantation	19	58
5	Ministry of General Public Utility (PU)	19	36
6	Ministry of Mining and Energy	5	20
7	Ministry of Farming	7	13
8	Ministry of Health	3	12
9	Ministry of Tourism, Art and Cultural	3	9
10	Ministry of Defence and Security	2	8
11	Former Ministry of Information	2	3
12	BPIS (Strategic Industries Development Bureau)	1	5
13	Ministry of Manpower	1	4
14	Ministry of Education	1	2
15	Non-Department	1	-
		129	337

Source: Investment and Banking Research Agency (INBRA), 2000

The practice of giving a government (high) official a position as a commissioner in a BUMN has been taking place for a long time. Nowadays, after the issue of good corporate governance has been emerging, the problem of government officials in BUMNs starts to attract attention and opposition by many parties. The problems lie in the double roles of regulator and supervisor government officials then have to play while in practice they become insensitive to malpractices and in the fact that they sometimes even participate in corruption within BUMNs such as financing political parties in Indonesia. The latter took especially place during the New Order era when there was only one major political party, i.e. Golongan Karya. It is indeed a 'public secret' that Golkar intensively used BUMN as one of the 'cash cows' to finance the party. It is hoped that implementation of good corporate governance principles will improve BUMNs and make them free from corruption practices; a

[31] Warta Ekonomi No.23/Thn.XV/16 November 2003

crucial aspect will be to have the right persons in the Advisory Board and not persons who are nominated because they are government officials or they are to be given cash.

5.3. Commission on corruption eradication

The data from the survey conducted by Transparency International (2003) indicates that Indonesia is the 6th most corrupt country in the world (of 133 countries surveyed). This portrays the fact that even though Indonesia has entered an era of reform, the problem of corruption is not yet under control. Corruption eradication as recommended in the Law No. 30/2002 has not been undertaken properly yet.

In 2003, the *Commission on Corruption Eradication* has been established. In accordance to the Law No. 30/2002, the commission is not only authorised to examine, investigate and to sue corruption cases, but also to take over corruption cases handled by other institutions. Thereby, this commission will have immense power to fight corruption in Indonesia.

On 7 October 2003, the Memorandum of Understanding (MoU) between the members of the selection committee and Partnership for Good Governance in Indonesia (a body under the UN) has been signed to select members of the *Commission on Corruption Eradication* in a transparent, participatory and accountable way. The World Bank, IMF and other multilateral institutes (such as UN) are very attentive to the establishment of the *Commission on Corruption Eradication* that is expected to gather people of substantial integrity. In this way, the anti corruption movement in Indonesia is entering a new era.

5.4. NGOs and their activities towards corporations

The *Anti-Bribery Movement* simply cannot be dissociated from NGO activities that, since a long time, have been expressed their concern about, and condemnation of, corruption. Indonesian Corruption Watch (ICW), Business Watch Indonesia (BWI), Indonesia Legal Aid Institution, Walhi, Kontras, Elsam are few of NGOs which, for quite some time, directed their activities not only against irresponsibility (in all its meanings) of the state but also the problem of corruption[32].

Currently in Indonesia there are several non-profit institutions that especially work on good corporate governance issues. Examples are the Indonesian Transparency Society, the Indonesian Society of Independent Members of Advisory Boards, and the Forum for Corporate Governance in Indonesia.

[32] As a new NGO, BWI itself focuses on the exercise of business power. Quoting its mission, BWI, "*Driven by the understanding that the societal power has shifted from the state apparatus authority to the economic groups and business communities in local and global level, the BWI is aimed at mainly cultivating possibilities of steps to democratise the exercise of economic power and corporate governance. The BWI focuses on creating and promoting efforts towards democratic economic governance by research and advocacy.*"

The issue of corporate governance (CG) has recently been attracting attention from the Indonesian since the bad CG lowers the trust of global investors in the business environment in Indonesia. A recent survey by McKinsey & Co showed that CG has become a main concern for investors, as much as financial performance and (market) growth opportunities. Investors tend to avoid companies or corporations that are allegedly not well applying CG. Investors have started to consider CG as the qualitative criterion that determines the performance of corporation[33].

In 2003 in Jakarta, currently there has been an initiative to establish a so called 'CEO forum for CSR' whose exclusive members are CEOs from the large and well-known companies like Unilever, Bogasari, and the likes. The members of the forum try to formulate a 'framework of concerns' on the environment, small-medium enterprises (SMEs), basic education and health[34].

5.4.1. Indonesian NGO's and unions and the CSR issue

Almost none of the Indonesian NGOs are today working particularly on issue of corporate social responsibility (CSR). YLKI, the consumer association, is likely to be the only NGO that has explicit activities close to the CSR issue. ELSAM (Centre for human rights study) has a special desk, called Ecosoc (economic social and cultural rights), that deals with CSR indirectly.

Many NGOs have experienced during their activities and involvements that corporations often play very important role. For example, KontraS (a human rights organisation focussing on the disappearances and victims of state violence) reported that in many human rights violation cases committed by the state, there is almost always an interest of (a) corporation(s) involved. Walhi, (an NGO dealing with environmental issues) stated that behind many activities that are destructive to the environment, there are corporations' interests. Many other organisations have similar experiences but so far they do not deal with these corporations from a CSR perspective[35]. Below are some examples.

Regarding the severe environmental damage in Indonesia that has been caused mainly by extractive business activities, WALHI (*Wahana Lingkungan Hidup Indonesia*, Indonesian Environment Organisation – a coalition of local civil society organisations dealing with environmental problems and spread in many provinces in Indonesia), is seemingly the most well

---

[33] McKinsey & Company, Global Investor Opinion Survey 2002; Key Findings, July 2002. www.mckinsey.com/governance

[34] This information is based on the interview with one of its members, i.e. Mr. Fransiscus Welirang (CEO of Bogasari Sukses Makmur, as the biggest flour producer in Indonesia) and a social worker affiliating with the Keanan Institute in the US who has initiated (as mediator) and is program organizer for this CEO forum.

