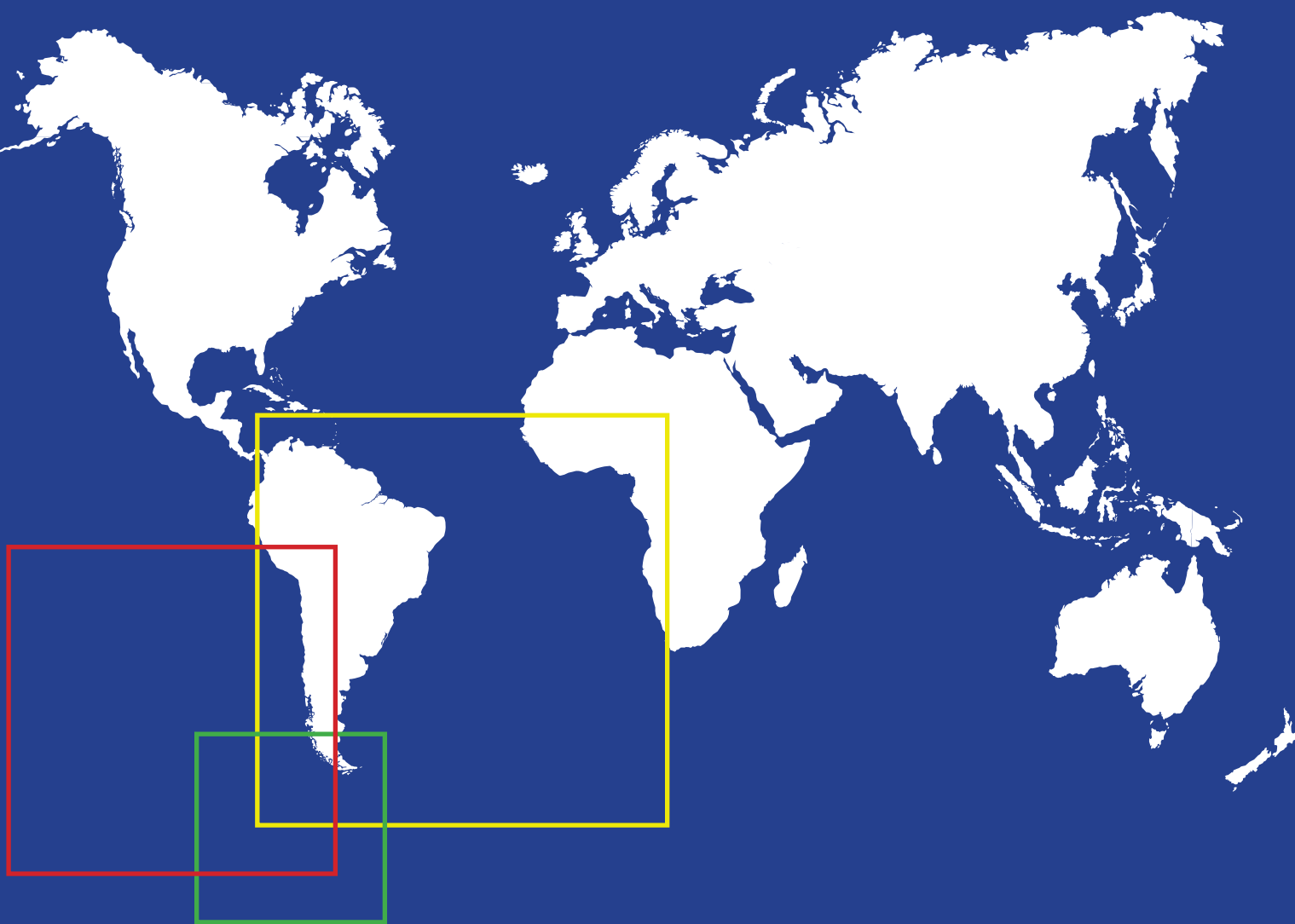




International  
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Office

# Decent Work Profile EAST NUSA TENGGARA (Nusa Tenggara Timur)



**Decent Work Profile  
EAST NUSA TENGGARA  
(Nusa Tenggara Timur)**

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# Preface

Decent work is central to efforts to reduce poverty and as a means of achieving equitable, inclusive and sustainable development. It involves opportunities for work that is productive and delivers a fair income, provides security in the workplace and social protection for workers and their families, and gives people the freedom to express their concerns, to organize and to participate in decisions that affect their lives.

In this regard, monitoring and assessing progress towards decent work at the country-level is a long-standing concern for the ILO and its constituents. The 2008 Declaration on Social Justice for a Fair Globalization provides that member States may consider “the establishment of appropriate indicators or statistics, if necessary with the assistance of the ILO, to monitor and evaluate the progress made” (Paragraph II.B.ii).

In September 2008 the ILO convened an international Tripartite Meeting of Experts on the Measurement of Decent Work; it subsequently adopted a framework of Decent Work Indicators that was presented to the 18<sup>th</sup> International Conference of Labour Statisticians in December 2008.

The project on Monitoring and Assessing Progress on Decent Work (MAP) (2009–13), with funding from the European Union, works with government agencies, employers’ and workers’ organizations and research institutions to strengthen the capacity to self-monitor and self-assess progress towards decent work. The MAP project covers nine countries in the world, including Indonesia, and facilitates the identification of decent work indicators that are relevant at the national level, supports data collection and uses the collected data for an integrated policy analysis of decent work (Profiles) in order to make them relevant to decent work programmes at the country and provincial level.

The Profiles cover ten substantive components corresponding to the four strategic pillars of the Decent Work Agenda: full and productive employment, rights at work, social protection and the promotion of social dialogue. The ten components are: employment opportunities; adequate earnings and productive work; decent working time; combining work, family and personal life; work that should be abolished; stability and security of work; equal opportunity and treatment in employment; safe work environment; social security; and social dialogue and employers’ and workers’ representation.

The Profiles compile in one document all available data and statistical and legal indicators on decent work and analyze observed gaps and trends. They facilitate the evaluation of progress towards decent work at the national and provincial level and inform national and provincial planning and policy-making.

The Profiles provide key information for designing and monitoring programmes on decent work and are an advocacy tool for mainstreaming decent work in national and provincial development policies. The decent work indicators they contain can serve as a reliable baseline when defining decent work targets and as a powerful instrument for monitoring and evaluating programmes focused on decent work.

The Decent Work Profile for East Java is a critical assessment of progress towards the achievement of decent work in the Maluku Islands and at further informing social dialogue at the provincial level in Indonesia.



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The Decent Work Profile for East Nusa Tenggara has been prepared by national consultants in collaboration with the Ministry of Manpower and Transmigration (Depnakertrans), the Central Bureau of Statistics (Badan Pusat Statistics), and the University of Jakarta, with technical assistance of the ILO.

National partners identified a list of decent work indicators relevant for Indonesia during a 2010 consultation workshop in Jakarta. From this, a national Decent Work Country Profile was developed comprising both statistical data and legal and policy information in an integrated assessment of recent progress toward decent work. The Profile was prepared by academics from the University of Jakarta, with the cooperation and involvement of trade unions and employer's representatives, the Ministry of Manpower and Transmigration, Ministry of Finance, BAPPENAS, and BPS, and its content was reviewed through an extensive consultation process before being launched in May 2012. During the post-launch discussions, constituents expressed a desire to develop a number of provincial profiles to capture divergent decent work trends at the subnational level. The Decent Work Profile for East Nusa Tenggara is one of three pilot provincial profiles developed in Indonesia to date.

The International Labour Organization would like to thank provincial and national representatives of the country's employers' organisations (APINDO and ABADI) and trade unions (KSBSI, KSPI, and KSPSI), as well as the Ministry of Labour and Transmigration and BPS for their cooperation and support in the development of this document. In addition, the ILO is grateful to the European Union for its generous financial support to the ILO/EC Project *Monitoring and Assessing Progress on Decent Work* (MAP), which led the development of this Profile. Finally, thanks are due also to ILO staff in Bangkok, Jakarta, and Geneva, who provided technical support and constructive comments throughout the development of this document.

It must be noted that some statements made in the Decent Work Profile for East Nusa Tenggara may not reflect the positions of the above named institutions and individuals. Any errors or omissions remain the sole responsibility of the International Labour Office.



# Executive summary

Over the last 15 years the province of East Nusa Tenggara has undergone tremendous economic, social, and political changes that have shaped its landscape for decent work (see Chapter 1). Traditionally an agriculture-based economy, the share of employment in this sector increased further during the 1997-98 financial crisis, partly in response to the contraction in the province's industrial base (industry's share of total employment fell more than percentage points between 1996 and 2000). Since this time, while industry has remained stagnant and agriculture has lost ground in terms of employment share, the major gains have come in the service sector, which by 2011 accounted for a quarter of all employment in the province (up from 17.5 per cent in 1996). Meanwhile, labour productivity, although still lagging significantly behind the national average in absolute terms, has expanded at an increasing rate – from 5 per cent per annum in 2001 to more than 10 per cent in 2010.

Deficits in formal productive employment remain evident in the still large shares of “informal” and “vulnerable” employment in the province (76 per cent and 47 per cent in 2011, respectively). Indicators of consumption inequality also worsened during parts of the last decade – a trend indicative of widening disparities in terms of living standards in the province.

Despite the aforementioned difficulties, East Nusa Tenggara has made some gains in education – a notable fall in the share of children not in school and concomitant rises in adult literacy are both positive signs for the province's human capital base and development prospects. However, compared to national averages, education standards in the province remain low.

Although official unemployment in the province is low (and significantly lower than the national average), data on **employment opportunities** indicate still-widespread deficits in terms of access to pro-

ductive employment (see Chapter 2). In particular, the dominance of informal employment remains a significant obstacle to decent work for a majority of working people in East Nusa Tenggara. Vulnerable employment, comprising own account workers and unpaid family workers, also make up almost half of all employment, and jobs of this sort often lack the core tenets of decent work such as adequate pay and working time, safety and health provisions, and access to social security.

Progress in **adequate earnings and productive work** has been mixed (see Chapter 3). The province has made great strides in reducing the proportion of working poor, which almost halved during the last 15 years, although at more than 20 per cent in 2010, the overall rate is significantly higher than the national average (14.6 per cent in 2010). A major factor in this is the continued dominance of agriculture – much of which remains low technology and subsistence based. Moreover, despite falling working poverty, the share of workers (across all employment types) earning low pay (i.e. less than two-thirds of the median) has seen large year-on-year fluctuations and an overall rising trend (from 33 per cent in 1996 to 37.6 per cent in 2011), to levels above that of the national average. However, data instability in this case may suggest inaccuracies in calculation for the low pay rate indicator. Finally, although a statutory minimum wage is in force, there is a large and growing gap between its level and that recommended by the indicator used to set the minimum wage, the KHL (*Kebutuhan Hidup Layak*). This suggests that the minimum wage at its current level is insufficient to meet basic monthly needs.

There has been mixed progress toward **decent working time**, as demonstrated by unpredictable and volatile movements in the related indicators (see Chapter 4). Although the share of workers who work “excessive hours” compares favourably with the national average (in 2010 it was less than half the national figure), a rising trend since



1996 suggests that *adequate* hours are becoming increasingly elusive for many workers. This trend coincides with a widening gap between the minimum wage set by the local government and the basic needs indicator for the province (the KHL), which may point to inadequate earnings as a key driver of excessive hours. Time-related underemployment, which is a partial indicator of labour underutilization, has been traditionally high and very volatile from year to year, and hence despite recent declines it is difficult to interpret this in terms of its implications for quality of employment.

Despite gaps in the data, there appears to have been progress in the elimination of **work that should be abolished**, namely child labour (see Chapter 5). A major factor in this is likely to be rising educational standards, particularly enrolment rates (which has contributed directly to reducing child labour among those aged 10 to 17 years). By gender, the sharp reduction in child labour is more marked among boys than among girls. Nevertheless, the absence of figures on hazardous child labour and forced labour prevents a full assessment of progress vis-à-vis the major categories of work to be abolished.

Owing in large part to the comparably high prevalence of informal employment (76 per cent in 2011, compared with 59 per cent nationally),<sup>1</sup> **stability and security of work** is of some concern in **East Nusa Tenggara** (see Chapter 6). At the same time, however, casual or “precarious” work is less prevalent than in Indonesia as a whole, something which would benefit from further research to understand, particularly regarding the prevalence of casual employment contracts in different sectors of the economy.

In an attempt to strengthen employment stability and economic security, the Government of Indonesia has sought to tightly regulate both short-term contracting and outsourcing activities. However, the effectiveness of this policy has been questioned in the context of the chronic duality in the economy (i.e. between the formal and the infor-

mal, “unregulated” economy), which has helped create a large divide between law and practice.

Thanks to strong government commitment to promoting gender equality and concomitant policy measures, progress towards **equal opportunity and treatment in employment in East Nusa Tenggara** has been noteworthy (see Chapter 7). Since 2007 female employment opportunities in general have greatly increased, while the share of women in “prestigious” and “knowledge and skill-based” occupations has also improved and the wage gap between men and women – already far smaller in the province than nationally – has narrowed significantly towards equality (i.e. men and women earning the same for the same job). However, to determine whether this trend constitutes wider progress toward between quality employment for women in East Nusa Tenggara is open to question, particularly due to the previously noted increases in both low pay and excessive hours, the latter of which has risen more rapidly among women than men.

The 1951 Labour Inspection Act as it stands is confined to industrial and commercial workplaces, and this undermines somewhat progress toward **safe work environments** in what is a still a predominantly agricultural province (see Chapter 8). This Act is due to be amended in line with the ILO Labour Inspection (Agriculture) Convention, 1969 (No. 129). Although limited additional data is available to inform any assessment of recent progress, the rising number of labour inspectors between 2007 and 2009 is likely to have been instrumental in reducing workplace injuries in the province. However, under-reporting is likely to be widespread, and this undermines the credibility of the data in its current form.

In terms of **social security** the provincial government has made significant efforts to increase social protection coverage (see Chapter 9). At the national level *Jamsostek* (*Jaminan Sosial Tenaga Kerja*, or social insurance for workers) has successfully increased the coverage of health and pension benefits in the last four years. *Jamsostek* has expanded its membership not only among workers as individuals but among companies as well. Development assistance from Germany

<sup>1</sup> The national informal employment figure here relates to the most recent available year, which is 2010.

made it possible to extend broad healthcare coverage across the population, but this effort has proven unsustainable amid a lack of internal funding from the provincial administration. Moreover, with regard to pensions, coverage within the eligible population remained at little more than a third of the national figure in the most recent year (2005 at the provincial level, and 2003 at the national level).

Data on **social dialogue and employers' and workers' representation** in East Nusa Tenggara (Chapter 10) are quite inadequate and as such render a thorough assessment of progress impossible. From the available data, it appears that unions remain of marginal importance in the province – a case in point being the low share of the labour force that is unionized. This itself may be related to the relatively low level of development in the province, as well as the predominance of agricultural employment (where unionization – in Indonesia and elsewhere in the region – is typically low compared with other

sectors). Similarly, data on collective bargaining cannot confirm anecdotal evidence suggesting that unions are making progress in developing social dialogue at the enterprise and sectoral level.

There is little reliable data on employers' representation; the sole year for which figures are available, 2009, shows just six firms as being members of the Indonesian Association of Employers (APINDO). Information on strikes and lockouts is likewise available for a single year only and is of little current use as an indicator of progress in social dialogue.

Analyses of the **combining work, family, and personal life** component of decent work (examined at the national level in the Indonesia Decent Work Country Profile) is impossible because data are only collected at the national level. Interested readers can find information on the national picture in the statistical table reproduced in the Annex.



# Abbreviations

APINDO	<i>Asosiasi Pengusaha Indonesia</i> – Employers’ Association of Indonesia
ASABRI	<i>Asuransi untuk ABRI</i> – Insurance for the military
ASKES	<i>Asuransi Kesehatan</i> – Health insurance
ASKESDA	<i>Asuransi Kesehatan Daerah</i> – Health insurance provided by local government
ASKESKIN	<i>Asuransi Kesehatan untuk orang Miskin</i> – Health insurance for the poor
BPJS	<i>Badan Penyelenggara Jaminan Sosial</i> – Social insurance administrative body
BPS	Badan Pusat Statistics – Central Bureau of Statistics
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CPI	Consumer price index
DISNAKERTRANS	<i>Dinas Tenaga Kerja dan Transmigrasi</i> – Local (province and regency) government agency for manpower and transmigration
EPR	Employment-to-population ratio
GDP	Gross domestic product
IDR	Indonesian rupiah (IDR 10,000 = approx. USD 1)
ILO	International Labour Organization
IMF	International Monetary Fund
ISCO	International Standard Classification of Occupations
JABODETABEK	Abbreviation for Jakarta, Bogor, Depok, Tangerang and Bekasi
JAMKESDA	<i>Jaminan Kesehatan Daerah</i> – Health insurance provided by local government
JAMKESMAS	<i>Jaminan Kesehatan Masyarakat</i> – Health insurance for the poor
JAMPERSAL	<i>Jaminan Persalinan Masal</i> – Free birth delivery services for the people
JAMSOSDA	<i>Jaminan Sosial Daerah</i> – Social insurance provided by local government
JAMSOSTEK	<i>Jaminan Sosial Tenaga Kerja</i> – Social insurance for workers
KHL	<i>Kebutuhan Hidup Layak</i> – Cost-of-living index
LHK	Luar Hubungan Kerja – Workers outside the framework of industrial relations
MAP	ILO/EC Project “Monitoring and Assessing Progress on Decent Work”
MoMT	Ministry of Manpower and Transmigration
MoSA	Ministry of Social Affairs
NEET	Young people not in employment and not in education/training
NOSHC	National Occupational Safety and Health Council
NTT	East Nusa Tenggara (Nusa Tenggara Timur)
SAKERNAS	National labour force survey
SUSENAS	National social and economic survey
TASPEN	<i>Tabungan Pensiun</i> – Pension funds
WHO	World Health Organization
UNAIDS	Joint United Nations Programme on HIV and AIDS



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# 1 Economic and social context for decent work

During the last fifteen years East Nusa Tenggara has undergone tremendous economic, social and political change, both from national (i.e. country-wide) and more localised forces. At the national level, the 1997-98 financial crisis and the subsequent transition to a new democratic system (known as the *Reformasi* era) was coupled with a new and ambitious programme of decentralization, to both the provincial and the district government level. Significantly for the provinces and other local (i.e. sub-provincial) administrations, this also meant the introduction of directly elected governors, mayors and regents (*bupati*), elected by local constituents in a given area. Since its introduction, this system has been credited with having engendered a greater sense of democratization and self-determination in Indonesian politics at the sub-national level, with many also praising the enhanced level of civic participation in regional development and related decision-making.

