

Conference Paper

Authority of the Labor Inspector in Protecting Worker's Rights

Darwati*

Universitas Borobudur, Jakarta, Indonesia

ORCIDDarwati: <https://orcid.org/0009-0008-4998-2902>**Abstract.**

Protection of labor rights is formulated in Law Number 13 of 2003 concerning Manpower. In order to supervise the enactment of labor rights that are formulated in the law, supervision of labor issues is needed. Formulation of the problems are based on questions such as: How is the legal protection of workers' rights? 2. What are the legal sanctions for violations of workers' rights? 3. What is the authority of the labor inspectorate in supervising workers' rights? The methodologies used are normative juridical and sociological juridical. The theory used is the rule of law theory, the theory of supervision, and the theory of authority. The results of research on the legal protection of workers' rights are regulated in Article 77, Article 78, Article 88, and Article 90 of Law Number 13 of 2003 concerning manpower. Violations of workers' rights are subject to legal sanctions as formulated in Articles 185 and Article 187 of the Law - Law Number 13 of 2003 concerning manpower. The authority of labor inspectors is to guide and coerce violations of the law and to process criminal acts for said violations. In conclusion, labor inspectors are asked to be firm in supervising violations committed by employers.

Keywords: labor inspector authority, protection of labor, protecting worker's right

Corresponding Author: Darwati;
email: darwati1060@gmail.com

Published 5 January 2024

Publishing services provided by
Knowledge E

© Darwati. This article is distributed under the terms of the [Creative Commons Attribution License](#), which permits unrestricted use and redistribution provided that the original author and source are credited.

Selection and Peer-review under the responsibility of the 4th INCLAR Conference Committee.

1. INTRODUCTION

In meeting the needs of life every human being must do work. These jobs exist both domestically and abroad. Doing work can be as a government employee and can be in a private company. Everyone who works for a private company has the right to legal protection [1]. Protection of employment issues working within the country is regulated in Law Number 13 of 2003 concerning Manpower, which regulates the rights and obligations of workers and employers.

The relationship between employers and workers/ labourer's is based on a work agreement, which has elements of work, wages and orders [2]. Article 77 of Law Number 13 of 2003 concerning Manpower regulates working time, including:

1. Every entrepreneur is obliged to comply with the provisions on working time.

OPEN ACCESS

2. Working time as referred to in paragraph (1) includes:

- (a) 7 (seven) hours 1 (one) day and 40 (forty) hours 1 (one) week for 6 (six) working days in 1 (one) week; or
- (b) 8 (eight) hours 1 (one) day and 40 (forty) hours 1 (one) week for 5 (five) working days in 1 (one) week.

3. The provisions on working time as referred to in paragraph (2) do not apply to certain business sectors or jobs.

Entrepreneurs who employ workers beyond working hours as defined in Article 77 must meet the following requirements [2] : a. there is approval from the worker/laborer concerned; and b. overtime can only be done for a maximum of 3 (three) hours in 1 (one) day and 14 (fourteen) hours in 1 (one) week. Entrepreneurs who employ workers/laborers beyond their working hours as referred to in paragraph (1) are required to pay overtime wages.

Entrepreneurs who do not pay workers' rights for overtime work are subject to sanctions as defined in Article 187 of Law Number 13 of 2003 concerning Manpower, including:

Whoever violates the provisions referred to in Article 14 paragraph (2), Article 38 paragraph (2), Article 63 paragraph (1), Article 78 paragraph (1), Article 108 paragraph (1), Article 111 paragraph (3), Article 114, and Article 148, shall be subject to criminal sanctions of a minimum fine of Rp. 5,000,000.00 (five million rupiahs) and a maximum of Rp. 50,000,000.00 (fifty million rupiahs). (2) The crime referred to in paragraph (1) is a criminal offense.

