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Unravelling Disparities: Delving Into Indonesia's Multifaceted Labor Oversight Landscape And The Challenges Encountered

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Abstract

How do employers meet the rights of workers/labour? How reliable is the government-appointed labour inspectors' oversight against labour rights violated? How are the responsibilities of labor inspectors to safeguard workers' rights established in law and put into practice? Are significant concerns when analyzing the function of labor inspectors in fostering harmony between the workplace's employees and management. In this paper, I will use a variety of primary and secondary legal sources, from statutes and case law to academic studies, to analyze the aforementioned problems in the existing literature. The study's findings show that the authority of labour inspection is affirmed through ILO Convention No.81 of 1947 and then ratified by the government of Indonesia through Law No. 21 of 2003 on the ratification of ILO Convention No.81 years in which the central government in control of labour inspection becomes problematic when the birth of the labour law that provides authority that is centralistic-hierarchical and increasingly complex with the advent of the local government. Many issues need to be enforced until the lack of existing resources at the local level labour inspection is resolved with a, but also pay attention to the needs that exist in the area so that the formulation of future policies is under the supervision of labour inspectors who are at the provincial level due to the distribution of such a vast area.

Keywords: Labor Inspection, Arrangement, Policy, Disparities.

Introduction

How do employers/employers meet the rights of workers/labour? How reliable is the government-appointed labour inspectors' oversight when labour rights are violated? How does implementing labour inspectors' tasks guarantee employees' rights up to the legal foundation? Some of these considerations become significant in parsing the role of labour inspectors in establishing a balanced environment between employees and employers. In this situation, the government's various policy interventions will determine the answers to some of these issues.

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Labour is one of the supporting aspects that is critical to achieving development. In this situation, the employment strategy in development programs always aims to create as many work possibilities as possible in diverse professions with enhanced quality and increased comprehensive labour protection across all sectors³ A corporation cannot operate or participate in development unless it has employees. Workers, as development implementers, must have their rights safeguarded, their duties controlled, and their helpful power developed.⁴

Everyone has the right to work, and this must be recognized legally and translated into numerous policy interventions by the government. The Republic of Indonesia's 1945 Constitution guarantees all citizens the economic, social, and cultural rights, including the right to work.⁵

With the ultimate goal of fostering a more prosperous, fair, successful, and equitable material and spiritual society for all Indonesians, employment activities are carried out primarily within the context of total Indonesian human development and the development of Indonesian society as a whole.⁶ The Republic of Indonesia Constitution of 1945 states in its preamble that Indonesia is committed to safeguarding "the entire nation and all the blood of Indonesia," advancing the country's general welfare and intellectual life, and contributing to the establishment of a global order predicated on sovereignty, lasting peace, and social justice based on Pancasila.

Article after article of the Constitution is crafted with these safeguards in mind. Article 27 (2) of the Constitution of 1945 states, "Every citizen has the right to work and a reasonable livelihood for mankind." This fundamental rule indicates that the creation of jobs enables people to earn a living wage. Labor inspections are one form of protection for employees.⁷ OIC nations also worry about jobs. Work is a right under Article 13 of the OIC statement. Everyone should choose the best and most beneficial career for themselves and their community.

The labor law ecology is controlled by three main factors. First, there are employees, who perform services for others; second, there are employers, who offer employment; and third, there is the government, which acts as an intermediary between the interests and needs of both workers and employers.⁸ In addition, the government aims to achieve peaceful workplaces as a prerequisite to a company's success in order to boost productivity, which in turn can fuel economic growth and raise the standard of living for everyone.

³ James Brian Quinn and Frederick G Hilmer, "Strategic Outsourcing," *MIT Sloan Management Review* 35, no. 4 (1994): 44

⁴ John Graham, Bruce Amos, and Timothy Wynne Plumptre, *Governance Principles for Protected Areas in the 21st Century* (Institute on Governance, Governance Principles for Protected Areas Ottawa ..., 2003), 22.

⁵ Aan Eko Widiarto, Muchamad Ali Safa'at, and Mardian Wibowo, "Pemaknaan Norma Hak Asasi Manusia Dalam Uud 1945 Berdasarkan Putusan Mahkamah Konstitusi," *Arena Hukum* 11, no. 2 (2018): 378, doi:<http://dx.doi.org/10.21776/ub.arenahukum.2018.01002.8>.

⁶ Hardijan Rusli, *Hukum Ketenagakerjaan, 2003* (Jakarta: Ghalia Indonesia, 2004), 9.

⁷ Erin.L Kelly and Alexandra Kalev, "Managing Flexible Work Arrangements in US Organizations: Formalized Discretion or 'a Right to Ask,'" *Socio-Economic Review* 4, no. 3 (2006): 383, doi:<https://doi.org/10.1093/ser/mwl001>.

⁸ Mark R. Johnson and Jamie Woodcock, "Work, Play, and Precariousness: An Overview of the Labour Ecosystem of Esports," *Media, Culture & Society* 43, no. 8 (2021): 1452, doi:<https://doi.org/10.1177/01634437211011555>.

The government establishes a mutually beneficial connection between employees and employers through a variety of legislative measures. All interactions between employees and management in the workplace shall be based on the established legal procedure.⁹ This article's legal issue is Indonesia's labour inspection regulations' inconsistency. Article 178, paragraph (1) of the labour law establishes a tiered system of labour inspection at the national, provincial, and local levels in accordance with letter G of the Annex on the Division of Government Affairs in the Field of Labour for non-essential government affairs.

This paper will use primary and secondary legal documents from law to research findings to analyse the literature's problems. This study used legislative, historical, and conceptual methods. These measures address labour inspection norm discrepancies.

