

# Juridical Analysis of the Legal Role of Occupational Health and Safety Management

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**Abstract.** One of the important aspects of decent work is the fulfillment of guarantees for the protection of workers' occupational safety and health, this is also the theme of National K3 Month 2023, namely the Realization of Decent Work with a K3 Culture to Support Business Sustainability in Every Workplace. However, the number of work accident cases in Indonesia is increasing from year to year, at least that is shown by BPJS Employment work accident data that occurred in the last 3 years. Based on BPJS Employment data, in 2020, the number of work accidents reached 221,740 cases. This number increased in 2021 to 234,370 cases and continued to increase in 2022, where up to November 2022, there had been 265,334 work accidents. Indeed, Indonesia does not have sufficient capacity to carry out extensive activities in the field of K3 as in several developed countries. This can be seen from the fact that many industries pay little attention to the safety of their workers, while K3 is an important aspect of industrial activities. This research aims to discuss occupational health and safety management law. K3 the executives' regulation depends on Regulation no. 1 of 1970 concerning work wellbeing, and Guideline of the Pastor of Labor of the Republic of Indonesia no. Per-05/MEN/1966 concerning word related wellbeing and wellbeing the board frameworks, hereinafter alluded to as SMK3.

**Keywords:** Juridical analysis, Role, Health management law, Work safety.

## 1 Introduction

The Republic of Indonesia is a condition of regulation (rechtsstaat), specifically a state in which all perspectives, conduct, and activities, whether completed by the specialists or by its residents, should be founded on regulation.[1] The Indonesian law and order is a state in view of Pancasila and the 1945 Constitution of the Republic of Indonesia, a consent to shape a state government, safeguard the whole country and all carnage, advance public government assistance, and make the existence of the country canny. The Indonesian law and order is a cutting-edge law and order, regarding which the public authority's primary errand is to work on the government assistance of its kin. That is why the modern Law State is also called the Welfare State.

The rule of law aims primarily to provide legal protection for the people. According to Hadjon[2] legitimate assurance for individuals against government activities depends on two

standards, in particular the Standards of Common liberties and the Standards of Law and order. Adroitly, lawful security for individuals for government activities incorporates preventive legitimate assurance and oppressive lawful insurance. In preventive lawful security, individuals are permitted to submit protests (inspraak) or sentiments before an administration choice takes conclusive structure.

Pancasila as the way of thinking of life of the Indonesian public in its fifth rule states "Civil rights for Every single Indonesian Individual". This implies that equity for individuals is a higher priority than equity for specific gatherings.[3] Justice must be upheld while upholding the principles of justice to create a prosperous, just, prosperous, and equitable society both materially and spiritually.[4] This justice must be felt by all Indonesian people, including justice for workers and workers, whether working domestically or abroad so that they are guaranteed legal protection for their life and health. From the company's perspective, it is hoped that they have implemented the legal concept of good occupational health and safety (K3) management so that the number of worker accidents each year can be reduced.

It should be noted that workforce placement is an effort to match workers with employers so that workers can get jobs that suit their talents, interests, and abilities and employers can also get workers that suit their needs.[5] An employment agreement creates an employment relationship. A business relationship is a connection among bosses and laborers in view of a work understanding, which has components of work, wages, and orders. This means that in an employment relationship, there are several things, namely the rights of the entrepreneur (employers have a higher position than workers), the obligations of employers (paying wages), and the object of the agreement (employment).[6] However, there are times when the implementation of occupational safety and health protection for workers and entrepreneurs is not what is regulated in Law No. 13 of 2003. This occurs due to a lack of socialization between employers and workers regarding the importance of occupational safety and health.[7]

Every company that employs a workforce of one hundred or more people and/or contains potential dangers posed by the characteristics of production processes or materials that can result in work accidents is required to implement a K3 management system. The K3 management system is implemented by the management, employers, and all workers as one unit. Thus, the role of the legal concept of good occupational health and safety (K3) management becomes very important for the protection of workers from every danger that lurks.

