



Ear to Asia podcast

Title: Why the outrage over Indonesia's new job creation law?

Description: While Indonesia's new, so-called Job Creation Law was sold to the public as essential to boosting employment by reducing red tape, it has sparked continued outrage among workers, trade unionists, environmentalists and religious organisations. What are the concerns over how this omnibus law was passed, and who are the real winners and losers? Indonesia observers Professor Tim Lindsey and Dr Ian Wilson scrutinize this hallmark legislation with presenter Ali Moore. An Asia Institute podcast.

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Voiceover: The Ear to Asia podcast is made available on the Jakarta Post platform under agreement between the Jakarta Post and the University of Melbourne.

Ali Moore: Hello, I'm Ali Moore. This is Ear to Asia.

Tim Lindsey: I think it's hard to imagine a worse time to be passing a law that would allow mass layoffs than in the middle of the COVID pandemic. It's pretty clear that workers in Indonesia are very low on Jokowi's priorities

Ian Wilson: There's a lot of younger Indonesians from poor and middle class backgrounds who are deeply cynical of the establishment in broader terms. And these laws, for them, really paint a pretty bleak future.

Ali Moore: In this episode, the furore and fallout over Indonesia's new omnibus law. Ear to Asia is the podcast from Asia Institute, the Asia research specialist at the University of Melbourne.

Despite its unspectacular title, Indonesia's recently enacted omnibus law is front and centre in the national conversation. And it's brought workers, unions, and environmentalists out in their thousands in protest. There were huge popular demonstrations across the archipelago in the lead-up to the bill's introduction, and they have continued since the bill became law in early October this year.

The 1,000 page legislation is being sold as essential to boosting employment and clearing the way for investment to help counter Indonesia's pandemic induced economic downturn, with the country falling into its first recession in more than 20 years. Critics of the legislation say there was no meaningful public consultation before the law's rushed passing and that the real winners will be the country's economic elites, with workers and the environment the clear losers.



Joining us to read between the lines of this hallmark legislation for Indonesia are Melbourne Law School Asia law specialist, Professor Tim Lindsey. And Murdoch University politics and international affairs researcher, Dr. Ian Wilson. Both, long time observers of Indonesian affairs. Welcome back, Ian. And welcome back, Tim.

Tim Lindsey:

Thanks, Ali.

Ian Wilson:

Yeah. Thanks, Ali. Good to be back.

Ali Moore:

This is a huge if awkwardly named piece of legislation. As we said, more than 1,000 pages passed into law in early October. Tim, what is it designed to do? What's in it?

Tim Lindsey:

Well, this is as you rightly say, an enormous piece of legislation with over 1,000 pages. And it's formal name is the Job Creation law. But that too is somewhat of a misnomer. What it really contains is a whole range of provisions that amend articles. There are around about 79 existing laws that relate to Indonesia's investment climate and the Ease of Doing Business in Indonesia. It covers an enormous range of areas, including... just bear with me for a second while I run through this list because this is only a partial list. Small and medium enterprises, coastal areas and small islands, industrial parks, oil and gas, forestry, environment, labour, film, narcotics, land purchase, tourism, defence, education, health, medicine, weights and measures, nuclear power, planning, agriculture, the Hajj and Halal certification. I mean, that's not all of it.

It will affect around about 43,000 central government ministerial and regional regulations. This is a vast piece of legislation covering a whole plethora of areas. And essentially, the president, Joko Widodo, Jokowi, says he wants it to boost economic growth and generate job opportunities. Calling it Job Creation was an obvious ploy to win public support. The bill is not about job creation. Most of it is about regulating business investment to make it easier for investors. Indonesia's been notorious for decades and decades for a jungle of rules and permits that obstructs business and so forth.

The aim of this legislation is clearly to make life much easier for big businesses, especially foreign investors and the oligarchs who back Jokowi's administration, including the legislature. This is part of a pattern of Jokowi's administration. It has pushed through a range of very controversial laws that are favourable to big business such as revisions to coal and mineral mining law that were passed in May despite huge controversy.

