



## ISSUE BRIEF

*The FLA is a multi-stakeholder organization combining the efforts of businesses, universities, and civil-society organizations to improve conditions for workers around the world. Occasionally, the FLA publishes briefs on current issues in the global supply chain. We intend for these briefs to provide an overview of the various perspectives on a given issue. At all times, the FLA expects its business affiliates to comply with all legal requirements, as well as the provisions of its Workplace Code of Conduct.*

### **Legal Minimum Wages in Indonesia** *February 2016*

#### **THE ISSUE:**

How should FLA affiliates respond to changes in the legal minimum wage-setting process in Indonesia?

#### **WORKER REACTION TO REGULATION No. 78/2015:**

In October and November of 2015, as many as three million workers went on strike in Indonesia, participating in several peaceful actions organized by unions to protest recent government changes in minimum-wage setting procedures in that country.<sup>1</sup>

Since the fall of the Suharto government in 1998, Indonesia's minimum wages had been established annually at the district level by wage councils composed of representatives from business associations, labor unions, and local government. Signed by President Jokowi in October 2015, Regulation No. 78/2015 did away with these councils, replacing them with a formula established by the central government for fixing minimum wage levels throughout the country.

Workers, unions, and others objected to the elimination of worker and employer voices from the wage-setting process, which runs counter to the ILO Conventions 26<sup>2</sup> and 131<sup>3</sup> (not ratified by Indonesia) requiring governments to consult with labor unions and employers on wage-setting mechanisms. According to the *Jakarta Post*,<sup>4</sup> and other media reports, police have used violent means - including tear gas and water cannons - to disperse protests organized since October calling for revocation of Government Regulation No. 78/2015.

#### **THE FORMULA AND ITS EXCEPTIONS:**

The government argues that the new formula ensures higher wages annually for workers, and provides more certainty for employers over the wage levels they must pay and the wage-setting process.

#### **THE GOVERNING ELEMENT OF THE FLA CODE: COMPENSATION**

“Every worker has a right to compensation for a regular work week that is sufficient to meet the worker’s basic needs and provide some discretionary income. Employers shall pay at least the minimum wage or the appropriate prevailing wage, whichever is higher, comply with all legal requirements on wages, and provide any fringe benefits required by law or contract. Where compensation does not meet workers’ basic needs and provide some discretionary income, each employer shall work with the FLA to take appropriate actions that seek to progressively realize a level of compensation that does.”\*

1 <http://www.industrialunion.org/3-million-strike-in-indonesia-for-a-living-wage>

2 [http://www.ilo.org/dyn/nomlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312171](http://www.ilo.org/dyn/nomlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312171)

3 [http://www.ilo.org/dyn/nomlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312276](http://www.ilo.org/dyn/nomlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312276)

4 <http://www.thejakartapost.com/news/2015/11/01/police-criticized-violently-dispersing-labor-protest.html>

\* <http://www.fairlabor.org/our-work/labor-standards>

The new calculation uses the following formula<sup>5</sup>:

$$\begin{aligned} \text{New Minimum Wage} = & \\ & \text{Previous Regional Minimum Wage} + \\ & (\text{Previous Regional Minimum Wage} \times \\ & (\% \text{ annual inflation rate} + \% \text{ annual GDP increase})) \end{aligned}$$

For example, increases of five percent in both inflation and GDP in 2016 would generate a ten percent increase in the 2017 minimum wage. The new system allows for adjustments to the base minimum wage rate after five years where the government has determined that minimum wages fall short of basic living costs. In addition, the government has determined that minimum wages generated by the new formula are already below the government-determined basic cost-of-living in eight provinces.<sup>6</sup> These regions will be provided with an additional five percent increase every year for next four years.

At a minimum wage forum hosted by the International Trade Union Confederation<sup>7</sup> in Jakarta on February 4, 2016, workers, local unions, and the global union IndustriALL explained that the current legal minimums, ranging from \$103 to \$224 per month,<sup>8</sup> are too low to cover workers' basic needs. Some workers argue that they now have no recourse other than mass action to be heard on wage issues, and workers have continued publicly protesting, as recently as the first week of February 2016.<sup>9</sup>

Labor unions have formally requested judicial review of the new formula.<sup>10</sup> The *Jakarta Post* found that minimum-wage increases secured by the wage-council process between 2010 and 2014 were, on

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5 <http://www.establishmentpost.com/all-you-need-to-know-about-the-new-indonesia-minimum-wage-policy/>

6 East and West Nusa Tenggara, Maluku, North Maluku, Central Kalimantan, Gorontalo, West Sulawesi and West Papua See more at: <http://www.thejakartapost.com/news/2015/10/29/is-proposed-government-rule-minimum-wage-lasting-solution.html#sthash.6pGQKKjl.dpuf>

7 <http://www.ituc-csi.org/indonesia-ituc-and-industrial>

8 <http://www.industrialunion.org/industrial-and-ituc-support-indonesian-living-wage-struggle>

9 <http://www.thejakartapost.com/news/2016/02/03/20000-workers-protest-layoffs-and-low-wages-union.html>

10 <http://en.hukumonline.com/pages/lt566947b2ed758/workers-take-legal-action-over-minimum-wage-formula>

average, three percent higher than the formula-based approach would have provided.<sup>11</sup>

### FLA RECOMMENDATIONS:

As the situation unfolds, with protests, discussions, and legal procedures, the FLA emphasizes for companies sourcing from Indonesia that the FLA Workplace Code of Conduct calls for affiliated companies and suppliers to make progress toward fair compensation for workers.

ILO standards and the FLA's Fair Compensation strategy embrace inclusive and substantive tripartite wage-setting processes. Forthcoming reports from the FLA on factory-level compensation and the local compensation continuum—including legal minimum wages, poverty thresholds, and living wage estimates—will be published in March 2016 and can provide important context for this debate.

Also, the FLA encourages the adoption of ILO conventions 26 and 131 by the government of Indonesia as the main guidance for revision of the minimum wage setting process, so that workers, labor unions, and employers are included. Indonesia has already adopted ILO convention 144 on tripartite consultation, which also calls for worker and union consultation "in relation to formulating any labor and employment policies, including wage formulation."<sup>12</sup>

Finally, brands sourcing from Indonesia should be aware of suppliers' actions toward workers engaging in protests or strikes in opposition to the new wage-setting procedure. Employers must not carry out any disciplinary or legal actions against workers who participated in the nationwide strikes, and the FLA urges its affiliates to review the issue during internal factory assessments and implement necessary corrective actions if retaliatory actions against workers by employers are found.

The FLA will continue observing ongoing legal processes and update affiliates on potential collaboration opportunities on a joint effort for encouraging worker- and union-involvement in minimum-wage-setting in Indonesia.

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11 <http://www.thejakartapost.com/news/2015/10/29/is-proposed-government-rule-minimum-wage-lasting-solution.html>

12 [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:P11300\\_INSTRUMENT\\_ID:312289](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:P11300_INSTRUMENT_ID:312289)