Political decentralization was also accompanied by the redistribution of administrative power to the local level, a process that began in 1999 with the enactment of two new laws: (i) the local government law (*UU Pemerintah Daerah*) and (ii) the central-local budget sharing law (*UU Perimbangan Keuangan Pusat dan Daerah*). Under these laws, the authority to direct local social and economic policy shifted from central to local governments across the country.

Decentralisation has had a major impact on government and wider civic efforts to promote decent work across Indonesia. Since 1998 the responsibility for employment creation, minimum wage setting and enforcement, promoting safer workplaces, developing social safety nets, and implementing labour laws has increasingly been assumed by local government units, and the suc-

cess of decent work policies and programmes has therefore depended very much on local governments' capacity to implement them. Perhaps more so than before, significant disparities now exist in decent work contexts between provinces and between provinces and the national level.

East Nusa Tenggara is a small archipelago located in the Flores Sea. The province has a total of 1192 islands, only 43 of which are inhabited, the largest being Flores, Sumba and West Timor, where the capital, Kupang, is located. The land area is divided into 22 regencies and 1 municipality. Compared to its land size East Nusa Tenggara has a relatively large population, which in 2010 stood at 4.7 million (with a population density of 99 persons per km<sup>2</sup>). More than half the population is under 25 years old (53 per cent in 2010), with recent population growth rates (between 2000 and 2010) of between 1.8 and 2 per cent.

East Nusa Tenggara is less developed than much of the rest of Indonesia, with agriculture and the large share of informal employment dominating its economy (see Chapter 2). Before the 1997-98 financial crisis agriculture accounted for two-thirds of total employment (in 1996), with industry and services totalling 15.7 and 17.5 per cent respectively. Between 1999 and 2007 this share fluctuated between 68 per cent and 79 per cent, before falling to 64.9 per cent in 2011 (see Table 1). Between 2005 and 2011 the service sector expanded rapidly, its employment share more than doubling to 25 per cent.

These trends are characteristic of a modernizing economy, since jobs in the services sector are generally of comparably higher productivity than other activities, particularly in agriculture. Research has shown that the bulk of service sector employment was created in social (government) and personal

**Table 1. Economic and social context for decent work**

Decent work indicator	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
<b>Children not in school, ages 5-17, %<sup>1</sup></b>	<b>34.55</b>	<b>34.58</b>	<b>32.03</b>	<b>32.26</b>	<b>32.06</b>	<b>33.8</b>	<b>31.84</b>	<b>31.77</b>	<b>27.89</b>	<b>28.7</b>	<b>25.69</b>	<b>25.61</b>	<b>26.07</b>	<b>22.68</b>	<b>20.64</b>	...
Male	33.87	35.34	32.56	31.88	33.44	34.91	31.89	32.14	28.08	28.83	26.07	26.58	26.1	24.25	...	...
Female	35.24	33.79	31.49	32.65	30.54	32.62	31.79	31.35	27.68	28.56	25.27	24.53	26.05	20.96	...	...
<b>Estimated % of working-age population who are HIV positive<sup>2</sup></b>	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Male	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Female	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
<b>Labour productivity<sup>3</sup></b>																
GDP per person employed	...	...	...	...	4,228	4,442	4,671	4,757	4,875	5,037	5,254	5,425	5,479	5,516	6,079	...
Growth rate, %	...	...	...	...	...	5.08	5.15	1.83	2.49	3.32	4.31	3.24	0.99	0.69	10.2	...
<b>Expenditure-based inequality (percentile ratio P90/P10)<sup>4</sup></b>	<b>9.04</b>	<b>9.69</b>	<b>11.06</b>	<b>12</b>	<b>5.98</b>	<b>14.45</b>	<b>11.45</b>	<b>7.33</b>	<b>14.06</b>	<b>9.38</b>	<b>17</b>	<b>15</b>	<b>21.4</b>	<b>16.4</b>	<b>18</b>	<b>27.4</b>
Male	8.49	10.1	11.93	10	6.04	12.69	8	6.91	9.67	9.75	11.51	12.51	18.25	14.94	13.67	19.6
Female	12.44	11.31	12.15	16.61	10.6	12.2	14.92	9.43	17.77	12.8	19.81	16.3	40.4	21.95	17.43	33.67
<b>Inflation rate, %<sup>5</sup></b>	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
<b>Employment by branch of economic activity, %<sup>6</sup></b>																
Agriculture	66.8	66.2	67.8	68.5	74.2	68.9	73.1	73.9	73.7	77.9	74.5	68.5	69.4	68.2	64.7	64.9
Industry	15.7	14.2	12.5	13.4	10.4	12	11.4	8.9	9.6	10.1	10.7	11.7	10	10.6	11.6	10
Services	17.5	19.6	19.8	18.1	15.5	19.2	15.4	17.2	16.7	12.1	14.8	19.8	20.5	21.2	23.7	25.1
<b>Adult literacy rate<sup>7</sup></b>	...	...	...	...	...	<b>82.38</b>	<b>84.13</b>	<b>84.93</b>	<b>85.16</b>	<b>84.95</b>	<b>86.5</b>	<b>87.25</b>	<b>87.66</b>	<b>87.96</b>	<b>88.59</b>	...
Male	...	...	...	...	...	84.86	87.09	87.54	88.01	87.36	88.97	89.71	89.78	90.24	90.76	...
Female	...	...	...	...	...	80.06	81.4	82.43	82.5	82.65	84.14	84.96	85.68	85.85	86.56	...
<b>Labour share (% of GDP)<sup>8</sup></b>	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

<sup>1</sup> Represents the percentage of children aged 5-17 not attending school.

<sup>2</sup> Represents the estimated number of people living with HIV (ages 15+) as a percentage share of total working-age population (ages 15+).

<sup>3</sup> Labour productivity defined as GDP per person employed in thousands of Indonesian Rupiah (constant 2000 prices).

<sup>4</sup> Represents the percentile ratio of the 90<sup>th</sup> percentile to those at the 10<sup>th</sup> percentile of the consumption expenditure distribution.

<sup>5</sup> Based on 2009 harmonized prices from the survey of 46 cities; frequency of source data is monthly and base year is 2007.

<sup>6</sup> Agriculture includes: agriculture, forestry, hunting and fishery. Industry includes: (a) mining and quarrying; (b) manufacturing; (c) electricity, gas and water; and (d) construction. Services include: (a) wholesale trade, retail trade, restaurants and hotels; (b) transportation, storage and communication; (c) financing, insurance, real estate and business service; and (d) community, social and personal services.

<sup>7</sup> Includes adults aged 15+.

<sup>8</sup> Represents total wage share of total GDP.

Sources. BPS; UNAIDS; WHO; IMF.

services, wholesale trade, retail trade, restaurants and hotels, and transportation, storage and telecommunication (Ronnas and Kwong, 2011).

Employment in the services sector is also often of a higher “quality”, in terms of the core components of decent work, than in agriculture, although this can be undermined where service

growth fuels concomitant growth in casual, short term, and temporary employment. At the same time, the changing structure of the province’s economy appears to have been partial, in light of the relative stagnation of the industrial sector in the post financial crisis period. Industry’s share of total employment fell from 15 per cent in 1996 to 10 per cent in 2011, which may suggest the area is

## Relevant legislation

- Manpower Act No. 13 of 2003 (MA)
- Trade Unions Act No. 21 of 2000 (TU)
- Industrial Relations Disputes Settlements Act No. 2 of 2004 (IRDSA)
- Employees' Social Security Act No. 3 of 1992.

**Reform.** Labour law reform started in 1998. The first labour law passed was the Trade Unions Act No. 21 of 2000.

**Scope of the law.** *Manpower Act:* A worker/labourer is defined as any person who works and receives wages or other forms of remuneration. An employer is an individual, businessman, legal entity or other agency that employs manpower by paying wages or compensation in some other forms. An entrepreneur is defined as an individual, partnership or legal entity that operates a self-owned enterprise or a non-self-owned enterprise or representatives in Indonesia of enterprises domiciled outside the national territory. The *TU Act* has the same definition of worker and employer. Civil servants are covered by specific legislation.

*Note.* The employment relationship is defined as a relationship between an entrepreneur and a worker based on a work agreement that specifies work requirements, rights and obligations on both sides (MA, Articles 1 and 50). Part-time work is also covered under the Manpower Act.

Only “entrepreneurs” are obliged to comply with regulations pertaining to work agreements, minimum wages, overtime, hours, rest and vacation, etc. (MA, Arts. 77-79 and 90). Employers (or “work-givers”) are only obliged to provide basic protection that includes protection for their employees’ welfare, safety and mental and physical health (MA, Art 35). Individuals employing domestic workers are considered work-givers.

### Work contracts under the MA.

**Unlimited terms work agreement:** May be done in writing or orally (MA, Article 51(1)). Maximum probation: 3 months (MA, Article 60).

**Fixed-term work agreements:** Have to be in writing, in the Indonesian language; are otherwise regarded as work for an unspecified period of time (MA, Article 57). Cannot be made for work that is permanent by nature, but only for work which is to be finished within a specified period of time, which is temporary by nature, whose completion is estimated to take less than three years, which is seasonal, which is related to a new product or new activity still at the experimental stage). A fixed-term contract may be made for no more than two years and can only be extended once for a maximum of one year (MA, Article 59(4)). No probation period is possible (MA, Article 58(1)). Employers must notify workers of their intention to extend a fixed-term agreement more than seven days before its expiration. A fixed-term work agreement may be renewed only after 30 days have elapsed since the end of the agreement; a renewal may only be made once for no more than two years. A work agreement which violates these provisions is deemed to be an unlimited term work agreement (MA, Article 59).

**Outsourcing:** An enterprise may turn over part of its work to another enterprise, under certain conditions (Article 65); if these conditions are not met, the enterprise that contracts out the work to the contractor is held legally responsible as the employer. Workers must enjoy the same protection and working conditions provided at the enterprise that commissions the contract.

lacking sufficient incentives, including infrastructure, to attract significant industrial development. Unless alternative poles of job-rich growth are found in the province to supplement and support the growth of services, a lagging industrial sector may slow the growth of diversified and productive employment in the coming years.<sup>1</sup>

As a relatively underdeveloped province East Nusa Tenggara has substantial growth potential, and recent government plans have focused on promoting investment in tourism and agricultural processing in particular. In terms of labour productivity the province lags far behind the national average (GDP per person employed was USD 6,079 in 2010, compared to USD 21,534 nationally), while the growth rate of labour productivity has been erratic. In 2011, following two consecutive years when growth was below 1 per cent, labour productivity expanded by 10.2 per cent, more than three

<sup>1</sup> This is notwithstanding debates about the actual suitability and viability of further industrial development in East Nusa Tenggara (industry is not necessarily a panacea for jobs and decent work). However, it must also be recognised that without a diversified economic base, the pace and quality of employment gains in the province may remain weak.

times faster than at the national level (see Table 1). One explanation for this volatility is the province's reliance on subsistence-based agriculture (Ronnas and Kwong, 2011), since productivity and wages in this (sub)sector are comparably more vulnerable to external shocks (see Chapter 3). Further agricultural development, by combining more intensive farming with more market-oriented production, and by diversifying the non-farm economy and expanding agricultural processing, could elevate the level and reduce the instability of productivity growth whilst also diversifying the employment base in the province.

Inequality, as measured by consumption expenditure, was already high in East Nusa Tenggara, and has risen in the last 15 years. In the absence of national or provincial income inequality measures, expenditure inequality offers some indication of disparities in the actual standard of living in the province (as opposed to actual economic power), by examining the ratio of average consumption among the top percentile of the population to that of the bottom percentile (i.e. P90/P10) in the consumption expenditure distribution. Between 1996 and 2011, this ratio tripled, from 9 to 27, albeit with considerable year-to-year fluctuations in between. In short, this indicates that the richest 10 per cent of the population in East Nusa Tenggara now spend twenty-seven as much on average as the poorest 10 per cent – considerably more than the gap at the national level (which measured 7 in 2010). While the causes of this may be attributed to multiple factors beyond the scope of this report, deficits in the current quality of employment for the majority of the population – as highlighted by the stubbornly high rates of informal employment and vulnerable employment, and the lagging minimum wage rate (see Chapter 2 and 3) are likely to offer some explanatory insight into this trend.

Since the new Decentralization Act entered into effect in 2001, the central government has delegated many of its social responsibilities to the local government, including education, health, and welfare. In education the provincial government appears to have made good progress, with a rising adult literacy rate (by 6 percentage points to 88.6 per cent between 2001 and 2010) and a significant decline in the proportion of children not attending school (from 33.8 per cent to 20.6 per cent in the same period). Despite this, overall standards remain low compared to the national average.

### Summary assessment

Traditionally an agriculture-based economy, the share of agricultural employment in East Nusa Tenggara increased further during and after the 1997-98 financial crisis, before entering a downward trend since 2005. Industry, meanwhile, contracted during the crisis and has remained stagnant in terms of its employment share for much of the last decade. The major gains, therefore, have come in the service sector, which by 2011 accounted for a quarter of all employment in the province. Labour productivity, although still lagging significantly behind the national average in absolute terms, has expanded at an increasing rate – from 5 per cent per annum in 2001 to more than 10 per cent in 2010 – while consumption inequality also worsened significantly.

East Nusa Tenggara has, however, made important gains in education, and this is evidenced both by the falling share of children not in school and concomitant rises in adult literacy rates. Compared to national averages, though, education standards in the province remain low and in need of considerable improvement.

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# 2 Employment opportunities

Since the concept of decent work implies the existence of employment opportunities for anyone who is eligible and seeking work, an important component is how extensively a country's population is employed. Employment opportunities can be measured as employment and labour force activity relative to the population, or in terms of unemployment and underemployment. The ILO's Employment Policy Convention, 1964 (No. 122) stipulates that a national employment policy should be based on analytical studies of the present and future size and distribution of the labour force, employment, unemployment and underemployment (see Anker et al, 2002).

Considering the East Nusa Tenggara is one of Indonesia's poorest provinces (by some yardsticks, the poorest), it is not surprising that informal employment dominates the economy and labour market. On average, informal employment accounts for around 80 per cent of total employment, although since 2009 this share has been declining. Informal employment is the norm in rural areas, and the majority of informal workers are employed as casual workers or in self-employment in agricultural activities (Ronnas and Kwong, 2011).<sup>1</sup>

After rising sharply in the early part of the decade, the share of informal employment fell steadily from 88 per cent in 2005 to 76 per cent in 2011. Data on own-account and family workers (i.e., vulnerable employment) also showed a decrease-

ing trend, falling from 55.7 per cent in 1996 to 47 per cent in 2011. Although both trends suggest progress toward decent work (since the core tenets of decent work are generally more prevalent in regular, formal employment), the lower national averages for these indicators (in 2010 vulnerable employment was at 37 per cent and informal employment at 59 per cent) serve as a reminder of the comparative picture vis-à-vis the country more generally, and thus serve to underscore the challenges that lie ahead.

Although there is a lack of *formal* employment opportunities in the province, a large part of the population is still in some form of employment. The employment-to-population ratio (EPR) was more than 9 percentage points higher than the national average in 2011, at 72 per cent. Meanwhile, the unemployment rate in the province was low at 2.6 per cent, down from a high of 4.8 per cent in 2005. This compares favourably with the national rate of unemployment, which in 2010 stood at 7.1 per cent. However, caution is required when interpreting the EPR and unemployment rates, neither of which offer any insight into the *quality* of employment available in the province. Although unemployment was lower and EPR higher in the pre-financial crisis period, these indicators alone are insufficient to conclude that progress toward decent work – and broader socio-economic development – has been observed since that time.

Although East Nusa Tenggara has a young population and a challenging development landscape, a relatively small share of young people fall into the category of “not in education or employment” (NEET). The share of 15 to 24-year-olds in this category doubled from 4 per cent in 1998 to 8.6 per cent in 2005, but it fell again to 3.8 per

<sup>1</sup> Informal employment is defined by the BPS using a cross tabulation between employment status (own-account workers, employers assisted by temporary or unpaid family workers, employers assisted by permanent workers, employees, casual employees in agriculture and in non-agriculture, and unpaid family workers) and the Standard Classification of Occupations of Indonesia (KBJI 2002).

**Table 2. Employment opportunities**

Decent work indicator	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
<b>Employment-to-population ratio, ages 15-64, %</b>	<b>76.88</b>	<b>73.75</b>	<b>74.15</b>	<b>72.56</b>	<b>76.62</b>	<b>74.59</b>	<b>76.51</b>	<b>74.94</b>	<b>75.38</b>	<b>73.9</b>	<b>73.6</b>	<b>73.1</b>	<b>69.98</b>	<b>70.63</b>	<b>72.11</b>	<b>72.14</b>
Male	85.92	88.19	86.18	85.91	86.81	86.45	87.32	85.68	86.54	85.64	83.73	85	82.3	83.02	82.84	82.72
Female	68.62	60.91	63.3	59.51	65.18	63.31	66.42	64.98	65.01	62.83	64.22	62.05	58.08	58.7	62.03	62.1
<b>Unemployment rate, ages 15+, %</b>	<b>2.18</b>	<b>2.41</b>	<b>2.64</b>	<b>2.93</b>	<b>2.46</b>	<b>4.26</b>	<b>4.35</b>	<b>4.02</b>	<b>4.48</b>	<b>4.82</b>	<b>3.65</b>	<b>3.72</b>	<b>3.73</b>	<b>3.97</b>	<b>3.34</b>	<b>2.69</b>
Male	2.14	1.7	2.15	2.34	1.52	3.24	3.79	3.38	3.41	4.18	2.92	2.33	2.43	2.85	2.76	2.46
Female	2.24	3.32	3.25	3.75	3.62	5.57	5.03	4.82	5.81	5.65	4.53	5.45	5.47	5.48	4.06	2.99
<b>Share of youth not in education and not in employment, ages 15-24, %</b>	...	<b>4.34</b>	<b>4.03</b>	<b>2.84</b>	<b>3.96</b>	<b>6.32</b>	<b>7.45</b>	<b>7.22</b>	<b>7.71</b>	<b>8.57</b>	<b>5.38</b>	<b>4.94</b>	<b>4.74</b>	<b>4.82</b>	<b>4.98</b>	<b>3.77</b>
Male	...	3.74	2.92	2.78	2.29	5.77	9.06	7.35	7.88	8.69	4.56	4.01	3.64	4.56	4.82	3.7
Female	...	4.86	5.06	2.9	5.49	6.83	6	7.09	7.55	8.47	6.23	5.88	5.89	5.08	5.15	3.85
<b>Informal employment, ages 15+, %<sup>1</sup></b>	...	...	...	...	...	<b>79.7</b>	<b>83.1</b>	<b>84.3</b>	<b>83.4</b>	<b>87.9</b>	<b>84.2</b>	<b>81.3</b>	<b>81</b>	<b>80.8</b>	<b>78.5</b>	<b>76</b>
Male	...	...	...	...	...	77.5	80.4	81.3	79.8	86.5	83.6	78.8	78.6	77.9	75.7	72.9
Female	...	...	...	...	...	82.7	86.4	88	87.9	89.8	84.9	84.6	84.2	84.8	82.1	80
<b>Proportion of own-account and contributing family workers in total employment, ages 15+, %</b>	<b>55.69</b>	<b>57.23</b>	<b>56.87</b>	<b>53.27</b>	<b>57.7</b>	<b>47.14</b>	<b>13.38</b>	<b>49.16</b>	<b>47.86</b>	<b>50.86</b>	<b>48.48</b>	<b>48.1</b>	<b>47.3</b>	<b>48.24</b>	<b>47.86</b>	<b>46.95</b>
Male	35.37	40.33	40.72	38.05	39.14	29.74	8.83	28	27.01	29.5	29.44	33.42	33.59	33.37	31.12	31.22
Female	79.52	79.39	77.49	75.12	81.12	70.17	19.1	75.61	74.38	78.89	71.94	66.93	66.26	68.73	69.17	67.18

<sup>1</sup> Informal employment based on cross-tabulation of employment status and occupation, as defined in the *Sakernas* reports.

