



The Role of Labor Supervision (WASNAKER) In Resolving Legal Violations Regarding Wage Payment below the Minimum Wage

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Abstract.

Background, The annual rise in the nominal District/City Minimum Wage (UMK) is not accompanied by the adherence of Companies/Employers to fulfill their commitment to remunerate workers following the regulations. Labor Supervision, as the coordinator of oversight in the labor sector, encompasses coaching, inspection, testing, and investigation of labor offenses, playing a crucial role in addressing legal infractions related to the payment of wages below the District/City Minimum Wage (UMK).

Aim, This study investigates the challenges encountered by Labor Supervision (WASNAKER) in addressing legal infractions concerning wage payments that fall below the district/city minimum wage (UMK).

Methods, This article employs an empirical legal methodology utilizing a qualitative approach.

Results, From this study, we found obstacles faced by the Cirebon Region III Manpower Supervision (WASNAKER) in handling legal violations against wage payments below the District/City Minimum Wage (UMK) by one of the *Commanditaire Vennootschap* (CV) in Cirebon Regency, including the Manpower Supervision which does not have executive power in carrying out its supervision activities and the absence of experts in the field of manpower who have certification at the Cirebon Region III Manpower Supervision.

Conclusions, Efficient labor oversight is essential to guarantee the enforcement of regulations in compliance with the law. This oversight seeks to uphold labor standards via guidance, inspection, testing, and investigation of labor. However, in its implementation, supervision faces various obstacles, such as the lack of executive power in the supervision process and the absence of certified expert witnesses in the field of labor, as seen in Region III Cirebon.

Implication, This study's results highlight the importance of strengthening the oversight mechanism, including the provision of competent human resources, to ensure compliance with labor regulations and the protection of workers' rights.

Keywords: Violation of Law, Labor Supervision, Minimum Wage

INTRODUCTION

In industrial relations, there are several types of disputes between employers and employees, one of which is a rights dispute. Wages are always a very crucial and fundamental issue in rights disputes in Industrial Relations. Thus, it often leads to disputes and even encourages protests/strikes if not handled professionally. (Arbi, Syafira, & Susilowati, 2023) In the wage system, it is known as the minimum wage. Minimum Wage is the minimum wage standard set by employers for workers, taking into account variables such as economic growth, inflation, and certain indices. The West Java provincial government has established the Minimum Wage for Regencies/Cities (UMK) for the year 2023, as outlined in the West Java Governor's Decree Number: 561.7/Kep.776-Kesra/2022 regarding the Minimum Wage for Regencies/Cities in West Java Province for 2023.

Based on data from the 2023 Annual Final Report of the UPTD Labor Supervision Region III Cirebon, there are around 2,347 companies, including large, medium, small, and micro enterprises in the Cirebon Regency. 351 companies among them have committed violations/non-compliance with labor norms related to wages. (Mr. Samadi, 2024)

In Employment, especially in Companies, Workers play the role of the driving wheel, making them very important in improving and advancing the company. Considering that workers greatly contribute to the company, the welfare of workers needs to be viewed for improvement, especially in terms of wages. (Isaura, Abadi, & Chamdani, 2023) Workers in their activities have rights and obligations to the company, where the workers must work according to the rules, both legal rules and work rules and the right of the workers is to receive wages for the work they have done according to what has been agreed upon. The company is required to compensate the workers with a specified wage upon their completion of labor as per the mutually established agreement. Nevertheless, in reality, numerous enterprises continue to disregard their commitment to compensate employees following the Minimum Wage, and several employers fail to uphold the normative rights of workers, remaining much below the established norms. (Manurung, 2022) The necessity for oversight in the employment sector to foster a harmonious connection between the stakeholders in the production process, including workers and employers, is executed by the central government, particularly the Minister of Manpower, through Employment Supervision.

Like in the case of a rights dispute between one CV in Cirebon Regency and its workers. The director of the CV, hereinafter referred to as the perpetrator, made payments to 3 of his workers below the Minimum Wage of Cirebon Regency. The Labor Inspector

(Wasnaker) has implemented a Labor Supervision plan that encompasses Guidance, Inspection, Testing, and Investigation of Labor Crimes, as stipulated in Article 6, paragraph (3) of Minister of Manpower Regulation Number 33 of 2016 regarding Labor Supervision Procedures. The perpetrator's actions contravene Article 88E paragraphs (1) and (2) of Law No. 13 of 2003, as amended by Law No. 6 of 2023, regarding the Enactment of Government Regulation in place of Law No. 2 of 2022 on Job Creation, Chapter IV Section Two on Employment, in conjunction with Government Regulation No. 36 of 2021 Articles 23 and 24, and the Decree of the Governor of West Java No. 561.7/Kep.776-Kesra/2022.