The application of the K3 concept has emerged since humans became acquainted with a job. Work safety aims to carry out work in an easy way and ensure safety from natural disturbances, animals, or disturbances from other humans. K3 issues are also part of project planning and control efforts as are costs, planning, procurement, and quality. These things are very closely related to each other.[8]

## **2 Problem Formulation**

The problem in this paper is what is the legal role of occupational health and safety (K3) management in Indonesia?

### **3 Methods and Approaches**

#### **3.1 Method**

The method used in writing this applied paper is a descriptive-analytical method, namely by using data that clearly describes problems directly in the field, then analysis is carried out and then conclusions are drawn to solve a problem. The data collection method is through observation and literature study to obtain solutions to problems in preparing this paper. In line with the research objectives to be achieved, the domain of this research is included in the realm of qualitative research, thus a qualitative approach method will be used. According to Soerjowinoto et al., qualitative methods are methods that emphasize the process of researchers' understanding of problem formulation to construct a complex and holistic legal phenomenon.[9]

#### **3.2 Approach**

The normative juridical approach, namely the juridical method method used to examine problems in terms of law and statutory regulations, with the statute approach, namely examining the problems to be discussed using legal regulations in the form of secondary data in the form of primary, and secondary and tertiary legal materials.[10]

The regularizing juridical methodology is completed on specific legal guidelines or composed regulations, which connect with the legitimate job of word related wellbeing and security (K3) the board in Indonesia in view of Regulation no. 1 of 1970 concerning work wellbeing, and Guideline of the Pastor of Labor of the Republic of Indonesia no. Per-05/MEN/1966 concerning word related wellbeing and wellbeing the board frameworks, hereinafter alluded to as SMK3.[11] This exploration depicts what is happening of the item under study, specifically zeroing in on the legitimate job of word related wellbeing and security (K3) the executives in Indonesia in light of Regulation No. 1 of 1970 concerning work wellbeing, and Guideline of the Pastor of Labor of the Republic of Indonesia no. Per-05/MEN/1966 concerning word related wellbeing and wellbeing the executives framework alluded to as SMK3 in course.

### **4 Discussion**

#### **4.1 Occupational Health and Safety Legal Products.**

K3 regulations in Indonesia have existed since the Dutch East Indies government, the K3 regulations that were in effect at that time were the Veiligheids Reglement. After independence and the enactment of the 1945 Constitution, several regulations including safety regulations were revoked and replaced. The regulations governing K3 are Work Safety Law No. 1 of 1970. The provisions for implementing K3 are explained in Law no. 1 of 1970: (1) workplaces that use machines, aircraft, and tools, (2) construction workplaces, repair, maintenance, cleaning or demolition of buildings, (3) agricultural, plantation, forest workplaces, (4) business work mining and processing of gold, silver, metals and other metal ore, and (5) places for transporting goods, animals

and humans either on land, through tunnels, on the surface of water, in water and the air. By this Law, the places mentioned must carry out K3 procedures.

The aims and objectives of K3 are to create an occupational safety and health system in the workplace involving the workforce, working conditions, and environment in an integrated manner to reduce work-related accidents and illnesses and create a safe workplace. Therefore, a legal umbrella is needed to protect workers in the workplace.

The legal basis that serves as an umbrella for workers regarding K3 includes:

*Constitution*

1. Law of the Republic of Indonesia no. 21 of 2003 concerning endorsement of ILO Show No. 81 concerning work assessment in industry and business.
2. Law of the Republic of Indonesia no. 13 of 2003 concerning business.
3. Law no. 1 of 1970 concerning work wellbeing.

*Government regulations*

1. Unofficial law No. 19 of 1973 concerning the guideline and oversight of work wellbeing in the mining area.
2. Unofficial law No. 11 of 1979 concerning work wellbeing in oil and gas refining and handling.

