

# **Jakarta is returning: The ‘neoliberal cookbook’ that guides Indonesia’s Omnibus Bills**

**A critical analysis of the omnibus bills’ link to the global rise of statist emergency powers**

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Editor's note: This collaboration with Indonesian student activist Mariyah L.M. is part of an effort to spotlight the local struggle in Indonesia while drawing connections with similar movements across Asia against state repression during COVID-19. Starting on August 14, Indonesians will take to the streets for nation-wide protests against the Omnibus Bills and the criminalization of dissent. Some accounts to follow for updates include Aksi Langsung and Aliansi Rakyat Bergerak.

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Amidst a global wave of pandemic, widespread dispossession, and mass uprising, numerous states have seized the moment to ram through national security laws. In comparison, Indonesia's proposed slate of Omnibus Bills, focused primarily on economic reform, has flown somewhat under the radar. But President Joko Widodo (Jokowi) is also taking advantage of this moment of crisis: These sweeping bills that aim to regulate various sectors under one umbrella have no basis in Indonesia's Civil Law system. Instead, Jokowi is using the chaos caused by the failure of his own administration to consolidate power in the central government in order to push the bills forward with little to no civilian oversight.

At least three sets of Omnibus Bills are slated to be considered by the Indonesian Parliament this year: Job Creation, Taxation, and New Capital City, all of which aim to increase economic liberalization and attract foreign investment by weakening worker protections and strengthening corporations' monopoly on human and natural resources. Indeed, the primary function of these bills is to subordinate the working class to Jokowi's developmentalist infrastructure programs, not to help the millions who are now struggling with the destruction of their livelihoods and a growing number of COVID-19 infections.

In the late 1960s, the implementation of neoliberal economic policy made possible by Soeharto's brutal rise to power was spearheaded by a group of Indonesian economists that studied at the University of California, Berkeley through funding from the Ford Foundation. One economist in this group, dubbed the Berkeley Mafia, boasted that they presented a complete guide to implementing neoliberal reform to Soeharto, "a 'cookbook' of 'recipes' for dealing with Indonesia's serious economic problems." And so Soeharto, the receptive student, implemented sweeping US-endorsed free market and foreign debt dependent policies. The success of US-backed anti-left violence that shocked a populace into accepting the imposition of a neoliberal, right-wing regime turned the Mafia's cookbook into a portable method. Indeed, only five years after Soeharto took the presidency, graffiti appeared in Chile prior to the US-backed coup that ousted Salvador Allende that read "Jakarta is coming."

Now it seems it is returning, as Jokowi reopens the Berkeley Mafia's cookbook. While the influence of neoliberal economic thought never truly left Indonesia, since the successors of the Mafia have maintained positions in key economic posts, it had fallen out of favor during the pro-democratic Reform (*reformasi*) period. Now, however, US-trained economist Sri Mulyani, former Managing Director and COO of the World Bank, is back on top as Jokowi's Minister of Finance and one of the masterminds of the Omnibus Bills.

It comes as no surprise, then, that Jokowi has dropped all pretense of economic growth through democratic means as he enjoys the latitude of a second term in office. The government and the business sector have promoted the *Cipta Lapangan Kerja* or Job Creation bill (shortened by activists to *Cilaka*, apun on *celaka*, or disastrous) as the panacea for the country's ailing economy, which hit a three year low in economic growth in 2019. It aims to do so by removing "threats to investment," a veiled hint at greater criminalization of activists and dissidents. In a 2019 presidential speech, Jokowi proclaimed, "This is a warning. I will hunt these [problems] down. I will monitor them, I will check on them, I will finish them off if that's what's needed of me." In effect, he declared that Indonesia's economic success would come through the sword, not the ballot; not through the people, but through a militarized *lex mercatoria*—a central government commanding the police and military to protect a system of law made for and by corporate interests.

## **A militarized *lex mercatoria***

*Cilaka* is the largest of the proposed Omnibus Bills and has stirred widespread resistance across Indonesia since the beginning of this year. Jokowi had initially given only 100 days to review the 1,028 page bill, and all of its 11

clusters, 15 chapters, and 174 articles. Drafted by the Government's Select Task Force made up of 127 members made up of industrialists and corporations,<sup>1</sup> *Cilaka* predictably favors business interests: relaxation of corporate taxes to attract more business, deregulation, and eliminating the high cost of employment through a flexible labor market regime,<sup>2</sup> all of which are considered major barriers to "ease of doing business." On this metric, Indonesia was ranked 73<sup>rd</sup> in 2019 by the World Bank—Jokowi's ambition is to rank 40<sup>th</sup>.