Source: BPS: *Sakernas*.

cent in 2011, significantly lower than the national average of 28.6 per cent (2009). The decline in the youth NEET rate may be the result of more young people deciding to remain in education (see Chapter 5) or of relative ease of labour market entry for young people in the province – or a combination of both. Whilst those who have the means to stay in education for longer are likely to do so in hope

of enhancing future career prospects in the formal economy, it can also be noted that the ease of transition from school to work may also be aided by the fact many are likely to be entering informal employment, where opportunities are more plentiful and barriers to entry lower than in the formal sector.

### Legal framework indicator 1. Government commitment to full employment

**Law, policy or institutions.** The Manpower Act states that the Government needs to develop a manpower policy and planning (MA, Article 7). Indonesia has adopted a strategic plan for 2010-14 with the aim of increasing employment opportunities (Regulation PER No. 03/MEN/I/2010 concerning the Strategic Plan 2010-14). The priorities for the next five years are welfare, strengthening democracy and the enforcement of justice.

Other laws and policies include Decree No. 4/U/SKB/2000 on cooperatives and entrepreneurship, which provides for the organization of vocational training for cooperatives (and their members), the National Education System Law No. 20 (2003), which sets out the modalities of decentralization of the education and training system to local authorities, and the ILO-backed Indonesia Youth Employment Action Plan, which outlines policy recommendations and programmes to prepare youth for work, create jobs, foster entrepreneurship and promote equal opportunities.

**Evidence of implementation effectiveness.** No information has been made available to the ILO's supervisory bodies.

**Ratification of ILO Conventions.** Indonesia has not ratified the Employment Policy Convention, 1964 (No. 122).

**Sources.** ILO: *General Survey 2010*, International Labour Conference, 99th Session, 2010; MoMT website at <http://www.nakertrans.go.id/>.

### Legal framework indicator 2. Unemployment insurance

**Law, policy or institutions.** Indonesia has no unemployment benefit system.

**Benefits (level and duration).** N/A

**Coverage of workers in law.** N/A

**Coverage of workers in practice.** N/A

**Ratification of ILO Conventions.** Indonesia has not ratified the Social Security (Minimum Standards) Convention, 1952 (No. 102), or the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168).

**Sources.** ILO: NATLEX database; ISSA database.

## Summary assessment

Although official unemployment in the province is low (and significantly lower than the national average) and employment-to-population ratios exceed those of Indonesia as a whole, data on employment opportunities indicate still-widespread deficits in terms of access to productive employment in East Nusa Tenggara (see Chapter 2). In particular, the dominance of informal employment remains a significant obstacle to decent work for a majority of working people in the province. Vul-

nerable employment, comprising own account workers and unpaid family workers, also make up almost half of all employment, and jobs of this sort often lack the core tenets of decent work such as adequate pay and working time, safety and health provisions, and access to social security. However, positively, both vulnerable and informal employment are declining, while the share of young people both out of work and education – an important indicator of labour market prospects for youth – remains low and a fraction of the level for Indonesia as a whole.

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# 3 Adequate earnings and productive work

An important characteristic of decent work is pay, and the principle of an adequate living wage is mentioned in the preamble of the ILO Constitution. A key factor influencing the achievement of decent work is thus whether workers are able to earn an adequate income and improve their future earnings through training and other forms of skill improvement.

Since the enactment of new minimum wage regulations (Decision of the President No. 107 of 2004), provincial governors now have the authority to set the provincial minimum wage, based on recommendations from the local wage council (see Legal framework indicator 3). Governors set minimum wages in part according to the province's cost-of-living index (*Kebutuhan Hidup Layak*, or KHL), which considers 46 components of living costs, including food, clothing, education and health.

At IDR 925,000 per month, the minimum wage in East Nusa Tenggara is among the lowest in Indonesia, and this is at least partially reflective of the province's overall level of development. Nevertheless, a comparison between the minimum wage and the KHL for the province raises questions over the adequacy of that wage in providing a basic and "decent" standard of living for low paid workers. At 79.5 per cent of the KHL rate in 2012, the minimum wage appears insufficient to meet basic monthly needs (see Figure 2). Moreover, according to the Bank of Indonesia (2012), the gap between the KHL and the minimum wage in East Nusa Tenggara has been widening since 2006, which suggests that the minimum wage has failed to keep up with the rising cost of living (as determined by the basket of goods in the KHL) and thus has been ineffective in raising living standards among the lowest

paid workers (see Table 4 in Annex for provincial KHL levels).

Another indicator of adequate earnings is the low-pay rate, which measures the proportion of workers earning less than two-thirds of the median wage. As shown in Table 3, this indicator has shown considerable volatility in the last decade. Looking at all employees, which includes regular and casual employees, movements in the low-pay rate can be divided into two broad periods: declining between 1996 and 2003, and rising thereafter. Year-on-year variations are often quite pronounced (between 2006 and 2007, for example, the rate dropped more than 7 percentage points to 16.6 per cent), which may be a consequence of agricultural productivity instability. In 2011 the low-pay rate was 37.6 per cent, meaning that more than 1 in 3 employees in the province were earning less than 66 per cent of the median wage. This is only a small increase from the 1996 figure (33.1 per cent), and slightly higher than the national average (for all employees) of 34.5 per cent (2010).

The low-pay rate is fairly high among regular employees, too.<sup>1</sup> As Table 3 shows, this rate fluctuated widely in the observed period, but in more recent years it has been rising. In 2011 almost 36 per cent of regular employees were in the low-pay bracket, the highest figure since 1996.

<sup>1</sup> The separation of regular and casual employees is necessary. Unlike regular employees, casual employees are exempted from many labour laws and regulations. The BPS's *Sakernas* makes a clear distinction between regular and casual employees; it defines a regular employee as "a person who works for another person or an institution with a stable contract for payment in cash or in kind", and a casual employee as "a person who does not work permanently for other people/employers/institutions for payment in cash or in kind or under a daily or contract payment system".

### Legal framework indicator 3. Statutory minimum wage

**Law, policy or institutions.** Relevant legislation includes the MA, the Decision of the President No. 107 of 2004 concerning the Wage Council, Regulation No. Per-01/MEN/99 as amended by Decree No. Kep. 226/Men/2000; provincial regulations; and collective agreements. The right to decent earnings and a decent living is specified in Article 88(1) of the MA. The Government must establish a wage policy (MA, Article 88(2)). In general, all workers in an employment relationship with an entrepreneur are covered by minimum wage regulations, including workers on probation and daily workers if working for a month or more. Minimum wage rates are valid only in the first year of workers' employment, after which a review of wage rates must be conducted between the workers or workers' associations and the company (Regulation No. Per-01/MEN/99); the new wage rate cannot be lower than the statutory minimum wage (MA, Article 91). Entrepreneurs who cannot afford to pay the minimum wage may be allowed to postpone doing so in accordance with Ministerial Decision (MA, Article 90). [*For scope of legislation, see Chapter 1*].

Employees are entitled to an annual allowance that is normally equal to one month's salary on the occasion of Eid al-Fitr (breaking the fast) for Islamic workers, Christmas for Catholics and Protestants, Caka Newy (day of quiet) for Hindus and Waisak Day (Buddha's anniversary) for Buddhists. Maternity leave must be granted for three months at full salary. It is common practice to provide other allowances or benefits, such as meal allowances and transportation allowances, welfare facilities, family planning services, day care centres, places of worship, sport facilities, health facilities, recreational facilities, housing and transportation. All allowances are deemed to be part of the salary for tax purposes and to form part of the basic wage for calculating termination payments.

**Minimum wage levels.** According to central government regulation, minimum wages are by each governor at the provincial or district/city level (Article 89) through the National Wage Council, Provincial Wage Councils and District/City Wage Councils (Article 98); there may be large variations in minimum wages owing to different needs in terms of decent living (KHL) in each province. (In 2012 the minimum wage ranged from IDR 675,000 per month in East Java to IDR 1,529,150 per month in West Papua, owing to their different needs in terms of decent living (KHL).

**Evidence of implementation effectiveness.** No information has been made available to the ILO's supervisory bodies.

**Coverage of workers in law.** N/A.

**Coverage of workers in practice.** N/A.

**Ratification of ILO Conventions.** Indonesia has not ratified the Minimum Wage Fixing Convention, 1970 (No. 131).

**Sources.** ILO: NATLEX database; TRAVAIL legal databases.

The volatility of the low-pay rate may be the result of economic instability derived from the economy's heavy reliance on (mostly subsistence) agriculture (see Table 1). Research has shown that agriculture is particularly prone to productivity shocks because of adverse weather and natural disasters, for example, and this in turn can expose agricultural reliant economies to similar volatility in wage rates and earnings (see Jayachandran, 2003, for example). Low and volatile incomes among agricultural workers in East Nusa Tenggara represent a major barrier to decent work and broader socio-economic development.

Despite a lagging minimum wage and high low pay rate, the government in East Nusa Tenggara has made substantial progress in reducing working poverty, as measured by the national poverty rate. Since 1996 the share of working poor in the province has fallen by almost half, from 39.8 per cent to 21.8 per cent in 2011, although this figure remains high when compared to the most recent national average of 14.6 per cent (in 2010).

Figure 1. Minimum wage in 2012 (IDR), all provinces

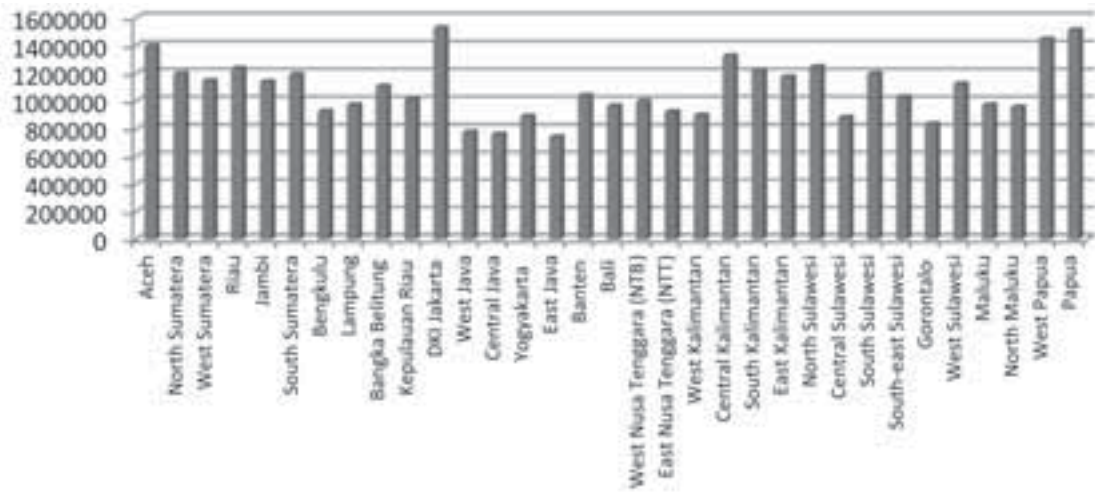
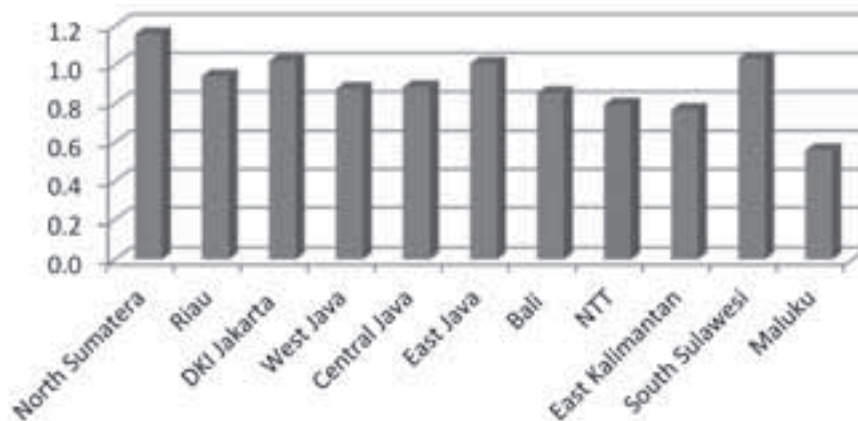


Figure 2. Ratio of minimum wage to cost-of-living index (KHL) in 2012, selected provinces<sup>2</sup>

(where 1.0 = the minimum wage and KHL are equal; values below 1.0 = the minimum wage is lower than the KHL; values above 1.0 = the minimum wage is above the KHL)



Source: Author's calculations, based on Provincial Minimum Wage data, available at: <http://www.wageindicator.org/main/minimum-wages/indonesia>.

<sup>2</sup> Figures for Central, East, and West Java were absent for 2012, and are calculated here from the mean of 2011 and 2013 figures.

**Table 3. Adequate earnings and productive work**

Decent work indicator	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
<b>Working poverty rate, %<sup>1</sup></b>	<b>39.76</b>	...	...	<b>47.77</b>	<b>37.44</b>	<b>34.48</b>	<b>32.14</b>	<b>29.83</b>	<b>29.17</b>	<b>29.82</b>	<b>30.88</b>	<b>28.65</b>	<b>26.64</b>	<b>23.98</b>	<b>23.86</b>	<b>21.81</b>
Male	39.74	...	...	45.95	37.08	34.11	31.95	29.63	28.84	29.31	30.71	28.28	26.29	23.93	23.6	21.77
Female	39.78	...	...	48.55	37.89	34.96	32.37	30.08	29.58	30.47	31.09	29.12	27.08	24.03	24.2	21.86
<b>Lo-pay rate, %<sup>2</sup></b>																
Regular employees	33.1	34.4	36.1	30.5	23.1	35.1	27.6	22.6	28	34.7	38.2	26.5	30.4	31.3	34.3	35.9
Male	32.5	31.1	34.6	33	25.9	32	29	22.5	30.8	40.3	40.4	34.7	34.7	36.3	36.4	37.1
Female	32.3	39.4	25	29	22.5	40.6	24.6	28.1	22.2	28.6	28.6	10.5	15.5	19.4	33.6	33.9
All employees	33.1	34.4	36.1	30.5	23.1	26.3	17.5	16	21.6	28.3	24.1	16.6	19.3	18.6	38.1	37.6
Male	32.5	31.1	34.6	33	25.9	26.8	17.8	14.5	20.6	28.8	31.5	23.7	26	20.9	36.4	36.5
Female	32.3	39.4	25	29	22.5	35.1	19.7	28.8	27.9	28.1	27.4	8.9	13.7	17	32.5	38

<sup>1</sup> Based on the national poverty line, i.e., the number of working poor estimated as the national poverty rate multiplied by the total labour force. Poverty rate based on *Susen*; reference period is February for all years except 1998 (December) and 2006-10 (March). Labour force and employment based on *Sakernas*; reference period is August (1996-2004) and February (2005-10).

<sup>2</sup> Employees with monthly earnings of less than two-thirds of the median wage.

Source: BPS: *Susen*; *Sakernas*.

## Summary assessment

East Nusa Tenggara has done a great deal to reduce the proportion of working poor, which almost halved over the last 15 years. Compared to the national average of 14.6 per cent in 2010, however, the working poor rate is still high (21.6 per cent), owing in large part to the continued dominance of traditional and subsistence based agriculture.

Despite lifting a large share of working people out of absolute poverty, achieving an adequate standard of living from employment remains a difficult task for many in east Nusa Tenggara.

The proportion of workers earning low pay, i.e. relative to the median rate of pay in the province, has been increasing and is currently higher than before the crisis. In addition, low rates of pay in some years are highly volatile, possibly as a result of successive agricultural productivity shocks. Moreover, the implementations of a statutory minimum wage appears to have been undermined by the fact it lags behind the level deemed appropriate (by the KHL indicator of basic living costs) to afford a basic standard of living. To date, it appears the provincial government has struggled to ensure the incomes of those at the bottom of the earnings distribution are adequately protected in practice.

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# 4 Decent working time

Hours of work is a key component of decent work that is addressed in the preamble to the ILO Constitution and in the Hours of Work (Industry) Convention, 1919 (No. 1). Excessive and atypical hours can be detrimental to workers' physical and mental health and can also impact negatively on family life. In developing and transition economies, excessive hours are often associated with inadequate hourly pay, while shorter than optimal hours can reflect time related underemployment – a form of labour underutilisation that runs counter to the goals of full and productive employment.

Although Indonesia has not ratified key ILO Conventions on working time, it remains one of the most regulated areas in the country's labour policy (see Legal framework indicator 4). Unlike the minimum wage policy, which is decentralized to local governments, policies, legislation and laws on working time remain the jurisdiction of the central government (though local governments are still responsible for enforcing them). Acceptable working hours are set nationally and vary by sector, but the maximum legal limit embodied in the Manpower Act is 54 hours per week (including overtime).<sup>1</sup> This differs from the accepted international norm, as stated in ILO Conventions No.1 and No.30, which set the maximum limit on working time to 48 hours per week (including overtime). This difference must be taken into consideration to avoid confusion as to the performance of local administrations in Indonesia in enforcing national working time regulations.

A key indicator of decent working time is that of “excessive hours”, defined as the share of

employed workers working in excess of 48 hours a week (irrespective of variations within the county in the legally accepted working time). In East Nusa Tenggara, the proportion of workers falling into this category has been volatile but rising for both men and women since 1996. It has, however, remained lower than Indonesia as a whole: in 2011 some 13 per cent of employed persons worked excessive hours, less than half the national average (in 2010). By sex, proportionally more men fall into this category: 16.5 per cent in 2011 compared to less than 10 per cent of women, although the female share has risen more rapidly since 1996. The increasing prevalence of excessive hours coincides with the widening gap between the minimum wage and the KHL (see Chapter 3) – a trend which may point to the use of excessive hours as a coping strategy for inadequate earnings.