Literature Review

Supervision involves meeting organisational and managerial goals. It focuses on executing plans. Planning and monitoring are closely related.¹⁰ Control or supervision is a useful management function that every leader of all units/work units must perform on work or employees who perform their vital jobs.¹¹ Leadership supervision, especially intrinsic supervision (built-in Control), is a managerial activity to assure task completion. The task's success depends on the employee's skill. Superiors' guidance reduces errors and deviations in workers.¹²

Supervision is primarily used to observe what is happening and compare it to what should happen.¹³ Detecting a deviation or blockage quickly allows for corrective action. Due to this corrective step, the activities should still yield the anticipated effects. Overseers supervise. Labour inspectors also supervise the employment sector. Labour inspectors must increase workplace safety, health, and welfare.¹⁴ As a law enforcer in the field of labour, this supervisory element must operate as an early detection in the region to detect any disturbance early, ensuring a safe, calm, and steady work environment.¹⁵ Labour inspectors also ensure fair employment. Because the employer and job recipient sometimes have different and balanced roles.¹⁶ Unbalanced employer-employee relationships lead to injustice and violation of employee rights. The state

⁹ John R. Rowan, "The Moral Foundation of Employee Rights," *Journal of Business Ethics* 24, no. 4 (2000): 262.

¹⁰ Yahya Yohanes, *Pengantar Manajemen* (Yogyakarta: Graha Ilmu, 2006), 133.

¹¹ Peter M. Blau, "A Formal Theory of Differentiation in Organizations," *American Sociological Review* 35, no. 2 (1970): 205, doi:<https://doi.org/10.2307/2093199>.

¹² Muhammad Kadarisman, *Manajemen Pengembangan Sumber Daya Manusia*, vol. 2 (Jakarta: Rajawali Pers, 2012), 517.

¹³ Cecily D. Cooper and Nancy B. Kurland, "Telecommuting, Professional Isolation, and Employee Development in Public and Private Organizations," *Journal of Organizational Behavior* 23, no. 4 (2002): 517, doi:[10.1002/job.145](https://doi.org/10.1002/job.145).

¹⁴ Manulang Sendjun, *Pokok-Pokok Hukum Ketenagakerjaan Di Indonesia* (Jakarta: Rineka Cipta, 2001), 124.

¹⁵ R. Isermann, "Supervision, Fault-Detection and Fault-Diagnosis Methods — An Introduction," *Control Engineering Practice* 5, no. 5 (May 1, 1997): 643, doi:[10.1016/S0967-0661\(97\)00046-4](https://doi.org/10.1016/S0967-0661(97)00046-4).

¹⁶ Christopher Michaelson et al., "Meaningful Work: Connecting Business Ethics and Organization Studies," *Journal of Business Ethics* 121, no. 1 (April 1, 2014): 81, doi:[10.1007/s10551-013-1675-5](https://doi.org/10.1007/s10551-013-1675-5).

protects the weak—in this case, employees—due to the position imbalance. Law protects states.¹⁷ Labour inspectors enforce laws. Labour inspectors enforce labour rules and regulations, particularly Occupational Safety and Health, to maintain company continuity and work tranquilly to boost productivity and wellbeing.¹⁸

Employment inspectors are trained and independent to enforce employment laws. The Minister of Labour or another authority appoints Labour Inspectorate staff. The central, provincial, and district/city governments have separate work units that inspect labour.¹⁹ Labour inspector education, operations, management, and operational procedures are subsystems of this activity. General and specialised labour inspectors are taught.²⁰ Supervisory workers use the active pattern. The administration then aids administrative monitoring.²¹

The work unit implementing labour inspection must submit a report to the Minister of Labour, specifically for provincial and district/city governments, and keep confidential everything that should be confidential and not abuse its authority. Labour inspection follows these guidelines: Public services that handle worker/employer issues;

1. Public services that handle worker/employer issues;
2. Accountability, meaning labour inspectors must be civil officers who are independent and accountable for their acts and performance;
3. Labour inspection efficiency and effectiveness should prioritise performance;
4. Universality—labor inspection services cover all economic sectors;
5. Transparency—workers, employers, and other stakeholders know the Labour Inspection Service's jurisdiction, duties, and tasks;
6. Consistency and coherence to guide labour inspectors in their tasks;
7. Proportionality is law enforcement according to the severity of the offence and the risk safety of work;
8. Equality is given legal protection for all workers/labour;
9. Cooperation—labour inspectors engage with other organisations and agencies to enforce business labour regulations;
10. Collaboration: national, regional, and corporate labour inspectors must engage with employers, workers, and their organisations.

Labour inspectors must guarantee that industry players respect rules and regulations to optimise the supervisory role and meet the constitutional mandate, worker welfare, and industry

¹⁷ Budi Santoso, "PENERBITAN KEPUTUSAN PENDAFTARAN PERJANJIAN KERJA BERSAMA YANG ISINYA BERTENTANGAN DENGAN PERATURAN," *Arena Hukum* 12, no. 3 (December 23, 2019): 457, doi:10.21776/ub.arenahukum.2019.01203.3.

¹⁸ Wolfgang Von Richthofen, *Labour Inspection: A Guide to the Profession* (International Labour Organization, 2002).

¹⁹ Fence M Wantu et al., "EKSISTENSI MEDIASI SEBAGAI SALAH SATU BENTUK PENYELESAIAN SENGKETA LINGKUNGAN HIDUP PASCA BERLAKUNYA UNDANG-UNDANG CIPTA KERJA," *Jurnal Bina Hukum Lingkungan* 7, no. 2 (2023): 64, doi:10.24970/bhl.v7i2.342.

²⁰ Karl E. Weick, "Educational Organizations as Loosely Coupled Systems," *Administrative Science Quarterly* 21, no. 1 (1976): 11, doi:10.2307/2391875.

²¹ R Barker and George Cheney, "The Concept and the Practices of Discipline in Contemporary Organizational Life," *Communication Monographs* 61, no. 1 (2009): 33, doi:https://doi.org/10.1080/03637759409376321.

sustainability. In Ministerial Regulation No. 33 of 2016, Article 3 paragraph (2) states the goal of employment inspection:

1. Enforce labour laws.
2. Provide information and technical advisory to employers and workers/labourers on matters that can ensure the effectiveness of labour legislation;
3. Collect information about the employment relationship and the state of employment in the broadest sense to prepare or improve labour legislation.