Protection for workers besides working hours, the law provides protection regarding wages. Article 89 of Law Number 13 of 2003 concerning Manpower regulates the Minimum Wage, among others:

(1) The minimum wage as referred to in Article 88 paragraph (3) letter a may consist of:

- a. minimum wage based on province or district/city area;
- b. minimum wage by sector in the province or district/city.

(2) The minimum wage as referred to in paragraph (1) is directed at achieving decent living needs.

Entrepreneurs are prohibited from violating the minimum wage as stipulated in Article 90, including:

(1) Entrepreneurs are prohibited from paying wages lower than the minimum wage as referred to in Article 89.

(2) Entrepreneurs who are unable to pay the minimum wage as referred to in Article 89 may be suspended.

(3) The procedure for the suspension as referred to in paragraph (2) is regulated by a Ministerial Decree.

Entrepreneurs who violate the minimum wage or pay worker's wages below the minimum wage are subject to sanctions as defined in Article 185 of Law Number 13 of 2003 concerning Manpower, including:

Whoever violates the provisions referred to in Article 42 paragraph (1) and paragraph (2), Article 68, Article 69 paragraph (2), Article 80, Article 82, Article 90 paragraph (1), Article 143, and Article 160 paragraph (4) and paragraph (7), shall be subject to imprisonment for a minimum of 1 (one) year and a maximum of 4 (four) years and/or a fine of a minimum of Rp. 100,000,000.00 (one hundred million rupiah) and a maximum of Rp. 400,000. 000.00 (four hundred million rupiah). (2) The crime referred to in paragraph (1) is a criminal act.

In carrying out supervision of workers' rights, the Government enforces Law Number 3 of 1951 concerning Declaration of the Applicability of the 1948 Labor Inspection Law Number 23 concerning Labor Inspection of the Republic of Indonesia for All of Indonesia. Labor inspection is held in order to: a. supervising the application of labor laws and regulations in particular [3]. Even though the rules are quite good, there are still many employers who violate labor rights, and workers have not received what is their right as regulated in the applicable laws and regulations [4]. We have disguised the names of the companies, including:

TABLE 1: Companies That Violate Workers' Rights.

No	Name of Company	Type of Violation	Number of Employees
1	PT.X Soekanto Street, East Jakarta	Minimum wages, over working hours and termination of employment	± 50 people, working period 5 to 12 years
2	PT.Y fatmawati street, south jakarta	Minimum Wage, over working hours, and termination of employment	± 200 people, working period 6 to 12 years
3	PT.Z Raden Intan Street East Jakarta	Minimum Wage, over working hours, and termination of employment	± 50 people, working period 6 to 12 years

Source: Data processed by the author

Based on the data above, PT. X employs offshore workers with working hours of 12 hours/day, paying worker's wages only at the provincial minimum wage and sea allowances if they enter are paid IDR 300,000/day. Calculation of overtime pay is only based on basic wages. Furthermore, the workers were terminated from their employment relationship on the grounds that the work agreement had ended. The workers who work at PT.Y are employed offshore with working hours of 12 hours/day, the wages paid by PT.Y are IDR 2,500,000 to IDR 3,000,000/month and sea allowances if present are IDR. 300,000/day, and overtime is not paid for overtime. Furthermore, workers are terminated by their employment relationship on the grounds that the work agreement has ended. Company no. 3 employs workers offshore, working hours 12 hours per day without taking into account overtime, wages received by workers Rp. 2,000,000 to Rp. 2,500,000 / month, sea allowance if paid varies, namely Rp. 300,000.00 to Rp. 330,000.00/day. Furthermore, the employment relationship was terminated by the entrepreneur because he lost a tender with another company. Employees are terminated from their employment by paying severance pay of 2 (two) months of basic wages plus 26 days of sea allowance [5]. Some of the workers accepted and some refused and reported the problem to the East Jakarta City Sub-District and Transmigration Office [6]. And it has been running for \pm 3 years, the problem has not been resolved because the employer has not paid for the worker's rights that have been determined by the Labor Inspector [7].

