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**SUPERVISION AND ENFORCEMENT OF LABOR SANCTIONS  
AGAINST VIOLATIONS OF PERMITS TO USE FOREIGN  
WORKERS IN THE PROVINCE OF SOUTH SULAWESI**

**PENGAWASAN DAN PENEGAKAN SANKSI  
KETENAGAKERJAAN TERHADAP PELANGGARAN IZIN  
PENGUNAAN TENAGA KERJA ASING DI WILAYAH PROVINSI  
SULAWESI SELATAN**

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**ABSTRACT**

The importance of supervising foreign workers working in Indonesia needs to be controlled and supervised by the Ministry of Manpower. Uncontrolled use of foreign workers will have an impact on domestic workers. Therefore, the use of foreign workers must meet the provisions of positions that may be occupied by foreign workers, so that for positions that can still be carried out by Indonesian workers, domestic workers should be prioritized. The research used in this research is social law research/empirical research which is carried out with an approach to the legal reality in society. Related to employment crimes, it is a judicial repressive measure as the last step in enforcing labor law. From the law enforcement process in the field of labor inspection, we know that the law enforcement process is carried out in three stages, namely, the stage of development, supervision and enforcement of sanctions.

**Keywords : Government; Guidance; Supervision; Enforcement of Sanctions; Foreign Workers.**

**ABSTRAK**

*Pentingnya pengawasan terhadap tenaga kerja asing yang bekerja di Indonesia perlu dilakukan pengendalian dan pengawasan yang dilaksanakan oleh Kementerian Tenaga Kerja. Penggunaan tenaga kerja asing yang tidak*

terkendali, akan berdampak bagi tenaga kerja dalam negeri. Oleh karena itu, penggunaan tenaga kerja asing harus memenuhi ketentuan jabatan yang boleh di duduki oleh tenaga kerja asing, sehingga untuk jabatan yang memang masih dapat dikerjakan oleh tenaga kerja Indonesia, seharusnya lebih diutamakan tenaga kerja dalam negeri. Penelitian yang dipakai dalam penelitian ini adalah penelitian hukum sosial/empiris adalah penelitian yang dilakukan dengan pendekatan pada realitas hukum dalam masyarakat. Terkait dengan tindak pidana ketenagakerjaan, merupakan tindakan represif yustisial sebagai langkah terakhir dalam penegakan hukum ketenagakerjaan. Dari proses penegakan hukum dalam bidang pengawasan ketenagakerjaan, maka kita ketahui bahwa proses penegakan hukum dilakukan dengan tiga tahap yaitu, tahap pembinaan, pengawasan dan penegakan sanksi.

**Kata Kunci : Pemerintah; Pembinaan; Pengawasan; Penegakan Sanksi; Tenaga Kerja Asing.**

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## I. INTRODUCTION

The number of developments in various fields leaves various problems, one of which cannot be avoided is the development of investment. The government's policy to develop the economy in Indonesia has an impact on the opening of the widest possible investment faucet, primarily providing convenience for investors who want to invest in Indonesia. whether it's in the form of investment<sup>1</sup> domestic and foreign investment by foreign investors.

One of the instruments used by the government to achieve equitable distribution of welfare is to carry out the licensing function. The purpose of licensing is to be able to develop people's lives and also to ensure that every activity carried out by the community does not interfere with each other's good life. Therefore, the implementation of licensing must always be supervised by the government.<sup>2</sup>

Granting of Permits for Foreign Workers, carried out by the Ministry of Manpower.<sup>3</sup> The Ministry of Manpower has the authority to issue permits for foreign workers who will work in Indonesia. The issuance of foreign worker permits is carried out through a selective procedure taking into account the domestic labor market, therefore, the foreign worker licensing process must carry out a verification process which will provide an opportunity for the government to assess and conduct research on all aspects, and provisions. legislation before issuing a decision on granting a foreign worker permit.<sup>4</sup>