Ministerial Regulation altered its evolution. Ministerial Regulation Number 1 of 2020 revised Ministerial Regulation 33 of 2016 on employment inspection procedures. Labour inspector authority has changed. Article 10 of this Ministerial Regulation states that labour inspection authorities can:

1. Enter the company or location of work or suspected work.
2. Subpoena employers or others for labour law violations.

Labour inspectors can also investigate civil servants under the law. Civil Service Investigator authorities:

1. Check reports and information about criminal acts in the field of employment;
2. Examine persons suspected of committing such acts;
3. Request information and evidence from persons or legal entities in connection with such acts;
4. Examine or seize materials or evidence in such cases;
5. Examine letters and other documents.

Methodology

The normative juridical approach (Statute Approach) adopts *Legis positives*, which asserts that the law is identical to the written rules produced and propagated by organisations or persons in authority. This paradigm likewise regards law as an autonomous, closed normative framework independent of public life. Literature and laws are legal materials. The thesis research specifications are descriptive. Analytical, that is, looking for the cause and effect of something and describing it consistently, systematically, and logically.

The methodological steps of the study are as follows:

1. Data collection: First, data can be collected by examining documents and reports related to labour regulations and supervision in Indonesia.
2. Data analysis: the analysis can be done by comparing data from various sources and looking at differences in regulations and labour supervision practices in Indonesia.
3. Findings: These findings can provide a clearer picture of the disparities and challenges faced in labour supervision in Indonesia.
4. Conclusions: these conclusions can help find solutions to improve the regulation and practice of Labor supervision in Indonesia.
5. Suggestions: the researcher can also provide suggestions to improve the supervision of labour in Indonesia based on the findings and conclusions that have been found in the study. These suggestions can serve as recommendations for the government, employers, and labour organizations to improve labour regulation and supervision practices in Indonesia.

Results and Discussion

Labour Supervision Problems in Indonesia

The growth of a country's industrial sector directly impacts attempts to build the economy, which can also result in more employment.²² The amount to which automated employment can absorb labor capable of increasing wealth and societal welfare.²³ Furthermore, the Indonesian country is actively pursuing growth in all sectors in a planned, integrated, comprehensive, gradual, and sustainable manner, based on Pancasila, the 1945 Constitution, and many laws and policies enacted by the Indonesian government.²⁴

During President Joko Widodo's first five years, the processing industry sector absorbed 19.2 million workers, up from 15.25 million in 2014. The rise in workers from 2015 to 2019 was bigger than the 2.41 million increase from 2010 to 2014. Due to the COVID-19 pandemic, processing industry workers dropped to 18.7 million in February 2020 and 17.5 million in August 2020. In February 2021, 17.82 million processing industrial workers recovered from the epidemic.

Infrastructure jobs have increased. 208 projects and 10 programmes of IDR 5,739.7 trillion are required to accelerate economic growth and create national strategic projects (PSN) from 2016 to 2022. Since 2016, 208 PSNs have provided development sector funds for 11 million workers.²⁵ A large number of workers and the increase in the employment sector as one of the government's policy priorities are still unbalanced with employment issues, including labour inspection, from regulation and protection of workers' rights to practical needs. Thus, this section covers Indonesian labour inspection. This section begins with labour inspection's aim, then discusses Indonesian labour inspection laws, and concludes with labour inspection's duties.

Labor Supervision Objective

Workers must defend their incomes, Social Security, Occupational Safety and Health, and fundamental rights.²⁶ To balance employees, employers, the business world, and other company components, this secures the workforce for a sense of security, tranquilly, justice, and riches.

Labour law grants various rights:

1. Right to a decent wage,
2. Right to equal opportunity and treatment from companies without discrimination,
3. Right to get job training to improve and develop work competencies,
4. Right to carry out work within the prescribed time: seven hours in one day for six working days in one week or eight hours in one day for five working days in one week,
5. Right to employment,

²² Jeffrey A. Frieden and Ronald Rogowski, "The Impact of the International Economy on National Policies: An Analytical Overview," *Internationalization and Domestic Politics* 15, no. 1 (1996): 4.

²³ Cynthia Estlund, "What Should We Do After Work? Automation and Employment Law," *The Yale Law Journal* 128, no. 2 (2018): 271, <https://www.jstor.org/stable/45389444>.

²⁴ Kyunghoon Kim, "Indonesia's Restrained State Capitalism: Development and Policy Challenges," *Journal of Contemporary Asia* 51, no. 3 (2021): 426, doi:<https://doi.org/10.1080/00472336.2019.1675084>.

²⁵ "Kemenperin: Refleksi Tujuh Tahun Pemerintahan Presiden Joko Widodo Dalam Pembangunan Industri Manufaktur," 2021, <https://kemenperin.go.id/artikel/22893/Refleksi-Tujuh-Tahun-Pemerintahan-Presiden-Joko-Widodo-Dalam-Pembangunan-Industri-Manufaktur>.

²⁶ Benjamin O. Alli, *Fundamental Principles of Occupational Health and Safety Second Edition*, vol. 15 (Geneva: International Labour Organization, 2008), 8–9.

6. Right to the protection of Occupational Health and safety,
7. Right to welfare through Labor, Social Security,
8. Right, to participate in trade or labour unions,
9. Right to leave: at least 12 working days after the employee has worked for one year continuously,
10. Right of rest: workers, after working four hours continuously, have the opportunity to rest for at least half an hour,
11. Right to maternity leave and special menstrual leave for female employees: one and a half months before giving birth and the first and second day of menstruation,
12. Right, to worship,
13. Right to strike, and
14. Right, to receive severance pay in the event of termination of employment or layoffs.