Based on the description above, the writer is interested in conducting research with the title "Authorities of Labor Inspectors in Protecting Workers' Rights". against violations of workers' rights. To find out and analyze how the authority of labor inspectors is to supervise workers' rights? Scientifically, this research is useful for increasing the knowledge of readers in labor issues and the duties and authorities of labor inspectors.

2. METHODOLOGY/ MATERIALS

The methodology used is normative juridical and sociological juridical. Normative juridical, namely how the law protects workers' rights and what are the authorities of labor inspectors in carrying out supervisory duties. Juridical sociology, namely how the attitude of workers towards violations of their rights is regulated by law, worker's rights.

3. RESULTS AND DISCUSSIONS

3.1. Protection of Workers' Rights

As formulated in Article 1 paragraph (3) of the 1945 Constitution, that the state of Indonesia is a state based on law. Based on the formulation of the intended article, everything that every citizen will do must be based on applicable legal regulations. The enactment of legal rules for every activity to be carried out so that everyone is orderly and respects one another. Good Indonesian citizens will carry out the applicable legal rules. And violation of these rules shall be subject to legal sanctions [8].

The rule of law concept is in line with Plato's thought that the ideal concept of a rule of law state is a state where the administration of government is governed by law [5]. Plato firmly believes that the existence of legal regulations in a country is a must, so that Nomoi explains in detail the matters governed by law [9].

Anglo Saxon in the concept of a rule of law, put forward by Albert Van Dicey, a British thinker who is also a book author, argued that there are three (3) main elements of the rule of law, namely [7];

1. Supremacy of law is that which has the highest authority in a country, namely law (sovereignty of law).
2. Equality before the law; equality for the position before the law for all citizens, both as individuals and as state officials.
3. Constitution based on individual rights; the constitution is not a source of human rights and if human rights are placed in the constitution it is only as an affirmation that human rights must be protected.

As formulated in Article 1 point 15 of Law Number 13 of 2003 concerning Manpower that the working relationship between employers and workers/laborers is based on a work agreement, which has elements of work, wages and orders [4]. Article 1 point 14 of Law Number 13 of 2003 stipulates that a work agreement is an agreement between a worker/laborer and an employer or employer which contains the terms of employment, rights and obligations of the parties. The working relationship occurs because of a work agreement between the entrepreneur and the worker/labourer (formulated in Article 50 of Law Number 13 of 2003 concerning Manpower).

Article 51 of Law Number 13 of 2003 concerning Manpower formulates:

1. The employment agreement is both oral and written
2. Work agreements that are required in writing are carried out in accordance with applicable laws and regulations.

The government provides protection to workers with the enactment of Law Number 13 of 2003 concerning Manpower. Article 77 regulates working hours, namely 7 (seven) hours or 8 (eight) hours in one day and 40 (forty) hours in one week. If the employer employs workers for more than 7 (seven) hours or 8 (eight) hours in one day, approval must be obtained from the worker and overtime is payable for the excess working hours. This is formulated in Article 78 of Law Number 13 of 2003 concerning Manpower. Employers who employ workers for more than 7 hours or 8 hours in one day must be paid overtime wages. Employers who do not pay overtime wages are subject to legal sanctions [10].

In addition to working hours, the government also provides protection regarding wages as defined in Article 88 paragraph (3) and Article 90 of Law Number 13 of 2003 concerning Manpower. Article 88 paragraph (3) formulates:

“Wage policies that protect workers/labor as referred to in paragraph (2) include: a. minimum wage; b. overtime pay; c. wages absent from work due to absence; d. wages absent from work due to other activities outside of work; e. wages for exercising the right to rest time; f. form and method of payment of wages; g. fines and deductions from wages; h. things that can be calculated with wages; i. proportional wage structure and scale; j. wages for severance pay; and k. wages for the calculation of income tax”.