What he's really hoping this will do is do something about Indonesia's very poor investment performance. The global average of foreign direct investment is a percentage of GDPs around about 4%. Indonesia last year



was at 2% thereabouts. It's 52nd in the world, and it fell again this year. Indonesia's never done well in attracting foreign investment because of all these obstructions to business, and Jokowi, from the very outset when he was first elected, has always said that fixing this and getting a flood of foreign investment into Indonesia was a primary objective of his. In his first term, they launched about 18 separate economic policy packages, but none of them really did anything to fix the core concerns of foreign investors. Although this is the most ambitious attempt yet, I don't think it will either.

Ali Moore: Ian, is that how you see this bill? And how do we balance that Job Creation as it's officially titled by the government, with the perspective of Tim for example, where it's favourable to big business? I mean, is it not valid to want to improve investment in a country like Indonesia which does have a very complex record and does need to make some changes to make it a more efficient place to do business?

Ian Wilson: Probably the issue to focus on here when we're talking about job creation, is what kinds of jobs will be created by this set of laws. In particular, if you look at the revision that had been made to the 2003 labour laws, this creates the distinct possibility that one impact of omnibus will see a reduction of minimum wages, reductions in severance pay, maternity benefits, health and childcare. And also, some analysts have said, abolishes legal protections on permanent employment contracts.

It's suggestive of trends that we're seeing really globally, that this kind of eliminate red tape approach to encourage particular kinds of investment, leads to serious deteriorations in basic working conditions and rights. Of course in Indonesia, the protections for people with informal labour markets have come at great cost and great struggle. I think really, the question is... okay, it might produce jobs, but what kind of jobs are these going to produce and at what cost to people's rights and basic conditions? I think that's really been the main focus of critique of these, is that it's going to really serve the interests of investors to the detriment of Indonesian working people.

Tim Lindsey: Can I add something to what Ian just said? That specifically among the things that the law does, it makes it much cheaper and easier for companies to get rid of permanent staff. It's reduced the amount of severance pay they have to pay. It's down to 19 months instead of 32 months. Investors for a long time protested about the high levels of severance pay that Indonesia imposed.

This cut which hugely reduces the amount employers will have to pay when they lay employees off becomes an incentive for big business to sack employees. That creates a rather a perverse outcome that the so-called Job Creation law is quite likely to lead to mass layoffs. Because given the poor condition the economy is in in Indonesia in recession now, many businesses are looking to layoffs and debt restructuring to stabilise their financial



positions, recognising that they will need to cut expenses given that recovery is probably a year away.

What they can do is now much more cheaply, sack large numbers. And then as they need to rehire, can go to outsourcing companies, effectively turning employees into contractors and exposing them to very significant loss of rights because contractors don't get all sorts of social security benefits such as health insurance, accident insurance, death benefits and so on. These provisions allow a stripping out of protections for workers, cheaper mass layoffs, and it really makes that title of Job Creation a quite bitter irony. That's why the protests are so significant, because they're being led to a great extent by labour unions. It's not exclusively by labour unions, but labour unions have played a part in leading it. There have been since October, more than 1,000 protestors arrested, hundreds wounded, right across Indonesia. Demos are planned for early next week led again by the unions, on the 9th and 10th of November.

Ali Moore: Before we look more at the protestors and who they are, let's go to that issue of what this legislation is likely to lead to. Because how in that context do we consider Jokowi's role? I mean, here is a man who when he first came to power at least, he presented himself as a man of the people. Here is a country hit incredibly hard by the pandemic. Official prediction have got more than three million people losing their jobs. Why would he introduce something that will make it so patently worse at such a terrible time? Tim?

Tim Lindsey: Well, right through his administration, Jokowi's primary concern has been with business. He is a former businessman himself, a furniture manufacturer and exporter. And his interest is in the economy and in particular, attracting foreign investment and building infrastructure. They have been his priorities almost to the exclusion of all other issues.

Now his populist style, his blusukan drop-ins where he would meet the common people and so forth, contributed to this aura around him of being a man of the people, and maybe he was initially. But he is now most certainly an effective and central member of the political elite in Indonesia. His focus politically has been on creating an elite alliance that will allow him to achieve his big priorities that relate to business and infrastructure construction and so on. He's done that very effectively. He's built cross-party alliances that give him most of the time, between 70% and 80% of the legislature backing his administration.