The classification of labour rights must be met as a whole without mentioning specific rights. The same should be done to labour inspection for these rights to be completed.²⁷ Labour inspection ensures regulations are followed. Labour inspectors enforce labour legislation by protecting workers' rights. Thus, labour supervision protects workers' rights and enforces employment laws.²⁸

Article 5 Paragraph (1) of ILO Convention No. 81 explained that labour inspection as a system is intended for several things, namely:

- (a) Ensure the enforcement of legal provisions regarding working conditions and the protection of workers when performing their jobs, such as provisions relating to working hours, wages, safety, health and welfare, the use of child labour and young people and other related issues, insofar as labour inspectors can enforce such provisions;
- (b) Provide technical information and advice to employers and workers on the most effective ways to comply with legal requirements;
- (c) Notify the competent authorities of irregularities or abuses not explicitly provided for in the applicable legal provisions.

The government protects such employees' rights. Every legal right guarantee is an endeavour to protect from the law's perspective. In this Dutch and German call it *theorie van de wettelijke bescherming* and *theorie der rechtliche Schutz*, respectively.²⁹ Legal protection is an effort to provide protection for Human Rights (HAM) who are harmed by others and that protection is given to the community in order to enjoy all the rights granted by law.³⁰ According to Lili Rasjidi and I. B Wysa Putra that the law can be used to realize protection that is not only adaptive and

²⁷ Funmi Adewumi and Adebimpe Adenugba, *The State of Workers Rights in Nigeria: An Examination of the Banking, Oil and Gas, and Telecommunication Sectors* (FES Nigeria, 2010), 31.

²⁸ Philip Alston, "'Core Labour Standards' and the Transformation of the International Labour Rights Regime," *European Journal of International Law* 15, no. 3 (June 1, 2004): 477, doi:10.1093/ejil/15.3.457.

²⁹ Salim Hs and Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi* (Jakarta: Raja Grafindo Persada, 2013), 259.

³⁰ Satjipto Rahardjo, *Ilmu Hukum* (Citra Aditya Bakti, 2000), 53.

flexible but also predictive and anticipative.³¹ Simply put Phillipus M. Hadjon argued that legal protection for the people as a preventive and repressive government action.³² Laws protect basic human rights. Labour law links employers, employees, and the government. The government protects workers' rights and employers' duties. Thus, legal labour inspection balances employee and employer rights.

ILO Convention No. 81 Concerning Labour Inspection In Industry And Commerce

As part of the Versailles Treaty, the International Labor Organization (ILO) became one of the international institutions that explicitly dealt with international labor/employment issues following World War I.³³ The ILO has a lengthy history as an international employment organisation. The Labour Commission, led by AFL president Samuel Gompers, has drafted the ILO's constitution since 1919. This early period includes Belgium, Cuba, Czechoslovakia, France, Italy, Japan, Poland, the UK, and the US.³⁴

Humanity, security, politics, and economics inspired the ILO. The ILO was founded to recognise the need of social justice in preserving peace, with a concentration on worker/labor policy in industrialised nations.³⁵ The ILO was founded as a humanitarian effort to help exploited workers who had little regard for their health, family life, or future.³⁶ Thus, humanitarian and security challenges are tied to the ILO's creation.

For economic reasons, companies establish positions not for the welfare of workers but for the various benefits, since worker welfare will simply increase production costs and competitiveness.³⁷ Economic and political reasons include the commonality of views on the rising interconnectedness of the world's economy and the necessity for collaboration to establish comparable working conditions in countries competing for markets (ILO).³⁸

³¹ Lili Rasjidi, S. Sos, and IB Wyasa Putra, *Hukum Sebagai Suatu Sistem* (Bandung: Remaja Rosdakarya, 1993), 118.

³² M. Hadjon Philipus, *Perlindungan Hukum Bagi Rakyat Indonesia*, vol. 25 (Surabaya: Bina Ilmu, 1987), 2.

³³ Drusilla K. Brown, Alan V. Deardorff, and Robert Mitchell Stern, *International Labor Standards and Trade: A Theoretical Analysis*, vol. 333 (Institute of Public Policy Studies, University of Michigan USA, 1993), 5.

³⁴ Hector G. Bartolomei de la Cruz, "International Labour Law: Renewal or Decline," *International Journal of Comparative Labour Law and Industrial Relations* 10 (1995-1994): 203, <https://heinonline.org/HOL/Page?handle=hein.kluwer/llir0010&id=203&div=&collection=>.

³⁵ Amartya Sen, "Work and Rights," *International Labour Review* 139 (2000): 122, <https://heinonline.org/HOL/Page?handle=hein.journals/intr139&id=127&div=&collection=>.

³⁶ Hendrik Khoiril Muhid, "11 Juni 1950 Indonesia Gabung Organisasi Buruh Internasional ILO, Ini Alasannya - Nasional Tempo.Co," 2021, <https://nasional.tempo.co/read/1471358/11-juni-1950-indonesia-gabung-organisasi-buruh-internasional-ilo-inialasannya>.

³⁷ Joseph E. Stiglitz, "Employment, Social Justice and Societal Well-Being," *International Labour Review* 141, no. 1-2 (2002): 18, doi:<https://doi.org/10.1111/j.1564-913X.2002.tb00229.x>.

³⁸ Carles Boix, *Political Parties, Growth and Equality: Conservative and Social Democratic Economic Strategies in the World Economy* (Cambridge: Cambridge University Press, 1998), 223.

The ILO moved to Geneva in 1920, led by Albert Thomas. The ILO's first two years saw nine international labour conventions and ten recommendations. The convention and ideas address working hours, unemployment, maternity protection, night work for women, minimum age, and night work for youth.

In 1946, the UN specialised the ILO. The International Labour Organisation (ILO), a UN specialised agency, promotes good and productive employment for men and women in freedom, equality, safety, and dignity.³⁹ Labour rights, good jobs, social protection, and workplace debate are the ILO's main objectives. The UN agency is unique with 183 members. Its tripartite system balances governments, employers, and labour unions in programme and policy development.⁴⁰

International labour accords and recommendations use ILO standards. Members must ratify ILO conventions. Nonbinding recommendations that model national policy and action. By 2009, the ILO had adopted 188 conventions and 199 recommendations on freedom of association and collective bargaining, equality of treatment and opportunity, the abolition of forced labour and child labour, the promotion of employment and job training, Social Security, working conditions, labour administration and supervision, work accident prevention, maternity protection, and migrant worker protection.⁴¹

Every ILO convention becomes an international labour standard with a strategic role in supporting national rules and policies. The labour inspection treaty established global labour standards and was widely welcomed. ILO Convention 81 covers industry and commerce. This labour inspection convention is still used worldwide. 141 countries have accepted this treaty, encouraging each member country to create legal rules for labour inspection.

