

Labor Inspection Mechanism for the Implementation of Labor Norms in the Workplace



Muhammad Ramdan

Faculty of Law, Universitas Diponegoro, Semarang 50275, Indonesia

ABSTRACT: Workers and employers in carrying out employment relations must comply with labor norms which consist of work norms and occupational safety and health norms. Implementation of labor norms in the workplace requires the role of labor inspectors in carrying out supervision. The formulation of the problem in this research is what is the Labor Inspection mechanism for the Implementation of Labor Norms in the Workplace? This research is a type of normative legal research with a statutory approach, data collection through library research, and data analysis carried out descriptively. Labor inspections regarding the implementation of Labor Norms in the workplace are carried out by labor inspectors under the authority granted by Article 176 of Law Number 13 of 2003 concerning Employment. Labor inspectors carry out labor inspection mechanisms for the implementation of Labor Norms under the provisions of Article 4 to Article 51 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 which consists of the planning stage, implementation stage and reporting stage.

KEYWORDS: Labor Inspection, Labor Norms, Labor Inspection Officer.

I. INTRODUCTION

Indonesia is a country of law, all activities of people's lives are regulated by law, such as the mandate contained in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Laws in Indonesia aim to create a just, prosperous, and peaceful society, and prosperous.

Indonesia's legal state has passed through the era of Industrial Revolution 4.0. This era had a big impact on all sectors of human life. One of the legal subjects, in this case, is that individuals and legal entities are competing to create businesses or establish companies. This has an impact on society because with the increasing number of companies, there will be an increase in the number of jobs which will have an impact on the need for workers to do the work.

Workers and employers in carrying out work relations must comply with employment norms which consist of work norms and occupational safety and health norms. Work norms are rules or regulations that must be obeyed by a worker in a company. In general, work norms are created by the company to create a disciplined work environment. Work norms are the rights and obligations of employers and workers which have been regulated in statutory regulations. Meanwhile, K3 norms are rules relating to occupational safety and health. These regulations are implemented to protect workers and reduce the risk of work accidents and the risk of occupational diseases.

The implementation of work norms and K3 norms must be adhered to by employers and workers. This is important to note, considering that enforcing labor norms is useful in creating work productivity in the workplace. Work norms must be implemented to protect parties, especially workers. Work norms include working time arrangements, rest periods, wage systems, work leave, and so on.

K3 norms must be implemented because workers in carrying out work will be faced with various work risks which will result in work accidents or accidents. To reduce the occurrence of work accidents, the company's role is to recognize the various hazards or potential dangers that exist in the workplace. This is important to pay attention to because workers have a very important position and role as national development actors.

National development can be achieved through the development of employment or industrial relations which involves actors in the production of goods and/or services consisting of entrepreneurs, workers, and the government. Employment development is carried out based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Article 28 D paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that "Everyone has the right to work and receive fair and appropriate

Labor Inspection Mechanism for the Implementation of Labor Norms in the Workplace

compensation and treatment in employment relationships." Employment development must be well regulated so that the rights and protection of workers are fulfilled, especially in enforcing labor norms in the workplace.

Implementation of labor norms can be realized by involving the government's role in supervising companies. In labor law, this supervision is called "Employment Inspection" which is explained in Article 1 number 32 of the Manpower Law that "Labor Inspection is the activity of supervising and enforcing the implementation of laws and regulations in the field of employment".

Article 176 of the Manpower Law states that "Labor inspection is carried out by labor inspectors who have competence and are independent to ensure the implementation of labor laws and regulations." The supervisory employees referred to in the article come from the Manpower and transmigration department.

Article 3 paragraph (1) of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 concerning Procedures for Labor Inspection (in the future referred to as the Minister of Manpower Regulation of the Republic of Indonesia Number 33 of 2016) states that "Labor Inspection aims to ensure the implementation of Labor Norms in Companies or Workplaces". This article is the basis (*das sollen*) for workers so that companies comply with Labor Norms consisting of Work Norms and Occupational Safety and Health Norms (K3 Norms), because their implementation is supervised by labor inspectors.