*Cilaka*, despite its supposed intention of creating jobs, will instead put workers into even more precarious conditions. With its "easy hiring, easy firing" slogan, the law will empower corporations to easily lay off workers with no compensation or legal recourse. It will also grow the pool of "permanently temporary" contract labor by implementing an unregulated hourly wage and legalizing 12 hour work days, 6 days a week. Mass firings, which have already increased during the pandemic, will be normalized if the bill is passed.

This desire to fulfill the interests of the corporate elite and to ram through deregulation at breakneck speeds has already and will continue to have major ecological consequences. Under *Cilaka*, mandatory Environmental Impact Assessments, already rife with bureaucratic corruption, will simply no longer be required, especially for the arbitrary "low-risk business" category. This will overwhelmingly impact indigenous lands, forests, coastal areas, remote islands, and other "resource rich" zones across the archipelago under similar frameworks in the *Cilaka*'s chapters on oil and gas mining, geothermal, land banking, and other privatization of natural resources.<sup>3</sup> Most recently, the Mining Law, which gives more power and less obligation to mining corporations, was passed by the Parliament in May 2020, amidst the pandemic.

Subordinating ecological concerns to corporate profit has only proceeded apace and has a long history in Indonesia, however. Soeharto's New Order ushered in a string of victories of big business: from the government's deal with the US-based mining corporation Freeport that expanded colonization of West Papua from 1967 until today<sup>4</sup> to Soeharto signing the historical Letter of Intent (LOI) with the International Monetary Fund (IMF) in 1998, neoliberal deregulation has been the name of the game in Indonesia for decades.

And despite the democratic euphoria of toppling Soeharto, the neoliberal tenure of five presidents since his ouster has only served to mask the remaining authoritarianism, which has diffused from one central figure into a band of all-powerful oligarchs—a not insignificant number of whom rose to power during Soeharto's 32 years of dictatorship.

Indeed, the Omnibus Bills would move Indonesia still further from that euphoria. In order to accelerate its own implementation, Article 170 of *Cilaka* grants the central government rights to change articles and other laws that have not yet even been regulated by the bill. Not only is this unconstitutional,<sup>5</sup> but worse, it also betrays Indonesia's democratic agenda by demolishing the autonomy of Regional Governments across the country—a hard fought victory from the Reform era. In this shift along the spectrum of authoritarian capitalism and democratic neoliberalism, *lex mercatoria* has adapted accordingly.

## **'The Jokowi Chapter': Centralizing power and criminalizing dissent**

This new stage of *lex mercatoria* embodied by the Omnibus Bills has shown that the state and its corporate apparatus will do what it takes to accumulate capital beyond its administrative borders. For Indonesia, this means attracting foreign capital at all costs. It comes as no surprise, then, that the fingerprints of the global capitalist elite are all over the Omnibus Bills. The bills' strategies are textbook World Bank structural readjustment, which reopens

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<sup>1</sup> Some of the biggest union confederations were later invited to "discuss" the Labor Cluster but then withdrew their participation as it led only to fulfilling the formality of "stakeholder participation." But, at the end of July, a few of those invitees were back again to participate in "harmonious dialogues/guyub rukun" with the Ministry of Manpower.

<sup>2</sup> "Economic competitiveness" has been simplified to comply with the cheapest labor cost competition within flexible labor market regimes across developing countries in Southeast Asia. An unregulated hourly wage is also desirable for employers as they have been comparing Indonesia's labor costs with Vietnam and Thailand.

<sup>3</sup> Even without the bill, there have been 2,047 agrarian conflicts in Indonesia throughout agrarian-based infrastructure projects during 2015–2019 alone, according to the Indonesian Agrarian Reform Commission.

<sup>4</sup> This contract with Freeport was signed 3 months after the Foreign Direct Investment Law was passed in January 1967, but Indonesia's invasion of West New Guinea (Irian) itself had started in 1962 under New York Agreement.

<sup>5</sup> According to law No. 12/2011 on Establishment of Laws and Regulations, Government Regulation cannot amend any laws.

the neoliberal cookbook that the Berkeley Mafia sold to Soeharto. It's no coincidence that Jokowi met the World Bank a month before he first mentioned an "omnibus law" in his presidential speech.