The General Conference of the International Labour Organisation, promulgated at Geneva by the governing body of the ILO, held its thirtieth session on June 19, 1947, and received certain proposals relating to the organisation of labour inspection in industry and commerce, constituting the agenda of the fourth session, and determined that such proposals should take the form of, which can be called the Labour Inspe Main reasons for this convention:

1. ILO Convention No. 81 of 1947 on labour inspection in industry and commerce mandates workplace labour inspections for all ILO member nations.
2. ILO Convention number 81 must be ratified since the industry and commerce labour inspection system follows worldwide norms.

This treaty has thirty-nine articles in four parts: industry and trade labour supervision, other provisions, and closing provisions. Convention No. 81 covers the Labour Inspection System's functions, duties, and responsibilities, employee recruitment requirements, facilities, inspectors' ethics and reporting duties, worker health and safety accidents and diseases, and supervisor, employer, and worker follow-up. This article discusses labour inspection authority in Article 4 of the ILO Convention No. 81. Article 4 provides:

³⁹ Gerry Rodgers et al., "The International Labour Organization and the Quest for Social Justice, 1919-2009," 2009, 1, <https://ecommons.cornell.edu/handle/1813/74152>.

⁴⁰ Steve Hughes, "The International Labour Organisation," *New Political Economy* 10, no. 3 (September 1, 2005): 21, doi:10.1080/13563460500204324.

⁴¹ Shengli Niu, "Ergonomics and Occupational Safety and Health: An ILO Perspective," *Applied Ergonomics*, Special Section: Selection of papers from IEA 2009, 41, no. 6 (October 1, 2010): 745, doi:10.1016/j.apergo.2010.03.004.

1. The central government will oversee labour inspection as far as members' administrative practises allow.
2. "Central government" in a federal state means the federal government or a unit of the Federation.

The provisions in Article 4 of the ILO Convention No. 81 above are interesting because Indonesia only runs the government through the central government and local governments and does not know the federal government system, but has special characteristics called regional autonomy whose authority is owned by local governments.

Disparities In The Regulation Of Labor Supervision

Indonesia ratified various ILO Conventions, including those on labour practises. The Republic States of Indonesia joined the ILO on June 11, 1950. Indonesia joined the ILO as the 16th nation, which affected collaboration between governments, such as the Ministry of Manpower and Transmigration, employers who are members of Indonesian employers' organisations, and unions or worker groups in Indonesia.⁴² Indonesia should join the ILO for three key reasons: first, on job creation for inclusive and sustainable growth, which includes mainstreaming employment in macroeconomic, labour, and social policies through sound labour market analysis and tools, improved policies and programmes to better equip women and young men to enter the workforce, optimised employment outcomes, and improved policies and programmes on entrepreneurship, business development, and co-operatives for job creation and financial inclusion.⁴³

Second, good labour governance and industrial relations. This includes the Employment Administration's effective services to improve working conditions and environment, the tripartite constituency's effective social dialogue to implement labour regulations and International Labour Standards, and employers' and workers' organisations' institutional capacity to contribute to healthy industrial relations in accordance with their mandates and responsibilities.⁴⁴ Third, social protection for all parties comprising the government and social partners has a greater capacity to design and implement social protection policies and programs, barriers to employment and decent work are addressed.⁴⁵, in particular the gender gap and for persons with disabilities.⁴⁶, as well as the effective implementation of the National Action Plan on the elimination of the worst

⁴² Indrasari Tjandraningsih, "Development of Child Labor Policy in Indonesia," in *The World of Child Labor* (Routledge, 2009), 910.

⁴³ Diane Elson and Nilufer Cagatay, "The Social Content of Macroeconomic Policies," *World Development* 28, no. 7 (July 1, 2000): 1350, doi:10.1016/S0305-750X(00)00021-8.

⁴⁴ Jackie Coyle-Shapiro and Ian Kessler, "Consequences Of The Psychological Contract For The Employment Relationship: A Large Scale Survey*," *Journal of Management Studies* 37, no. 7 (2000): 911, doi:10.1111/1467-6486.00210.

⁴⁵ Byeongsun Ahn and Yuri Kazepov, "Between Protection and Activation: Shifting Institutional Arrangements and 'Ambivalent' Labour Market Policies in Vienna," in *Vienna* (Routledge, 2021), 88.

⁴⁶ Prihatin Effendi and Devi Ratnasari, "KESETARAAN GENDER DALAM PRESPEKTIF UNDANG-UNDANG NOMOR 13 TAHUN 2003 TENTANG KETENAGAKERJAANK," *Urnal Pro Hukum : Jurnal Penelitian Bidang Hukum Universitas Gresik* 7, no. 2 (2018): 3, doi:https://doi.org/10.55129/jph.v7i2.701.

forms of child labor.⁴⁷ improved policies, institutional framework and implementation of programs for empowerment and protection of migrant workers and Indonesian households, and integrated policies and programs for female and male workers.⁴⁸

Joining Indonesia and the ILO affects employment regulation. As mentioned, the ILO produces conventions and recommendations. These two things affect India. The two ILO policies differ in that the recommendations are not intended to be ratified as internal law and binding for each ILO member country, but rather to guide national policies and actions. Every ILO member ratifies the treaty. Article 19 paragraph (1) of the ILO Constitution states that a session agenda discussion's convention or suggestion depends on the subject's scope or context. At least two-thirds of delegates must vote to select the form as a convention or recommendation.⁴⁹

Indonesian law ratified nineteen ILO Conventions. ILO Convention No. 81 of 1947 on Labour Inspection was ratified. Indonesian law governs convention ratification. The Indonesian Constitution gives the president and House of Representatives equal power to make and ratify foreign treaties. Article 11 specifies that the House of Representatives must approve war, peace, and treaties by the president. The president must also get House approval before entering into other international agreements that have far-reaching and fundamental effects on people's lives related to the state's financial burden and require changes or new laws. International Agreements Law Number 24 of 2000 governs international agreement and convention ratification.