Based on Administrative Law, supervision consists of supervision carried out by the government (*toezicht door de overheid*) and supervision carried out over the government (*toezicht tegen het besturen*). In implementing occupational safety and health norms, labor inspection is included in supervision carried out by the government (*toezicht door de overheid*) in this case by supervisory employees at the Department of Manpower and Transmigration in each region.

Based on the background above, the problem formulation in this research is what is the mechanism for Labor Inspection regarding the Implementation of Labor Norms in the Workplace?

II. RESEARCH METHODS

This research is a type of normative legal research, namely legal research that places law as a building system of norms consisting of principles, norms, rules and regulations, court decisions, agreements, and doctrine. The approach used in this research is the Legislative Approach, which is an approach that uses regulations. The data collection technique that the author carried out was through literature study. Data analysis was carried out descriptively. The nature of descriptive analysis means that in the analysis the writer provides an explanation of the subject and object of the research as per the results of the research carried out.

III. RESULTS AND DISCUSSION

Article 1 point 9 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 concerning Procedures for Labor Inspection states that "Labor Inspection is the activity of supervising and enforcing the implementation of laws and regulations in the field of employment". Labor inspections are carried out to eliminate or minimize violations of the Labor Law so that the industrial relations process can run well and harmoniously. Apart from that, labor inspection has social objectives, such as improving workers' welfare and social security, "encouraging the performance of the business world, and improving the welfare of society in general."

Article 3 paragraph (1) of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 states that "Labor Inspection aims to ensure the implementation of Labor Norms in Companies or Workplaces". Meanwhile, Article 3 paragraph (2) explains that:

1. Ensure enforcement of labor laws;
2. Provide information and technical advice to Employers and Workers/Labourers regarding matters that can ensure the effective implementation of labor laws and regulations; and
3. Collect material information regarding employment relations and employment conditions in the broadest sense as material for preparing or improving employment legislation.

Labor inspections are carried out by labor inspectors as stated in Article 1 number 10 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 that "Labor Inspectors are Civil Servants who are appointed and assigned to the functional position of Labor Inspector to supervise and enforce the implementation of statutory regulations in the field of employment". Supervisory employees who carry out labor inspections are a form of state function in enforcing labor law. Labor inspectors carry out inspections of the workplace. Article 1 number 7 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 explains that "A workplace is any room or field, closed or open, mobile or fixed where workers work, or which workers frequently enter for a business and where there is a source of or sources of danger".

Labor inspections by supervisory employees are carried out to ensure the implementation of Labor Norms in the workplace. Article 1 number 19 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 states that

Labor Inspection Mechanism for the Implementation of Labor Norms in the Workplace

"Employment Norms are all forms of statutory regulations or standards in the field of employment which consist of Work Norms and Occupational Safety and Health Norms (K3 Norms)".

Article 4 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 regulates the procedures for Labor Inspection which includes the following:

1. Plan

Labor inspections are carried out using a work plan which consists of:

- a. Labor Inspection work unit work plan; and
- b. Labor Inspector work plan.

The work plan of the Labor Inspection work unit is a benchmark or basis for preparing the Labor Inspector's work plan in carrying out their duties. The Labor Inspection work plan is prepared every year concerning employment, social, economic, and geographical conditions. The work plan contains activities for the Development, Inspection, Testing, and/or Investigation of Employment Crimes. This is regulated in Article 6 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016.

Article 7 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 states that "Labor inspectors are required to prepare a work plan for Labor Inspectors." The work plan is prepared every month by referring to the work plan of the Labor Inspection work unit.

The Labor Inspector's work plan includes Employment Development activities, Employment Inspection, Employment Testing, and/or Investigation of Employment Crimes. In the case of labor inspections in the workplace, Labor Inspectors are obliged to prepare and carry them out for at least 5 (five) companies every month. In connection with K3 norm testing, K3 Specialist Labor Inspectors are required to prepare and implement work plans for at least 8 (eight) K3 norm testing objects every month. This is explained in Article 8 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016.