[35] The above mentioned situation was also intensively discussed during the last Novib meeting partners in Bali (23-26 Sept). BWI (represented by Yanuar Nugroho) and Novib (represented by Liesbeth Unger) took the initiative to create and establish a new working group on CSR among Novib's partners in Indonesia and other interested groups and institutions. A mailing-list watchbusiness@yahoogroups.com has been established since quite sometime and now the interested partners of Novib join the mailing list to discuss particularly the CSR issue. What is needed, the forum concluded, is that the issue of CSR has to be widely socialised among NGOs so that they do not have to 'add' their activities, but rather, an additional perspective on how to value/view their activities, especially when dealing with corporations.

known NGO working on this issue. WALHI and its coalition are mainly concerned with environmental problems caused by explorative business such as illegal logging (which also contributed to the national accident of forest burning in 1999-2000[36]) and extractive mining that pollutes the environment (such as Freeport in Papua, NewMont in Nusatenggara). Other organisations concerned about environmental problems like KONPHALINDO, Kehati Foundation (among others) focus more in the preservation of biodiversity.

The issue of protecting the indigenous people is taken care of by AMAN (*Aliansi Masyarakat Adat Nusantara* – Indonesian Alliance of Indigenous and Traditional People) that is currently working hand-in-hand with other groups to protect the rights of indigenous people, which are under threat for the sake of 'development' and 'modernisation'. This issue is related to the environmental issue because the life of indigenous communities depends on natural resources (like of forest, rivers, etc) and indigenous people would be suffering most when the environment becomes 'polluted' or destroyed[37]. In some cases, WALHI is also working on this issue.

There have been no groups particularly monitoring the practice of transnational corporations[38] (TNCs) or foreign companies comprehensively, as far as could be explored by Business Watch Indonesia. Some coalitions lead by WALHI, for example, are mostly concerned about environmental issues. While the issue of TNCs is included in their activities, it does not necessarily mean that the coalition focuses on the TNC practices. The same also applies to KOP-WTO (*Koalisi Ornop Pemantau WTO* – NGO coalition to monitor the WTO) which also includes groups like IGJ (The Institute for Global Justice) and the likes. The focus is the WTO, not the practice of TNC, although TNCs will (almost always) be included in the analysis since TNCs benefit greatly from WTO agreements and rules.

The Bill on Water Resources that was to become law, after passing through the house of representatives, was a hot issue in 2003 and relates to both TNCs and international financial institutes, showing the link between both[39]. A new coalition called Koalisi Rakyat untuk Hak atas Air (People's Coalition for Rights to Access Water) was set up to put pressure on the government and the parliament not to ratify the bill since privatisation would endanger the life

---

[36] See all national publications during July 1999 to August 2000, e.g. Kompas (www.kompas.com), Tempo (www.tempo.co.id), among others.

[37] In Indonesia, currently there are more than 1,300 tribes and more than 600 local languages which are slowly being wiped out during the process of globalisation, be it culturally (in form of global language, global culture), or physically –when their living space is brutally destroyed for any reason of development, e.g. forest being cut, river banks being destroyed, land conversion from forest into industry, etc. See 'Indonesia Today' from the official website of Internal Affairs Ministry, www.depdagri.go.id

[38] According to Peter Dicken in *Global Shift: Transforming the work Economy* (London, 1999), a TNC (transnational corporation) is a business entity whose power to coordinate and control various economic activities in more than one country, even when the corporation is not the owner of those business activities. A MNC (multinational corporation), on the other hand, is also a TNC with more power in controlling and coordinating economic activities in many countries. A TNC, therefore, is not necessarily a MNC.

[39] See publications this year since July 2003 up to date, for example, www.thejakartapost.com

of majority of the people. Lead by NGOs like INFOG (Indonesian Forum on Globalisation), INFID, WALHI, the coalition found that the bill is the consequence of WATSAL, the Water Resource Sector Adjustment Loan of USD 300 million given by the World Bank to Indonesia. The loan implies that the government of Indonesia should restructure its water sector by opening this sector up for privatisation - which in practice often means that the sector is bought up by foreign water companies (TNCs). However, privatisation alone is not the solution of the water problem in Indonesia[40].

The issue of Economic, Social and Cultural (Ecosoc) Rights has recently been widely discussed in the human rights 'domain' and there has been an initiative to build a new NGO coalition in Indonesia. Motored by CHRF (Canadian Human Rights Foundation), the-so-called "Indonesian NGO Coalition for Ratification of Ecosoc Rights" was established by the end of 2003. There are about 70 NGOs from various areas of Indonesia joining the coalition and the number is increasing. Its main issue and concern is to urge the government of Indonesia to ratify the International Covenant of Economic, Social and Cultural Rights. Working together with HRWG (Human Rights Working Group), the coalition had the aim to make an intervention during the 60th Session of meeting of the UN High Commissioner for Human Rights (UNCHR, Geneva, March-April 2004) to raise the attention to the issue at the UN level and to demand the UN to urge the government of Indonesia to ratify the Ecosoc Rights. In the recent meeting of HRWG (Human Rights Working Group – an Indonesia's NGO Coalition of Human Rights) held by Kontras, hosted by BWI in Solo (4-7 Dec 2003), aimed at preparing the intervention paper for the UNCHR meeting in Geneva in April 2004, the importance of Ecosoc Rights was highlighted. From experiences of the participating NGOs, the issue of human rights violations today (violence to women, child labour, migrant labour, forced labour, indigenous people eviction) could not actually be separated from the exercise of power by business. Although the state has the main responsibility to respect human rights and the notion of civil-political rights mostly relates to violations by state powers, the notion of Ecosoc Rights often relates to violations and power by businesses (e.g. in provision of privatised essential services, housing, labour, wages, etc)[41]. Some NGOs working on Ecosoc Rights are BWI, the Institute for Ecosoc Rights Indonesia, Elsam (Foundation of Human Rights Study), FAKTA (Jakarta Residents Forum), among others[42].

Those above-mentioned examples show that CSR is understood –or precisely, experienced— differently by NGOs which of course, results in different actions towards it. BWI sees, nevertheless, that the labour issue could actually be the issue that moves the CSR issue forwards since labour is at the heart of production in any business or corporation.