Law 24 of 2000 established Indonesia's ratification process. Articles 10 and 11 of Statute 24 of 2000 specify that ratification is done by statute or Presidential Regulation, depending on international agreements. In its decision Number 13/PUU-XVI/2018, the Constitutional Court expanded the scope of international agreements that must be ratified by law to "cause broad and fundamental consequences for people's lives related to the state's financial burden and require changes or the establishment of laws".⁵⁰

Law No. 21 of 2003 adopted ILO Convention No. 81 Concerning Labour Inspection in Industry and Commerce in Indonesia. The ILO Convention's act is to promote harmonious and equitable industrial relations and ensure law enforcement and labour protection under labour laws and regulations. Labour inspection in Indonesia should follow international norms in addition to ILO Convention No. 81.

According to Law Number 21 of 2003, the state as an ILO member must run a labour inspection system in the workplace, the supervision system must be based on legislation that labour

⁴⁷ Sylvain E. Dessy and Stéphane Pallage, "A Theory of the Worst Forms of Child Labour," *The Economic Journal* 115, no. 500 (2005): 70, doi:<https://doi.org/10.1111/j.1468-0297.2004.00960.x>.

⁴⁸ Darminoto Hartono and Indranila Kustarini Samsuria, "Legal Protection of Indonesian Migrant Workers: International Law, National Regulations and Contemporary Problems," *International Journal of Criminology and Sociology* 10 (2021): 861.

⁴⁹ Asri Wijayanti, *Sinkronisasi Hukum Perburuhan Terhadap Konvensi ILO* (Jakarta: Karya Putra Darwati, 2012), 45.

⁵⁰ Hikmahanto Juwana, "Kewajiban Negara Dalam Proses Ratifikasi Perjanjian Internasional: Memastikan Keselarasan Dengan Konstitusi Dan Mentransformasikan Ke Hukum Nasional," *Undang: Jurnal Hukum* 2, no. 1 (October 28, 2019): 6, doi:[10.22437/ujh.2.1.1-32](https://doi.org/10.22437/ujh.2.1.1-32).

inspectors supervise, the function of labour, the number and specialisation of labour inspectors, and the model of labour inspector reports.

Indonesian labour inspections cover some of these facilities. According to the fourth basic accord, the central government controls labour supervision. This regulation clause affirms the ILO Convention's right of the central government to supervise labour, including Indonesia's.

Value shifts that violate labour laws have arisen as employment has changed. Labour inspection is necessary to respond to industry and trade actors' changing values and life orders.⁵¹ Adjustments to the labor control system must be undertaken in order for laws to be properly implemented by industry and trade participants. As a result, labor supervision as a system has the mission and function of enforcing labor legislation.⁵² Labor legislation is also intended to maintain a balance between the rights and obligations of employers and workers/laborers to ensure business continuity and peace of mind to improve work productivity and workforce welfare.⁵³

Indonesia ratified the ILO Convention to emphasise the need of labour inspection to balance government, employers, and employees. Indonesia ratified this treaty for four reasons:

1. Labour supervision is crucial to labour law enforcement. Laws and regulations are enforced to balance employer and employee rights. The balance ensures corporate continuity and workplace tranquilly, which boosts worker productivity and well-being.
2. Labour regulation requires an impartial labour inspection and centralised policy.
3. During this labour supervision controlled in Law No. 3 of 1951 on the statement of the enactment of the Labour Control Act of 1948 No. 23 of the Republic of Indonesia for the entire of Indonesia and Law No. 1 of 1970 on Occupational Safety. Both statutes clearly do not limit the independence of the Labour Inspection profession and central level monitoring as stipulated in ILO Convention number 81 Articles 4 and 6. Ratifying ILO Convention No. 81 strengthens labour inspection control under Law No. 13 of 2003 on employment.
4. As a member of the ILO, Indonesia has a moral obligation to enforce international laws, including International Labour Standards.

Indonesia's membership in the international community obligated it to help establish a "world order based on independence, lasting peace and social justice" as stated in the 1945 Constitution's preamble. Social justice is balanced and equal between labour stakeholders in social balance. To achieve social fairness, Indonesia must ratify international conventions. Indonesia's activity and participation are documented in numerous legal instruments, from reaffirmation of the convention through ratification in the form of laws to actual labour inspection in the field.

Hierarchical-Centralized Authority In Labor Law

⁵¹ Robert L. Birmingham, "Breach of Contract, Damage Measures, and Economic Efficiency," *Rutgers Law Review* 24 (1970 1969): 274, <https://heinonline.org/HOL/Page?handle=hein:journals/rutlr24&id=283&div=&collection=>.

⁵² Roberto Pires, "Governing Labour Regulations in the Future of Work: Lessons from Labour Inspection in Brazil," in *The Governance of Labour Administration* (Edward Elgar Publishing, 2021), 99, <https://www.elgaronline.com/display/edcoll/9781802203141/9781802203141.00013.xml>.

⁵³ Della Puspitasari et al., "Principles of Labor Law," *Proceeding International Conference Restructuring and Transforming Law*, September 2, 2022, 113, <https://proceedings.ums.ac.id/index.php/icrtlaw/article/view/1221>.

Employment laws exist because the Dutch East Indies government and Indonesia are not autonomous. This section only covers labour inspection legislation following Indonesia's independence. Since Indonesia's independence, employment laws have varied.

Employment laws include law No. 12 of 1948, which was born in Indonesia's position as a united state and later developed into law No. 1 of 1951 and declared valid for all of Indonesia, emergency law No. 16 of 1951, which replaced Military Power Regulation No.1 of 1951 and established the Committee for the settlement of labour disputes at the central and local levels, and Law No. 21 of 1954 on trade union-employee labour agreements. Law No.13 of 2003 on employment is Indonesia's latest labour regulation. The current labour law replaces up to fifteen labour regulations and provides the legal foundation for fundamental labour issues like Industrial Relations Dispute Settlement and the protection and placement of Indonesian workers abroad.