By contrast, time-related underemployment reflects the extent to which workers are under-utilised at work and the degree to which they can engage in continuous and productive employment. Underemployment of this sort in East Nusa Tenggara has traditionally been quite high – and higher than the national average – since the mid-1990s, but has varied widely between years. After peaking at 25.4 per cent in 2005, the share of time-related underemployed workers in the province dropped substantially to a low of 12.9 per cent in 2011. However, given the level of volatility up to 2005 (and to an extent more recently), it is not clear to what degree the recent decline points to tangible gains in access to decent working time (and thus, employment quality).

Analysing data on excessive hours and on underemployment simultaneously provides an interesting perspective on the province's economy and

<sup>1</sup> According to the Manpower Act, the legal limit for maximum working hours comprises the normal 40 hours per week and 14 additional hours overtime. However, there is an exemption for some business sectors, such as the utilities and mining sectors.

#### Legal framework indicator 4. Maximum hours of work

**Law, policy or institutions.** Relevant legislation includes the MA; Ministry of Manpower and Transmigration Decree No. 102/MEN/IV/2004 concerning overtime work hours and overtime pay; Decree No. 233/MEN/2003 of the Minister of Manpower and Transportation concerning the type and characteristics of work done continuously; Decree No. 234/MEN/2003 concerning working hours and rest hours and the energy and mining resources business sectors in specific areas. Hours of work in certain business sectors or certain types of work may be regulated by ministerial decision (MA, Article 77(3) and (4)).

**Number of hours allowed.** MA, Article 77(2): 40 hours a week (7 hours a day for 6 days a week, or 8 hours a day for 5 days a week). An entrepreneur who requires a worker to work longer hours needs the approval of the worker; the maximum overtime work is 3 hours in a day and 14 hours in a week (MA, Article 78), provided that it is paid and that rest, food and drink are provided (Article 7, Decree No. 102/MEN/VI/2004). Working hours and overtime for “certain business sectors or certain types of work” may be regulated by ministerial decision. Certain workers in jobs with high-level responsibilities (involving planning responsibilities, for example) are not entitled to overtime pay, provided they receive higher wages (Article 4, Decree No. 102/MEN/VI/2004). Mining, quarrying and the electricity, water and gas sectors in offshore and isolated regions are excluded from the application of standard working hours, but overtime rates still apply to periods of work that are longer than the standard working hours (Article 2, Decree No. 234/MEN/2003)). No contracting out of these provisions is possible.

**Evidence of implementation effectiveness.** No information has been made available to the ILO’s supervisory bodies.

**Coverage of workers in law.** N/A.

**Coverage of workers in practice.** N/A.

**Ratification of ILO Conventions.** Indonesia has not ratified the Hours of Work (Industry) Convention, 1919 (No. 1), or the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30).

**Source.** ILO: NATLEX database; TRAVAIL legal databases; *General Survey*, International Labour Conference, 93rd Session 2005.

labour market. Increasing underemployment and lower rates of excessive hours in the early decentralization period reflect large employment shift to agriculture due to stagnation and contraction in other sectors (Taco, Sukesi, and Seran, 2009). This trend is consistent with observations in other rural and agricultural provinces, which predominantly post higher rates of underemployment and lower rates of excessive hours than urban centres such as Jakarta.

The increase in excessive hours and decrease in underemployment since 2005 reflect the current (partial) shift in employment from agriculture to services, and the coincidence of excessive hours

with an increase in the low-pay rate may suggest that working conditions in the service sector are somewhat undesirable from a decent work perspective. Long hours of works and low hourly wages are particularly common in the trade, restaurants and hotels sector (Ronnas and Kwong, 2011), for example, and the recent growth of this type of work in East Nusa Tenggara may thus have had an impact on these indicators. A lack of viable employment alternatives, in manufacturing for example, may also have exacerbated the compulsion to accept quality service jobs for many workers, even if they are still deemed “better” – in terms of pay and conditions – than what is available in the agricultural sector.

**Table 4. Decent working time**

Decent work indicator	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
<b>Excessive hours (more than 48 hours per week), %<sup>1</sup></b>	<b>8.3</b>	<b>12.8</b>	<b>9.1</b>	<b>10.4</b>	<b>6.9</b>	<b>11</b>	<b>9.6</b>	<b>9.6</b>	<b>8.3</b>	<b>7.5</b>	<b>8.4</b>	<b>12.1</b>	<b>13.9</b>	<b>12.6</b>	<b>15.9</b>	<b>13.3</b>
Male	11.1	17.8	12.2	13	9.5	13.9	13.6	13.4	10.8	10.9	11.1	15.5	16.4	15.1	19.5	16.5
Female	4.9	6.1	5.2	6.8	3.6	7.3	4.5	4.9	5.1	3.1	5.1	7.7	10.4	9.2	11.4	9.2
<b>Time-related underemployment rate, %<sup>2</sup></b>	<b>13.8</b>	<b>12.5</b>	<b>13.6</b>	<b>25.3</b>	<b>18.2</b>	<b>13.9</b>	<b>17.7</b>	<b>18.9</b>	<b>24.5</b>	<b>25.4</b>	<b>19.9</b>	<b>16.6</b>	<b>17.6</b>	<b>21.7</b>	<b>18</b>	<b>12.9</b>
Male	12.7	11.2	10.4	22.2	18.3	13.5	16.8	21.8	24.8	27.9	18.7	15.1	17.2	20.9	16.9	13
Female	15.2	14.2	17.6	29.8	18.1	14.4	18.7	15.2	24	22.2	21.3	18.4	18.1	22.8	19.3	12.8

<sup>1</sup> Employed persons working more than 48 hours per week in all jobs as a percentage of total employed persons.

<sup>2</sup> Employed persons working less than 35 hours per week who are looking for a job or are available for more work as a percentage share of total employed persons.

Source: BPS: *Sakernas*.

### Legal framework indicator 5. Paid annual leave

**Law, policy or institutions.** MA; Decision of the Minister of Manpower and Transmigration No. 51/MEN/IV/2004 concerning Long Periods of Rest in Certain Enterprises.

**Qualifying conditions.** 12 month of continuous service.

**Levels of leave.** MA, Article 79: 12 workdays. After six years of continuous work, a worker is entitled to a long period of rest to be taken in the seventh and eighth year of work (1 month for each year); the worker is not entitled to the annual period of rest during those two years. This provision is applicable every six years of work. Workers of certain enterprises only are entitled to long period of rest (to be determined by Ministerial Decision).

**Evidence of implementation effectiveness.** No information has been made available to the ILO's supervisory bodies.

**Coverage of workers in law.** N/A.

**Coverage of workers in practice.** N/A.

**Ratification of ILO Conventions.** Indonesia has not ratified the Holidays with Pay Convention, 1936 (No. 52), the Holidays with Pay (Agriculture) Convention, 1952 (No. 101), or the Holidays with Pay Convention (Revised), 1970 (No. 132).

**Source.** ILO: NATLEX database; TRAVAIL legal databases.

## Summary assessment

There has been mixed progress toward decent working time, as demonstrated by unpredictable and volatile movements in the related indicators. Although the share of workers who work “excessive hours” compares favourably with the national average (in 2010 it was less than half the national figure), a rising trend since 1996 suggests that adequate hours are becoming increasingly elusive for many workers. This

trend coincides with a widening gap between the minimum wage set by the local government and the basic needs indicator for the province (the KHL), which may point to inadequate earnings as a key driver of excessive hours. Time-related underemployment, which is a partial indicator of labour underutilization, has been traditionally high and very volatile from year to year, and hence despite recent declines it is difficult to interpret this in terms of its implications for quality of employment.



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# 5 Work that should be abolished

Various international guidelines provide the basis for defining work that should be abolished. These include forced labour and child labour, as stipulated in the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182) – all of which Indonesia has ratified. In addition, the 1998 ILO Declaration on Fundamental Principles and Rights at Work endorses national and global efforts to abolish forced labour and the worst forms of child labour, especially that involving hazardous work.

After ratifying the Worst Forms of Child Labour Convention (No. 105) in 1999, the Indonesian Government introduced a number of legislative measures at the national level aimed at eliminating child labour, human trafficking and related practices (see Legal framework indicator 6 and 7). Education policy is an area that has been identified as a key conduit through that goal can be met, for example through the Government's new 12-year compulsory education policy. If implemented effectively, this policy should notably reduce the proportion of child workers aged 15 to 17, the largest age cohort of working children (BPS and ILO, 2009), among which those in "hazardous work" and in the "worst forms of child labour" are considered to be in activities that should be abolished. In addition, under a National Plan of Action launched in 2007, the Government set a national target for the elimination of the worst forms of child labour by 2016.

Local government cooperation is important, and educational gains since the late 1990s (see Chap-

ter 1) have helped to translate the country's commitment to eliminate child labour into practice. There has been significant progress in the education enrolment rate among elementary-school children (7-12 years old) and middle-school children (13-15 years old), which have risen from 90 per cent to 96 per cent and 71 per cent to 81 per cent respectively (2003-10).<sup>1</sup> The enrolment rate for high-school children (16-18 years old) likewise improved from 37 per cent in 2003 to 49 per cent in 2010.<sup>2</sup>

Amid these educational improvements, particularly at the middle and high school level, East Nusa Tenggara has greatly reduced the prevalence of child labour. Between 1999 and 2011 the share of 10 to 17-year-olds engaged in child labour fell by almost half to 4.7 per cent, close to the national average of 4.3 per cent in 2010. As with Indonesia as a whole, boys are more likely than girls to be found in this kind of work, but even here significant progress has been made; the share of boys aged 10 to 17 in child labour fell from 11.2 per cent in 1999 to 5.6 per cent in 2011. In the absence of figures on hazardous child labour and forced labour, however, a full assessment of progress in this area of decent work is not possible.

<sup>1</sup> Under the Manpower Act maximum working hours comprise normal working hours of 40 hours per week plus 14 hours of overtime per week, though some business sectors, such as the utility and mining sectors, are exempt.

<sup>2</sup> The enrolment rate data for all schooling-age children is available in BPS-Statistics East Nusa Tenggara from Susenas, (2003-2011).

## Legal framework indicator 6. Child Labour

**Law, policy or institutions.** Applicable laws and regulations include: MA; Ministerial Decree No. 115/MEN/VII/2004 on protection of children performing work for developing talents and interests; Ministerial Decree No. 235/MEN/2003 on jobs that jeopardize the health, safety and morals of children; and Presidential Decree No. 59 of 2002 on the worst forms of child labour. An Anti-Trafficking Act was adopted in 2007 (No 21). Several action plans have been introduced by Presidential Decrees: National Plan of Action of 2002 to Combat the Worst Forms of Child Labour (three-phase programme over 20 years), National Plan of Action to Combat the Commercial Sexual Exploitation of Children, National Plan of Action to Combat Trafficking of Women and Children. The right to education is embodied in the Constitution of 1945. *General age for admission to employment:* 15 years old (Article 3 Ministerial Decree No. 235/MEN/2003). MA, Article 68: prohibition for entrepreneurs to employ children. Children under 15 may engage in activities developing talents and interests (Article 5 of Ministerial Decree No. 235/MEN/2003); the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has requested that the Government define the minimum age for such activities. *Admission to hazardous work:* general prohibition (MA, Article 74). Presidential Decree No. 59 of 2002 lists 13 worst forms of child labour. The Government has made a strong commitment to eliminate the worst forms of child labour by 2016. The Government has an obligation to make efforts to overcome problems concerning children who work outside an employment relationship (MA, Article 75). *Exception for light work:* MA, Article 69: permitted for children aged 13 to 15 with, inter alia, written permission from parents/guardians; not more than three hours a day; no disruption of schooling; conducted during the day; wages in accordance with the law; does not stunt or disrupt the child's physical mental or social development). If the child works for a family business, some provisions do not apply (maximum hours of work, wages).

**Evidence of implementation effectiveness.** In a 2008 observation the CEACR noted that, according to the technical proposal for the second phase of the National Plan of Action of 2002, law enforcement against traffickers increased in 2006, with arrests up from the previous year by 29 per cent, prosecutions up by 87 per cent and convictions up by 112 per cent. The CEACR noted the Government's information that 123 trafficking cases were filed in 2007 involving 71 children, of which 49 are before the courts, 70 are under investigation and three are under observation. The Government also indicates that it is taking measures to enhance the capacities of the police, immigration officers and labour inspectors. In this regard, it has conducted training on human trafficking for 38 police officers and 20 immigration officers; on preventing human trafficking for 19 police officers and five immigration officers; on investigating human trafficking for 25 police officers; and on border crimes for public prosecutors, judges and the police.

**Ratification of ILO Conventions.** Indonesia ratified the Minimum Age Convention, 1973 (No. 138), on 7 June 1999 and the Worst Forms of Child Labour Convention, 1999 (No. 182), on 28 March 2000.

**Sources.** ILO: NATLEX database; CEACR 2008 comments on the application of Convention No. 138; Human Rights Council: *National report submitted in accordance with Paragraph 15(1) of the Annex to Human Rights Council Resolution 5/1: Indonesia*. 11 March 2008, UN Doc. A/HRC/WG.6/1/IDN/1.

**Table 5. Work that should be abolished**

Decent work indicator	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
<b>Child labour, %<sup>1</sup></b>	<b>9.2</b>	<b>13.05</b>	<b>9.82</b>	<b>8.78</b>	<b>5.26</b>	<b>6.62</b>	<b>5.91</b>	<b>4.46</b>	<b>5.28</b>	<b>4.78</b>	<b>4.38</b>	<b>7.01</b>	<b>5.66</b>	<b>5.01</b>	<b>4.08</b>	<b>4.7</b>
Male	10.44	14.45	12.07	11.23	6.44	7.59	7.69	5.25	6.35	5.79	5.9	8.74	7.05	5.99	4.87	5.63
Female	7.91	11.75	7.39	6.11	4.01	5.48	3.97	3.65	4.1	3.67	2.71	5.09	4.16	3.96	3.22	3.72

<sup>1</sup> Child labour, as adapted from the resolution of the 18<sup>th</sup> International Conference of Labour Statisticians, defined as: (1) all working children aged 5-12, regardless of working hours; (2) working children aged 13-14, who worked more than 15 hours per week; and (3) working children aged 15-17, who worked more than 40 hours per week. For comparability across all years, includes only children aged 10-17.

Source: BPS: *Sakernas*; BPS and ILO: *Working children in Indonesia 2009* (Jakarta, February 2010).

### Legal framework indicator 7. Forced labour

**Law, policy or institution.** MA; Law No. 21 of 2007 on the elimination of human trafficking; Law No. 39 of 2004 on the placement and protection of Indonesian workers abroad. All provide for sanctions. Decree No. 10 of July 2007 of the Chief of the Indonesian National Police, issued under Law No. 21 of 2007 and Regulation No. 9 of 2008 made thereunder relate to the establishment of “special service rooms” in local police stations in every province and city to protect victims of trafficking and to examine witnesses in trafficking investigations; a multi-stakeholder initiative aims at disseminating information to and sensitizing prosecutors regarding Law No. 21 of 2007.

Several action programmes have been introduced by Presidential Decrees: National Plan of Action of 2002 to Combat the Worst Forms of Child Labour (three-phase programme over 20 years); National Plan of Action of 2002 to Combat the Commercial Sexual Exploitation of Children; National Plan of Action of 2002 to Combat Trafficking of Women and Children. Indonesia has also ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in September 2009.

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has noted that Law No. 39 of 2004 contains vague provisions and numerous shortcomings and that, despite measures adopted by the Government, many Indonesian workers continue to turn to illegal networks, thereby increasing the risk of exploitation. The CEACR has also noted that the Memorandum of Understanding concluded with the Government of Malaysia in May 2006 does not guarantee standard labour protections, does not include measures to prevent and respond to cases of abuse and contains provisions that contribute to maintaining Indonesian migrant workers in situations of great vulnerability. The CEACR has expressed its hope that the Government will amend the Memorandum.

**Evidence of implementation effectiveness.** In order to tackle trafficking in persons the Government has implemented prevention and protection measures and law enforcement, as well as inter-sectoral and intergovernmental coordination and cooperation. Several cases of recent arrest, prosecution and punishment of perpetrators have been reported. The CEACR has noted, however, that many of the measures to implement Law No. 39 of 2004 appear to place greater emphasis on addressing the shortcomings of worker placement and placement related procedures than on worker protections.

The CEACR has pointed out that several sections of the Criminal Code and of the Law No. 27 of 2007 are not in conformity with Convention No. 105 as they allow the use of forced labour as a punishment for expressing views opposed to the established political, social or economic system. It has noted that several persons have been sentenced to heavy terms of imprisonment, involving compulsory labour, for the peaceful expression of their political opinions, their peaceful support of an independence movement or for the simple fact of having raised a separatist flag. The CEACR and the Conference Committee on the Application of Standards have expressed their deep concern and their hope that the sections will be amended. The Conference Committee and the CEACR have asked the Government to amend sections 139 and 185 of the Manpower Act so as to limit their scope to essential services in the strict sense of the term and to ensure that no penalty involving compulsory labour can be imposed on persons participating in strikes, as required by Convention No. 105.

**Ratification of ILO Conventions.** Indonesia ratified the Forced Labour Convention, 1930 (No. 29), on 12 June 1950 and the Abolition of Forced Labour Convention, 1957 (No. 105), on 7 June 1999.

**Sources.** ILO: NATLEX database; CEACR 2008 observations on the application of Conventions Nos. 29 and 105; Conference Committee 2008 comments; Human Rights Council: *National report submitted in accordance with Paragraph 15(1) of the Annex to Human Rights Council Resolution 5/1: Indonesia*. 11 March 2008, UN Doc. A/HRC/WG.6/1/IDN/1.

## Summary assessment

Despite gaps in available data, some progress has been recorded in East Nusa Tenggara in respect of child labour, largely as a result of rising standards of education (see chapter 1). Educational enrolment rates have risen significantly since 2003, especially among high-school and middle-school

children, which is likely to have had a particular impact on child labour among children aged 10 to 17. By gender, the reduction in child labour is more marked among boys than among girls. The absence of figures on hazardous child labour and forced labour, however prevent a full assessment of recent progress vis-à-vis work that should be abolished.