Now in Indonesia, to succeed politically, you inevitably become embedded in the existing oligarch systems that dominate politics. This is because electoral politics campaigning is not supported by significant public funding. There is some funding, but it's pretty trivial. That means that political parties and individual politicians need enormous sums of money in order to campaign and govern, and that means they need to be funded by powerful tycoons. As they know it in Indonesia, conglomerate.



Jokowi, whatever his origins and however he presented himself at the start, was always going to end up intertwined in this web of business and politics which has been described by many observers as an oligarchy that effectively controls the legislature and controls most of Indonesian politics. You end up in a situation whereby to survive and prosper politically, you need to support this oligarchy, the commercial big business interests. That sits quite easily with Jokowi's own personal concern for economic growth and for building Indonesia's infrastructure. Many of his earlier commitments that were to do with civil rights and so forth and his commitments to making inquiries into previous human rights abuses and so forth which were part of his electoral platform, have all just been completely ignored. That was a Jokowi early on in his attempts to win the presidential office. They're not relevant anymore.

Ali Moore: Ian, if there is this alignment of interest now between the oligarchs and indeed the vision of Jokowi, in a very practical sense, does Jokowi hope that this legislation helps drive investment to the point that it outweighs the negatives? I mean, he must be aware of what the potential implications are going to be.

Ian Wilson: Adding to what Tim was saying on Jokowi's populist style, I think the substantive style of him as a populist was to sort of manipulate those perceptions as a means of coming from an outside of elite and moving into elite structures. The reality is that he's never actually confronted entrenched interests really at any level and at any time in his political career. I think that reflects also in the omnibus bill to an extent, where you saw in the elections last year that there was great efforts made by Jokowi as part of his reelection campaign to integrate and co-opt significant social groups... Nahdlatul Ulama for example, the largest Islamic organisation in the country, and to engage in particular kinds of a pluralist nationalist discourse as a means of integrating a whole number of groups into his coalition.

One sort of defining feature of the omnibus bill has been his complete failure or rejection to engage with criticisms, legitimate criticisms from many of those former coalition partners. Nahdlatul Ulama, for example, has been very critical of the omnibus bill on multiple levels, arguing that it will undermine national values because it leads to a marketization of education, et cetera.

Clearly, he's at a point now it seems with this bill, that he feels he doesn't really need to engage with anyone outside of the administration. He's consolidated his power in something that's quite uniquely Indonesian. His former presidential rival, rather than taking a role in opposition, became the Minister for Defence, Prabowo Subianto. He's co-opted the main elite forces who may have opposed him, and now I think he feels he doesn't really need to listen. So he's pushing through with this, I think probably regardless of an awareness that it's going to cause significant disquiet through large sectors of ordinary Indonesian society, but also amongst some of his former



coalition partners. I think he simply feels he doesn't have to listen to them anymore.

That's what's alarming a lot of people, that there's a real despotic kind of atmosphere around this that he's just really ignoring legitimate criticisms that are coming not just from students and labour organisation, but also many of his key allies in his election campaign. It was only just last year, it's not a long time ago. He's very quick to dispense with them in a similar way that Prabowo Subianto in his election campaign really sought to co-opt Islamic sentiment of a particular kind, including being very close with Islamist organisations. He dispensed with them almost immediately upon becoming Minister of Defence. I think Jokowi is showing a similar kind of approach that populism is really a strategic approach to gain power. Now that they feel they've consolidated power, they don't feel any necessity to engage with those groups.

Ali Moore: Ian, when you look at those groups that are protesting... you talked about Indonesia's largest Islamic organisation, Nahdlatul Ulama, that's been involved in the protests. We've got the unions. We've got the students. How united are they? Are they disparate groups protesting at different times or is this a united front against this legislation?

Ian Wilson: I think it's very fragmented. This has been, I guess, certainly from the perspective of those who are opposed to these laws, a reflection of a bigger problem that we saw last year as well. There was the large scale street mobilizations against the undermining of the KBK, the anti-corruption organisation, the state institution. That was like the omnibus demonstrations, had a particular kind of momentum. But it quickly, sort of, unravelled because there wasn't really a coalescing set of ideas that would hold very different kinds of groups into a coalition that could really become a substantive social movement.