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<sup>1</sup> Camenia Jamil, P., & Restu Hayati, dan. (2020). Penanaman Modal Asing di Indonesia. *Penanaman Modal Asing...{Jamil Dan Hayati}* | *Jurnal Ekonomi KIAT*, 31(2), 1–4. Retrieved from <https://journal.uir.ac.id/index.php/kiat>

<sup>2</sup> Moore, T. G. (1961). The Purpose of Licensing. *The Journal of Law and Economics*, 4, 93–117. <https://doi.org/10.1086/466573>

<sup>3</sup> Nurhidayati, N. (2019). PERIZINAN TENAGA KERJA ASING, KEBIJAKAN DAN IMPLEMENTASINYA. *Widya Cipta: Jurnal Sekretari Dan Manajemen*, 3(2), 241–248. <https://doi.org/10.31294/widyacipta.v3i2.6444>

<sup>4</sup> Khaldun, R. I., Fita, G. A., Utami, A. N. F., & Tahawa, T. H. (2020). Globalisasi, Ancaman dan Upaya Peningkatan Daya Saing Tenaga Kerja Domestik terhadap Serangan Tenaga kerja Asing di Indonesia. *Jurnal Ilmu Hubungan Inetrnasional*, 01(01), 27–36.

The implementation of the supervisory function, especially for foreign workers, based on the laws and regulations, the authority is given to the Provincial Government, especially carried out by the Manpower and Transmigration Office of South Sulawesi Province. Department of Manpower and Transmigration of South Sulawesi Province. The agency is responsible for the field of manpower, especially in carrying out the function of labor inspection on labor norms. One of the work norms that must be supervised in foreign workers. Therefore, the role of labor inspectors is very important in carrying out supervision and enforcement of sanctions in order to ensure that the implementation of labor norms can be carried out properly.<sup>5</sup>

Uncontrolled use of foreign workers will have an impact on domestic workers. Therefore, the use of foreign workers must meet the provisions of positions that may be occupied by foreign workers, so that for positions that can still be done by Indonesian workers, domestic workers should be prioritized. Besides that, foreign workers who will work must meet competency standards and have expertise certificates according to their skills, and most importantly that the granting of permits for the use of foreign workers is intended so that knowledge transfer or skill transfer and technology transfer can occur through assistance by workers in country, so that it can improve the competence of domestic workers, and in the end we are no longer dependent on the use of foreign workers. However, its implementation in the field may not run as smoothly as it should, because in some cases the opposite has happened.

## **II. METHOD**

The research method used in this research is social law research/empirical research that is carried out with an approach to the legal reality in society. This research is based on the existence of symptoms in the form of a gap between expectations (*das solen*) and reality (*das sein*) in the field of law. In this connection the research orientation is law in action.<sup>6</sup> Sociological (empirical) legal research is research that focuses on individual or community behavior in relation to the law, so it cannot be denied that often the topic of research is the issue of the effectiveness of the rule of law, compliance with the rule of law, the role of legal institutions or institutions in law enforcement, implementation the rule of law, the influence of the rule of law on certain social problems and vice versa, and the influence of certain social problems on the rule of law.<sup>7</sup>

## **III. ANALYSIS AND DISCUSSION**

### **a. Duties and Functions of the Manpower and Transmigration Office of South Sulawesi Province**

The Manpower and Transmigration Office of South Sulawesi Province is one of the work units that carry out government duties and functions in the field of manpower and transmigration in accordance with South Sulawesi

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<sup>5</sup> Fadjri. (2017). Implikasi Sentralisasi Pengawas Ketenagakerjaan Dari Kab/Kota Ke Provinsi. *Jurnal Ketenagakerjaan*, 12(1), 44–56.

<sup>6</sup> SyahrudinNawi, *Penelitian Hukum Normatif Versus Empiris*, PT. UmitohaUkhuwaGrafika: Makassar, 2017,8.

<sup>7</sup> Suratman dan Philips Dillah, *Metode Penelitian Hukum*, Alfabeta, Bandung, 2002, 88.

Provincial Regulation Number 10 of 2016 concerning the Formation and Composition of Regional Apparatus (South Sulawesi Provincial Gazette of 2016 Number 10, Supplement to the Gazette of the Province of South Sulawesi Number 293).