## References

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# 6 Stability and security of work

Job stability and security are important indicators of labour market stability and an integral part of the Decent Work Agenda. Statistically, they are best measured through indicators of ‘precarious work,’ which in Indonesia is defined as work that by contractual status is of a casual nature (in both agriculture and non-agriculture).<sup>1</sup> Because these jobs provide no expectations of a long lasting employment relationship, they represent a key source of vulnerability and risk for affected workers, and have an adverse influence on skills accumulation, productivity and human capital development. Informal employment and vulnerable employment also share many characteristics of precarious work and can thus serve as complementary indicators of stability and security at work.

The extent to which workers enjoy stability and security of employment depends on a number of factors, including the economic, social and demographic context and the legal and policy framework governing the labour market. For paid employees job security and stability is typically defined by the length of their contract or relationship with their employer. For the self-employed it is more a question of the stability of their enterprises and the expectation of their finding work over a period of time.<sup>2</sup>

Indonesia has some of the strictest employment termination laws in Asia. The Manpower Act (MA) places extensive safeguards on employment, including a requirement that all dismissals be negotiated with the worker and/or union representative beforehand and, if negotiations fail, that a judicial ruling be handed down to confirm the termination of employment (see Legal framework indicator 8). Indonesia is yet to ratify the ILO’s Termination of Employment Convention, 1982 (No. 158).

The Manpower Act (No. 13/2003) also regulates short-term contracting and outsourcing practices, the aim being to promote fairness and economic security for temporary workers. According to the MA, a work agreement can be defined as short-term contracting (fixed-term work agreement) only if it (i) the work requires less than three years for completion, or (ii) it involves a new activity that is still at the experimental stage, or (iii) it is seasonal work. The Manpower Act limits short-term contracts to a maximum of two years, including one year’s extension. If the contract breaches one of the legal requirements, the contract is deemed to be a permanent employment contract (unlimited-term work agreement).

According to the Manpower Act definition, outsourcing is the delegation of work from a principal enterprise to another enterprise and is restricted to “auxiliary production activities”. However, the vagueness of the term “auxiliary production activities” undermines the credibility of this regulation, which many enterprises use as a loophole to outsource their main production activities. This situation has created a great deal of tension between trade unions and employers’ associations in recent years and has led to calls for an outright ban on outsourcing, or for the law to be changed so as to

<sup>1</sup> For ILO guidance on the standard concepts and definitions used for the measurement of precarious employment, and other decent work indicators, see: ILO (2012) “Decent Work Indicators: concepts and definitions.” First Edition, Geneva, May 2012. (Available at: [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/publication/wcms\\_183859.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/publication/wcms_183859.pdf)). See also the resolution concerning the international classification of status in employment adopted at the Fifteenth International Conference of Labour Statisticians (Geneva, 1993).

<sup>2</sup> Anker, R., et al.: *Measuring decent work with statistical indicators*, Working Paper No. 2, ILO Policy Integration Department (Geneva, October 2002).

## Legal framework indicator 8. Termination of employment

**Law, policy or institutions.** Manpower Act, Industrial Relations Disputes Settlements Act No. 2 (2004), collective agreements.

**Substantive requirements for dismissals.** *Valid grounds:* MA, Article 163: change of status of the enterprise, merger, fusion or change of ownership; MA, Article 164-165: closure of the enterprise due to continual loss for two years, *force majeure* or bankruptcy; MA, Article 158: serious misconduct (revoked by Constitutional Court Decision in 2003; Minister of Manpower's 2005 circular states that termination is possible for "emergency reasons" with approval of Industrial Court). MA, Article 160(3): inability to perform work because of detention (termination possible after six months). MA, Article 161: violation of work agreement, company regulations, collective agreement (termination possible after the issuance of three warning letters within six months). MA, Article 167: worker reaching retirement age. Article 168: unexplained absence for five days. *Prohibited grounds:* religion, ethnic origin, race, colour, sex, political opinion, marital status or physical condition, work illness or disability, trade union membership and activities, whistle blowing, family members at the same workplace, absence from work due to pregnancy, giving birth, breast-feeding, miscarriage, getting married, practising his/her religion, state duties or illness of less than a year (MA, Article 153; TU Act, Article 28).

**Procedure for individual dismissals.** Termination is not based on notice (MA, Article 150). All efforts (including alternatives to dismissal) must be made to prevent termination (MA, Article 151(1)); prior negotiations with the union/worker are necessary and, if they fail, mediation, conciliation and/or arbitration and ultimately a judicial ruling are needed to terminate employment.

**Collective dismissals for economic reasons.** There is no definition of collective dismissal and no special requirements are provided for.

**Severance pay.** Depending on its cause, termination may give rise to severance pay, service/reward pay, other forms of compensation and/or separation pay. *Severance pay* – MA, Article 156(2): one month's wages for each year of service up to a maximum of nine months. *Compensation pay* – MA, Article 156(4): rights or entitlements not used by the worker, such as annual leave, housing allowance, etc. (unless termination is motivated by serious misconduct or an absence of more than five days without explanation – MA, Article 160). *Service/Reward pay* – Article 156(3): two months' pay for 3-6 years of employment; three months' pay for up to 6-9 years of employment, etc., up to ten months' pay for 24 years of employment or more. *Separation pay:* In some circumstances (MA, Article 168 – absence of more than five days without explanation, for example) separation pay is due to the worker as provided for in the work agreement, company regulations or collective agreement. In case of termination by simple decision of the employer, the worker is entitled to twice the amount of severance pay, plus the amount of reward pay and compensation pay for entitlements not used (MA, Article 163(2)).

**Evidence of implementation effectiveness.** No information has been made available to the ILO's supervisory bodies.

**Coverage of workers in law.** All workers. Civil servants (covered by specific legislation) are excluded. Domestic workers are excluded (MA, Article 150). A worker on probation may be laid-off after negotiations, without the need to obtain the decision of a judicial body.

**Coverage of workers in practice.** N/A.

**Ratification of ILO Conventions.** Indonesia has not ratified the Termination of Employment Convention, 1982 (No. 158).

**Sources.** ILO: EPLex database; NATLEX database.

strike a better balance between the workers' need for protection and the legitimate interests of the employers.<sup>3</sup>

<sup>3</sup> See <http://www.thejakartaglobe.com/economy/indonesian-workers-demand-an-end-to-outsourcing/548109> and <http://www.antaraneews.com/en/news/85321/employers-urge-govt-to-change-outsourcing-law>

Complicating the issue further is the fact that, owing to the widespread nature of informal employment, relatively few workers are actually covered by the Manpower Act or any legislation on stability and security of work. With a higher than average level of informal employment (76 per cent compared with 60 per cent nation-

**Table 6. Stability and security of work**

Decent work indicator	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
<b>Precarious work, ages 15+, %<sup>1</sup></b>	<b>2.3</b>	<b>2.5</b>	<b>1.4</b>	<b>1.3</b>	<b>0.4</b>	<b>0.6</b>	<b>2.3</b>	<b>1.9</b>	<b>2.7</b>	<b>2.2</b>	<b>3</b>
Male	2.6	3.2	2.1	2	0.6	0.9	2.9	2.3	3.6	2.9	3.5
Female	2	1.5	0.5	0.4	0.1	0.4	1.6	1.2	1.4	1.2	2.5
<b>Informal employment, ages 15+, %<sup>2</sup></b>	<b>79.7</b>	<b>83.1</b>	<b>84.3</b>	<b>83.4</b>	<b>87.9</b>	<b>84.2</b>	<b>81.3</b>	<b>81</b>	<b>80.8</b>	<b>78.5</b>	<b>76</b>
Male	77.5	80.4	81.3	79.8	86.5	83.6	78.8	78.6	77.9	75.7	72.9
Female	82.7	86.4	88	87.9	89.8	84.9	84.6	84.2	84.8	82.1	80

<sup>1</sup> Precarious work represents all casual employees in agriculture and non-agriculture as a percentage share of total employed persons.

<sup>2</sup> The informal employment estimation was based on cross-tabulation of employment status and occupation, as defined in the *Sakernas* reports.

Source: BPS: *Sakernas*.

ally<sup>4</sup>), this challenge is particularly acute in East Nusa Tenggara.

Precarious employment describes workers employed as casual employees in all sectors of the economy, both agricultural and non-agricultural. Because such jobs offer no expectation of a lasting employment relationship, casual work often constitutes a major source of vulnerability and economic risk for the workers concerned. In Indonesia casual workers enjoy legal recognition, and so their contracts are regulated by MoMT Decree No. KEP.100/MEN/IV/2004, which defines them as employees working less than 21 days a month. If an employee works more than 21 days in three consecutive months, the contract automatically becomes an “unlimited-term work agreement”.

Although informality is widespread in East Nusa Tenggara (more than three-quarters of total employment is informal), casual or “precarious” work actually accounts only for a small fraction of employment – 3 per cent of total employment or 4 per cent of total informal employment. The relative scarcity of precarious work in the province can perhaps be explained by the separation of rural and urban economic activity, and the type of employment contracts that characterise each. Research in East Nusa Tenggara has shown that casual employment – as determined by contractual status – is typically more prevalent in non-agricultural activities, while self-employment, especially own-account farming (and which is

not considered “casual”) is more common in rural areas (Ronnas and Kwong, 2011). As a proportion of employment, the rural labour force accounts for 86 per cent of the total labour force. This may explain why, in the case of East Nusa Tenggara, casual employment still plays a limited role in defining the type of employment people hold.

## Summary assessment

Owing in large part to the comparably high prevalence of informal employment (76 per cent in 2011, compared with 59 per cent nationally),<sup>5</sup> stability and security of work is of considerable concern in East Nusa Tenggara. At the same time, however, casual or “precarious” work is actually less prevalent there than in Indonesia as a whole, most likely because of the predominance of subsistence agriculture – and within this, own account work – in the local economy. Although the opposite is often true in some agricultural economies (and even in Indonesia as a whole, where casual work makes up a considerable share of agricultural employment), research in East Nusa Tenggara has referred to the particular dominance of own account work and subsistence activities in agriculture as a major factor keeping the casual employment share low (Ronnas and Kwong, 2011). Nevertheless, this area would benefit from further research to understand in East Nusa Tenggara, particularly regarding the prevalence of casual employment contracts in different sectors of the economy.

<sup>4</sup> The provincial figure quoted here is for 2011, whereas the national figure is for 2010 (the most recent available year).

<sup>5</sup> The national informal employment figure here relates to the most recent available year, which is 2010.



In an attempt to strengthen employment stability and economic security, the Government of Indonesia has sought to tightly regulate both short-term contracting and outsourcing activities. However, the effectiveness of this policy

has been questioned in the context of the chronic duality in the economy (i.e. between the formal and the informal, “unregulated” economy), which has helped create a large divide between law and practice.

## References

BPS-Statistics East Nusa Tenggara. 2011. *Labour forces situation in East Nusa Tenggara August 2011* (East Nusa Tenggara).

ILO. 2011. *Decent Work Country Profile – Indonesia* (Geneva).

Ronnas, Per, and Kwong, M. 2011. *Employment diagnostic analysis: East Nusa Tenggara, Indonesia*. ILO Employment Working Paper No. 98 (Geneva).

# 7 Equal opportunity and treatment in employment

Since ratifying the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), in 1999, the Indonesian Government has enacted new laws and regulations against various forms of discrimination at the workplace, including discrimination based on sex, race, ethnic origin, religion and political orientation (see Legal framework indicator 9). In addition, to strengthen the enforcement of equal remuneration laws, the Government has mandated all provincial governors and district heads to implement the Equal Employment Opportunity Guidelines (see Legal framework indicator 10), which promote non-discrimination and fair treatment for all employees and jobseekers, in recruitment, placement, career advancement, remuneration, eligibility for social security, etc., so that workers can develop their full potential in their chosen career.

Despite this, there remain major shortcomings in the legal framework and enforcement of the Guidelines in practice. Sexual harassment at the workplace, though known to be widespread in Indonesia, is largely ignored by the country's legislation. To prevent the problem from escalating, the Ministry of Manpower and Transmigration issued a circular in 2011 (No. SE.03/MEN/IV/2011) on how to combat such harassment. The circular defines sexual harassment as unwanted conduct or offensive behaviour which is sexual in nature, which may be physical, verbal, gestural, written, graphic or psychological and which may take place inside or outside working-hours wherever employment-related activities are conducted, including the communications and electronic media. The circular is not legally binding, however, and is merely a tool to help employers and workers identify sexual harassment. The circular still refers to the Criminal

Code in matters involving violence or the threat of violence for purposes of sexual intercourse (article 285), or unwanted attention that violates "standards of decency" (where the definition of decency remains unclear and potentially subjective).

Occupational segregation by gender is determined by a variety of factors, including employers' and workers' preference, traditional stereotyping and the pressure of society regarding the role of men and women in the labour market. Women in Indonesia make up around two-fifths of the employed population but they are disproportionately represented in certain occupations. While labour market segregation by gender also occurs in East Nusa Tenggara, the occupations in which it is most pronounced differ widely from elsewhere in the country.

As mentioned earlier, female employment opportunities have been expanding in recent years. As can be seen from data on the aggregate occupational segregation (see Table 1), the share of women workers in total employment increased from 22.3 per cent in 2007 to 31.9 per cent in 2011, with a sharp break in 2010 when the occupational segregation rate contracted by approximately 7 per cent. In general women have been better represented in the labour market. By occupational category, the recent gains for women have been mainly in the more prestigious and often skills – and knowledge-intensive occupations. These include legislators, senior officials and corporate managers, in which women's share of employment rose from 47.2 per cent in 2007 to 53.4 per cent in 2011, and technicians and associate professionals, where the female employment share rose from 31 per cent to 42.8 per cent over the same period. Major gains for women in these

## Legal framework indicator 9. Equal opportunity and treatment

**Law, policy or institutions.** Equal treatment before the law is guaranteed by Section 27 and 28D of the 1945 Constitution; the right to be free from discriminatory treatment based upon any grounds whatsoever and the right to protection from such discriminatory treatment are guaranteed by Section 28I of the Constitution. According to the MA, every worker has equal rights and equal opportunity to get a job, choose a job or move to another job and the right to receive equal treatment without discrimination based on sex, ethnic origin, race, religion, skin colour or political orientation. Men and women have the same opportunity to obtain training (Article 32), and equal treatment is included for the disabled (Articles 5, 6 and 31). Entrepreneurs are required to provide workers with an adequate opportunity to perform their religious obligations (Article 80). Article 28 of the Trade Unions Act prohibits discrimination on the basis of trade union activities. According to Law No. 4 of 1997 on disabled people, an employer must employ one disabled person who fulfils the requirements and qualifications of the job for every 100 employees. The Elimination of Racial and Ethnic Discrimination Law (No. 40) was adopted in 2008 and Presidential Instruction No. 9 on Gender Mainstreaming was adopted in 2000.

**Evidence of implementation effectiveness.** A circular was issued by the Minister of Manpower and Transmigration (No. SE/60/MEN/SJ-HK/2006) on 10 February 2006 on Guidance to Equal Employment of Opportunity and Treatment in Occupations in Indonesia. The circular contained a clear definition of direct and indirect discrimination. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has noted that the circular has so far been promoted in three Indonesian provinces, namely the Riau Islands, West Java and East Java. In 2007 the Government extended these provisions to other provinces with a view to covering all regions.

With respect to Ministerial Regulation No. PER/03/MEN/1989 on the termination of employment, which prohibits the dismissal of a “married couple” for reasons of pregnancy or childbirth, the CEACR has pointed out that protection against discrimination based on sex, including pregnancy, applies to all women regardless of whether they are married and has urged the Government to amend the Regulation.

The CEACR has noted several shortcomings in the legislation concerning sexual harassment and discrimination on the grounds of religion.

**Coverage of workers in law.** All workers.

**Ratification of ILO Conventions.** Indonesia ratified the Equal Remuneration Convention, 1951 (No. 100), on 11 August 1958 and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), on 7 June 1999.

**Sources.** ILO: NATLEX database; CEACR 2007 observations on the application of Conventions Nos. 100 and 111.

occupations can at least partially be attributed to the local government’s campaign to improve gender equality by increasing women’s participation rate in politics from 11 to 23 per cent and broadening women educational opportunities, particularly in secondary and higher education.<sup>1</sup> To a lesser degree, women have also progressed among professionals, while the biggest decline in female employment (by more than 10 percentage points over the same period) has been among skilled agriculture and fishery workers, from which the combination of very low average hourly wages and long working hours have driven

many women away in recent years (Ronnas and Kwong, 2011).

The gender wage gap is an important indicator of equal opportunity in the labour market. Before the 1997-98 financial crisis, the wage gap was 29 per cent, meaning that women’s wages amounted to only 71 per cent of men’s wages on average. After the crisis the gap narrowed significantly to 10 per cent. In 2001 the gender wage gap increased sharply, but the increase was short-lived and fell markedly the following year, to 22 per cent for regular employees and 19 per cent for all employees. Since then, the gap has fluctuated but has fallen overall from 18 per cent in 2003 to 7 per cent in 2011. Compared to the

<sup>1</sup> Further information on this campaign is available at [http://www.nttprov.go.id/ntt\\_09/index.php?hal=100hari](http://www.nttprov.go.id/ntt_09/index.php?hal=100hari)

### Legal framework indicator 10. Equal remuneration of men and women for work of equal value

**Law, policy or institutions.** Equal treatment before the law is guaranteed by Sections 27 and 28D of the Constitution; the right to be free from discriminatory treatment on any grounds whatsoever and the right to protection from such discriminatory treatment is guaranteed by Section 28I of the Constitution. According to the Manpower Act, every worker has the right to equal treatment (Article 6). The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has urged the Government to provide explicitly for the principle of equal remuneration for *work of equal value*. It has noted that Ministerial Regulation No. 48/MEN/2004 concerning company regulations and collective labour agreements provides a mechanism for the Government to examine compliance with the principles of non-discrimination. Additionally, a number of initiatives have been undertaken to implement the principle of equal remuneration, ranging from training programmes for employers, workers and government officials to labour inspections. The Minister of Manpower and Transmigration has issued a circular letter (SE/60/MEN/SJ-HK/2006) requesting the governors of provinces and heads of districts throughout the country to implement the Equal Employment Opportunity Guidelines.

**Evidence of implementation effectiveness.** The CEACR has not been provided with any details of the implementation of the Equal Employment Opportunity Guidelines, of its impact on the gender wage gap, or of the findings of the inspections carried out.

**Coverage of workers in law.** All workers.

**Ratification of ILO Conventions.** Indonesia ratified the Equal Remuneration Convention, 1951 (No. 100), on 11 August 1958 and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), on 7 June 1999.

**Sources.** ILO: NATLEX database; CEACR 2007 observations on the application of Conventions Nos. 100 and 111.

national average – 22 per cent for regular and 50 per cent for all employees in 2010 – this figure is low and thus positive. However, to determine whether this trend constitutes wider progress toward between quality employment for women

in East Nusa Tenggara is open to question, particularly due to the previously noted increases in both low pay and excessive hours, the latter of which has risen more rapidly among women than men in recent years (see Chapter 3 and 4).