I think probably what we're going to be seeing now is trade unions will continue to mobilise, and they're the best organised to do this. Student organisations are still hitting the streets, but with less frequency. You also have broader criticisms not necessarily reflecting in mobilizations in the streets, from the large Islamic organisations and other religious groups. As well, environmental organisations. But the problem is again, that there isn't really I don't think, enough to make this hold together, that it will be fragmented and probably sporadic protests. But that isn't necessarily, I think, going to create the momentum that might lead to any sort of substantive change at this point in time.

Ali Moore: Do you agree, Tim?

Tim Lindsey: Yes, I think that's absolutely right. Also, important players in this, civil society organisations. NGOs that work on law reform and on policy development, they also regard this law as a travesty. One example of that is Bivitri Susanti,



who is a well known legal scholar and civil society activist. She described the omnibus law as reckless lawmaking, or "the worst legislative process in Indonesian history, there has never been such a mess." That's a sort of view that's taken in among legal circles as well, legal reform circles. They are playing a part in these protests as well.

But this is a government that has some experience of staring down demonstrations and popular discontent with its policies. In the first term, Jokowi himself survived the massive rallies that began against Ahok, the then governor of Jakarta who had been of course the deputy governor of Jakarta under Jokowi and was seen as a close ally of Jokowi. Those protests had brought close to a million people out to the streets of Jakarta, mutated into a change the president movement and marches on the palace and so forth. He survived that, stared that down.

Last year when the anti-corruption commission law was amended to gut it of its powers and make it subject to an oversight committee, again, huge demonstrations were triggered by that law, demanding Jokowi undo it. They were stared down too, they failed. The law is in place. The anti-corruption commission severely weakened. These demonstrations are not in the same league as those ones, and it's possible that COVID-19 will mean they won't be. Certainly, the government can star it down. They can even survive deaths if the demonstrations come to that. Yeah, unfortunately I think this government doesn't really care because it knows it can survive these sorts of protests. It will just keep going because this is what Jokowi wants to do.

Ali Moore: Ian, what about responses from regional leaders, particularly given that there's emphasis in part in this legislation on re-centralization?

Ian Wilson: That's an interesting question in part because we have regional elections coming up in early December. There's been a bit of toing and froing. Initially before the omnibus laws were passed, you saw some quite significant figures such as Ridwan Kamil for example, who's the governor of West Java and is often touted as a future presidential candidate being quite vocal in his opposition to the omnibus bill. He attended demonstrations that were organised by some of the largest trade unions in West Java, West Java being the site of many of the large manufacturing in Java certainly.

However, hopes from some people that he would emerge as a kind of establishment opposition figure to this manifest. In the past couple of weeks since it's gone into law, he's shifted his position entirely and he's been arguing for people to respect them. This is now the law, it's now part of the constitution, et cetera. It seems his own opposition was only partial and contingent.

There has been at a local level, some candidates in the elections that are coming up around the country who are framing their campaign in opposition to aspects of the omnibus laws. For example, in Medan in North Sumatra,



where Jokowi's son-in-law is in fact running in the election. He has just signed a political contract with trade unions promising that if elected, he will protect minimum wages that may be threatened by the omnibus. There are some local level opposition and jockeying around these elections. But I think in broader terms, it's been quite disappointing.

Even the political parties. There were two political parties that were opposed to omnibus... the Islamist PKS, and then the Democrat Party of former President Yudhoyono. This even hasn't necessarily translated into opposition down at the local level. Because at the local level, alliances... when I'm talking about local level, I'm talking about provincial and then regency in some district level. Both of those parties often have alliances with parties that are part of Jokowi's border coalition.

Again, it's been quite fragmented. There have been pockets of political opposition from local political leaders, and that might take a bit of an edge I think in the Pilkada, or the district elections which are coming up. But unfortunately, I don't think it's really going to be a significant shaping force at this point in time.

Ali Moore: Tim, has it captured the imagination of the ordinary Indonesian or are we talking about very specific groups that are concerned? I mean, we heard earlier on how disparate it was. Has it got the broader imagination?

Tim Lindsey: That remains to be seen. I mean, the demonstrations that have been taking place since the law was passed by the legislature much earlier this year in April, through til now when the president signed it, have been quite significant. Now that the law has actually been signed off by the president, we'll just see what happens in the weeks ahead. But I think it's got the potential to capture the imagination of Indonesians, particularly when it starts to be implemented. The really regressive effect of the law across a whole range of sectors, particularly for employment, becomes more obvious.