Comprehensive and complete labour legislation covering many aspects of work previously unregulated under a single statute abolished and replaced some labour provisions controlled in prior laws and regulations, including colonial products. This legislation aims to react to major developments in all aspects of Indonesian life since 1998. Eighteen chapters and 192 provisions govern employment in the 2003 labour law. Chapter XIV on supervision governs labour inspection from Article 176 to Article 181. Article 176 requires qualified and impartial labour inspectors to enforce labour laws. Article 178 regulates labour inspection division. The central, province, and district/city government labour inspection agencies each have a separate work unit. Labour inspections follow Presidential Decree. The President's authority over labour inspection execution shows hierarchical labour inspection but also centralised central governance.

Labour inspection work units in provincial and district/city governments must report to the Minister on labour inspection implementation, demonstrating the hierarchical structure that tends to be more centralised. The Minister of Labour, appointed by the president to oversee labour inspections, is the Minister in question. In essence, the centralized policy included in the laws of labor supervision is an expression of the government's legal policy with the primary goal of safeguarding employees.⁵⁴ This is undoubtedly under labor law, which aims to empower and utilize labor optimally and humanely, to realize equal employment opportunities and the provision of labor following the needs of national and regional development, to provide protection to the workforce in creating welfare, and to improve the welfare of the workforce and their families.⁵⁵ The central government's labour inspection policy will be local government-friendly.

Labour law, which regulates labour, is more likely to be an orthodox legal product. Marryman, who is concerned about Mahfud MD, defines an Orthodox product as a legal product that is centralised in the sense that it is dominated by institutions in which the state is the primary executive power. Orthodox laws allow the government to construct many interpretations with advanced rules based on a one-sided government perspective, not only a technical issue.

⁵⁴ Hugh Collins, *Employment Law* (Oxford, UK: Oxford University Press, 2010), 195.

⁵⁵ Guy Davidov and Brian Langille, *Boundaries and Frontiers of Labour Law: Goals and Means in the Regulation of Work* (Bloomsbury Publishing, 2006), 13.

Orthodox legal goods frequently provide brief substance and points that allow the government to regulate according to its vision and political power.⁵⁶

New Norms in the Local Government Act

Due to cultural differences, many bilateral, multilateral, and international agreements and conventions that have been ratified can be difficult to implement. Harmonising the country's regulations and implementation makes this possible. Indonesia's centralised government causes this issue. Local administrations are respected in Indonesia.

After the reform, the Central Government and local governments (Provincial & District/City) still fight over government authority in different subjects. The regions want a decentralised administration with Federation or autonomy. Indonesia selected complete autonomy under Article 18's soul integrity.⁵⁷ Regional autonomy involves self-regulating and self-managing the territory and its people.

The Local Government Act governs Indonesian regional autonomy. Law No. 23 of 2014 altered local government implementation. Labour inspection changes. This law indirectly affected employment and labour supervision laws (laws No. 3 and 21 of 2003).

Act No. 23 of 2014 does not require strict execution of categorised items. The categorising procedure affects provincial government labour inspection problems. The provincial government's power is mentioned in the Annex to the provincial government law under Labour in the division of government affairs under Labour.

Labour inspection is a concurrent affair between the Central Government and provincial governments, so they will cooperate to improve labour inspectors' performance in the regions.⁵⁸ This explanation raises the question of whether labour inspection is successful or ineffective, which complicates the fulfilment of workers' fundamental rights. Districts and cities house most employees and enterprises in this example. Given Indonesia's labour difficulties' location and distribution, the province government's labour inspection jurisdiction is wrong.

Labour inspection is delegated. Higher-ranking government officials delegate to lower-ranking government authorities by law. The government declares delegation when power is transferred from higher government bodies and officials to lower ones, with the delegatee taking full duty and obligation.

Laws and regulations now delegate authority. Government institutions and officials get authority through delegation:⁵⁹ First, given by government agencies/officials to other government agencies and / or official; second, stipulated in government regulations, presidential regulations, and / or local regulations; third, is a delegation of authority or has previously existed.

⁵⁶ S. Charda, "Karakteristik Undang-Undang Ketenagakerjaan Dalam Perlindungan Hukum Terhadap Tenaga Kerja," *Jurnal Wawasan Yuridika* 32, no. 1 (2015): 2–3, doi:<http://dx.doi.org/10.25072/jwy.v32i1.86>.

⁵⁷ Elita Rahmi, "Tarik Menarik Antara Desentralisasi Dan Sentralisasi Kewenangan Pemerintah Daerah Dalam Urusan Pertanahan," *Jurnal Hukum Ius Quia Iustum*, 2009, 138.

⁵⁸ Basuki Eka Purnama, "Pengalihan Kewenangan Pengawasan Ketenagakerjaan ke Pemprov Terus Dilakukan," *MediaIndonesia.com*, 2016, <https://mediaindonesia.com/ekonomi/64251/pengalihan-kewenangan-pengawasan-ketenagakerjaan-ke-pemprov-terus-dilakukan>.

⁵⁹ Sirajuddin, *Hukum Administrasi Pemerintahan Daerah: Sejarah, Asas, Kewenangan, Dan Pengawasan Penyelenggaraan Pemerintahan Daerah* (Malang: Setara Press, 2016), 98–99.

Formulation of Future Labor Supervision Arrangements

Labour inspection stems from the regulatory process, which has yet to address all labour issues. The central government controls provisions that regulate labour inspection, as ILO Convention No. 81 of 1947 and Law No. 24 of 2000 concerning the ratification of the ILO Convention became increasingly developed when the birth of labour law made labour inspection hierarchical and centralised, until the dawn of the Local Government law gave full authority to labour inspection provincial government reflects the clash of complex laws.