---

[40] Jakarta's water, for example, has been privatised. The management of state-owned water company (PDAM) has been taken over by two transnationals, i.e. British Thames and Suez Lyonnaise. Yet, their performance cannot be said 'better' than of the PDAM before being taken over. However, the case of water privatisation is still in progress in Indonesia. BWI made a research paper on water privatisation in Indonesia, to be published in Mumbai, January 2004.

[41] BWI put a welcoming address in the meeting of HRWG in Solo recently. The note is attached in the end of this chapter

[42] as far as BWI have observed; they are mostly NOVIB's partners in Indonesia

In Indonesia, however, two groups –NGOs concerned with labour and trade unions— seem not to have a strategic cooperation. When Soeharto stepped aside as president on 20 May 1998, the existence and legitimacy of SPSI (*Serikat Pekerja Seluruh Indonesia* or All Indonesia Trade Union – the state's trade union, founded by the Soeharto regime) as the only trade union came to an end. Many trade unions then mushroomed, up to today. Yet, based on very limited observation by BWI, there has been no common strategy in the new trade union movement, which focuses mainly on fighting for labour rights. There is hardly any cooperation between NGOs (that are concerned with labour problems) and unions. However, the-so-called FPBN (*Forum Pendamping Buruh Nasional* or National Labour Accompanier Forum), supported by the Labour Desk of Oxfam-GB Indonesia Office, has tried to initiate a common strategy of the labour movement in responding to the particular issue of 'outsourcing' (contracted labour) which has gradually become a threat not only for the relationship between companies and labour (shift from permanent labour into contracted labour) but also for the existence of trade unions[43].

5.4.2. Strategies and instruments of NGO's and unions to stimulate CSR

There are currently no particular instruments or strategies to stimulate the issue of CSR. The most common 'strategy' is publishing the issue through media to start a polemic. The other possibility is to press the government and/or parliamentarians through street protests, etc.

There may have been contacts between YLKI and corporations since YLKI is protecting consumers' rights. For other NGOs, there have been very few, not to say 'no', contacts with corporations[44]. One of BWI's partners, Pusdakota (*Pusat Pemberdayaan Komunitas Perkotaan*, the Centre for Urban Empowerment) of the University of Surabaya, is a NGO-like group that has been in contact with both domestic and transnational corporations. Pusdakota has initiated the so-called CFCD (Corporate Forum for Community Development), on 18 December 2003 in Surabaya. CFCD comprises of corporations like Unilever-Surabaya, Sampoerna (one of biggest national cigarette producers), PT Semen Gresik (cement producer), among other big companies in East Java –facilitated by NGOs and the University of Surabaya[45]. Despite that the involvement of companies is still considered as 'philanthropic' or 'charity' activities, CFCD is regarded as a good start to make contact with corporations.

What is to be understood from the current situation is the resistance by many NGOs against working with corporations in Indonesia. Indonesian corporations (owned locally or in hands of foreign investors) are considered to have a specific 'character' or 'nature' that it will never benefit NGOs or people because, instead, corporations are working together with the state apparatus (including the armed forces) to protect their interests. There have been many cases to support that view, with corporations behaving inhumanely (as in the case of the harassment

[43] Based on the interview with the Oxfam-GB Indonesia Office staff who is responsible for Labour Desk. BWI is also invited to join the initiative to work on 'outsourcing' (contracted labour) issue.
[44] as far as BWI could indicate,
[45] it is quite fortunate that BWI has access to this forum directly through Pusdakota.

of an activists from LBH APIK, a legal aid person who was working for gender equality, as well as cases of activists from various groups)[46].

5.5. Conclusion

People often say that "*corruption is part of the culture*", a discourse even was widely aired in the media when noting the vast phenomena of corruption in Indonesia. To some extent, the saying is correct, since corruption has become a structure[47] that determines the 'mindset' of actors be it at the governmental level or at the corporate level). But corruption is also part of the political economy. The anti-bribery movements that have been initiated by both the governmental and corporate sectors may have impact in fighting against corruption. However there are doubts about positive results because there is still a very high reluctance against combating corruption and without a serious law enforcement the anti bribery initiatives can easily slip into just a 'lip-service' or ,worse, a political strategy to gain votes during election time. Note that all initiatives are closely related to certain political parties. If these efforts remain 'rhetoric', good corporate governance will never be applied.

Therefore, BWI sees that it is currently the right time to start advocating the importance of CSR, maybe within the context of economic, social and cultural (Ecosoc) rights, or even to the wider public without explicitly mentioning CSR. Many social and environmental movements are now confronted with irresponsible corporate behaviour in their work, not only when dealing with severe problems like of human rights violations, environment disasters and urban evictions, but also with issues like privatisation of essential services, provision of public utilities, etc. The perspective of the movements and NGOs, however, is not yet a CSR perspective, but rather their own perspective that they have embraced before (e.g. environmental perspective, gender perspective, etc.).

There may be two main reasons for the reluctance of using a CSR perspective. Firstly, it might be due to criminal and corrupt repression of protests by companies (like those of cases in Nusatenggara involving NGOs protesting against NewMont or Freeport) that has resulted in too much distrust at NGOs to start dialogues with companies on CSR issues. Secondly, most Indonesian NGOs currently consider that CSR issues are too 'soft' or even too 'moderate' to combat the irresponsible and unaccountable practices of business and corporations. In this situation, there was an initiative, stimulated by NOVIB's partners in Indonesia, to start a discussion group among NGOs via email to clarify the areas of work and potential future strategies to deal with CSR issues.

The following box presents BWI's position on CSR, i.e. CSR as business accountability (note the different notion of 'responsibility' and 'accountability').

---

[46] raised during the discussion in Bali

[47] See Anthony Gidden's *Structuration Theory – The Constitution of Society (1984)* which denotes the culture as the group of structure constituted by 'signification' and 'legitimacy'.

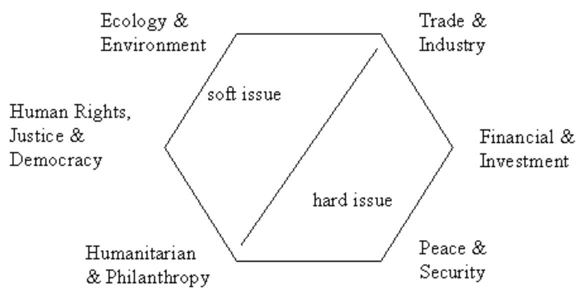
Socially responsible business – or accountable business practice?