**Table 7. Equal opportunity and treatment in employment**

Decent work indicator	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
<b>Occupational segregation by sex, ages 15+, %<sup>1</sup></b>	...	...	...	...	...	...	...	...	...	...	...	<b>22.29</b>	<b>24.37</b>	<b>26.63</b>	<b>19.78</b>	<b>31.89</b>
1. Legislators, senior officials and managers	...	...	...	...	...	...	...	...	...	...	...	47.21	46.79	48.34	55.25	53.39
2. Professionals	...	...	...	...	...	...	...	...	...	...	...	38.62	32.16	33.21	39.28	42.96
3. Technicians and associate professionals	...	...	...	...	...	...	...	...	...	...	...	30.94	38.34	34.82	37.37	42.81
4. Clerks	...	...	...	...	...	...	...	...	...	...	...	54.97	55.88	58.5	56.92	60.82
5. Service workers and shop and market sales workers	...	...	...	...	...	...	...	...	...	...	...	43.47	41.59	42.4	43.98	44.56
6. Skilled agricultural and fishery workers	...	...	...	...	...	...	...	...	...	...	...	62.4	60.72	58.47	60.12	51.32
7. Craft and related trade workers	...	...	...	...	...	...	...	...	...	...	...	4.5	3.13	1.99	3.3	3.31
8. Plant and machine operators and assemblers	...	...	...	...	...	...	...	...	...	...	...	36.03	33.87	27.59	31.83	32.43
9. Elementary occupations	...	...	...	...	...	...	...	...	...	...	...	2.32	2.77	13.02	4.19	4.6
10. Armed forces	...	...	...	...	...	...	...	...	...	...	...	43.81	41.98	42.06	43.99	43.72
<b>Female share of employment, ages 15+, %<sup>3</sup></b>	...	...	...	...	...	...	...	...	...	...	...	18.3	20.1	19.4	17.2	23.5
ISCO-88 (groups 11 and 12)	...	...	...	...	...	...	...	...	...	...	...	18.3	20.1	19.4	17.2	23.5
<b>Gender wage gap<sup>4</sup></b>																
Regular employees	29	29	20	14	10	32	10	18	7	12	2	0	3	6	7	7
All employees	29	29	20	14	10	34	15	13	4	11	2	1	2	3	5	9

<sup>1</sup> Based on ISCO-88; female employment as a percentage share of total employment.

<sup>2</sup> Based on ISCO-1968; female employment as a percentage share of total employment.

<sup>3</sup> ISCO-88 includes legislators and senior officials (group 11) and corporate managers (group 12); ISCO-1968 includes legislative officials and government administrators (group 20) and managers (group 21).

<sup>4</sup> Represents the percentage gap between male and female average real monthly wages.

Source: BPS: *Sakernas*.

## Summary assessment

Thanks to strong government commitment to promoting gender equality and concomitant policy measures, progress towards equal opportunity and treatment in employment in East Nusa Tenggara has been noteworthy. Since 2007 female employment opportunities in general have greatly increased, while the share of women in “prestigious” and “knowledge and skill-based” occupations has also improved and the wage gap between

men and women – already far smaller in the province than nationally – has narrowed significantly towards equality (i.e. men and women earning the same for the same job). However, to determine whether this trend constitutes wider progress toward between quality employment for women in East Nusa Tenggara is open to question, particularly due to the previously noted increases in both low pay and excessive hours, the latter of which has risen more rapidly among women than men in recent years (see Chapter 3 and 4).

## References

- BPS-Statistics East Nusa Tenggara. 2011. *Labour forces situation in East Nusa Tenggara August 2011* (East Nusa Tenggara).  
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# 8

## Safe work environment

The right to a safe and healthy working environment is at the heart of efforts to ensure decent work for all, since it is critical to ensuring that work is not only productive in an economic sense but also conducive to wider human development and the wellbeing of society. Attention is drawn to this right in the ILO Constitution, and it is further reaffirmed in the 1944 Declaration of Philadelphia and the 1998 Declaration on Social Justice for a Fair Globalization.

Regulations on occupational safety have existed in Indonesia since 1970. After the 1998–99 economic crisis and subsequent political reforms, the Government delegated the responsibility for enforcing occupational safety regulations to local governments. In 2007 the central Government revised its approach to occupational safety in favour of safety audits and a national competition encouraging firms to aim for “zero accidents.” It also established a tripartite National Occupational Safety and Health Council (NOSHC), comprising representatives of local government, businesses and trade unions, and charged it with formulating a national occupational safety policy. To increase the effectiveness of this campaign, the Government stipulated that businesses must report occupational accidents and diseases within 48 hours.

The responsibility for enforcing occupational safety regulations and policies at the provincial level under Indonesia’s Labour Inspection Act (see Legal framework indicator 12) is borne by the local units of the Manpower and Transmigration Division (*Disnakertrans*), an autonomous institution of the Ministry of Manpower and Transmigration, under the authority of the governor at the provincial level and the regent or major at the district level. Under this arrangement, a complex system of hierarchical control has emerged between *Dis-*

*nakertrans* and the MoMT, thus complicating and fragmenting the enforcement of labour inspection. In 2010 an attempt was made to rectify this by a presidential decree aimed at synchronizing the national and local labour inspection enforcement system.

A major weakness of Indonesia’s current Labour Inspection Act is that it does not cover workers in the agricultural sector. The law is based solely on the ILO’s Labour Inspection Convention, 1947 (No. 81), which focuses on industrial and commercial workplaces. The legal framework thus excludes large sections – and sometimes the majority – of the working population, thus potentially leaving them at a disadvantage in terms of efforts to promote safe work and improve occupational safety and health standards. This problem is particularly acute in agriculture-dominated provinces such as East Nusa Tenggara. In order to correct these imbalances and accelerate progress toward “safer work” in agriculture, the law needs to be amended, in conjunction with the ratification of the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

It is difficult to determine from available data whether enterprises and government in East Nusa Tenggara are making sustained progress in reducing occupational injuries. Between 2008 and 2009, the only years for which records are available, total reported occupational injuries fell sharply from 48 to 6 per year, possibly because of the increase in the number of labour inspectors during this period (see below). However, until consistent and verifiable records are available, it would be imprudent to make wider assertions in this area.

The achievement of safer work environments in Indonesia depends heavily on the availability of

### Legal framework indicator 11. Employment injury benefits

**Law, policy or institutions.** The 1945 Constitution states that every citizen has the right to social security (Article 28H(3)) and emphasizes the role of the State in providing universal coverage (Article 34(2)). Under the Workers' Social Security Act No. 3 of 1992, an employer with 10 or more employees or a monthly payroll of more than IDR 1 million has to insure his employees through the social security programme (*Jaminan Sosial Tenaga Kerja*, "*Jamsostek*"). Most enterprises that currently comply with the Act are formal sector enterprises. In 2006 the Department of Manpower and Transmigration issued a Ministerial Regulation (Guidelines on the implementation of the manpower social security programme, No. PER-24/MEN/VI/2006) to extending social security to self-employed workers. The National Social Security System Law No. 40 of 2004 provides a framework for a social security system but needs follow-up action to be implemented.

**Qualifying conditions.** Work injuries must be assessed by *Jamsostek*, based on a medical examination. There is no minimum qualifying period.

**Level and duration of benefits.** *Temporary disability:* The monthly benefit is 100 per cent of the insured's wage in the month before the disability began and is paid for the first four months, 75 per cent for the next four months, and 50 per cent thereafter until rehabilitation or the determination of permanent disability. *Permanent disability:* A lump sum is paid equal to 70 per cent of 80 months of the insured's wage in the month before the disability began, plus a monthly benefit of IDR 200,000 for 24 months. *Partial disability:* A lump sum is paid equal to 80 months of the insured's wage in the month before the disability began multiplied by the assessed degree of disability according to the schedule in the law.

**Financing.** Employer only (between 0.24 and 1.74 per cent of gross wages depending on the economic sector).

**Evidence of implementation effectiveness.** No information has been made available to the ILO's supervisory bodies.

**Coverage of workers in law.** N/A.,

**Coverage of workers in practice.** N/A.

**Ratification of ILO Conventions.** Indonesia has not ratified the Social Security (Minimum Standards) Convention, 1952 (No. 102) or the Employment Injury Benefits Convention, 1964 (No. 121).

**Sources.** Employees Social Security System (*Jamsostek*); ILO: NATLEX database; ISSA database.

**Table 8. Safe work environment**

Decent Work Indicator	2005	2006	2007	2008	2009	2010	2011
<b>Occupational injuries<sup>1</sup></b>	...	...	...	<b>48</b>	<b>6</b>	...	...
Total Injuries, non-fatal	...	...	...	44	6	...	...
Total Injuries leading to permanent disabilities	...	...	...	...	2	...	...
Total Injuries leading to temporary inability to work	...	...	...	3	...	...	...
Total Injuries not affecting time worked	...	...	...	41	4	...	...
Total Injuries, fatal	...	...	...	...	1	...	...
<b>Time loss due to occupational injuries, working days</b>	...	...	...	...	...	...	...
<b>Labour Inspection</b>							
Labour inspectors, total	...	...	16	20	41	...	...
Labour inspectors per 10,000 registered workers	...	...	0.2	0.2	0.4	...	...

<sup>1</sup> Includes all reported injuries, including fatalities and those resulting in permanent disability and temporary absence from work.

Source: East Java Manpower and Transmigration Division and MoMT administrative records.

### Legal framework indicator 12. Labour inspection (Occupational safety and health)

**Law, policy or institutions.** Manpower Act, Occupational and Safety Act No. 1 of 1970; Act No. 3 of 1951 on Labour Inspection. Decentralization, through the enactment of Act No. 22 of 1999 as amended by Act No. 32 of 2004 on local government and Government Regulation No. 25 of 2000, has challenged the application of Act No. 1 of 1970 and national oversight of labour inspection. In accordance with Presidential Decree No. 21 of 2010, the implementation of labour inspection is an integrated and coordinated system. (N.B. Labour inspection is *not limited* to occupational safety and health (OSH)). The labour inspectorate maintains a registry of workplaces and inspectors use standard checklists and report forms. Recruitment of labour inspectors is by competition; training lasts four months. Labour inspectors are civil servants and are independent in performing their duties as defined by the Manpower Act. They have the authority to enter any workplace without prior notice, may carry out any examination, test or enquiry, can provide education on OHS, can issue warnings and apply sanctions if necessary. The Manpower Act provides for the right of all workers to OSH protection (Article 86). Act No. 1 of 1970 applies to all workplaces within the jurisdiction of Indonesia.

Future plans for labour inspection include an increase in the number and quality of labour inspectors, an improvement in protection, institutional development and functional coordination, the development of networks inside and outside the country, and the improvement of the MoMT's management communications.

Every occupational accident or disease must be reported within 48 hours after the accident or its diagnosis.

The National Occupational Safety and Health Council (NOSHC) is a tripartite body responsible for OHS policy formulation and for drafting acts and government, presidential and ministerial regulations. The Council comprises representatives of employers, trade unions and government ministries, as well as experts from universities and research institutions. The main function of the NOSHC is to advise the Minister of Manpower and Transmigration in the field of occupational safety and health. The NOSHC also facilitates safety audits and conducts a safety campaign through a zero-accident competition. The MOMT assumes overall responsibility for coordination and cooperation between institutions and relevant sectors vis-à-vis the design and implementation of OSH plans and policies.

**Evidence of implementation effectiveness.** The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has noted the lack of resources faced by labour inspection units and has recalled the importance of labour inspection operating under a central authority. Presidential Decree No. 21 of 2010 has since been adopted. According to information received, there were 9,444,799 workers in the enterprises visited in 2007 and 14,047,272 in the course of 2970 visits in 2009.

**Coverage of workers in law.** N/A.

**Coverage of workers in practice.** N/A.

**Ratification of ILO Convention.** Indonesia ratified the Labour Inspection Convention, 1947 (No. 81), on 29 January 2004 but has not ratified its 1995 Protocol or the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

**Sources.** ILO: *Labour administration in Indonesia*, 2006; NATLEX database; INTEGRATION and LAB/ADMIN communications with MOMT; report submitted to the CEACR under Article 19; National Occupational Safety and Health Council: *Vision, mission, policy, strategy and programme of national occupational safety and health, 2007-2010*.

sufficient, well trained labour inspectors with a clear mandate and authority to enforce national and local legislation. Although the number of labour inspectors in East Nusa Tenggara doubled between 2007 and 2009 from 16 to 41, the *ratio* of inspectors per 10,000 registered workers remained extremely low at just 0.4 in 2009, i.e., only 1 labour inspector for every 25,000 workers. This shortage of personnel affects not only the number of inspections conducted but also the quality of each inspection, shortcomings that

are not reflected in the current labour inspection data.<sup>1</sup>

Even though Indonesia has not ratified the Employment Injury Benefits Convention, 1964 (No. 121), workers' rights are guaranteed in national legislation (see Legal framework indicator 11). Under Act No. 3/1992 on workers' social

<sup>1</sup> The same is true of Indonesia's decent work statistics (see ILO, 2011 for further information).



security, for example, all formal sector employers employing 10 or more employees are required to insure their employees against on-the-job injuries through *Jamsostek*'s insurance programme, a state-owned enterprise mandated to provide occupational injury insurance. Attempts were made in 2006 to broaden the scope of this insurance to self-employed and informal sector workers, through a voluntary employment injury benefit programme run by *Jamsostek*.<sup>2</sup>

### Summary assessment

The 1951 Labour Inspection Act as it stands is confined to industrial and commercial workplaces, and this undermines somewhat progress toward safe work environments in what is a still

a predominantly agricultural province. This Act is due to be amended in line with the ILO Labour Inspection (Agriculture) Convention, 1969 (No. 129). Although limited additional data is available to inform any assessment of recent progress, the rising number of labour inspectors between 2007 and 2009 is likely to have been instrumental in reducing workplace injuries in the province. However, under-reporting is likely to be widespread, and this undermines the credibility of the data in its current form.

Without improvements to administrative record collection, it will remain impossible to determine the current situation or recent progress toward “safe work” objectives in East Nusa Tenggara.

### References

ILO. 2011. *Decent Work Country Profile – Indonesia* (Geneva).

<sup>2</sup> See <http://www.jamsostek.co.id/content/1.php?mid=3&id=58> for more information about this programme.

# 9 Social security

Indonesia is still struggling to provide comprehensive social protection to all members of society. Although the country has not yet ratified the ILO's Social Security (Minimum Standards) Convention, 1952 (No. 102), in 2004 the Government adopted Act No. 40 on the National Social Security System, which accommodated both the ILO convention and the 1948 United Nations Declaration of Human Rights. This law sets out the conditions for universal social security coverage with compulsory contributions and provides for subsidies for those who cannot afford to pay premiums.

In general the law follows the basic principles of social security administration by covering all citizens and foreign nationals who have worked for at least six months in Indonesia and have contributed directly to the system through their employer or a government scheme. It provides for five social security programmes: health insurance, work accident insurance, old age pension, pension insurance (provident fund), and life insurance.<sup>1</sup>

Several problems remain, however, not least the fact that the law is yet to be fully enforced nationwide. Moreover, services are provided by four separate administrative bodies, and recent efforts to merge these carriers under a single social security body (the *Badan Penyelenggara Jaminan Sosial* (BPJS)) have encountered considerable opposition from both employers' and workers' organizations (see Legal framework indicators 13,

14, and 15).<sup>2</sup> The opposition is in reaction to the payment scheme. Under the BPJS Act, all workers are required to pay 7.5 per cent of their wage or earnings into the benefit scheme. Trade unions see the scheme as a threat to workers' take-home pay, while employers see it as an additional labour cost that decreases their competitiveness.<sup>3</sup> In its current form, moreover, the law still excludes informal workers, who account for around 60 per cent of all employed workers in Indonesia, and more in some provinces.

In the decentralization era, central government institutions are no longer the sole providers of social security. After a judicial review of the National Social Security System Act in 2005, it was announced that local governments could provide health benefits locally in addition to those provided nationally. There are therefore two local health benefit programmes that are financed out of the local government budget: *Askesda*, which is a healthcare benefit that targets the poor, and *Jamkesda*, which is based on local citizenship (i.e., persons registered in a given regency or city).

<sup>1</sup> Owing to a number of factors including the large size of the population, the Government has not been able to include unemployment benefits.

<sup>2</sup> There are six major social security programmes: *Asabri*, which manages pension benefits for military and police personnel; *Taspen*, which manages pension benefits for the public service; *Jamsostek*, which provides pension and employment injury benefits for private sector employees; *Askes*, which handles healthcare and maternity benefits for all military and non-military government personnel; *Jamkesmas*, which specializes in healthcare benefit for the poor; and *Jamsosda*, the social security programme that is provided by each local government. Additional information on Indonesia's social security system is available at <http://www.jamsosindonesia.com/english/cetak/3>.

<sup>3</sup> According to the Indonesia Social Security Institute, the opposition also comes from existing social security institutions, which reject the central Government's idea of merging *Jamsostek*, *Asabri*, *Taspen*, and *Askes* into BPJS. Instead, they demand that the Government reform each institution according to the National Social Security System Law and provide the necessary assistance during the transitional period.

### Legal framework indicator 13. Pension

**Law, policy or institutions.** The 1945 Constitution states that every citizen has the right to social security (Article 28H(3)) and emphasizes the role of the State in providing universal social security coverage (Article 34(2)). Under Act No. 3 of 1992 concerning Workers' Social Security, an employer with 10 or more employees or a monthly payroll of more than IDR 1 million has to insure his employees through the social security programme (*Jaminan Sosial Tenaga Kerja*, known as *Jamsostek*). In 2006 the MOMT issued a Ministerial Regulation (Guidelines on the implementation of the manpower social security programme for workers undertaking jobs outside the framework of industrial relations, No. PER-24/MEN/VI/2006) which extended social security to self-employed workers. *Taspen* is the fund for civil servants and provides a retirement lump-sum and a pension programme; *Asabri* is the fund for the armed forces and police. The National Social Security System Act No. 40 of 2004 provides a framework for a social security system, but follow-up action is needed for its implementation.

**Qualifying conditions.** 55 years old.

**Contributions.** Employees: 2 per cent of monthly earnings. Employers: 3.7 per cent of payroll.

**Level and duration of benefits.** At the age of 55, a lump sum is payable that is equal to total employee-employer contributions plus accrued interest; optionally, a periodic pension may be paid to members with more than IDR 50 million in their provident fund account. The lump sum may be claimed after lay-off if the employee has contributed for at least five years.