*Ministerial Regulations and Ministerial Decrees*

1. Guideline of the Pastor of Labor and Immigration of the Republic of Indonesia No. Per-01/MEN/1978 concerning word related security and wellbeing in the transportation and logging of wood.
2. Guideline of the Priest of Labor and Immigration of the Republic of Indonesia No. Per-03/MEN/1978 concerning arrangement necessities and authority, as well as commitments of word related wellbeing and security administrative workers and word related security specialists.
3. Guideline of the Priest of Labor supply and Immigration of the Republic of Indonesia No. Per-01/MEN/1980 concerning word related wellbeing and wellbeing in building development.
4. Guideline of the Priest of Labor supply and Immigration of the Republic of Indonesia No. Per-03/MEN/1999 concerning word related wellbeing and wellbeing necessities for lifts for shipping individuals and merchandise.
5. Guideline of the Priest of Labor and Immigration of the Republic of Indonesia No. Per-03/MEN/1985 concerning word related wellbeing and wellbeing utilizing asbestos.
6. Guideline of the Clergyman of Labor and Immigration of the Republic of Indonesia No. Per-03/MEN/1986 concerning word related security and wellbeing necessities in working environments that oversee pesticides.

Based on Law No. 1 of 1970 concerning work safety, it can be seen that the structure of K3 legal supervision is as follows:

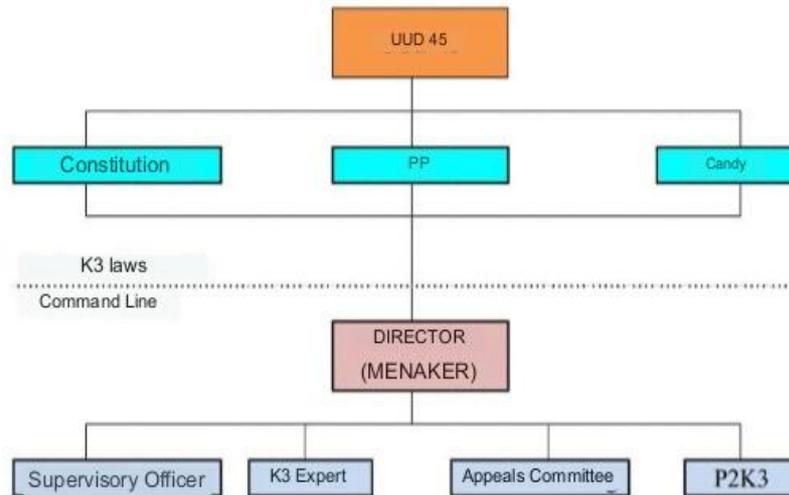


Chart 1: Legal Structure of Occupational Health and Safety (K3) Explanation:

- a. The supervisory director is the Minister of Manpower who supervises the general implementation of the K3 Law.
- b. Supervisory employees are assigned to carry out direct supervision of compliance with the K3 Law and assist in its implementation.
- c. K3 Experts are government agencies and private agencies that can operate K3 appropriately, just as K3 Expert supervisory employees are assigned to carry out direct supervision of compliance with the K3 Law and assist in its implementation.
- d. The Appeals Committee is a technical committee whose members consist of experts in the required fields.
- e. The Occupational Safety and Health Monitoring Committee (P2K3) is tasked with developing cooperation, mutual understanding, and effective participation from employers or administrators and workers in workplaces to carry out joint duties and obligations in the field of K3, to launch production efforts.

#### 4.2 Occupational Health and Safety Management Law.

The K3 the board regulation depends on the Republic of Indonesia Priest of Labor Supply Guideline No. Per-05/MEN/1966 concerning word related wellbeing and wellbeing the executives frameworks, hereinafter alluded to as SMK3. SMK3 is important for the general administration framework which incorporates hierarchical design, arranging, obligations, execution, strategies, cycles and assets expected to create, carry out, accomplish, survey, and keep up with word related wellbeing and wellbeing approaches with regards to controlling dangers connected with exercises work to make a protected and useful work environment.