Initially, it might start from our inability to distinct the '*intended action*' and '*unintended consequences*' of trade and business practices by corporations. We usually take the 'unintended' (*ex post*) for the 'intended' (*ex ante*). While such confusion is inevitable in human affairs, there is a serious danger of not being aware of its grave risks. The working of the neo-liberal principle is entirely based on claiming the 'unintended' as no different from the 'intended'. How?

This problem involves the following line of logic: if we start from the premise that the highest value of social life brought by globalisation is 'growth', then malpractice or non-malpractice is irrelevant. If growth can only be achieved by letting malpractices of power to happen, so be it. The destruction of environment and the widening gap between the rich and the poor seems to be only the unintended consequence of globalisation.

In this case, 'democracy' is also irrelevant, because any type of power structures (even if unintentionally) that seem to bring growth will then be justifiable (self-legitimating). Of course the proponents of such perspective will scream endlessly for law enforcement and legal certainty. But in fact these are immaterial to the point.

After all, there might be a serious 'epistemic lag' –the inability to understand the reality– when reality has run ahead and left our analytical reflection behind. It is a fact that the locus of power in society is neither unitary nor monolithic so that it can no longer be assumed that the power over society belongs only to the state apparatus. This discourse on globalisation would make little sense unless the dramatic rise of corporate power as a shaping force of society is considered, whether it is for better or otherwise.



Source : modification from the 'sustainable development conception'
– WSSD Johannesburg

The dynamics of corporations cannot basically be separated from the dynamics of power related to (1) trade and industry and (2) financial & investment with the base-line of (3) peace and security. Within the current logic and practice of neo-liberalism, corporations tend to be a power apparatus that is very fragile in facing various manipulations, scandals, and deviations that ends in the violation of human rights and endangering the environment. Corporate social responsibility can thus no longer be considered only as philanthropic activities.

So, if 'democracy' is a movement to make any socially consequential exercise of power accountable, we have now to revise the existing notion of democracy to include the socially consequential exercise of business and corporate power. Such outdated notion seems to count too much on the assumption that its goal can only be achieved with the state power being made democratically accountable; what escapes from this notion is the status of corporate power.

This is the basic conception where CSR should be viewed as effort to make business democratic and accountable. And how can it be done?

Firstly, the basic concern should be to espouse the extension of the democratic criteria to some other centres of power in society. A discourse on the dark side of neo-liberalism (or free trade in particular) is not possible without also touching upon the issue of economic power, or more practically, business power.

Secondly, some popular ideas on practices and malpractices of business power in various sectors have to be widely published and disseminated through mass media and popular education.

Thirdly, the effort of CSR leads to a formulation of the idea to build accountability of the business power or corporate practice, facilitate public participation towards democratic economic governance and promote fair business practices (e.g. fair trade, etc). These ideas should be delivered to those groups that have access to promote changes in the society largely[48].

Source: BWI's presentation at the NOVIB's partners meeting in Denpasar, Bali, September 2003

[48] For example, the very idea of fair trade movements is the democratisation of business practices which have a hold on the trade system and the control of capital flow. Fair trade must no longer entail a belief in the "magic of the marketplace" in this world captured by economic power. It has to be very critical since the workings of the market which are manipulated by capital and its interests. Nevertheless, although the fair trade movement has been going on for the past four decades, it is still too small compared to overall global free-trade. Of $3.6 trillion of all goods exchanged globally, fair trade accounts for only 0.01 percent (OXFAM report, 2002).
So Fair Trade is actually a battle. Yet, it is not a battle between the community and the market; rather, it is between a bottom line that includes communities, ethics and the environment and one that sees nothing but profit. Unfortunately the battle is still imbalanced – like an infant trying to survive among the giants.

Annex 1 to chapter 5 - A new Indonesian bill on investment and CSR issues

BWI has not formally examined[49] a new law on investment which was scheduled to be ratified into law sometime in 2004. Yet from some discussions with partners and networks and experts based on the current draft of the bill, the law-to-be does not really be concerned about the issue of CSR explicitly.

The bill on investment seems to empower the government to give protection and facilities to foreign investors. This can be seen, for instance, from the fiscal and customs facilities offered by the government of Indonesia to the foreign investors. These fiscal facilities imply that the government can free investors from income tax, give accelerated amortisation and depreciation of costs, give compensation to for losses, and exempt dividends from income tax. This facility also allows to provide exemption from import tax on machines, equipments, materials and goods (including seeds) imports.

If this law, which was proposed in May 2003, manages to be ratified, foreign investors will be more freely entering the domestic market. And indeed, the objective of the new bill is to raise investors' interests to invest in Indonesia.

Some articles of the bill emphasise that investment should be 'responsible to the development of national and local interest'. This should be able to be used for promoting CSR issues, especially in relation with corporate activities.

[49] BWI has not yet conducted a thorough analysis on the bill due to the limitedness of the resources. BWI, however, would like to conduct such analysis since it is closely related to the business practices in Indonesia.

Annex 2 to chapter 5 -
When power shifts – Rethinking of human rights

A welcome address of the Workshop Indonesia's NGO Coalition on Human Rights[50]
Prepared by **Yanuar Nugroho & Henry Heyneardhi** The Business Watch Indonesia, Surakarta office@watchbusiness.org

Protecting human rights – New challenge for business responsibility

Recently, the river of human history is much determined by the dynamics and interaction of two important actors –state and business. Up to the last three decades, it had been the state whose the most important role in directing the society. Yet, with the increasing power of market in the neo-liberal economics, the state's role in determining social dynamics has been widely taken over by business. In his book, *The End of Nation State* (1995) Kenichi Omahe event describes that it is the end of state era.