2. Implementation

Article 9 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 explains that the implementation of Labor Inspection is carried out through stages:

- a. Preventive educative, which is "a coaching activity as a preventive effort through the dissemination of Employment Norms, technical advice and" mentoring.
- b. Non-judicial repression, namely "is a coercive effort outside the court to fulfill the provisions of labor laws and regulations in the form of an Inspection Note as a warning or a letter of statement of willingness to fulfill labor laws and regulations based on inspection and/or testing."
- c. Judicial repression is a coercive effort through court institutions by carrying out an investigation process by the Labor Inspector as the Employment PPNS.

Implementation of Labor Inspection is carried out through the Development, Inspection, Examination and/or Investigation of Employment Crimes, namely as follows:

a. Development

The Department of Manpower and Transmigration in each region carries out guidance to increase the compliance of Entrepreneurs/Companies, Workers/Labourers, Trade Union/Labor Union Management, and Employer Organization Management with the implementation of Employment Norms. This development is carried out through technical advisory activities, socialization, training, consultation meetings, discussions and mentoring. This is in accordance with what is stated in Article 17 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016.

b. Inspection

Inspections carried out by Labor Inspectors regarding the implementation of Labor Norms are carried out within a maximum period of 3 (three) working days, consisting of:

1) first inspection

The first inspection carried out by supervisory employees is a comprehensive inspection of the implementation of Labor Norms in industrial companies or workplaces that are new or have never been inspected. This is following what is stated in Article 22 paragraph (1) of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016. The first inspection is carried out by:

- a) Inspection of documents;
- b) Inspection of company layout and production process flow
- c) Field inspection; And
- d) Checking the information.

Labor Inspection Mechanism for the Implementation of Labor Norms in the Workplace

2) Periodic Inspection

Periodic inspections carried out by supervisory employees are inspections carried out after the first inspection according to the specified period. The periodic inspection method is the same as the first inspection.

3) Specific Inspection

Specific inspection is an inspection of Labor Norms based on public complaints, Company requests and/or orders from the Head of the Labor Inspection Work Unit. This special examination is carried out by examining documents, field inspections, and taking information. This is following what is stated in Article 24 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016.

4) Re-inspection/recheck

Re-inspection is a re-examination by a Labor Inspector with a higher position and/or a central Labor Inspector. The re-examination is carried out after the case has been conducted as stated in Article 26 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016.

The Labor Inspector is obliged to prepare a report on the results of the inspection and submit it to the Head of the Manpower and Transmigration Service which at least contains:

- 1) Place and date of inspection;
- 2) Company identity;
- 3) Examination findings;
- 4) Analysis;
- 5) Conclusions and suggestions; And
- 6) Signature and clear name of the Labor Inspector.

Article 29 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 states that "During the implementation of the inspection, if machines, equipment, work tools, installations, materials, production processes, work methods, nature of work or work environment are found that do not meet the K3 requirements which are dangerous, The Labor Inspectorate may stop the relevant employment process."

c. Inspection note

Labor Inspectors in each Department of Manpower and Transmigration are obliged to implement the provisions of Article 30 paragraph (1) of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 1 of 2020 concerning Amendments to Regulation of the Minister of Manpower Number 33 of 2016, namely making an Inspection Note after carrying out the Inspection. In Article 30 paragraph (4) it is stated that the Audit Note contains:

- 1) Inspection date;
- 2) Examination findings;
- 3) Provisions of governing laws and regulations;
- 4) Orders to correct non-compliance or maintain compliance;
- 5) Period for implementing the Inspection Note;
- 6) Place and date of making the Inspection Note; And
- 7) Signature of the Labor Inspector who conducted the inspection and acknowledged by the Head of the Labor Inspection Work Unit.

d. Testing

Labor Inspectors at the Department of Manpower and Transmigration in each region carry out tests aimed at ensuring the fulfillment of workers' rights and/or K3 requirements in companies. Testing of employment norms consists of:

1) Testing Work Norms

Testing of work norms is carried out to ensure fulfillment of work norm requirements which include requirements for working time, rest time, wage system, work leave, social security for workers, job training, etc.