Just to give you an example of how many areas it affects and how regressive many of the consequences are, look at environmental law. This law seriously dilutes important environmental safeguards. It amends existing laws so that environmental impact assessments which previously had been required for most developments are now only required for projects that have a major impact on the environment, and it leaves it to the government to decide.

In other words, the government can effectively just waive the requirement for an environmental assessment. It reduces sanctions on environmental offences. It alters the law on planning, giving the government the power to allow deforestation in protected forests and peat lands. This unravels the benefits of a forestry moratorium declared in 2010, which reduced deforestation to the lowest level in two decades. Now the government can simply issue a decision to allow that sort of forestry to go ahead. It also



allows the government to ignore traditional Indigenous communities whose lands are often in these threatened forest areas. And, it removes the requirement that provinces maintain a minimum forest cover of 30%, and allows them to decide how much cover.

All of this is really an undoing of very significant environmental reforms that have been achieved over the last two decades, and they are obviously likely to greatly assist unscrupulous plantation logging mining businesses. This is a country with serious land conflicts and rapacious illegal forest burning and clearing and significant global emissions. Once this starts to have its effect, there's another group of the Indonesian community who are likely to be affected very badly.

Ali Moore:

You're listening to Ear to Asia, from Asia Institute at the University of Melbourne. I'm Ali Moore, and I'm joined by politics and international relations researcher, Dr. Ian Wilson of Murdoch University. And Asia legal expert, Professor Tim Lindsey of the Melbourne Law School. We're talking about the controversy around Indonesia's new Job Creation omnibus bill.

We were just discussing there the environmental impacts of this bill, which brings me to the question of how business has responded, because I know 35 investment firms actually wrote to the government raising environmental concerns around the bill. Indonesia is way down the list though, for Ease of Doing Business. Ian, has business welcomed this with open arms?

Ian Wilson:

Well, I think that probably depends which businesses you're talking about specifically. As you just mentioned, there has been expressions of concerns from some global investors. There was Veeva investors for example, and some of the largest asset managers in Japan. These ostensibly are the kind of foreign investors that the bill is meant to entice. They have made statements to the effect that while they recognise this broader issue of unwieldy red tape, that the omnibus laws when it comes to environmental protections, actually goes too far and really puts Indonesia's environmental resources and natural habitats at great risk by giving quite an open slather, particularly to fossil fuel industries. And there's been a lot of highlight in environmental groups' criticism of these laws on coal and the kinds of concessions given to the coal industry to open up new areas of forested land.

If you look back to some of the oligarchs and oligarchic networks themselves, including ministers, Indonesian ministers who really were part of pushing these bills through, many of them have very clear and well documented links to mining and dirty energy industries. I think there's a clear conflict of interest here where some of the same political elites involved in pushing the laws through, by Indonesian standards, extraordinary speed. It was only proposed late last year, and it came into law a few months later. That's really deeply intertwined with vested interests of many of these political elites themselves.



Ali Moore: Tim, isn't one of the ironies that in fact many of the major concerns of those foreign investors have not been addressed?

Tim Lindsey: This is an Ease of Doing Business law for local investors for the big businesses that support Jokowi's administration. For a long time, foreign investors have been concerned in particular about foreign ownership caps that prevent them from owning a majority in businesses. From the local content obligations, that is to say, obligations on them to purchase material or services from local suppliers... these have been primary concerns for foreign investors and a reason why many don't choose to go to Indonesia. The law does nothing about that. It does not alter the foreign ownership caps rules and it doesn't alter the local obligations rules. It does alter the negative list which restricted a whole range of sectors closed to foreign investment, opening many more of them to foreign investment. But without change to foreign ownership caps and local content obligations, that's not likely to be a significant inducement for investors.

The law also strengthens the role of state owned enterprises, giving them a more prominent economic priority in the government's policy making. That raises concerns about unfair competition between the private sector and state owned enterprises. Foreign investors already feel that they are subject to unfair competition from privileged state owned enterprises. This law does nothing about that. In fact, it strengthens the position of state owned enterprises against private industry. Yes, I agree that it's actually not as attractive as it claims to be for foreign investors. When you put that together with the environmental changes, it may even be a disincentive for some.