In implementing this work plan, the labor inspectors certainly face obstacles in its execution, so the issue raised by the author in this research is regarding the obstacles faced by labor inspectors in resolving legal violations related to wage payments below the minimum regional wage (UMK) by employers.

METHOD

In this research, an empirical research method is used. Empirical research involves analyzing the implementation of Labor Supervision in resolving legal violations related to wage payments below the district's minimum wage and its obstacles by taking the example of one CV in Cirebon Regency. This study employs a qualitative research methodology by examining outcomes that yield descriptive data.

DISCUSSION

The yearly rise in the nominal Regional Minimum Wage (UMK) is not consistently adhered to by all employers in meeting their commitments. Consequently, efficient Labor Supervision is essential to guarantee the execution of these policies in compliance with the relevant rules. The governmental framework established to mitigate the incidence of rights conflicts is exemplified in Law Number 3 of 1951, which pertains to the Enforcement of Labor Supervision Law Number 23 of 1948. Thus, it can be understood that in terms of employment, the supervision process is very important to observe the implementation of employment relations to ensure compliance with the regulations.

Supervision is the act of monitoring the execution of organizational activities to ensure adherence to the established plan, as well as the efforts to comprehend and evaluate the actual conditions of task implementation. It involves assessing the outcomes of these activities to identify errors and failures for subsequent correction and prevention, ensuring

alignment with the predetermined plan. In execution, a plan and implementation directives are essential. (Edi, 2014)

Article 1, point 9 of Minister of Manpower Regulation Number 33 of 2016 defines Labor Supervision as the activity of monitoring and enforcing compliance with labor laws and regulations. Article 1, paragraph (1) of Law Number 3 of 1951 delineates the objective of labor supervision, which is to monitor the implementation of labor laws, compile employment and labor-related issues comprehensively to formulate labor laws and regulations, and execute additional responsibilities assigned to labor supervision by statutes or other regulations.

Compensation below the District/City Minimum Wage (UMK) becomes a significant issue in Industrial Relations with disputes over entitlements. Article 1, paragraph 2 of Law Number 2 of 2004 regarding the Resolution of Industrial Relations Disputes defines a Rights Dispute as one that emerges from the failure to fulfill rights, stemming from discrepancies in the application or interpretation of statutory provisions, employment contracts, company regulations, or collective labor agreements. The dispute arose from a divergence in the application of legal provisions. In instances where the employer fails to meet their obligation to compensate employees at the applicable district/city minimum wage (UMK), as mandated by Article 88E paragraph (2) of Law No. 6 of 2023 regarding the ratification of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation.

Labor supervision seeks to guarantee the adherence to Labor Standards within Companies or Workplaces and functions as the state's mechanism for implementing labor law. Labor Supervision is conducted by many activities.

a. Guidance;

Article 17 of Minister of Manpower Regulation Number 33 of 2016 specifies that Employment Supervision Guidance aims to enhance compliance with Employment Norms and may be conducted through activities such as technical counseling, socialization, training, consultation meetings, discussions, and mentoring. Labor Supervision may provide guidance for:

- 1) Entrepreneurs;
- 2) Workers/laborers;
- 3) Union leaders/labor union;
- 4) The management of the Entrepreneur organization; and/or
- 5) Other parties involved.

b. Inspection

According to Article 1 Number 15 of the Minister of Manpower Regulation Number 33 of 2016 concerning Employment Supervision Procedures, Inspection is an employment supervision activity carried out to ensure that labor laws and regulations are adhered to in companies or workplaces. In Labor Supervision consists of:

- 1) The first inspection is a thorough inspection of the implementation of Labor Standards in a new or previously uninspected Company or Workplace. Article 22 of the Minister of Manpower Regulation Number 33 of 2016 delineates the procedures for Employment Supervision inspections as follows:
 - a) Document inspection;
 - b) Inspection of the Company's layout and production process flow;
 - c) Field inspection;
 - d) Taking statements.
- 2) Periodic inspection is an inspection conducted after an examination that corresponds to a certain specified period. Periodic inspections are conducted in the same manner as the initial inspection;
- 3) Special inspection is an inspection conducted after receiving a public complaint, a company's request, or an order from the Head of the Labor Supervision Work Unit. The inspection in a special inspection is conducted through document inspection, field inspection, and taking statements.
- 4) Re-inspection is an inspection conducted by the central Labor Supervision due to the evaluation results of the inspection report from the Labor Supervision Unit.