Every company that employs a workforce of one hundred or more people and/or contains potential dangers posed by the characteristics of production processes or

materials that can result in work accidents is required to implement a K3 management system. The K3 management system is implemented by the management, employers, and all workers as one unit. Contents of the Republic of Indonesia Minister of Manpower Regulation No. Per-05/MEN/1966 concerning occupational safety and health management systems are as follows:

#### *Commitments and Policies*

Management must demonstrate leadership and commitment to K3 by providing adequate resources. Entrepreneurs and administrators must show commitment to K3 which is manifested in (1) establishing the K3 organization in a position that can determine company decisions, (2) providing a budget, qualified workforce, and other facilities needed in the field of K3, (3) determine personnel who have clear responsibilities, authority and obligations in handling K3, (4) coordinated K3 planning, (5) carry out performance assessments and follow up on K3 implementation.

#### *Planning*

Companies must make effective plans to achieve successful implementation of SMK3 with clear and measurable targets. The plan must contain goals, targets, and performance indicators that are determined by considering the identification of sources of danger, risk assessment, and control by applicable statutory requirements as well as the results of the initial review of occupational safety and health. Companies must establish and maintain procedures for inventory, identification, and understanding of legal regulations and other requirements relating to K3 by the activities of the company concerned. The management must explain the legal regulations and other requirements to the workforce.

#### *Application*

Ineffective implementation of SMK3, the following things need to be considered: (1) providing adequate resources according to size and needs, (2) identifying work competencies required at each level of company management and organizing any required training, (3 ) make provisions for communicating occupational safety and health information effectively, (4) make regulations to obtain opinions and suggestions from experts, (5) make regulations for the implementation of consultation and active involvement of workers.

#### *Measurement and Evaluation*

The review is an orderly and free assessment to decide if an action and related results are by arranged plans, implemented effectively, and suitable for achieving company policies and objectives. Audits of the K3 management system must be carried out periodically to determine the effectiveness of OSHMS implementation. Audits must be carried out systematically and independently by personnel who have work competence using an established methodology. The frequency of audits should be determined based on a review of previous audit results and evidence of hazard sources obtained in the workplace. Audit results must be used by the board in the management review process.

#### *Review and Improvement by Management*

The appointed leadership must review all activities, goods, and services including their impact on company performance. OHSMS reviews are carried out periodically to ensure continued suitability and effectiveness in achieving K3 policies and objectives. The review of the K3 management system must include (1) evaluation of the implementation of work safety and policies, (2) K3 goals, targets, and performance, (3)

results of the SMK3 audit findings, (4) evaluation of the effectiveness of the SMK3 implementation.

To realize work safety protection, the government has made efforts to develop norms in the field of employment. In terms of norm development, this includes the meaning of establishing, implementing, and monitoring the norms themselves.[12] Work safety is related to work accidents, namely accidents that occur in the workplace or are known as industrial accidents. This industrial accident can be interpreted as an unexpected and unwanted event disrupting processes that have been regulated activities. A certain incident or incident is the cause, as is this industrial accident/work accident.[12]

Efforts and guidance are needed to prevent work accidents and optimal occupational health guidance. Efforts regarding occupational safety and health, whether preventive, proactive, or repressive, are expected to reduce or prevent the number of work accidents and can improve occupational safety and health, so that companies can operate as optimally as possible. Labor inspections are carried out to ensure the implementation of labor regulations (article 176 of Law No. 13 of 2003). Thus, the target of labor inspection is to eliminate or minimize violations of the Labor Law, so that the industrial relations process can run well and harmoniously. The Directorate of Supervision of Occupational Safety and Health Norms is an organizational unit for the supervision of occupational safety and health by the provisions of Article 10 of Law No.14 of 1969 and Article 5 paragraph (a) of Law No.1 of 1970.[7]

The K3 the board framework depends on Pastor of Labor Guideline No. 5 of 1996 where the K3 The board Framework in the workplace is important for the general administration framework which incorporates hierarchical construction, arranging, obligations, execution, strategies, cycles and assets required for improvement, execution, accomplishment, surveying and keeping up with word related security and wellbeing approaches with regards to controlling dangers connected with work exercises to make a protected, effective and useful work environment. The point and objective of the K3 The board Framework is to make a word related security and wellbeing framework in the work environment by including components of the executives, labor force, working circumstances, and climate that are coordinated to forestall and lessen business related mishaps and sicknesses as well as making a protected, productive, working environment. furthermore, useful.