2) Testing K3 Norms

Article 39 paragraph (2) Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 states that "K3 Norm Testing includes K3 requirements relating to the use of machines, aircraft, work tools, other equipment, materials, environment, nature of work, work methods, production process, and occupational health services". Testing of K3 norms can be carried out by the K3 Specialist Labor Inspector according to their appointment and/or the K3 Expert according to their appointment. K3 Norm Testing includes first testing, periodic testing, specific testing, and retesting.

e. Investigation of Employment Crimes

Labor Inspection Mechanism for the Implementation of Labor Norms in the Workplace

Article 47 of the Minister of Manpower Regulation Number 33 of 2016 explains that the Investigation of Employment Crimes is a judicial repressive action as the final step in enforcing employment law. PPNS Employment carries out employment crime investigations.

3. Reporting

Labor Inspection Reports consist of Labor Inspector reports and Labor Inspection Work Unit reports.

a. Labor Inspector Report

This report is made by the Labor Inspector after carrying out Development, Inspection, Testing, and Investigation activities.

b. Labor Inspection Work Unit Report

This report is prepared by the Head of the Labor Inspection Work Unit every 3 (three) months or at any time necessary. The report is prepared under the provisions in Article 50 paragraph (2) of the Minister of Manpower Regulation Number 33 of 2016, namely at least containing:

- 1) General employment data;
- 2) Recapitulation of the results of Labor Inspector activities during the reporting period; And
- 3) Achievements of Labor Inspection activities in 1 (one) reporting period.

IV. CONCLUSIONS

Labor inspections regarding the implementation of Labor Norms in the workplace are carried out by labor inspectors under the authority granted by Article 176 of Law Number 13 of 2003 concerning Employment. Labor inspection employees carry out labor inspection mechanisms for the implementation of Labor Norms under the provisions of Article 4 to Article 51 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 which consists of the planning stage (labor inspection work unit work plan and labor inspector work plan), implementation stage (Development, Inspection, Inspection Note, Testing, and Investigation of Employment Crimes), and the reporting stage (labor inspector report and labor inspection work unit report).

REFERENCES

- 1) Mahmud, R., & Puspitasari, C. D. (2021). Hambatan Dinas Tenaga Kerja dan Transmigrasi Provinsi Daerah Istimewa Yogyakarta dalam mengatasi permasalahan upah pekerja. *AGORA*, 10(4), h. 407.
- 2) Aloysius Uwiyono, et.al, *Asas-Asas Hukum Perburuhan* (Jakarta: Rajawali Pers, 2014), 65.
- 3) Ridwan, *Urgensi Upaya Administratif di Indonesia* (Yogyakarta: FH UII Press, 2019), 60-61.
- 4) Mukti Fajar ND dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris* (Yogyakarta: Pustaka Pelajar, 2017), 34.
- 5) Dimas Karnadi Sofian, "Pengawasan Ketenagakerjaan Di Bidang Kesehatan Kerja Sebagai Upaya Perlindungan Hukum Bagi Buruh", *Jurnal Hukum Bisnis* 02, no.1 (2018): 49.
- 6) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- 7) Undang-Undang Republik Indonesia Nomor 13 Tahun 2003 tentang Ketenagakerjaan.
- 8) Peraturan Menteri Ketenagakerjaan Republik Indonesia Nomor 33 Tahun 2016 tentang Tata Cara Pengawasan Ketenagakerjaan.



There is an Open Access article, distributed under the term of the Creative Commons Attribution – Non Commercial 4.0 International (CC BY-NC 4.0) (<https://creativecommons.org/licenses/by-nc/4.0/>), which permits remixing, adapting and building upon the work for non-commercial use, provided the original work is properly cited.