In global level, the power of market is represented by transnational corporations (TNCs) whose capital has been the source for development expenses for many countries in the world. We can see this clearly from the decreasing amount of Overseas Development Assistance (ODA) to the half of total ODA before 1990. On the contrary, private capital sources, particularly Foreign Direct Investment (FDI), have recently been the biggest capital source for development, mainly in the developing countries. Over the last decade, the total inflows of FDI has increased 4 times from US$ 174 billion in 1992 to US$ 644 billion in 1998.[51]

Of course, the increment of FDI cannot be detached from the growth of TNCs in the global economic. In 1960s there were only about 7,000 TNCs but in the second half of 1990s, the number has more than tripled into 60,000 TNCs with some 690,000 affiliated companies or subsidiaries. It is estimated that 75% of the total TNCs came from developed countries particularly Western-Europe while their subsidiaries operated in many Asian developing countries. These TNCs are those estimated to control more than two third of the total international world trade.[52]

As the result, almost all developing countries are competing each other to attract FDI into their countries. The main strategy is to give facilities and incentives. But in practice it does not stop there. The incentives given, however, are no any longer in terms of economic instruments like fiscal and tax, but also to weaken the enforcement of regulation that may burden the investment practice. And here is the problem. The weakening enforcement of regulations include those of environmental regulation to protect and preserve natural resources and those of social regulation to protect human rights.

---

[50] (Some parts of) this welcome notes are also made available publicly via The Jakarta Post English daily on 4 and 5 December 2003.
[51] UNCTAD (1999), World Investment Report 1999.
[52] UNCTAD (2000), World Investment Report 2000.

What does this cause? The answer is crystal-clear: uncontrolled business malpractices.

The escalation of uncontrolled business malpractices committed by TNCs has been so extensive. The research findings of international human rights organizations (such as Amnesty International, Human Rights Watch and the likes) have shown that human rights violation done by business has a very spacious *range*. It covers tortures, detention and disappearances; it breaks the freedom of association; it commits involuntary resettlement, forced or bonded labour; in addition to violation to women rights, children rights and indigenous people's right.

Facing these various violations of human rights, state, as public agency, seems to be powerless –or simply incapacity—*vis-à-vis* business power. The World Bank (2002) reported that over the period of 1997 – 1998 there had been more than 9 million hectares deforestation in Indonesia, due to forest burning after illegal logging. It was ironic that no companies were given sanction although the Minister of Forestry had identified 176 companies that had to be responsible.

Lately, even more saddening, state looks to run away from its obligation to protect the citizens' human rights. This situation looks very clearly when we examine the trend of privatisation of essential services.

Recently, the provision of basic services (like of electricity, health, education, water) have been shifted from state's responsibility to private's business. As the result, transnational giant corporations like Suez, Vivendi and RWE are competing each other to get the licenses (even to take over) of water resource management in third-world countries. TNCs like MDS, HCA, CIGNA, Extendicare and COMCARE are racing-up to dominate health market, while corporations like General Electric, Sumitomo and Power Gen, Plc., are rivals to win the market of electricity in developing countries.

And what is the core problem? Those TNCs may be efficient and have capacity to penetrate the complex market, but they are not working in favour of the lower-class of society, especially the poorest of the poor. It comes to as no surprise, therefore, instead of providing better service for society, TNCs even widened the access gap for poor and marginalized communities to access the services. As a result, for example, of 6.2 billion population of the earth, 25% lack adequate housing, 60% lack basic sanitation, 33% lack access to clean water, 20% lack access to health services, 45% lack nutrients (World Bank, 2002).
From the human rights perspective, this is a very serious violation of *rights to life* and rights to adequate standard living as guaranteed in the various human rights instruments like UDHR (1948) and ICESCR (1966).

The involvement of business, particularly TNCs, in the extensive human rights violations have caused concerns of many parties which end in a demand that business should not only stop their involvement in such violations but also actively take part to respect, protect and fulfil the human rights. The concerns and demands have been emerging, although very limitedly in developed countries, in the form of social movements like *Fair Trade* and *Ethical Consumers Movement*.

Fair trade, since 1960s, was initially concerning severe poverty of third world countries, but it evolved gradually to the campaigns and advocacies to influence TNCs to be mainly responsible for human rights wherever they operate. *Ethical Consumer Movement*, meanwhile, covers consumers who include ethical consideration in their consumption activities. In practical terms, this movement usually boycott or refuse to buy and consume products, which are unethically produced –like boycotting products from South Africa whose government committed apartheid politics in 1980s, or boycotting Nike for its violation to the labour's right in 1990s.

What is the bottom line of all these movement?

Of course, indeed human rights is the basis of the concern. But we have now to be aware that human-rights movement cannot but take into account the power-shift in our society. Perhaps we should pay more attention that what is most influential in our societal life nowadays is not only the dictatorship of the state, but rather oligarchic domination of capital.

Therefore, aside from continuing the ongoing civil-political human rights movements, it seems urgent for us to encourage concerned groups to make pioneering efforts to formulate the foundation and to devise the mechanism to protect human rights from the brutality of business character, which only seeks for profit.

Of course it is not easy since it demands the rethinking of not only the conception of human rights itself –that has been often placed in front of state abuse of power—but also the business power and the control towards both.

Ecosoc-rights – An urgency to rethink of human rights

Let us see these time-series data of eviction in Jakarta, compiled and processed by Institut Sosial Jakarta – ISJ and Forum Warga Kota Jakarta – FAKTA, (2003)53. First, during 2001, government of Jakarta –in the name enforcement of regional law No. 11/1998—wiped out the marginalized urban poor 99 times. The brutal eviction at least wiped out 6,588 houses and 5 schools, caused 6,774 families and 34,514 lives loosing their homes, 19 persons murdered, 67 injured, 50 suffered from serious illness, 1,000 depressed and 4,252 lost their jobs. In terms of money, the eviction destroyed at least 2,700 work-sites and caused 540 million rupiah loss.
Second, in 2002, there were 26 cases of housings eviction and 20 cases of street-vendors eviction causing 4,908 houses demolished, 18,732 lives lost shelters, 15 person injured and 11 arrested, in addition to at least destroying of 7,770 street-vendor's kiosks. There were also 591

[53] The data was also heavily quoted by the 'Academician Forum' stating their concern on the eviction, Driyarkara School of Philosophy, 11 November 2003

cases of fire/burning consisting of 424 cases (71%) burning of urban-poor housings and 168 cases (29%) burning of public economic centres wiping out 18 traditional markets, 12 public facilities and 6 social facilities.