Ali Moore: Ian, you talked about the speed with which this law was passed. How legitimate has the legislative process been? I know there have been appeals to the Constitutional Court. On what grounds? Can you talk us through the issue of due process?

Ian Wilson: Well I mean, Jokowi first proposed the omnibus laws in October last year. By November, the Economic Affairs Coordinating Minister, Airlangga Hartarto, had already asked Indonesia's Chamber of Commerce and Industry to help set up a task force, which they did... which included prominent business people, but no members of trade unions or environmental groups.

The bill was then submitted to parliament in February. Because of COVID-19, deliberations didn't start til April. This is again by Indonesian standards, an extraordinarily quick process which has rightfully led to significant criticisms that it's bypassed substantive public consultation. Again, in the initial task force, there was no involvement by trade unions or environmental groups despite the very clear implications of this law for labour and the environment.



There's been significant criticisms about the kind of very sloppy way in which the bill has gone through. There was controversies over in fact, the wording, the changing of wording. Even once it was passed into law, subsequent typos and revisions are a really quite atrocious process. Massive in terms of size, 800 to 1,000 pages quickly put together, not properly checked. This I think now will be part of what will be hopefully in terms of trying to mitigate some of the impacts of this law are a number of constitutional challenges, both in the procedural sense, but also what it means in terms of the impacts on workers and the environment itself.

Jokowi has told off his ministers in a very Jokowi kind of way. But really what the problem is, is not the substance, but the way that it's been sold to the public. But the process has been transparently rushed, transparently chaotic, and transparently non-engaging with community and public stakeholders. That's why it is so widely perceived as illegitimate if not in a legal sense, it's certainly in a moral and political sense. That's not going to go away any time soon.

Ali Moore: But what about from a legal sense, Tim? As the legal expert, how do you see the challenges to the Constitutional Court and indeed, the protests or lack thereof?

Tim Lindsey: There's already been at least one petition seeking a review of the omnibus law launched with the Constitutional Court on Tuesday, that is the day after it was signed into law. I would expect there will be quite a number more. The Constitutional Court will probably then consolidate those into one single case. In reviewing the law, it looks at two issues. First of all, whether the substance of the law is compatible with the constitution. There will be a whole range of arguments about the effects, particularly in relation to the labour law changes.

The second aspect is whether the law was passed in accordance with the formal lawmaking process. This is what's called the formal review. That will be highly relevant given the chaos that Ian has described. The Constitutional Court has never before knocked out a law on the grounds of a noncompliant lawmaking process. But if ever there was a law where it could be done, it's this one. Just to add a little bit to what Ian said, there is a law that requires public consultations and requires circulation of drafts. A draft bill was never circulated until after it was submitted to the legislature. So it's pretty clear that they missed some basic stages required by the law on lawmaking.

Secondly, a bill must be discussed at what's called a legislative council meeting, but that council formed a working committee and handed over discussion to that body. A proper legislative council discussion never took place, which is a breach of the process. There are a whole range of other pretty obvious breaches in the process that were intended obviously to rush this thing through to being passed, and that will be the basis of those complaints about the formal process.



Ali Moore: Is it possible? Is it a possible outcome in reality, that the Constitutional Court could strike out this entire piece of legislation?

Tim Lindsey: It could. It has done so before in the past and has done so with some very major pieces of legislation. Under Yudhoyono, for example, it struck out a law that created a whole new utilities privatisation scheme. This is a court that does strike out laws, and frequently strikes out provisions in laws. That's a possibility. Whether it will do it with this law despite the major formal problems is questionable, because this is a signature law for Jokowi and his administration.

Some of the critics of the court have pointed out that just recently, the Jokowi government rushed through a revision to the Constitutional Court law which extends the maximum tenure of judges from 5 to 15 years and allows them to stay in the court until they're 70, which is 10 years longer. In other words, many of the critics of the government say that this law was intended as a gift to sitting judges to allow them to stay there for longer, in the expectation that judges might go easy on government for that reason. I don't know whether that's true or whether it proves to be the case, but it's one of the reasons why... how this court now performs. When it comes to decide this law, it is going to receive an enormous amount of attention and be highly controversial in Indonesia.

Ali Moore: Will that drag on for years?