**Evidence of implementation effectiveness.** No information has been made available to the ILO's supervisory bodies.

**Coverage of workers in law.** N/A

**Coverage of workers in practice.** 11 per cent of the employed population in the formal economy are members of *Jamsostek*.

**Ratification of ILO Conventions.** Indonesia has not ratified the Social Security (Minimum Standards) Convention, 1952 (No. 102).

**Sources.** Employees Social Security System (*Jamsostek*); LO: NATLEX database; ISSA database.

### Legal framework indicator 14. Incapacity to work due to sickness/sick leave

**Law, policy or institutions.** Manpower Act, Article 93(2)a): Wages must be paid if the worker is ill. All workers in an employment relationship with an entrepreneur are covered.

**Qualifying conditions.** Illness must be certified by a physician.

**Level and duration of benefits.** Manpower Act, Article 93(3): First 4 months = 100 per cent of wages; second 4 months = 75 per cent of wages; third 4 months = 50 per cent of wages; subsequent months = 25 per cent of wages prior to termination of employment by the employer. A female worker/labourer who has a miscarriage is entitled to a period of leave of one-and-a-half months, or as determined in the medical statement issued by the obstetrician or midwife (Manpower Act, Article 82(2)).

**Financing.** N/A.

**Evidence of implementation effectiveness.** No information has been made available to the ILO's supervisory bodies.

**Coverage of workers in law.** N/A.

**Coverage of workers in practice.** N/A.

**Ratification of ILO Conventions.** Indonesia has not ratified the Social Security (Minimum Standards) Convention, 1952 (No. 102), or the Medical Care and Sickness Benefits Convention, 1969 (No. 130).

**Source.** ILO: NATLEX database.

### Legal framework indicator 15. Incapacity to work due to invalidity

**Law, policy or institutions.** The 1945 Constitution states that every citizen has the right to social security (Article 28H(3); see also Manpower Act, Article 99) and emphasizes the role of the State in providing universal social security coverage (Article 34(2)). Under Act No. 3 of 1992 concerning Workers' Social Security, an employer with 10 or more employees or a monthly payroll of more than IDR 1 million must insure all employees in the social security programme (*Jaminan Sosial Tenaga Kerja*, known as *Jamsostek*). The National Social Security System Act No.40 of 2004 provides a framework for a social security system but follow-up action is needed for its implementation. In 2006 the Department of Manpower and Transmigration issued a Ministerial Regulation (Guidelines on the implementation of the manpower social security programme for workers undertaking jobs outside the framework of industrial relations, No. PER-24/MEN/VI/2006) extending social security to informal workers.

**Qualifying conditions.** A medical doctor must certify the incapacity.

**Contributions.** Employees (2 per cent of monthly earnings); employers (3.7 per cent of payroll).

**Level and duration of benefits.** Workers under the age of 55 with total permanent incapacity for work as a result of a work injury are entitled to a lump-sum payment equal to total employee-employer provident fund contributions plus accrued interest; optionally, a periodic pension may be paid to members with more than IDR 50 million in their provident fund account.

**Evidence of implementation effectiveness.** No information has been made available to the ILO's supervisory bodies.

**Coverage of workers in law.** N/A.

**Coverage of workers in practice.** N/A.

**Ratification of ILO Conventions.** Indonesia has not ratified the Social Security (Minimum Standards) Convention, 1952 (No. 102).

**Sources.** Employees Social Security System (*Jamsostek*); ILO: NATLEX database; ISSA database.

Lack of data prevents a full picture from emerging with regard to recent progress in the area of social security and social protection. Records of pension coverage, for example, are confined to the year 2003, when it was 15.3 per cent.<sup>4</sup> Moreover, progress differs according to whether the province is measured against its own recent standards or those of the country as a whole. In the case of public healthcare coverage, for instance, the share of households benefitting from free (i.e. state-subsidized) health services in the province has fallen dramatically since 2007 (down 14 percentage points to 26 per cent in 2010), as illustrated in Table 9. Yet this figure is still higher than the national average, which in 2010 stood at 16 per cent. The sharp decline in coverage since 2003 might point to the importance of foreign assistance in the province's healthcare programme. East Nusa Tenggara was a major aid recipient in healthcare from the Germany's health sector support programme from

September 1999 to 2006; when this aid ended in 2010, subsidies from the central government ended and no replacement source of local financing was found, thus leaving the entire scheme in jeopardy.

The availability of healthcare facilities is equally important for ensuring a healthy and productive workforce, although data obviously cannot provide an insight into the quality of the care provided. As shown in Table 9, the number of healthcare facilities has increased since the late 1990s; in 2010 there were 30 hospitals in the province, an increase of four since 1996. At the same time, the number of public healthcare centres increased by over half, from 203 to 309.

Unlike healthcare benefits, pension benefits are provided by the central government through the *Jamsostek* social security fund. In absolute numbers, membership of this fund in the province has been rising since 2008, with an increased number of employees and companies taking part. As a share of the employed, workers' participation in *Jamsostek* has increased by 3.2 per cent cumula-

<sup>4</sup> There are two programmes, the SISKES (<http://www.ighealth.org/en/project/detail/2/SISKES>) that began in 1999 and the HRD (<http://www.ighealth.org/en/project/detail/3/HRD>) that began in 2005.

Table 9. Social security

Decent work indicator	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
<b>Share of population aged 60 and above benefiting from old-age pension,%<sup>1</sup></b>	...	...	...	...	...	...	...	...	...	7.9	...	...	...	...	...	...
<b>Number of health facilities<sup>2</sup></b>																
Hospitals	24	24	24	24	24	24	24	...	24	25	25	25	26	29	30	...
Public health centres (Puskesmas)	203	206	208	210	210	210	211	218	220	228	251	253	278	288	309	...
<b>Percentage of households that received free health services<sup>3</sup></b>	...	...	...	...	...	...	29.5	39.4	38.2	37.4	35.6	39.9	34.4	39.9	25.8	...
<b>Participation in workers' social security fund<sup>4</sup></b>																
All workers	...	...	...	...	...	...	...	...	...	...	...	...	51,782	55,071	58,302	58,561
As share of employed	...	...	...	...	...	...	...	...	...	...	...	...	24.8	25.5	28.3	28
Informal workers	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Companies	...	...	...	...	...	...	...	...	...	...	...	...	2,384	2,512	2,678	2,876

<sup>1</sup> BPS SUPAS.

<sup>2</sup> Ministry of Health: *Health Profile of Indonesia*; and *Pusdatinkes*.

<sup>3</sup> BPS *Susenas* reports.

2002-04: Percentage of household having health cards.

2005: Percentage of households owning a poverty warrant and using it in the three-month reference period.

2006-09: Percentage of households receiving health services free of charge during the six-month reference period. Free health service may come in the form of insurance for poor people, an oil-subsidy card, a health card, or in some other forms).

<sup>4</sup> East Nusa Tenggara Manpower and Transmigration Division (*Disnakertransduk*) administrative records, *Jamsostek*.

tively since 2008, reflecting a successful attempt by *Jamsostek* (on behalf of the central government) to improve its coverage.

## Summary assessment

In terms of social security the provincial government has made significant efforts to increase social protection coverage. At the national level *Jamsostek* (*Jaminan Sosial Tenaga Kerja*, or social insurance for workers) has successfully increased the coverage of health and pension

benefits in the last four years. *Jamsostek* has expanded its membership not only among workers as individuals but among companies as well. Development assistance from Germany made it possible to extend healthcare coverage across the population, but this effort has proven unsustainable amid a lack of internal funding from the provincial administration. Moreover, with regard to pensions, coverage within the eligible population remained at little more than a third of the national figure in the most recent year (2005 at the provincial level, and 2003 at the national level).

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# 10 Social dialogue, workers' and employers' representation

During the “New Order” era of the mid-1960s, industrial relations were tightly controlled by the central government. The Government recognized only one trade union, a policy intended to ensure political stability for the country’s state-led industrialization strategy. However, in the *Reformasi* era and following the 1997 financial crisis, industrial relations underwent considerable transformation and liberalization. In 1998 Indonesia ratified the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and in 2000 it enacted a Trade Unions Act that gave workers freedom to establish unions and conduct collective bargaining with the management (see Legal framework indicators 16 and 17). More than a decade after these important reforms, labour policy in Indonesia today is rarely discussed on any substantive level without the tripartite involvement of unions, employers and the Government).<sup>1</sup>

Under the decentralized structure of governance, local governments play an important role in maintaining a dialogue between employees and employers and promoting industrial harmony and productivity. Early in the decentralization period, the central government used bipartite mechanisms to build a consensus between trade unions and employers’ associations in local industrial relations. However, following the difficulty of resolving some minimum wage and lay-off compensation issues, the Government issued new regulations in 2010 providing for local government

involvement through a fully tripartite mechanism. Under this tripartite system, the local government became the mediator between trade unions and employers’ association, bridging conflicts of interest in crucial cases at the provincial and sub-provincial (regency and city) level.

The trade union landscape in East Nusa Tenggara is characterized by low union membership, few organizations and a correspondingly low union density rate. As shown by Table 10, there were only three registered trade unions in 2009, with a combined membership of 3,425. In terms of union density, this meant that only 1.1 per cent of total employees belonged to a registered union. As a percentage of total employment, the rate was even lower at 0.15 per cent. Low union density has serious implications for workers’ representation in discussions with their employers, especially on minimum wage and internal regulations where considerable bargaining skill is called for.

Knowledge and experience in collective bargaining among employers and workers remains limited, not only in East Nusa Tenggara but nationwide. Some 370 enterprise level agreements between trade unions and company management were ratified by the provincial government in 2009,<sup>2</sup> but there are no data on other years for purposes of comparison and none on collec-

<sup>1</sup> For the history of Indonesia’s industrial relations, see Ahmat (2010) and Rahayu and Sumarto (2003).

<sup>2</sup> The Government imposes a strict procedure for enterprise level agreements, which are formalized collective agreements between employers and workers and compulsory for all enterprises employing at least ten workers. There is only one agreement for each enterprise. After an agreement has been reached, it should be reported (though there is no sanction for not reporting) to the local *Disnakertrans* for registration.

### Legal framework indicator 16. Freedom of association and the right to organize

**Law, policy or institutions.** According to Section 28E(3) of the 1945 Constitution, every citizen has the freedom to associate, to assemble and to express opinions. The right to form and join a trade union or an entrepreneurs' organization is guaranteed by the Manpower Act and the Trade Unions Act. A trade union is formed by at least 10 workers. Trade unions have to be registered (Trade Unions Act, Article 20); they are required to respect the *Pancasila* (national ideology) and the 1945 Constitution (Trade Unions Act, Articles 2 and 3). The formation of federations and confederations is provided for by law (Trade Unions Act, Articles 6 and 7). Anti-union activities are prohibited by Article 28 of the Trade Unions Act and penalized by Article 43. Act No. 21 imposes penal sanctions on any person who engages in certain anti-union activities. Strikes are legal if they are the result of failed negotiations and are conducted legally and peacefully (Manpower Act, Article 137). Written notification of a strike must be given to the employer and the local government seven days prior to the strike. The employer cannot replace striking workers or punish them (Manpower Act, Article 144).

The CEACR has noted that several aspects of the legislation are not in line with Conventions No. 87 and 98 and has asked the Government to repeal or amend a number of sections of the law or to take action in several domains.

Concerning enterprise level relations, Article 106 of the Manpower Act requires that a "Bipartite Cooperative Agency" has to be established in every enterprise employing 50 or more workers to communicate, consult and deliberate on labour issues in the enterprise.

*Workers covered by the law:* The Manpower Act and the Trade Unions Act do not apply to civil servants, the police and the military, or to private security guards trained by the police or military. The right to organize has been granted but there are no specific regulations on the subject for civil servants.

**Additional Information.** The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has made a number of recommendations to the Government of Indonesia regarding freedom of association and the right to organize at the national level, including a request to amend the Criminal Code and Manpower Act. For more information on these recommendations, please see <http://www.ilo.org/dyn/normlex/en/f?p=1000:20010:0::NO::>

**Evidence of implementation effectiveness.** There are three active cases before the Committee on Freedom of Association. The CEACR has noted a suggested failure to provide protection against anti-union discrimination and interference in practice.

**Coverage of workers in law.** N/A.

**Coverage of workers in practice.** See Table 10 (above), union density rate.

**Ratification of ILO Conventions.** Indonesia ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), on 9 June 1998 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), on 15 July 1957.

**Sources.** ILO: NATLEX database; CEACR 2009 comments on the application of Conventions Nos. 87 and 98.

tive agreements at the sectoral level, which are typically more comprehensive in terms of workplace issues covered. Moreover, of the agreements that are recorded, there is no indication of the quality of these agreements or the issues covered, nor of whether they have been effectively enforced.

According to official data, there was only labour one strike in the province in 2011, involving 114 workers and 147 working hours lost. How-

ever, the lack of information regarding this strike makes further analysis impossible.

The generally weak presence of trade unions may be related to province's low level of development and the continued dominance of the informal sector and agriculture in total employment. Unions tend to have a stronger presence in manufacturing-dominated economies than in rural agrarian ones, where farmers' associations tend to be more prevalent as an alternative to unions.

### Legal framework indicator 17. Collective bargaining

**Law, policy or institutions.** The Manpower Act and the Trade Unions Act regulate collective bargaining. A registered trade union has the right to negotiate a binding collective agreement with an enterprise if more than 50 per cent of the workers of the enterprise are members of the trade union or if more than 50 per cent of the workforce support the trade union in its endeavour to conclude an agreement (Manpower Act, Article 119). If the trade union does not have this support, it must wait six months before another vote can be held. A collective agreement must be concluded within 30 days of the start of negotiations. It is valid for two years and may be extended for a maximum of one more year. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has noted that several provisions of the law are not in line with Conventions Nos. 87 and 98 (including the six-month waiting period and the compulsory presence of the employer during the vote).

**Evidence of implementation effectiveness.** See Legal framework indicator 18: Freedom of association.

**Coverage of workers in law.** N/A.

**Coverage of workers in practice.** See Table 10 (above), collective bargaining coverage rate.

**Ratification of ILO Conventions.** Indonesia ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), on 9 June 1998 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), on 15 July 1957.

**Sources.** ILO: NATLEX database; CEACR 2009 comments on the application of Conventions Nos. 87 and 98.

**Table 10. Social dialogue, workers' and employers' representation**

Decent work indicator	2005	2006	2007	2008	2009	2010	2011
<b>Union density</b>							
Unadjusted net density rate, % of total employment	...	...	...	...	0.15	...	...
Unadjusted net density rate, % of total employees	...	...	...	...	1.1	...	...
Trade union membership, total	...	...	...	...	3,425	...	...
Registered trade unions, total	...	...	...	...	3	...	...
<b>Total registered companies in <i>Disnakertransduk</i><sup>1</sup></b>	...	...	...	...	...	...	...
<b>Total membership of Employers' Association Indonesia (APINDO)</b>	...	...	...	...	<b>6</b>	...	...
<b>Collective bargaining<sup>2</sup></b>							
Company regulations, total	...	...	...	...	370	...	...
Collective labour agreements, total	...	...	...	...	...	...	...
<b>Strikes and lockouts, total incidences</b>	...	...	...	...	...	...	<b>1</b>
Workers involved	...	...	...	...	...	...	114
Working hours lost	...	...	...	...	...	...	147
Working days lost	...	...	...	...	...	...	...

<sup>1</sup> *Disnakertransduk* is the provincial government's Manpower and Transmigration Division

<sup>2</sup> Company regulations reflect enterprise-level agreements; collective labour agreements reflect sector-level agreements.

Sources. East Java Manpower and Transmigration Division and Ministry of Manpower and Transmigration administrative records.



### Legal framework indicator 18. Tripartite consultations

**Law, policy or institutions.** A Tripartite Cooperation Institution, comprising an equal number of representatives of the Government and workers and employers, provides opinions and recommendations to the Government and other parties involved in policy making and problem solving concerning labour issues (Manpower Act, Article 107; Government Regulation No. 46/2008). Presidential Decree No. 37 of 2009 concerning representatives of institutionalized tripartite forums at the national, provincial and district level requires the appointment of 15 representatives (five representatives of the workers, of the employers and of the Government) as members of the forums. Currently, there is one institution at the national level, 29 at the provincial level and 195 at the district level. Not all of these institutions are functional.

**Evidence of implementation effectiveness.** The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has noted that in 2008 and 2009, the Tripartite Cooperation Institution's activities included social dialogue and consultation at the provincial level, discussions concerning the global economic crisis and an audience with the President of the Republic and the Parliament. No information was made available to the CEACR about tripartite consultations on international labour standards; technical assistance was offered.

**Ratification of ILO Conventions.** Indonesia ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), on 17 October 1990.

**Sources.** ILO: NATLEX database; CEACR 2009 observation on the application of Convention No. 144.

### Legal framework indicator 19. Labour administration

**Law, policy and institutions.** *Act No. 2 of 2004 on local government:* In accordance with Ministerial Regulation No. 14/MEN/VII/2005 the MoMT promotes the continuing improvement and strengthening of labour administration for the successful implementation of the national manpower policy as a component of national development. The MoMT has a General Secretariat, a General Inspectorate, a Research, Development and Information Board and six Directorates General in charge of training and productivity, manpower placement, industrial relations and workers' social security, labour inspection, transmigration, and community development. Each directorate has a system of reporting the implementation of activities and data from regional to central government, though according to the Government the system is not running well. Each Directorate General is supported by a secretariat and a division of programme evaluation and report, division of finance, division of legal affairs and foreign technical cooperation, and division of personnel and general affairs. No workers are excluded from the scope of the MoMT.

The Research, Development and Information Board has an employment database (Ministerial Decision MoMT No. 250 of 2008 concerning the classification and characteristics of employment data and information) which it is still refining. The database will be linked with the institution responsible for employment in the province of district/city. Each Directorate General and regional government has an online reporting system (job fair, foreign labour, labour inspection, industrial relations, training).

To support administrative functions at the province and district/city level, the MoMT allocates funding to each province, which is then distributed to specific districts/cities that report employment data and information on implementation on a continuous basis. The budget allocation is still partial, but one of the Directorates that has been allocated a budget is the Directorate General of Industrial Relations and Labour Social Security.

**Evidence of implementation effectiveness.** According to a Government communication, financing of labour administration is an area to be improved.

**Ratification of ILO Conventions.** Indonesia has not ratified the Labour Administration Convention, 1978 (No. 150); it ratified the Labour Inspection Convention, 1947 (No. 81) on 29 January 2004.

**Sources.** ILO: *Labour administration in Indonesia*, ILO Office in Indonesia, 2006; CEACR direct request regarding Convention No. 81; MoMT.