Third, up to October 2003, there have been recently 15 cases of housings eviction resulting 7,280 families lose their houses, 1 was murdered, a 13-year-old girl raped by state apparatus, 20 people injured and other 26 were arrested. There has been a saddening fact in which 320 families of fishermen in Muara Angke, North Jakarta was forcedly evicted and lost their shelters. They have now live on the floating boats where there are currently 30 infants trying to survive – only heaven knows until when they are able to do so in that poor condition.

These vicious evictions do not happen only in Jakarta. In Surabaya and other big cities, there have been similarities –the urban poor were forcedly wiped out for the sake of 'development of the city'—although the scales are different. And how does this 'development' look like? Examine this following.

A piece of sediment delta-land in Ancol Timur, which has been tens of years a place for hundreds of poor fishermen to live and therefore it had been their life, was grabbed and given to the investor for a water-sport site business. While the majority of the poor and marginalized people of Jakarta are evicted because they occupy the land and live (and do their business) on places categorised as 'green-open-space' of the city, business in the same time converted 49,135 m2 of Jakarta's green-belt into 32 fuel pumps and two-third of protected mangrove in North Jakarta was cut for luxurious estates[54].

If that is what is referred to as 'development', there may be something wrong embedded in its logic as we see hundreds of (poor) live were easily sacrificed for just few (rich) people. 'Development' seems to be irrelevant because, if any, it is simply an un-intended consequence of individual profit-seeking ventures performed by business. Nothing has to do with the 'common good' since it will not bring about profit, i.e. the only intended action of business.

The pattern of the existing evictions as abovementioned involves the sheer grabbing of urban lands by commercial and financial giants. The state apparatus, who may look as the most responsible, is simply a 'German shepherd' for those economic oligarchs.

It is of course not to say that as public agency state apparatus can escape from the responsibility of the eviction actions –but saying that it is only the state, which has to be responsible for evictions, is simply misleading. Why? Because we do not take into account the capacity and the condition of business power –and this involves a deeper consequences on how we denote democracy and human rights.

[54] Kompas Cyber media, compiled and processed by ISJ and FAKTA

The existing state-centred conception and practice of democracy and human rights is too narrow and limited for there have been so many changes in the configuration of power in the society that are not properly considered. And the most important configuration change is to affirm that the socially consequential power of business needs to be incorporated into our conception and practice of democracy and human rights.

We are here in the year 2003 –with a fundamental change in business and financial powers that could even capture the state power—but our idea and practice of democracy and human-rights remain stuck in the year 1900 –when it remain focused on making accountable the exercise of state power. This is a serious epistemic lag, i.e. when our reflection is far behind the reality. How far?

Due to historical legacy, probably, the existing conception of human rights is dominated by civil-political notion for civil-political human rights were developed as a guard against the crushing force of government power. Civil-political human rights, in other words, exists against the exercise of government power. The premise is clear: it is the exercise of government power that is assumed to be the most consequential to our shared life.

Once this premise is no longer sufficient, the idea of human rights needs to be supplemented by a conception that takes into account the new historical condition, i.e. the power of capital and business that have become so immense. In particular, this is the urgency to focus on the promotion of socio-economic human rights.

If civil-political rights are exercised in relation to the working of state power, socio-economic human rights are exercised in relation to the working of power that determines employment (as well as housings, foods, water, health and other basic needs) upon which the economic survival of more and more people depends, i.e. business power[55].

Take privatisation of basic services for other example. Privatisation (involving giant business interest) has been deliberately promoted as the best way to provide services for people. Often, there exist two phenomena when we come to react it. First, it is the government that almost always becomes the target of the anger and objections due to its role to make regulations and laws, while the business power –to whom the profit will flow—is hardly targeted. Second, the controversy often falls to the technicality – the farthest is the quest whether the service is still affordable for the poor. Hardly, the economic human rights perspective is used to contradict the core problem and impact of privatisation of essential services that cover almost all areas of human life and therefore should not be controlled by the logic of pure profit accumulation.
Thus, addressing the problem of economic human rights by simply targeting the state is yelling at the wrong tree.

[55] See "Some basic of our problems", B. Herry-Priyono, notes for INFID, September 2003.

However, there is currently a lack in terms of initial formulation for the socio-economic human rights. There are, thus, challenges both intellectual as well as practical to make a pioneering movement in this direction –and it is the best reason for us to do it from now on.

Annex 1
SOMO overview of relevant treaties and agreements signed by Indonesia

In order to provide the legal context in which civil society, workers and business can operate in Indonesia, SOMO made an overview of the international human rights, trade and investment agreements that have been signed by Indonesia.

A. INTERNATIONAL AGREEMENTS ON HUMAN RIGHTS

1. Fundamental Human Rights Conventions ratified by Indonesia56:

- Convention Against Torture and other cruel inhuman or degrading treatment (CAT)
- International Convention on the Elimination of all forms of Racial Discrimination (CERD)
- Convention on the Elimination of all Forms of Discriminations Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)

2. Fundamental Human Rights Conventions signed or not ratified by Indonesia57

2.1. Not ratified but signed (October 2003)

- Optional Protocol on the Convention on the Rights of the Child on child soldiers:

2.2. Fundamental convention not ratified

- International Covenant on Civil and Political Rights (CCPR), one of the two treaties that put into binding legal terms the rights enshrined in the Universal Declaration of Human Rights.
- International Covenant on Economic, Social and Cultural Rights (CESCR), one of the two treaties that put into binding legal terms the rights enshrined in the Universal Declaration of Human Rights.
- Convention on the protection of all Migrant Workers (MWC)
- Optional Protocol to the International Covenant on Civil and Political Rights.
- Optional Protocol (OPT2) to the International Covenant on Civil and Political Rights on death penalty

[56] Sources: www.transnationale.org (July 2003); http://web.amnesty.org/web/web.nsf/print/treaty-asia-eng (October 2003)
[57] Ibidem