The role and application of legal aspects towards occupational safety and health have a great influence on both the company and the workforce. This happens because if the company or workforce ignores K3 in carrying out their work, the government can impose legal sanctions. After all, both the company and the workforce are legally bound.

The working relationship or engagement between workers and companies is regulated in Article 59 of Law Number 13 of 2003 concerning Employment. Law Number 13 of 2003 concerning Employment does not regulate in detail the protection of the rights of employed workers.[13] By implementing K3 by statutory regulations, companies can indirectly prevent accidents and work illnesses as well as work violations. And also work can be carried out safely and efficiently.[14]

Labor inspection is a system that is very important in enforcing or implementing labor laws and regulations. Enforcement of the application of statutory regulations is an effort to maintain a balance between the rights and obligations of entrepreneurs and workers/laborers. This balance is needed to maintain business continuity and work calm

which will ultimately increase work productivity and workforce welfare. For laws and regulations in the field of employment, especially regarding occupational safety and health, to be implemented properly, independent labor inspections and centralized policies are needed.[7]

Article 173 of Law Number 13 of 2003 concerning Employment explains that the Government carries out guidance on elements and activities related to employment. This development can involve employers' organizations, trade unions, and related professional organizations, and is carried out in an integrated and coordinated manner. Labor inspection is regulated in Article 176 of Law Number 13 of 2003 concerning Manpower. In this article, it is explained that labor inspection is carried out by labor inspectors who have competence and are independent to ensure the implementation of labor laws and regulations. Labor inspectors are determined by the Minister or an appointed official. Furthermore, Article 179 of Law Number 13 of 2003 concerning Manpower explains that Labor inspection work units in provincial governments and district/city governments are required to submit reports on the implementation of labor inspections to the Minister.

Protection of occupational health and safety is the responsibility of the Government together with the community. The central government and regional governments, as well as the role of the community, are responsible for implementing occupational health that is comprehensive, integrated, and has a sustainable pattern.[15] The state's obligation and presence in protecting occupational safety and health is a legal obligation that absolutely must be implemented, and this has been expressly mandated in the 1945 Constitution, the Human Rights Law, the Employment Law, and the Health Law. Technically, it is regulated in the K3 management law based on the Republic of Indonesia Minister of Manpower Regulation No. Per-05/MEN/1966 concerning occupational safety and health management systems referred to as SMK3

## **5 Conclusion**

In Indonesia, to reduce work-related accidents and illnesses and create a safe workplace, people are starting to think that employment protection is necessary, so the government has created a labor law umbrella regarding K3. The legal products are Laws, Government Regulations, Ministerial Regulations, and Ministerial Decrees regarding K3. The implementation of the K3 law is supervised by the director, namely, the Minister of Manpower, and the director appoints or forms a Supervisory Committee, K3 Expert Staff, Appeals Committee, P2K3. Supervision is carried out by qualified staff/personnel who have a lot of experience in their fields. A safe and effective workplace is created by integrating occupational safety and health policies with work activities. The K3 The executives Framework is a part of this general administration framework, which likewise incorporates hierarchical design, arranging, obligations, execution, techniques, cycles, and assets. The Republic of Indonesia Clergyman of Labor supply Guideline No. Per-05/MEN/1966 on word related security and wellbeing the board frameworks fills in as the establishment for the K3 the executives regulation. To diminish business related mishaps and diseases and give a protected work environment, K3 means to lay out a word related wellbeing and wellbeing framework in the working environment that coordinates the climate, working circumstances, and faculty.

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