Regency/City region workers are more aware of and influenced by labour demands and issues, yet only provincial labour inspectors exist. When this personnel supervisor has only 10 people per region to oversee locations far from the provincial government headquarters, the constraint becomes much more troublesome. Local districts have only two or three labour inspectors. The complexity of labour inspection issues, which are not only in the context of regulation but also lead to its implementation, will affect the fulfilment of workers' rights and enforcement of various labour regulations, which will not run optimally or be resolved.

Addressing these difficulties necessitated the development of a new policy to handle the employment issue. In this case, the policy formulation under question is the establishment of labour law policies. The period of public policy development and the political realities surrounding the process of formulating public policy should be distinct from the subject of its research.⁶⁰ Because if we ignore the political facts of the general policy-making process, the following public policy will always be an inferior element of the sector.⁶¹ A public policy product lacking in field elements will undoubtedly experience several issues during the following stage of implementation. Moreover, it should be remembered that its performance in public policy is always full of political aspects. Public policy formulation is the first phase because what happens at this point will primarily affect the success or failure of subsequent public policy decisions.

Therefore, policymakers must design this public policy with greater caution. Implementation and assessment are key to successful public policy formulation. Because many policymakers think a good policy formulation is a conceptual description with definitive and normative claims but needs more substance. Good public policy depicts reality reading maturity and feasible solutions. The policy description can be more exact with the normative ideal value if it is detailed with the reality of policy difficulties in the area.

Formulating public policy is vital. According to Charles Lindblom and other scholars, understanding the policy formation process entails understanding the actors, both official and unofficial, who make the policy. According to Charles Lindblom, to determine who makes policy, one must first understand the properties of all players and participants, including their position, authority, and interconnection and supervision. According to Lindblom, ordinary citizens,

⁶⁰ Frank Fischer and Gerald J. Miller, *Handbook of Public Policy Analysis: Theory, Politics, and Methods* (Routledge, 2017).

⁶¹ Melody Hessing and Tracy Summerville, *Canadian Natural Resource and Environmental Policy, 2nd Edition* (UBC Press, 2005).

organisational leaders, parliamentarians, legislative leaders, party activists, party leaders, judges, civil servants, technical experts, and business managers each play a unique role.⁶²

Policy creation will depend on several factors, including how an issue, especially a public concern, is brought to policymakers' attention, how to create solutions to specific problems, and so on. How to Choose a Public Issue Solution.

1. Public policy development involves four steps: problem identification, agenda framing, problem formulation, and policy design.
2. Problem identification or problem identification is to recognize and understand the problem and map the problem by observing and identifying any changes that occur both in the internal and external environments. Not all public issues that can move people to think and find solutions can appear to be policy problems (only those that drive people to action become policy problems). Therefore, the most important thing is that a public problem can become a policy problem; it is not enough just to be lived by many people as a problem; the public also needs to have the political will to fight for the general problem to become a policy problem and more importantly, must also be responded positively by policymakers.
3. Preparation of the agenda or agenda setting is a term that is generally used to describe content that is considered public and needs to be taken action. Agenda is a general agreement on a shared problem that needs to be a common concern. According to government intervention to solve it, the policy agenda preparation begins with a problem that arises in the community. This problem can be expressed as a public problem; for example, the situation has a significant impact on people, there is convincing evidence that the legislative and executive institutions and observers of the problem as a severe problem, and there is an easy-to-understand problem-solving to the issue being thought and considered.
4. The study focuses on formulating public policy problems. The fourth is designing public policy based on policy problems that have been developed (legal issues) and then looking for solutions in the form of what public policies need to be taken. To find out what procedures should be taken, it is necessary to analyze the policy problem.

The author refers to the formulation of the legal policy as standardizing labour inspection through the central government, in this case by the Ministry of Manpower and Transmigration, as the main element by restoring labour inspection arrangements that are centralized but also hierarchical but not hierarchical from the district/city government. The provincial government and the final level lead to the central government. As a result, the author's hierarchical centralistic purpose is to travel directly from the district/city level to the central government and then to the respective ministries. The affirmation of supervision at the district/city level is because, in practice, the issue of employment and labour law enforcement is more prevalent in this region, so labour inspectors at the district/city level will be more effective. Meanwhile, the central government's authority remains uncertain because the central government is required to control the entire labour problem in Indonesia so that any policy adopted by the government remains consistent and does not conflict with one another.

⁶² Antik Bintari and Landrikus Hartarto Sampe Pandiangan, "Formulasi Kebijakan Pemerintah Tentang Pembentukan Badan Usaha Milik Daerah (Bumd) Perseroan Terbatas (Pt) Mass Rapid Transit (Mrt) Jakarta Di Provinsi Dki Jakarta. Cosmogov," *Jurnal Ilmu Pemerintahan ISSN 2442* (2016): 223.

The confirmation of supervision at the district/city level is because, in actuality, the issue of employment and labour law enforcement is more common in this region. Thus labour inspectors at the district/city level will be more effective. Meanwhile, the central government's power remains uncertain since the central government is necessary to manage the whole labour problem in Indonesia so that any policy adopted by the government stays consistent and is distinct from one another.

Conclusion and Recommendation

Labor Supervision is fundamental in enforcing labour regulations while ensuring and protecting workers' rights. The authority of labour supervision is affirmed through ILO Convention No.81 of 1947 and then ratified by the government of Indonesia through Law No. 21 of 2003 on the ratification of ILO Convention no. 81 years in which the central government in control of labour inspection becomes problematic when the birth of the labour law that provides authority that is centralistic-hierarchical and increasingly complex with the delivery of the local government law that confirms the power of labour inspection is only traced to the source at the provincial government level.

The problem needs more experienced labour problems and spread in the district/city to be less maximally resolved by labour inspectors who are at the provincial level due to the distribution of such a wide area, many word problems that must be enforced until the lack of existing resources at the local level labour inspection should be resolved with a, but also pay attention to the needs that exist in the area so that the formulation of future policies is with the supervision of labour in the central government and assisted by the level of control of workforce at the district/city level.

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