Article 90 formulates:

Entrepreneurs are prohibited from paying wages lower than the minimum wage as referred to in Article 89.

3.2. Legal Sanctions for Violations of Workers' Rights

Parties who violate applicable regulations will receive sanctions both civil and criminal. In the work agreement, of course, the employer stipulates the terms of work, for workers/laborers who commit violations they will receive a sanction of termination of employment and must be given a first warning, second warning and third warning beforehand. Workers/laborers who experience termination of employment for the reasons referred to in paragraph (1) receive severance pay in the amount of 1 (one) time the provisions of Article 156 paragraph (2), long service pay in the amount of 1 (one) time the provisions of Article 156 paragraph (3)) and compensation money in accordance with the provisions of Article 156 paragraph (4) of Law Number 13 of 2003 concerning Manpower [11].

Article 77 of Law Number 13 of 2003 concerning Manpower regulates working hours, namely 7 hours or 8 hours in one day and 40 (forty) hours in one week. If an entrepreneur

employs a worker/laborer for more than 7 (seven) hours or 8 (eight) hours and 40 (forty) hours in one week, the worker/laborer must obtain approval and the said excess working hours must be paid overtime wages, this is regulated in Article 78 of Law Number 13 of 2003 concerning Manpower. Entrepreneurs who do not pay overtime wages for excess working hours, then these employers will receive criminal sanctions for violations as formulated in Article 187 of Law Number 13 of 2003 concerning Manpower, including:

Whoever violates the provisions referred to in Article 37 paragraph (2), Article 44 paragraph (1), Article 45 paragraph (1), Article 67 paragraph (1), Article 71 paragraph (2), Article 76, Article 78 paragraph (2), Article 79 paragraph (1), and paragraph (2), Article 85 paragraph (3), and Article 144, are subject to criminal sanctions with imprisonment for a minimum of 1 (one) month and a maximum of 12 (twelve) months and/or a fine a minimum of IDR 10,000,000.00 (ten million rupiah) and a maximum of IDR 100,000,000.00 (one hundred million rupiah). (2) The crime referred to in paragraph (1) is a criminal offense.

According to Sutandyo Wignyosoebroto, that: "Law enforcement can be associated with the notion of law enforcement in a narrow sense, while law enforcement in a broad sense, in the sense of material law, is termed justice enforcement. So what is meant here is to emphasize that the law that must be upheld is essentially not just the rule itself, but includes the values of justice contained therein [9].

3.3. The Authority of Labor Inspectors on Carrying Out Supervision of Workers' Rights

Employers who commit violations against workers' rights are under the authority of the labor inspectorate to supervise and provide guidance on violations committed by employers. Guidance is carried out when the labor inspector comes to the location and examines data on wage issues. In Article 1 of Law Number 3 of 1951 concerning Declaration of the Applicability of the Labor Inspection Law of 1948 Number 23 concerning Labor Inspection of the Republic of Indonesia for All of Indonesia, it is formulated:

(1) Labor Supervision is held for: a. supervising the application of labor laws and regulations in particular; b. collect information materials on work relations issues and labor conditions in the widest possible sense in order to make labor laws and regulations; c. carry out other work assigned to him by law or other regulations. (2) The minister entrusted with labor affairs shall make an annual report on the work of labor inspection.

The employees referred to in paragraph (1) of this Article, along with the assistant employees who follow them, in carrying out the obligations referred to in Article 1 paragraph (1), have the right to enter all places where work is carried out or is usually

carried out, or can it is suspected that the work is carried out there and also all the houses that are rented out or used by the employer or his representative for housing or the care of workers. What is meant by work is work carried out by workers for employers in an employment relationship by receiving wages [12].

There is a slight difference in the definition of the term law between the term authority or *authority* and the term *bevoegdheid*. The difference lies in the legal character. *The Dutch term bevoegdheid* is used in both public and private law concepts. In Indonesian national law, the term authority or authority should always be used in the concept of public law [13].