B. CONVENTIONS OF THE INTERNATIONAL LABOUR ORGANISATION (ILO) ON INTERNATIONAL LABOUR STANDARDS

1. ILO Conventions ratified by Indonesia[58]

Indonesia has ratified the 8 fundamental ILO conventions on labour

Conventions on Forced Labour:

- Forced Labour Convention, 1930 (ILO Convention nr 29)
- Abolition of Forced Labour Convention, 1957 (ILO Convention nr 105)

Freedom of association:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (ILO Convention nr 87)
- The Right to Organise and Collective Bargaining Convention, 1949 (ILO Convention nr 98)

Discrimination:

- Equal Remuneration Convention, 1951 (ILO Convention nr 100)
- Discrimination (Employment and Occupation) Convention, 1958 (ILO Convention nr 111)

Child Labour:

- Minimum Age Convention, 1973 (ILO Convention nr 138)
- Worst Forms of Child Labour Convention, 1999 (ILO Convention nr 182)

2. ILO Conventions not ratified by Indonesia[59]:

The following conventions are not considered to belong to the 8 fundamental conventions.

Minimum Wage:

- Minimum Wage-Fixing Machinery Convention, 1928 (ILO Convention nr 26)
- Minimum Wage Fixing Convention, 1970 (ILO Convention nr 131)

Hours of work:

- Hours of Work (Industry) Convention, 1919 (ILO Convention nr 1)

[58] Source: http://www.ilo.org/ilolex/english/convdisp2.htm (December 2003);
http://www.transnationale.org/anglais/ref.htm#ilo (July 2003);
http://www.transnationale.org/anglais/transnationale/tiersmonde/idn.htm (July 2003)

[59]http://www.ilo.org/ilolex/english/convdisp2.htm (December 2003)

C. INTERNATIONAL AGREEMENTS AND COOPERATION ON TRADE AND INVESTMENT AGREEMENTS BY INDONESIA

1. Multilateral trade and investment agreements

Indonesia is member of the World Trade Organisation which started operating in 1995. WTO membership involves implementing the many different trade and investment related agreements which are covered by the WTO such as on agriculture, textiles and clothing, services, intellectual property rights and trade related investment measures.

To create a favourable international investment climate and attract foreign direct investment, Indonesia is member of the Multilateral Investment Guarantee Agency (MIGA), which will protect investment against various political risks.

2. Regional cooperation agreements

2.1. ASEAN[60]

Indonesia belongs to the original members of the Association of Southeast Asian Nations or ASEAN which was established on 8 August 1967 along with Malaysia, Philippines, Singapore, and Thailand. Brunei Darussalam joined on 8 January 1984, Vietnam on 28 July 1995, Laos and Myanmar on 23 July 1997, and Cambodia on 30 April 1999. The proclaimed objectives of ASEAN are: (1) to accelerate the economic growth, social progress and cultural development in the region through joint endeavours, and (ii) to promote regional peace and stability.

In 1992, ASEAN adopted its own "free trade" agreement. AFTA, the ASEAN Free Trade Area, lowered tariffs among member nations, and promoted intra-regional trade which stood in 2001 at about 25% of the exports of these nations, about twice the level in the early 1970s. In response to the Asian economic crisis, ASEAN members agreed in 1998 to further open up their economies, especially their manufacturing sectors, to foreign investment, including allowing 100% foreign ownership of enterprises in member countries, duty-free imports of capital goods, and a minimum for corporate tax breaks of three years.
In order to reach free trade, amongst others the following agreements were made:

- The Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) signed in Singapore on 28 January 1992
- The Protocol to Amend the Agreement on the Common Effective Preferential Tariff Scheme or the ASEAN Free Trade Area, signed in Bangkok on 15 December 1995
- The Thirteenth AFTA Council Meeting in Singapore on 29 September 1999 to work towards the elimination of import duties on all products to achieve the eventual objective of a free

[60] Source: J. Miller, **THE ABCs OF "FREE-TRADE" AGREEMENTS. In** Dollar & Sense, Jan, 2001 (http://www.findarticles.com/cf_dls/m2548/2001_Jan/70396228/p7/article.jhtml?term=); http://www.asean.or.id

trade area by the year 2015 for the six original ASEAN Member Countries and the year 2018 for the new Members of ASEAN.

- The decision of the Third ASEAN Informal Summit in Manila, the Philippines on 28 November 1999 to eliminate all import duties by 2010, ahead of the original schedule, for the six original members of ASEAN and to advance the schedule from 2018 to 2015 for the new members of ASEAN, but allowing some sensitive products to follow the original date of 2018;
- The Protocol on the Special Arrangement for Sensitive and Highly Sensitive Products.
- The Protocol To Amend The Agreement on The Common Effective Preferential Tariff (Cept) Scheme for The Asean Free Trade Area (Afta) for the Elimination of Import Duties, signed on 31 January 2003 made further concrete commitments to accelerate the liberalisation of intra-ASEAN trade through AFTA using the CEPT Scheme.

In the area of investment, a very significant agreement was made to establish an ASEAN Investment Area (AIA) involving the 10 ASEAN countries. The Agreement and the implementation of its provisions is now the cornerstone of ASEAN investment cooperation. The main instruments are:

- The Framework Agreement on The Asean Investment Area, signed in October 1998. It aims to promote and liberalise direct foreign investment (FDI) and to attract FDI to the region and excludes portfolio investments; and investments covered by other ASEAN Agreements, such as the ASEAN Framework Agreement on Services. It includes principles of non discrimination on the basis of the origin of the investor such as national treatment and most favoured nation principles.
- Short term measures to enhance Asean investment Climate
- Protocol to amend the framework agreement pm the ASEAN investment Area, 2001
- ASEAN Framework on Services, 1995

Furthermore, ASEAN negotiates free trade and investment agreements with other countries such as the:

- Asean - China Framework agreement on Comprehensive Economic cooperation (signed in 2002)
- Bilateral agreements between ASEAN and India, and ASEAN and Japan (Under negotiations in 2003)
- Plurilateral agreement ASEAN, China and Singapore (under negotiations in 2003)[61]

Politically, ASEAN adopted principles of "non-intervention" in the internal political affairs of its member states meant that the organization turned a blind eye to the repression of pro-democracy movements in Myanmar, Indonesia, Cambodia, and other countries in the region. Nor has ASEAN insisted that member nations meet International Labour Organization (ILO) core labour conventions or denounced brutal attacks against trade union movements. ASEAN failed

[61] UN, World Investment Report 2003, 2003, p.218.

to intervene in regional environmental problems, witnessed by its inability in 1999 to fashion an effective regional response to Indonesia's uncontrolled forest fires. ASEAN reactions to failures of the WTO to protect the interests of its members has been weak, such as ASEAN's complaint about the fact that the rich countries had not lived up to the WTO textile agreement that would allow ASEAN garment exporters greater access to First World markets.