### Summary assessment

Data on social dialogue and employers' and workers' representation in East Nusa Tenggara are quite inadequate and as such render a thorough assessment of progress impossible. From the available data, it appears that unions remain of marginal importance in the province – a case in point being the low share of the labour force that is unionized. This itself may be related to the relatively low level of development in the province, as well as the predominance of agricultural employment (where unionization – in Indonesia and elsewhere in the

region – is typically low compared with other sectors). Similarly, data on collective bargaining cannot confirm anecdotal evidence suggesting that unions are making progress in developing social dialogue at the enterprise and sectoral level.

There is little reliable data on employers' representation; the sole year for which figures are available, 2009, shows just six firms as being members of the Indonesian Association of Employers (APINDO). Information on strikes and lockouts is likewise available for a single year only and is of little current use as an indicator of progress in social dialogue.

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## Annex

Table 1. Adequate earnings and productive work by region

Decent work indicator	2005	2006	2007	2008	2009	2010
<b>Minimum wage as a percentage of median wage, %<sup>1</sup></b>						
Regular employees						
Sumatera	72.3	83.0	88.2	88.8	86.6	96.2
DKI Jakarta	79.1	81.9	85.0	85.3	83.8	77.9
West Java	58.3	56.0	62.9	65.3	63.5	63.6
Central Java – Yogyakarta	76.0	76.5	90.9	92.0	91.2	86.1
East Java	56.7	55.7	64.1	71.4	75.5	74.1
Banten	71.7	73.5	82.9	104.6	72.6	79.6
Bali – Nusa Tenggara	75.8	76.1	79.4	78.9	79.5	83.8
Kalimantan	64.4	68.6	68.4	78.4	71.3	77.7
Sulawesi	74.5	82.0	92.8	95.7	103.0	93.0
East Nusa Tenggara	59.8	55.8	61.5	64.8	58.1	64.8
Papua	56.9	56.7	70.5	70.0	72.6	69.4
All employees						
Sumatera	83.4	92.2	97.9	99.5	101.6	96.2
DKI Jakarta	80.9	81.9	87.9	85.3	85.6	79.9
West Java	68.0	74.6	77.6	81.2	83.8	79.0
Central Java – Yogyakarta	86.9	90.3	100.0	104.2	107.8	97.9
East Java	75.6	78.0	89.7	90.9	95.0	91.3
Banten	74.1	82.7	87.8	113.1	80.8	83.1
Bali – Nusa Tenggara	91.0	96.8	102.2	99.5	102.8	104.8
Kalimantan	66.5	73.5	75.2	85.1	76.4	85.5
Sulawesi	86.9	87.8	102.7	109.9	118.7	103.4
East Nusa Tenggara	68.3	60.6	70.6	73.7	64.9	70.3
Papua	63.4	63.3	73.1	73.7	74.3	70.6
<b>Share of workers not covered in practice (Statutory minimum wages), %<sup>2</sup></b>						
Nanggroe Aceh Darussalam	32.2	36.9	32.6	42.8	49.7	45.6
Male	32.1	34.0	27.1	40.2	48.6	43.1
Female	32.5	43.3	45.9	49.1	51.7	50.6
North Sumatera	35.2	43.7	45.1	47.0	37.6	42.6
Male	28.1	38.2	38.1	41.7	29.8	36.5
Female	52.8	56.6	61.7	59.1	54.3	55.8
DKI Jakarta	28.4	34.5	37.2	41.7	36.7	33.6
Male	22.6	26.6	34.2	35.1	28.9	26.5
Female	40.5	47.1	42.3	51.6	48.1	44.8
West Java	20.6	20.5	23.8	27.7	28.1	25.4
Male	16.4	17.4	20.6	24.1	23.3	20.5
Female	31.5	27.7	31.8	35.3	37.2	35.2
Central Java	28.6	34.0	43.6	45.2	43.3	39.5
Male	19.8	22.0	34.1	37.1	32.9	31.2

Decent work indicator	2005	2006	2007	2008	2009	2010
Female	42.9	54.4	59.5	56.7	57.4	51.7
East Java	20.4	19.2	27.1	31.8	35.2	34.3
Male	12.6	12.3	20.3	26.1	27.3	26.4
Female	33.9	32.4	39.6	42.2	48.0	47.4
Banten	16.2	25.9	30.7	52.1	25.7	28.3
Male	11.6	19.8	26.8	44.0	22.2	24.9
Female	26.3	39.2	38.6	68.2	32.4	35.0
East Nusa Tenggara	30.5	39.3	34.7	37.7	38.7	43.0
Male	30.6	40.4	38.5	39.7	40.3	41.2
Female	30.3	37.2	26.4	33.4	35.1	46.2
East Nusa Tenggara	22.3	23.4	27.9	33.9	32.4	30.5
Male	20.0	20.6	24.5	31.8	29.2	27.5
Female	26.9	29.5	35.6	39.0	39.1	35.4
Papua	13.8	25.4	30.2	30.9	34.4	32.2
Male	10.8	22.0	28.4	27.4	33.0	30.9
Female	25.3	37.1	36.0	41.5	38.2	35.9

<sup>1</sup> Based on weighted average of provincial statutory minimum wage. "All employees" includes regular and casual employees.

<sup>2</sup> Share of regular employees earning less than the statutory provincial minimum wage. Based on weighted average of provincial statutory minimum wage.

Source: BPS: *Sakernas*.

**Table 2. Decent working time by region**

Decent work indicator	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
<b>Excessive hours (more than 48 hours per week), %<sup>1</sup></b>															
Sumatra	22.0	22.7	21.3	20.9	21.4	22.9	19.3	19.7	22.6	22.4	23.2	26.8	26.5	25.7	29.1
DKI Jakarta	34.2	33.9	35.0	34.1	34.6	35.0	36.5	35.2	36.5	39.2	38.0	37.1	38.5	36.8	48.4
West Java	26.9	29.5	26.3	26.0	25.2	27.9	28.0	27.4	30.9	29.8	29.2	32.6	32.9	32.0	37.2
Central Java – Yogyakarta	26.7	27.8	25.6	26.0	27.0	28.7	27.7	25.7	28.7	24.8	27.0	28.9	29.7	29.6	33.1
East Java	28.2	28.0	26.3	26.2	26.3	28.4	23.9	25.4	27.4	24.2	26.8	30.0	29.8	29.7	32.7
Banten	...	...	...	...	...	26.9	20.5	25.4	25.0	25.2	28.6	31.9	31.2	30.9	35.8
Bali-Nusa Tenggara	18.6	23.2	20.4	22.5	20.6	24.3	21.8	20.9	20.2	20.8	21.0	26.2	24.2	24.9	28.2
Kalimantan	22.8	27.3	24.3	26.6	26.4	27.8	24.8	24.6	29.3	25.1	25.6	29.3	28.1	27.6	30.3
Sulawesi	18.0	22.8	18.4	19.2	18.7	21.4	21.4	18.1	20.6	20.7	24.4	27.1	26.3	25.9	27.4
East Nusa Tenggara	15.4	15.5	15.6	18.7	...	26.2	18.8	19.3	20.7	16.7	20.6	22.8	21.5	23.0	25.9
Papua	9.8	11.0	11.5	10.4	13.6	11.3	10.8	11.1	13.4	9.6	13.1	17.0	15.1	14.5	15.3
<b>Average weekly hours of work<sup>2</sup></b>															
Sumatra	37.7	38.3	37.9	37.9	38.5	39.3	38.5	38.3	39.5	39.5	39.6	40.0	39.9	39.1	39.8
DKI Jakarta	48.2	47.9	47.5	47.4	47.8	48.5	49.5	48.6	49.2	49.1	49.0	49.1	49.3	48.9	50.6
West Java	40.0	41.5	39.5	39.7	40.2	41.1	41.3	41.2	43.1	43.0	42.4	43.2	43.5	43.6	43.9
Central Java – Yogyakarta	38.2	38.7	37.6	38.5	39.5	40.1	39.9	39.2	40.3	39.9	40.0	40.6	41.1	40.7	41.1
East Java	38.1	38.4	37.0	37.7	38.4	39.2	38.2	38.4	39.5	38.6	39.6	40.5	40.6	40.2	40.6
Banten	...	...	...	...	...	42.4	40.1	42.4	41.9	41.7	43.0	43.6	43.5	43.9	44.8
Bali-Nusa Tenggara	34.2	36.0	35.3	36.2	36.0	37.7	35.9	35.4	36.1	35.9	36.4	38.2	37.3	37.9	38.5
Kalimantan	37.9	39.5	38.5	39.6	40.4	40.4	40.2	39.8	41.8	39.9	40.6	40.9	40.5	40.9	39.9
Sulawesi	34.3	37.3	35.2	35.3	35.9	36.7	36.4	36.0	36.7	36.4	37.6	38.9	38.3	38.3	37.7
East Nusa Tenggara	34.2	36.4	35.5	36.0	...	38.3	38.4	37.7	40.3	38.1	37.8	38.9	37.6	38.7	38.6
Papua	32.6	33.6	34.4	33.5	35.2	35.1	35.1	35.6	36.5	36.8	35.5	38.9	38.7	37.7	37.6
<b>Time-related underemployment rate, %<sup>3</sup></b>															
Sumatra	11.5	13.3	8.7	14.8	13.6	13.0	14.3	14.1	14.2	15.1	14.6	15.3	15.0	16.4	14.9
DKI Jakarta	3.2	3.8	3.4	5.1	3.9	3.9	2.8	3.3	3.1	3.7	3.9	4.0	4.8	4.7	3.8
West Java	10.4	10.7	9.6	14.7	13.3	12.4	11.5	12.5	12.1	11.8	13.4	14.0	14.0	12.3	12.5
Central Java – Yogyakarta	12.1	12.4	10.4	14.0	12.4	11.2	11.7	12.3	12.7	13.9	12.8	15.4	14.0	14.3	13.1
East Java	13.7	14.6	11.5	16.5	14.9	13.8	14.7	16.8	17.4	15.8	16.6	16.5	16.0	16.7	15.6
Banten	...	...	...	...	...	9.2	10.0	8.7	12.4	13.5	10.1	12.5	12.3	10.2	11.0
Bali-Nusa Tenggara	15.4	14.9	13.6	20.2	16.6	14.4	16.1	19.4	21.2	20.5	18.1	16.9	18.3	18.5	18.3
Kalimantan	13.0	12.9	9.3	16.1	13.3	12.1	14.1	13.9	10.9	16.3	15.2	15.5	14.1	13.6	14.9
Sulawesi	16.5	14.8	9.8	17.8	15.1	16.5	18.5	19.7	19.5	20.8	18.4	16.5	17.2	16.5	17.5
East Nusa Tenggara	12.2	10.3	10.6	13.7	...	16.0	10.5	17.3	5.6	16.8	17.5	14.8	17.4	16.0	16.2
Papua	16.2	15.6	9.7	20.2	18.2	20.0	20.1	24.0	19.5	15.0	18.5	9.2	7.8	13.4	14.9

<sup>1</sup> Percentage of employed persons working more than 48 hours per week in all jobs as a percentage share of total employed persons, based on actual hours worked.

<sup>2</sup> Average weekly hours of work of all employed persons in all jobs, based on actual hours worked.

<sup>3</sup> Employed persons working less than 35 hours per week who are looking for a job or are available for more work as a percentage share of total employed persons, based on actual hours worked.

Source: BPS: Sakernas.

**Table 3. Commuting time in Jabodetabek\* and all metropolitan areas in Indonesia**

	Jabodetabek metropolitan commuting time (%)				All metropolitan commuting time			
	≤ 30 minutes	31-60 minutes	> 60 minutes	Total	≤ 30 minutes	31-60 minutes	> 60 minutes	Total
<b>Sex</b>								
Male	13.7	47.8	38.4	71.3	16.7	50.2	33.1	71.0
Female	15.5	46.2	38.3	38.7	20.4	47.9	31.7	29.0
<b>Marriage Status</b>								
Married	13.4	45.7	41.0	66.0	16.4	48.9	34.7	66.2
Not married	16.0	50.6	33.5	34.0	20.4	51.0	28.7	33.8

\* Jabodetabek is an abbreviation for Jakarta, Bogor, Depok, Tangerang and Bekasi.

Source: Sahara, 2010.

### Box 1. Maternity leave

#### Legal framework indicator 7. Maternity leave

**Law, policy or institutions.** MA. Female workers/labourers are covered by the Act (a worker/labourer is any person who works and receives wages or some other form of remuneration). Domestic workers and casual workers are not covered.

**Qualifying conditions.** None stated in the MA.

**Level and duration of benefits.** MA, Article 82(1): 3 months (1.5 month before birth and 1.5 months after); 100 per cent of earnings.

**Financing.** Paid by the entrepreneur.

**Evidence of implementation effectiveness.** No information has been made available to the ILO's supervisory bodies.

**Coverage of workers in law.** N/A.

**Coverage of workers in practice.** N/A.

**Ratification of ILO Conventions.** Indonesia has not ratified the Maternity Protection Convention (revised), 1952 (No. 103), the Maternity Protection Convention, 2000 (No. 183), or the Social Security (Minimum Standards) Convention, 1952 (No. 102).

**Sources.** ILO: TRAVAIL legal databases; NATLEX database.

**Box 2. Parental leave****Legal framework indicator 8. Parental leave**

**Law, policy or institutions.** MA.

**Qualifying conditions.** N/A.

**Benefits (Levels and duration).** No parental leave. A male employee is entitled to take 2 days of leave at the birth of his child.

**Evidence of implementation effectiveness.** N/A.

**Coverage of workers in law.** N/A.

**Coverage of workers in practice.** N/A.

**Ratification of ILO Conventions.** Indonesia has not ratified the Workers with Family Responsibilities Convention, 1981 (No. 156).

**Source.** ILO: NATLEX database.

Table 4. Provincial KHL rates (cost of living indicator), Indonesian Rupiah, 2005-2013

NO	PROVINSI	KHL (Rp)								
		2005	2006	2007	2008	2009	2010	2011	2012	2013
1	Aceh	619.876	775.000	920.000	1.200.000	1.400.000	1.400.000	1.476.145	1.531.459	1.514.381,00
2	Sumatera Utara	547.255	737.794	734.337	783.000	855.124	916.124	966.000	1.035.028	1.295.000,00
3	Sumatera Barat	501.315	668.678	760.000	871.000	896.920	979.000	1.099.227	1.153.456	1.384.233,00
4	Riau	551.498	870.625	774.122	815.865	1.022.669	1.053.000	1.230.891	1.312.888	1.499.378,00
5	Jambi	495.242	571.142	693.000	734.169	918.121	970.662	1.027.791	1.143.576	1.321.572,00
6	Sumatera Selatan	495.242	853.000	753.000	1.100.000	929.642	1.031.902	1.060.921	1.311.000	1.757.000,00
7	Bengkulu	480.000	586.000	644.000	714.750	742.499	788.956	808.031	884.289	1.216.089,00
8	Lampung	396.456	589.540	554.521	650.000	805.308	861.340	897.600	1.008.109	1.060.082,00
9	Bangka Belitung	690.000	714.000	830.000	978.720	1.237.000	1.150.500	1.562.000	1.540.330	1.555.206,00
10	Kepulauan Riau	552.045	991.237	943.254	923.000	1.022.000	1.073.264	1.139.903	1.080.332	1.395.442,00
11	DKI Jakarta	759.953	831.336	991.988	1.055.276	1.314.059	1.317.710	1.404.829	1.497.838	1.978.789,00
12	Jawa Barat	408.259	542.621	607.425	614.275	731.680	743.141	874.693	-	946.689,15
13	Jawa Tengah	405.282	582.128	585.220	612.223	793.693	803.985	833.485	-	857.727,70
14	DI Yogyakarta	399.964	673.518	656.976	687.132	820.484	750.490	802.335	862.391	924.284,27
15	Jawa Timur	339.227	580.054	458.755	544.157	706.698	856.888	731.635	-	825.000,00
16	Banten	585.000	735.128	764.214	853.500	917.638	955.708	1.019.875	1.108.000	1.170.000,00
17	Bali	447.500	742.054	704.000	711.099	956.339	959.232	1.101.766	1.130.779	2.117.000,00
18	Nusa Tenggara Barat	526.040	570.000	643.557	727.682	860.000	1.460.099	1.007.000	1.222.088	1.403.700,00
19	Nusa Tenggara Timur	402.989	670.560	735.000	782.466	909.000	943.404	973.000	1.164.204	1.336.000,00
20	Kalimantan Barat	482.250	605.017	721.564	776.928	803.914	866.250	931.146	1.327.014	1.402.927,47
21	Kalimantan Tengah	553.376	850.000	753.098	825.000	910.670	947.100	1.095.000	1.720.414	1.919.413,00
22	Kalimantan Selatan	503.775	684.319	768.000	790.000	947.000	997.000	1.053.379	1.227.000	1.227.546,67
23	Kalimantan Timur	597.878	764.756	882.797	935.440	1.209.870	1.327.803	1.435.374	1.531.458	1.752.073,00
24	Sulawesi Utara	522.233	891.224	705.000	802.035	863.731	966.372	935.000	1.077.899	1.291.604,00
25	Sulawesi Tengah	588.000	615.000	635.000	733.000	915.000	890.000	900.000	900.000	1.036.000,00
26	Sulawesi Selatan	505.000	672.650	677.333	754.884	1.154.080	1.049.321	1.083.000	1.161.395	1.380.500,00
27	Sulawesi Tenggara	498.600	573.400	653.250	640.000	823.638	895.188	1.011.769	1.232.820	1.207.648,00
28	Gorontalo	531.500	677.162	599.080	798.852	889.000	921.647	996.367	1.099.222	1.539.539,00
29	Sulawesi Barat	-	672.650	886.493	850.000	1.126.000	1.258.973	1.381.470	1.381.470	1.403.666,00
30	Maluku	602.938	1.076.099	1.091.195	1.182.556	1.280.599	1.400.990	1.570.980	1.739.000	1.738.676,00
31	Maluku Utara	674.800	926.286	1.475.035	1.090.127	1.520.000	1.500.092	1.090.000	1.903.311	1.712.000,00
32	Papua Barat	-	941.099	-	1.638.746	1.325.843	1.421.814	1.800.000	1.800.000	2.117.000,00
33	Papua	769.050	941.099	941.099	1.638.746	1.734.054	1.799.228	1.781.356	1.904.000	2.069.318,00
	<b>Rata - Rata :</b>	<b>530.082,00</b>	<b>749.305,63</b>	<b>766.360,00</b>	<b>849.179,00</b>	<b>1.010.371,93</b>	<b>1.068.399,49</b>	<b>1.123.743,88</b>	<b>1.299.692</b>	<b>1.435.014,74</b>

Sumber : Ditjen PPH dan Jamsostek, Ditolah Pseudotimeter





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