Tim Lindsey: The court deals with these things usually fairly quickly. I would expect it to be dealt with, particularly with an urgent issue like this, within the next six months. There is a lot to look at. There are so many drafting errors and mistakes and confusions in this law. The law as passed was 1,035 pages. Then down to 812, then back up to 1,028, then 1,035. The final one signed off was 1,187 pages. There were at least 158 changes made between the legislature passing it and the president signing it. There is a lot to look at and a lot that should be of concern to the Constitutional Court, and we'll probably know that fairly soon.

Ali Moore: Tim, outside the Constitutional Court, are there any ways that this law could be changed or overturned?

Tim Lindsey: Like most Indonesian laws, Ali, this law depends on lower level regulations to actually have any effect. The estimates are it will need up to 49 government regulations just to implement it. The law actually says that it must be passed within three months, that's impossible. This is a huge and time consuming exercise, and the regulations will actually determine the detail and the impact of the omnibus law.

Tim Lindsey: We won't really know how it will be applied until those regulations come through, and they will likely take quite a while. For example, if we look at



labour law, the Labour of Ministry already says that he has to prepare government regulations to deal with the specifics of wages, minimum wage issues, and layoffs. They'll have to deal with the actual levels of job loss compensation to workers on contracts. They'll have to set the method for calculating annual adjustments to the minimum wage, which the law doesn't really make clear.

The reality is that until we have those regulations, it's actually not a law that can be implemented. Those regulations might well end up being rather different to the content of the law itself. It's possible that a lot of the pain in the law may be diluted in the process of implementation. That's not uncommon in Indonesia. Some parts of laws are never implemented at all. If this becomes politically unsustainable for the government, the obvious solution is just to not produce implemented regulations or to produce regulations that are different to the content. So yes, there is still a chance that the government could quietly step away from the law itself in the regulations as it quite often does.

Ali Moore: Ian, do you think that that is the only hope of those who fear the implications of this legislation? Does the only hope rest in the Constitutional Court?

Ian Wilson: Well in the short term, yes, because that could be an immediate resolution if the court nullifies the laws. I think in the longer term, we're going to be seeing more and more organised opposition from trade unions through religious organisations to others. As if the law goes ahead, the impacts of it are felt immediately by different sectors of society. That certainly is something that's going to extend on for some time.

One of the really interesting aspects of some of the large demonstrations and there's been, you know, a big focus on trade unions and student organisations. They're almost historically often at the forefront of protest movements. But these particular ones, there's been a huge involvement by high school students and many students who come from technical colleges, so more broadly working class backgrounds. The government was very quick to disparage these young people who didn't really understand what this was about, and they are being manipulated by nefarious political actors.

But I think really, you're seeing a significant generational divide as well where there's a lot of younger Indonesians who are deeply cynical of the establishment in broader terms, including Jokowi and the Jokowi administration. They don't trust the establishment. These laws for them really paints a pretty bleak future, particularly for those from poor and lower middle class backgrounds, that they're really going to be able to get ahead.

I think in the short term, the hope is that the Constitutional Court will intervene. I think in the longer term, you're going to see the emergence of new lines of opposition to this administration. The traditional groups of



trade unions and religious organisations, but there's a much broader and more politically fragmented generational divide I think between a lot of young people who are very unhappy about this on multiple levels and really see this as setting a bleak future for them. You'll see more and more of these groups organising. The police has broadly defined them as anarchists, and they are in groups that discuss or use anarchist symbols and ideas are fragmented. But the beginnings of a broader youth based opposition to this administration that we'll see increasing over the next year or two.

Ali Moore: Tim, do you agree? You said earlier that you do see potential to capture the imagination of more Indonesians. Do you think that Jokowi is courting real political upheaval in the midst of a pandemic?

Tim Lindsey: Yes, I think it's hard to imagine a worse time to be passing a law that would allow mass layoffs than in the middle of the COVID pandemic, at least from the point of view of workers in Indonesia. It's pretty clear that they are very low on Jokowi's priorities.

To the extent that he was ever a man of the people, that is something long gone now. What we see instead is an administration locked in to big business that is rushing to push through what it sees as key changes to support the elite while the president is still in office. This is his second term. He can't serve a further term, constitutionally. He has about three-and-a-half years or so to go. It seems as though popular opinion is almost entirely irrelevant.