In carrying out these main tasks, the Department of Manpower and Transmigration of South Sulawesi Province has the following functions:

- 1) Formulation of technical policies in the field of manpower and transmigration covering workforce empowerment, industrial relations and working conditions, labor inspection, and transmigration;
- 2) Carry out supervision of the process of development in the Village.
- 3) Implementation of social affairs and public services in the field of manpower and transmigration, including empowerment of workers, industrial relations and working conditions, labor inspection, and transmigration;
- 4) Guidance and implementation of tasks in the field of manpower and transmigration, including empowerment of workers, industrial relations and working conditions, labor inspection, and transmigration; and
- 5) Carrying out other official duties according to their field of duty.

**b. Effectiveness of Law Enforcement Against Foreign Worker Permit Violations in South Sulawesi Province**

1) Labor Data in South Sulawesi Province

Data on foreign workers who are in the area of the Manpower and Transmigration Office of South Sulawesi Province, in 2017.

Table 1. Data on Foreign Workers in South Sulawesi Province (January to December 2017)

<b>No.</b>	<b>County/City</b>	<b>Amount</b>
1	Jenepono	269
2	Makassar	101
3	Maros	65
4	Lawu Timur	30
5	Pinrang	20
6	Barru	20
7	Gowa	4
8	Wajo	3
9	Palopo	3
10	Bantaeng	2
11	Bulukumba	2
12	Pangkajene	2
13	Takalar	1
14	Parepare	1
<b>Total</b>		<b>581</b>

Based on the data above, it shows that there are 3 locations with the highest number of foreign workers, namely Jenepono Regency with 269 Foreign Workers, Makassar City with 101 Foreign Workers, and Maros Regency with 65 Foreign Workers. As for Foreign Workers by nationality who

work in the Regional Office of Manpower and Transmigration of South Sulawesi Province, it can be seen in the following table.

Table 2. Table of Nationality List of Foreign Workers in South Sulawesi

<b>No.</b>	<b>County/City</b>	<b>Amount</b>
1	China	398
2	Jepang	26
3	Belanda	22
4	Korea selatan	22
5	Taiwan	19
6	Kanada	12
7	Australia	10
8	Malaysia	10
9	Amerika serikat	9
10	India	9
11	Filipina	7
12	Perancis	5
13	Jerman	4
14	Rumania	4
15	Selandia Baru	4
16	Britania Raya	3
17	Belgia	2
18	Rusia	2
19	Spanyol	2
20	Turki	2
21	Austria	1
22	Bangladesh	1
23	Bulgaria	1
24	Italia	1
25	Polandia	1
26	Singapura	1
27	Turkemenistan	1
28	Thailand	1
29	Vietnam	1
	<b>Total</b>	<b>581</b>

The data shows that the 5 nationalities with the most foreign workers in South Sulawesi Province are from China, then Japan, the Netherlands, South Korea, and Taiwan. Based on existing data, the number of companies actively employing foreign workers in 2017 in South Sulawesi was 83 companies spread across 19 regencies and cities.

c. Data on Foreign Worker Violations in the Province of South Sulawesi

Table 3. Table of Data on Violations of Work Norms of Foreign Workers that Occurred in South Sulawesi Province in 2015-2017

<b>No.</b>	<b>Judgment Type</b>	<b>Information</b>
1	2015	1
2	2016	1
3	2017	1
	<b>Total</b>	<b>3</b>

Based on the data, the number of violations that occurred during the last 3 (three) years, namely from 2015 to 2017 as many as 3 violations of the use of Foreign Workers, namely in 2015 there was 1 violation, in 2016 there was 1 violation, and in 2017 there was 1, This shows that there has been no increase or decrease in the last 3 years. This condition shows that based on the data above, the level of violation of work norms related to foreign workers that occurs in the area of the Manpower and Transmigration Office of South Sulawesi Province is very low.

