



Protocol for Handling of Non-Tolerable Cases (Zero Tolerance Protocol) between Directorate General of Labor Inspection and OSH - Ministry of Manpower of The Republic of Indonesia and Better Work Indonesia¹ - International Labour Organization

Background

Enterprise Advisors of Better Work Indonesia (BWI) may be able to find non-tolerable violations of workers' rights cases when conducting company visits for assessment or advisory activities. The non-tolerable violations of workers' rights should be immediately addressed by involving the Labor Inspectors because it is the Government's duty to enforce labor regulations. In order to ensure the effective handling of non-tolerable violations of workers' rights found, it is necessary to establish a coordination mechanism between the BWI team and the Labor Inspectors in the Zero Tolerance Protocol (ZTP).

Scope

Document of ZTP defines non-tolerable violations of workers' rights cases and the coordination mechanism between the BWI team and Labor Inspectors at both the National and Provincial levels.

Non-Tolerable violations of workers' rights Cases

Child Labor

- Workers under the age of 15
- Workers under the age of 18 working in the worst forms of child labor (forced labor, prostitution, pornography, hazardous work and illegal activities)

Forced Labor

Forced Labour is all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

11 indicators of forced labor:

abuse of vulnerability, deception, restriction of movement, isolation, retention of identity documents, physical and sexual violence, withholding of wages, intimidation and threats, restriction of freedom to terminate employment or leave job, debt bondage, abusive living and working conditions, and excessive overtime.

Discrimination

- Any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political belief, national extraction or social origin, resulting in the nullifying or impairing equality of opportunity or treatment in employment or occupation;
- Practices, procedures and policies of prohibiting employing persons with disabilities in companies

Occupational Safety and Health (OSH)

- Conditions with accident risks that can directly cause death, disability, explosion, fire, poisoning and occupational diseases that significantly threaten the workers' safety and health.
- Punishment of workers for objecting to or refusing to perform work in which the conditions of occupational safety and health and personal protection equipment required are questioned by them on the grounds of safety and health.

¹ The Better Work Programme is a unique partnership between the International Labour Organization (ILO) and the International Finance Corporation (IFC). It was launched in August 2006 in order to improve labour standards and competitiveness in global supply chains.

Freedom of Association

There is evidence that a factory has obstructed or forced workers/laborers to form or not to form, to become or not to become a board member of, to join or not to join and/or to perform or not to perform the activities of a trade/labor union, including by intimidation and/or termination of employment

Protocol in the Event that a non-tolerable violations of workers' rights case is Found

1. Enterprise Advisors will immediately report directly to the BWI Program Manager according to the communication protocol in case non-tolerable violations of workers' rights case as listed above are found when conducting company visits.
2. If the BWI Program Manager considers that the alleged case reported is a non-tolerable violations of workers' rights, the BWI Program Manager will report to the Ministry of Manpower and/or the Office or unit in charge of labor inspection at the Provincial level concerning the alleged case orally and in writing within 2 (two) working days.
3. The Ministry of Manpower and/or the Office or unit in charge of labor inspection at the Provincial level shall appoint an inspector to inspect no later than 2 (two) working days after receiving a written report from the BWI Program Manager to determine whether or not a violation has occurred.
4. After the inspection by labor inspector and a non-tolerable violations of workers' rights case is found, the Labor Inspector shall implement the procedure of implementation of labor inspection pursuant to laws and regulations.
5. The Ministry of Manpower and/or the Office or unit in charge of labor inspection at the Provincial level shall provide information on follow up of case handling to the BWI Program Manager.
6. After receiving information from the Ministry of Manpower and/or the Office or unit in charge of labor inspection at the Provincial level, the BWI Program Manager shall make efforts to assist the company during advisory services in order to take necessary improvement actions, bearing in mind instructions of the Labor Inspector to the company.
7. The Ministry of Manpower and/or the Office or unit in charge of labor inspection at the Provincial level is prohibited to provide information regarding this Protocol to unauthorized parties, except for the purposes of implementing this protocol including related remediation or to comply with the Law on Public Information Openness.
8. Nothing in this ZTP or relating thereto shall be construed as constituting a waiver of the privileges and immunities of the ILO.

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