2.2. APEC[62]

At the insistence of the United States' insistence, ASEAN members Brunei Darussalam, Indonesia, Malaysia, and the Philippines formed the Asia-Pacific Economic Cooperation forum also including the United States, Canada, Australia, New Zealand, and Korea in 1989.
Asia-Pacific Economic Cooperation (APEC) today consists of 21 members bordering the Pacific after having added Chile, China, Hong Kong, Taiwan, Mexico, Papua New Guinea, Peru, Russia, and Vietnam to its 12 founding members. APEC has no formal criteria for membership and no treaty obligations required of its participants, but actual or promised trade liberalization is a de facto condition for entry. The objectives of APEC are to enhance economic growth and prosperity in the region and to strengthen the Asia-Pacific community.

Since its inception, APEC has worked to reduce tariffs and other trade barriers across the Asia-Pacific region although commitments made by APEC members are formally voluntary and non-binding. This has nevertheless resulted in APEC governments removing trade and investment restrictions faster than they would following their own agenda or the agenda of the WTO. The 'Bogor Goals' *of free and open trade and investment in the Asia-Pacific by 2010 for industrialised economies and 2020 for developing economies were* by APEC Leaders at their 1994 meeting in Bogor, Indonesia.

In contrast to promoting free trade and investment, APEC has made little advance in the social and environmental areas. In response to the Asian economic crisis, APEC counseled member countries to "maintain flexibility in domestic labor markets," advice which could easily result in lower wages and more layoffs while workers were already suffering from the effects of the Asian economic crisis. And while pledging to promote "environmentally sustainable development," APEC has done little to combat the depletion of national resources and deforestation, especially in developing nations. APEC has also insisted that member economies harmonize food and product safety standards, which means high standards are likely to be replaced by the lowest common denominator.

[62] Source: J. Miller, THE ABCs OF "FREE-TRADE" AGREEMENTS. In Dollar & Sense, Jan, 2001 (http://www.findarticles.com/cf_dls/m2548/2001_Jan/70396228/p7/article.jhtml?term=); www.apec.org

2.3. ASEM[63]

Indonesia is also part of the Asia-Europe Meetings (ASEM) which is an informal process of dialogue and cooperation between the fifteen EU Member States and the European Commission, with ten Asian countries (Brunei, China, Indonesia, Japan, South Korea, Malaysia, the Philippines, Singapore, Thailand, and Vietnam). The ASEM dialogue addresses political, economic and cultural issues, with the objective of strengthening the relationship between our two regions. The process started with the first ASEM Summit held in Bangkok in March 1996, which was followed by other meetings at heads of state, ministerial and other working levels. An annual Asia-Europe Business Forum (AEBF) has become part of the official agenda while the parallel meetings by Asian and European NGOs have not given such status and response.
The three main "pillars" of ASEM activities are described as follows by the ASEM secretariat:

- in the political field, new areas of common interest which have emerged from the recent meetings include the fight against terrorism or the management of migratory flows; discussions on human rights, on the protection of children, and on the impact of globalisation are also being held
- in the economic and financial field, cooperation on reducing barriers to trade and investment, and on financial and social policy reform; a new area of common interest which emerged from the recent meetings is a reinforced dialogue on issues relating to the World Trade Organisation (WTO)
- and in the cultural and intellectual field, a wide range of enhanced contacts and dialogue between the two regions, and cooperation in the protection of cultural heritage.

The Economic pillar includes:
- The Trade and Facilitation Plan
- The Investment Promotion Action Plan
- The ASEM Trust Fund providing finance technical assistance and advice both on restructuring the financial sector and on finding effective ways to redress poverty after the Asian Financial crisis
- European Financial Expertise Network
- The Asia-Europe Business Forum

[63] http://europa.eu.int/comm/external_relations/asem/

3. Bilateral investment guarantee and protection agreements64

As part of its policy to attract foreign investment by providing security for investors, the Government of Indonesia has bilateral Investment Promotion and Protection Agreements. These agreements provide amongst others guarantees to cover compensation in case of nationalization or expropriation, damages or losses caused by incidents of war, revolution or insurrection and payments for any approved remittance pursuant to the investment in case of non-convertibility of currency of the host country.
To deal with foreign investment disputes, especially in relation with countries with whom it signed bilateral agreements, Indonesia has become a signatory member of the International Center on the Settlement of Investment Disputes(ICSID)
Indonesia has signed bilateral investment agreements with 55 countries, namely:

Alger	Jordan	Spain
Argentina	Korea, Democratic People's Republic of	Sri Lanka
Australia	Kyrgyzstan	Sudan
Bangladesh	Laos People’s Democratic Republic	Suriname
Belgium–Luxembourg	Malaysia	Sweden
Cambodia	Mauritius	Switzerland
Chile	Mongolia	Syria
China	Morocco	Thailand
Cuba	Mozambique	Tunisia
Czech Republic	Netherlands	Turkey
Denmark	Norway	Turkmenistan
Egypt, Arab Republic of	Pakistan	Ukraine
Finland	The Philippines	United Kingdom
France	Poland	Uzbekistan
Germany	Qatar	Vietnam
Hungary	Romania	Yemen
India	Slovak Republic	Zimbabwe
Italy	Singapore	
Jamaica	South Korea	

[64] Sources: Indonesia Investment Board website (http://www.bkpm.go.id/en/investment.php?mode=baca&info_id=16); UN, Bilateral Investment Treaties in the Mid-1990s, 1998, p. 182-183