US influence extends further: In 2018, Amcham (American Chamber of Commerce) Indonesia and the US Chamber of Commerce collaborated on a slickly-designed report on Jokowi's first term as president, dubbing it "The Jokowi Chapter." As Indonesian's know, and as the report highlights, business has been positive about Jokowi's corporatism. Indeed, Chevron Indonesia managing director Chuck Taylor notes in the report, "Though it is clear there is still a long checklist of things to fix in Indonesia... the Jokowi administration isn't the problem; rather it has mostly been the solution."

The "things to fix" in Indonesia according to these multi-national corporations include "labor market efficiencies" and an insufficiently open economy, which have forced corporations to neighboring countries such as Vietnam. It's not difficult to see how the report laid the foundation for the Omnibus Bills, when it concludes in the same language that would later appear in the bills themselves: "We look forward to continuing our partnership with the next government, which we hope would immediately prioritize much-needed legal amendments, improving coordination among government bodies and the harmonization of various regulations—all of which would lead to the increased regulatory certainty that investors need to effectively contribute to Indonesia's growth story."

Jokowi is showing his intent to fulfill this corporate "growth story." Like his predecessors, he has stayed in bed with not only economic and political elites but the military and police as well; the Indonesian state is simply a mediator that provides the legal justification and arms for the military-police (*milipol*) to ensure the smooth flow of capitalist operations. Past human rights abuses that he promised to address in his first presidential campaign remain unresolved, while new violations continue to pile up under his banner of developmentalism. Dissent has also been increasingly criminalized: pro-democracy activists, labor unionists, farmers, and gender and religious minorities have all suffered increasing police violence while Indigenous resistance in resource rich West Papua, for example, has faced expanding military presence and repression.

The *milipol* is also involved in aspects of new megaprojects such as the *ibukota negara*, or capital city, that will be regulated under Omnibus Bill on New Capital City. The usual suspects—retired police or military figures, along with politicians and key property magnates—head the corporations that receive preferential access to 162 land concessions for mining, forests, palm plantations, and coal power plants.<sup>6</sup>

Yet the *milipol* has had power for some time.<sup>7</sup> Since 2004, Indonesia's national army and police have worked together, despite their sibling rivalry, to guard so-called "national vital objects," a power given to them by former president Megawati Soekarnoputri.<sup>8</sup> The vagueness of the term "national vital objects" has given leeway to *milipol* under Jokowi to use force against dissenters accused of threatening private businesses and government infrastructure programs. In Java, for example, the state-owned industrial region Nusantara Bonded Zone in East Jakarta, dominated by South Korean conglomerates, has been categorized as a "national vital object," and thus receives protection from protesters and strikes from the military.<sup>9</sup>

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<sup>6</sup> Long before the Reform, *milipol* had taken on multiple roles and was strengthened during Soeharto's regime which is known as Dwifungsi ABRI or Dual Functions of Armed Forces of the Republic of Indonesia. Indonesia's national military and police were under one institution, ABRI. Their separation was part of the "cabut dwifungsi ABRI" agenda.

<sup>7</sup> Article 1: National vital objects are regions/areas, buildings/installations, and/or businesses that affect the majority, the state's interests and/or the state's strategic sources of income. Article 2: Strategic national vital objects as mentioned in Article 1 have to fulfill at least one or all of these characteristics: a. Produce daily needs; b. Any threat and disruption against it would cause humanitarian and development disaster; c. Any threat and disruption against it would cause national chaos on transportation and communication, and; d. Any threat and disruption against it would cause disruption against the government's activities.

<sup>8</sup> This authoritarian approach to protect the *lex mercatoria* is similar during the September uprising in 2019 when thousands of people got on the streets against the draconian laws (revisions of the Criminal Codes, Mining Bill, Labor Bill, KPK/Corruption Eradication Commission Bill, Land Bill, etc.). In the largest national protest after the demonstration in May 1998, police used water cannons, expired tear gas, and rubber bullets to crack down on the protesters. In Jakarta, even after the crowds had dispersed into the dusk, the police still brutally chased protesters across the area within a radius of up to 5 km from the Parliament building to arrest and/or to hit them with batons, while bombarding the crowded streets with tear gas. All over Indonesia, dozens of protesters had to be sent to hospitals, and more than 1,000 protesters were arrested (and some were suspected to be tortured), while 5 protesters (3 of them were still teenagers) were killed: Maulana Suryadi (23), Immawan Randi (21), Yusuf Kardawi (19), Akbar Alamsyah (19), Bagus Putra Mahendra (15).