I think that sort of determination to proceed with extremely controversial laws against public opinion and regardless of the consequences... As I said earlier, this is not the only instance of that, this is one in a long train of such events. When you add to that mix, the consequences of the COVID-19 pandemic in Indonesia and the broad mismanagement of it by a government, you see a real potential for dissatisfaction spreading, particularly as unemployment increases.

Ali Moore: Both of you paint a fairly dire picture of the future for Indonesia. Is there any optimism? Ian, is there any silver lining?

Ian Wilson: If there is going to be a silver lining, it's going to be in the emergence of new kinds of political opposition and social movements. One thing that we've really seen in the COVID-19 with the national government's response has been so chaotic. And in many respects, you've gotten the impression that at times that they've found the pandemic an irritation rather than a crisis where the country really needs leadership. The flip side to that is that at local levels, from neighbourhood levels to local government levels, you've seen some really effective responses to managing the crisis, both in terms of public health and some of the economic impacts of great Indonesian traditions of social solidarity. I think if anything, trying to look for a silver lining as impacts of this bill start to bite harder, you will see more of that.



You will see more of local community responses of mutual support and organisation, which has always been such a defining feature of Indonesian society.

I guess in terms of trying to look at Indonesia's political trajectory, the hope that some of this may coalesce into more coherent forms of political opposition seeing that it's not really coming from within parliament itself. It's going to have to be something that comes from outside of government and the parliamentary system. I think there's a sort of embryo for that to emerge, but it will probably take some time.

If I'm looking in the broader picture, the silver lining I think might be the emergence of these new kinds of social movements that are really focused on answering people's more immediate needs rather than a government, a national government, that's looking as if it's really there to placate the interests of big business and is in bed with them, and that this disjuncture could lead to something positive in the longer term. But I don't think there's too much to be super optimistic about at this particular point.

Ali Moore: Tim, can you find any source of optimism?

Tim Lindsey: No, it's pretty difficult at the moment. Let me just try and draw a pretty long bow which is about the problems of civil society. Most reform in Indonesia is driven by civil society. It's the brains trust of Indonesia. The civil society, NGOs, and activists are regarded as amongst the most vibrant in the whole of Asia. They have been critical to the whole Post-Suharto Reformasi process. They have played a very important part in Jokowi's first election. His campaign platform, the Nawa Cita, was directly aimed at them, supporting the civil and political rights, human rights issues that were important to civil society. After he was elected, he seemed to have abandoned that agenda. At the last election, civil society split and was polarised like much of Indonesia, between Jokowi and his opponent, Prabowo.

I think now, most members of civil society feel they have betrayed by Jokowi. I think now given these regressive laws, the attack on the anti-corruption commission, attempts to amend the criminal code, and now this law as well as the oil and gas law, I think many will have given up on Jokowi. That means civil society will need to find a new champion, a new hero, to line up behind.

Indonesia was always obsessed with who the next president will be. And believe it or not, gossip and discussion is already focusing on the next presidential elections almost four years away. I think we might see quite a significant shift in civil society and in wider political groupings behind somebody who can present a different profile to that Jokowi is now presenting of yet another member of the elite backing the oligarchs. That's about all I could hope for at the moment.



Ali Moore: I was going to say though, the irony being that of course at the very beginning, that's exactly how Jokowi was seen.

Tim Lindsey: Indonesians have consistently over the last 20 years, always voted for the candidate they consider to be clean and independent. They thought that was how Jokowi would be as president. They will keep looking for those new fresh faces that they consider to be independent cleanskins. That doesn't include Jokowi. Who knows who the next one will be? They will likely be disappointed because in the end, the political system is such that if you do not join up with the oligarchy, you will not maintain power.

Ali Moore: Well, Tim and Ian, thank you so much. Absolutely fascinating insights into what is such a crucial period for Indonesia. I know we will be talking again. Thank you so much for talking to Ear to Asia.

Tim Lindsey: Thanks.

Ian Wilson: No worries. Thanks, Ali.

Ali Moore: Our guests have been Melbourne Law School Asia legal expert, Professor Tim Lindsey. And, political and international relations researcher, Dr. Ian Wilson of Murdoch University.

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