In the inspection by the Labor Supervision, after conducting the inspection, it is mandatory to create an Inspection Note. The inspection note consists of:

- 1) Inspection Note I, which includes results from the inspection and directives to address the company's non-compliance. The execution period for Inspection Note I is a maximum of 30 days from its receipt.
- 2) Inspection Note II, issued if Inspection Note I is not executed within the designated timeframe includes a warning to complete Inspection Note I within 14 days from the receipt of Inspection Note II. If the Second Inspection Note is not executed, the Labor Supervision, led by the Labor Supervision work unit, will investigate instances of non-compliance that warrant criminal sanctions, initiate legal proceedings, and recommend that authorized officials take appropriate legal action.

3) Special Inspection Note, Article 34 of the Minister of Manpower Regulation Number 33 of 2016 regarding Employment Supervision Procedures delineates that the Special Inspection Note is generated following a specialized inspection on work norms in fixed-term employment agreements or the outsourcing of work to another entity.

c. Testing;

Testing is an activity aimed at assessing the object of Labor Supervision through a series of processes, such as calculation, analysis, measurement, and/or testing, following applicable regulations;

d. Investigation of Labor Crimes.

Article 1, paragraph 2 of the Criminal Procedure Code defines investigation as a sequence of acts undertaken by investigators following this legislation to seek and gather evidence that elucidates the matter. The investigation of labor crimes involves a sequence of acts conducted by Employment Civil Servants (PPNS) following the Criminal Procedure Code, aimed at searching for and gathering evidence to elucidate the labor crimes committed and identify the culprits.

Labor Supervision operations adhere to the supervisory regulations outlined in Minister of Manpower Regulation Number 33 of 2016 about Labor Supervision Procedures. Based on the research findings, the author identified obstacles faced in labor supervision in Region III Cirebon in addressing legal violations regarding wage payments below the District Minimum Wage (UMK) by one CV in Cirebon Regency.

The first obstacle, regarding labor supervision in the Cirebon III region, is that it does not have executive power in its supervisory process. Labor supervision normatively has full executive power in carrying out its duties and functions as an inspector in the field of labor. However, in practice, regarding the executive power of Labor Supervision in Region III Cirebon, it has been proven that it does not possess full executive power in the supervision activities by Labor Supervisors in Region III Cirebon, up to the investigation process by the Civil Servant Investigators (PPNS) of labor supervision in Region III Cirebon in the case of Wage Payment Below the Minimum Wage by one CV in Cirebon Regency.

This was proven during the inspection process, when the Civil Servant Investigators (PPNS) from the Labor Supervision (WASNAKER) conducted an examination to find additional evidence following a report from the Labor Union at the CV. The CV did not provide any transparency to the Labor Inspection (WASNAKER)

during the inspection process, from the initial examination to the issuance of the first and second inspection notes and the investigation process, because the CV refused to provide information and other evidence supporting the inspection process by the Labor Inspection of Region III Cirebon. (Mr. Samadi, 2024)

The second difficulty is the absence of trained expert witnesses in the subject of Employment within the III Cirebon zone. Article 1, paragraph 28 of the Indonesian Criminal Procedure Code (KUHAP) defines expert testimony as the statement given by an individual with specialized knowledge pertinent to elucidating a criminal case during examination. Specialized competence can be acquired through formal schooling, non-formal education, relevant certifications, and personal experiences. Nevertheless, the Criminal Procedure Code does not explicitly delineate the criteria for presenting expert testimony in judicial proceedings. (Wahyuni, 2023)

Meanwhile, expert testimony in criminal cases plays an important role as a legitimate piece of evidence in court according to Article 184 paragraph (1) of the Criminal Procedure Code (KUHAP). In the case of the investigation against one of the CVs in Cirebon Regency, in the area of Labor Supervision Region III (Cirebon City, Cirebon Regency, Indramayu Regency, Majalengka Regency, Kuningan Regency), there are no expert witnesses in the field of Labor, which has become an obstacle in the investigation process by the Labor Supervision Region III Cirebon. (Mr. Samadi, 2024)

CONCLUSION

The yearly increment in the District/City Minimum Wage (UMK) is not accompanied by adherence by firms to meeting their duties. This results in conflicts about entitlements between employees and employers, particularly concerning remuneration that falls below the minimum wage. Consequently, efficient labor oversight is essential to guarantee the enforcement of regulations in compliance with the law. This oversight seeks to uphold labor standards via guidance, inspection, testing, and investigation of labor offenses as stipulated in Minister of Manpower Regulation Number 33 of 2016. However, in its implementation, supervision faces various obstacles, such as the lack of executive power in the supervision process and the absence of certified expert witnesses in the field of labor, as seen in Region III Cirebon. These obstacles highlight the importance of strengthening the oversight mechanism, including the provision of competent human resources, to ensure compliance with labor regulations and the protection of workers' rights.

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