Labor inspection works based on the work procedures regulated in the Regulation of the Minister of Manpower Number 33 of 2015 concerning Procedures for Labor Inspection. Labor inspection is carried out through several stages, namely preventive educative, non-judicial repressive, and judicial repressive stages. The implementation of labor inspection is carried out through activities, guidance, examination, testing, and/or investigation of labor crimes. These activities must be stated in the work plan and its implementation on the orders of the Head of the Labor Inspection Work Unit.

At the coaching stage, which aims to increase compliance with Labor Norms. The coaching activities are carried out through technical advisory activities, socialization, training, consultation meetings, and mentoring.

Then the inspection stage, carried out in 4 stages, namely the first inspection, periodic inspection, inspection, special, and re-examination. The first inspection is carried out by a thorough examination of the implementation of the Employment Norms in a new company or workplace or has never been examined, while periodic inspections are carried out after the first inspection according to a certain specified period. For special inspections, it is an examination of labor norms on public complaints, company requests, and/or orders from the leadership of the labor inspection work unit (complaints, reports, media coverage, and/or other information). If the inspector has carried out the inspection, he is obliged to make an inspection note, which is a note containing a warning and/or written order from the labor inspector addressed to the entrepreneur or management to correct non-compliance with labor norms based on the results of the inspection by the labor inspector. Examination Notes consist of Examination Notes I, II and Special Examination Notes, if the Examination Notes I, and II, have been given in accordance with applicable regulations, if it is still not carried out by the entrepreneur, it will be followed up with investigative actions, and legal actions in accordance with the regulations. legislation. Related to employment crimes, it is a judicial repressive measure as the last step in enforcing labor law.

From the law enforcement process in the field of labor inspection, we know that the law enforcement process is carried out in three stages, namely, the stage of development, supervision and enforcement of sanctions. So that law enforcement against violations of labor norms always prioritizes the

development stage before enforcing sanctions for violations of labor norms. Violations of work norms include mandatory employment reports, work breaks, provincial minimum wages, holiday allowances, company regulations/collective work agreements, implementation of decisions by the Central/Regional Labor Dispute Settlement Committee, companies must register, companies register part of the workforce. , companies that list partial wages, Indonesian workers, and foreign workers.

As for the follow-up to the violations that occurred, based on the table above, based on the results of interviews conducted with Mr. Akhriyanto, that for violations that occurred during the last 3 years, non-judicial repressive actions have been carried out, namely by providing an Examination Note. The inspection note given is Inspection Note I, which is addressed to Employers as users of foreign workers, and from the issuance of Inspection Note I, it does not continue to provide Audit Note II, because the company has carried out orders to correct non-compliance with Labor Norms based on the results of the inspection of the labor inspector. During the last three years, there has been no violation of the working norms of foreign workers, which has reached the stage of judicial repression or investigation in accordance with applicable legal provisions. Although it is recognized that the supervision of foreign workers still needs to be improved, especially with the current condition, the number of companies registered using foreign workers in South Sulawesi is 81 companies, spread over 10 districts, and 3. With a total workforce of 581 (1 people) , so that by looking at this number, there is a possibility that there could be a violation of the permit to use foreign workers, if the supervision is not carried out properly. It was further stated that, considering these conditions, supervision needs to be regulated properly, because the existing labor inspectors in the South Sulawesi Provincial Office there are 38, with a large number of companies in South Sulawesi. Even with the current conditions, supervision will still be carried out as much as possible so that the implementation of labor norms in companies can run in accordance with the provisions of the legislation. supervisor foreign workers in the Disnakertrans area of South Sulawesi Province.<sup>8</sup>

#### **IV. CONCLUSION**

Law enforcement against violations of Foreign Worker Permits in the area of the Manpower and Transmigration Office of South Sulawesi Province, is less effective, the content is due to several things including the work area of foreign worker supervision which is not proportional to the ratio of labor inspectors, then the limited data related to with the presence of foreign workers, and the lack of coordination between relevant agencies that handle foreign workers. As well as several factors that influence the ineffectiveness of law enforcement against foreign worker permit violations, including legal substance factors, legal structure factors, facilities and infrastructure factors, community factors, and cultural factors..

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