

ABSTRAK

Penelitian ini membahas praktik diskresi pengawas ketenagakerjaan dalam menangani kasus penahanan ijazah pekerja oleh perusahaan di Daerah Istimewa Yogyakarta. Permasalahan muncul karena belum adanya regulasi spesifik yang mengatur larangan penahanan dokumen pribadi pekerja sebelum diterbitkannya kebijakan nasional terbaru. Dalam konteks kekosongan hukum tersebut, pengawas ketenagakerjaan sebagai *street-level bureaucrats* (SLB) dituntut untuk menggunakan diskresi agar perlindungan hak pekerja tetap terjamin. Penelitian ini merupakan penelitian studi kasus yang menggunakan pendekatan kualitatif dengan paradigma post-positivist serta teknik pengumpulan data melalui wawancara mendalam dan observasi.

Hasil penelitian menunjukkan bahwa diskresi diwujudkan melalui pendekatan persuasif, preventif edukatif, dan mediasi. Faktor-faktor yang memengaruhi penggunaan diskresi meliputi kebebasan institusional, kejelasan dan kelengkapan aturan, nilai dan moralitas tertanam (*embedded moralities*), serta tekanan birokrasi dan publik. Dampak diskresi terbukti mampu mengembalikan hak pekerja, memperkuat legitimasi pengawas, namun juga menghadapi tantangan berupa variasi praktik dan risiko gugatan hukum. Penelitian ini menyimpulkan bahwa diskresi pengawas ketenagakerjaan berfungsi sebagai mekanisme adaptif yang dapat menutup kekosongan hukum, melindungi pekerja, dan memperkuat implementasi kebijakan ketenagakerjaan, dengan catatan perlunya pedoman teknis, peningkatan kapasitas, serta perlindungan hukum yang lebih kuat bagi pengawas.

Kata Kunci : Diskresi; Street-level Bureaucrats; Pengawas Ketenagakerjaan; Penahanan Ijazah; Kekosongan Regulasi.

ABSTRACT

This study examines the discretionary practices of labor inspectors in handling cases of employee diploma retention by companies in the Special Region of Yogyakarta. The problem arises due to the absence of specific regulations prohibiting the retention of workers' personal documents prior to the issuance of the latest national policy. In the context of this regulatory gap, labor inspectors, as street-level bureaucrats (SLBs), are required to exercise discretion to ensure the protection of workers' rights. This is a case study research that employs a qualitative approach with post-positivist paradigm, using in-depth interviews and observations as data collection techniques.

The findings reveal that discretionary is exercised through persuasive measures, preventive-educational approaches, and mediation. Factors influencing the use of discretion include institutional autonomy, the clarity and completeness of regulations, embedded moralities, as well as bureaucratic and public pressures. The exercise of discretion has been effective in restoring workers' rights and strengthening inspectors' legitimacy, yet it also faces challenges such as variations in practice and the risk of legal disputes. The study concludes that discretion serves as an adaptive mechanism to address regulatory gaps, safeguard workers, and enhance the implementation of labor policies, while emphasizing the need for technical guidelines, capacity building, and stronger legal protection for inspectors.

Keywords : Discretion; Street-level Bureaucrats; Labor Inspectors; Diploma Retention; Regulatory Gap.