<sup>9</sup> The new capital city megaproject has also been pitched to attract foreign investments from the United States, China, Japan, South Korea, and some other countries—while the Crown Prince of the United Arab Emirates (UAE) Sheikh Mohamed bin Zayed (MBZ) has been appointed to serve on the Steering Board for the construction of the New Capital City, along with Softbank's Masayoshi Son and Tony Blair as members.

As early as January 2020, Jokowi ordered the National Police chief and the State Intelligence Agency to “approach” organizations who were against the Omnibus Bills. A month later, a large crowd of unknown origin besieged the office of the Alliance of Labor Congresses Across Indonesia Confederation (KASBI), one of the biggest union confederations aligned against the bill. Student organizers have also faced intimidation when their anti-Omnibus Bill discussions were disbanded by police.

During last month’s protests against the bills, police arrested at least 150 protesters throughout different regions in Indonesia. Online, people who have expressed their objections to the bills have been targeted under the 2008 Internet Law. This law regulated online speech under a broad umbrella of “insult, defamation, and provocation,” which, in addition to potential defamation charges under the Criminal Code and Civil Code, has put a serious damper on online discourse. To make matters worse, Jokowi issued a regulation last month that stipulates the State Intelligence Agency will now work directly under the President’s office.<sup>10</sup>

Predictably, Jokowi’s quest for foreign capital has meant a cozier economic relationship between Indonesia and China. Like many other nations, one of Indonesia’s most sought after sources of foreign investment is through the Belt and Road Initiative (BRI); in fact, the Omnibus Bills adopts the Chinese labor-intensive model on development reforms. With six current projects under BRI, Indonesia has pursued China to invest a further US\$ 91 billion through at least 28 projects across the country. The military and police crackdown on dissent against the Omnibus Bills show how important state-sanctioned violence is for courting even more of these BRI projects, and ensuring further enmeshment in global capitalist networks in general.

## Indonesians are not alone

The touting of “reform” under Jokowi has just barely concealed that the government is recycling the disastrous policies of the Berkeley Mafia and overselling the narrative of economic growth. While the benefits of these foreign investments will go only to the oligarchs, long-discredited, Reaganite, trickle-down economic schemes are hawked through slogans such as “more foreign investments = more jobs.” But Indonesians already know the plot of this next “Jokowi Chapter” and have been showing that in the streets.

Thus, while neoliberal politics and authoritarianism go hand in hand, it is also necessary from time to time for the state to arrange a congenial “state of emergency” to distract from the regular crises of capitalism. The ongoing global pandemic has provided that cover. Violent, foreign-backed regime change in the service of the free market was pioneered in part in Indonesia—and it can always be employed again.

We are currently witnessing a new wave of states invoking “emergency powers” across Asia in order to implement drastic national security laws. The Philippines’ Anti-Terror Bill shares more than just similar timing with Beijing’s National Security Law in Hong Kong: They both heavily criminalize dissent, regardless of national borders. Thailand’s current crisis of democracy goes hand in hand with the political prominence of the military and the state’s own authoritarian leanings. With the Omnibus Bills moving forward under the reinvigorated specter of the Berkeley Mafia, and the pieces in place for a militarized *lex mercatoria*, Indonesia is signaling that it may be next to join in.

The intertwined nature of the central government and corporations in pushing the Omnibus Bills, then, proves that threats to more democratic governance don’t exist in a political vacuum. While some activists opposed to the Omnibus Bills have been focused primarily on how the murky, unaccountable legislation would set a bad precedent for Indonesia’s political landscape going forward, it’s important for us to understand the ways in which capitalism and democracy enable one another’s abuses. To effectively address the problems that plague Indonesia, our solutions must target ideological and political economic problems at the same time.

Most of all, the Indonesian working class is not alone in this struggle. Capitalist states across the world—authoritarian or otherwise—have opportunistically taken cues from one another in a bid to centralize power and threaten hard-fought democratic labor and activist victories through severe, repressive means. In order to fight Jokowi’s proposed future for Indonesia, where a central government subordinates workers to the needs of massive

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<sup>10</sup> While in eastern Indonesia, China has US\$ 10 billion worth of investments in the nickel project of PT Indonesia Weda Bay Industrial Park (IWIP) at Weda Bay, Halmahera, Maluku through Tsingshan, Huayou, and Zhenshi.

multi-national corporations, we must continue to build a truly global workers' front, a new internationalism beyond the nation-state.

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