Mc. Farland in Handayani (1981:143) provides the following definition of supervision (control): "Control is the process by which an executive gets the performance of his subordinates to correspond as closely as possible to chosen plans, orders, objectives, or policies" [14]. (Supervision is a process in which the leader wants to know whether the results of the work carried out by his subordinates are in accordance with the plans, orders, goals or policies that have been determined). Based on the opinions of the experts above, it can be concluded that supervision is intended to prevent or correct errors, deviations, discrepancies and fraud that are not in accordance with the objectives of the authority that has been determined [15].

4. CONCLUSION AND RECOMMENDATION

Protection of the rights of workers/laborers is regulated in Article 77, Article 78, Article 88, Article 89 of Law Number 13 of 2003 concerning Manpower. Legal sanctions for violations of workers/laborers' rights are regulated in Article 185 and Article 187 of Law Number 13 of 2003 concerning Manpower. The authority of labor inspectors to protect workers' rights is based on Law Number 3 of 1951 concerning Declaration of the Applicability of Law of 1948 Number 23 concerning Labor Inspection of the Republic of Indonesia for All of Indonesia. The Labor Inspector conducts coaching before proceeding with criminal proceedings. And the recommendation for the labor inspectors are asked to be firm in supervising violations committed by employers.

References

- [1] Santos AJR, Amado CAF, Rabelo EL, Mendes. "Labor inspectorates' efficiency and effectiveness assessment as a learning path to improve work-related accident prevention." *Ann Oper Res*. 2019.

- [2] Law Number 13 of 2003 concerning Manpower.
- [3] Article 1 letter a Law Number 3 of 1951 concerning Declaration of the Applicability of the 1948 Labor Inspection Law No. 23 from the Republic of Indonesia for all of Indonesia (State Gazette No.4 of 1951).
- [4] Loyens K, Paraciani R. Who is the ('Ideal') victim of labor exploitation? Two qualitative vignette studies on labor inspectors' discretion. *Sociol Q.* 2023 Jan;64(1):27–45.
- [5] Azhari. Indonesian Rule of Law, normative juridical analysis of its elements. Jakarta: UI Press; 1995.
- [6] Sabine G. A history of political theory. London: George G. Harrap & CO. Ltd, 1995.
- [7] Hakim AA. State of law and democracy in Indonesia. Yogyakarta: Student Library, East Celeban; 2011.
- [8] Darwati. Legal protection for Indonesian migrant workers (TKI). Jakarta: Jakarta Cintya Press; 2015.
- [9] Wignyosoebroto S. Law: Social goals & problems. Surabaya: Dharmawangsa Press; 2004.
- [10] Liao CW, Chiang TL. Designing of dynamic labor inspection system for construction industry. *Expert Syst Appl.* 2012 Mar;39(4):4402–9.
- [11] Al-Fatih S, Ahsany F, Alamsyah AF. Legal protection of labor rights during the coronavirus disease 2019 (COVID-19) PANDEMIC. *J Pembaharuan Huk.* 2020 Aug;7(2):100.
- [12] Article 2 of Law Number 3 of 1951 concerning Declaration of the Applicability of the 1948 Labor Inspection Law No. 23 From the Republic of Indonesia For All of Indonesia (State Gazette No.4 of 1951). .
- [13] Sutrisno D. The nature of tax disputes, characteristics of the tax court, functions of the tax court. Jakarta: Kencana Publisher; 2016.
- [14] Gómez-García AR, Vega Chica ML, García-Arroyo JA. Relationship between the territorial distribution of labor inspectors and work accident injuries: clustering Ecuadorian provinces into four management scenarios. *Saf Sci.* 2023 Feb;158:105956.
- [15] Sururama R, Amalia R. Government oversight. Bandung: Schoolar Press; 2020.