

Legal Protection Against Employment Laws Related to the Granting of Leave in Accordance with Applicable Regulations

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Abstract

The purpose of this writing is to find out how the legal protection of employment law relates to the granting of leave in accordance with applicable regulations. This type of written research method is qualitative in nature with the type of document. Qualitative research is a type of research whose results are not based on statistics or other calculations. Work is one of the efforts of humans as social beings to fulfill their basic needs. Legal protection for workers is needed considering that the government often ignores equality and fairness in the workplace. Legal protection for maternity leave for pregnant employees from several companies which is regulated in the employment contract, ie. the right to maternity leave and payment for maternity leave. In addition, based on the research results it is also known that in several companies the company's responsibility for maternity leave rights includes granting maternity rights. With the right to maternity leave, pregnant workers do not have to work shifts and pay during maternity leave. From an Islamic point of view, the aqad or contract that a company makes with its employees fulfills the principle of the contract. Because according to the clause that has been agreed before. However, there are still several rights that have not been fulfilled under Article 83 of the Labor Law No. 13 of 2003, namely granting the right to breastfeed a child if it has to be done during working hours.

Keywords: Leave, Legal Protection, Women Worker



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INTRODUCTION

Work is one of the human efforts to realize the social needs of life such as clothing, food and supplies. Based on Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that, "every citizen has the right to work and a decent living for humanity. The state, as a supporter and supporter of the human rights of its people, has an obligation to facilitate the necessities of life for its people, in this case, work. The state is obliged to provide decent facilities and jobs for every citizen.

In fact, work life requires not only men, but also female employees. Therefore, every worker, both men and women, must be given the rights they need. Legal protection for workers is one of the basic rights that must be given to workers, considering that equality and justice in the world of work are often neglected. from the government. (Triyani and Desi, 2021). One example is the reproductive rights of women workers. The reproductive rights of women workers are regulated in Article 82 (1) and (2) of the Manpower Law No. 13 of 2003, which states that "female workers have several special rights, including: Female workers/laborers are entitled to rest for 1.5 (one and a half) months before the time to give birth to a child and 1.5 (one and a half) months after giving birth according to obstetrician or midwife's calculations, female workers/laborers who experience a miscarriage are entitled to a 1.5 (one and a half) month break or according to a certificate from a gynecologist or midwife (Iloraa, 2023).

Given that women workers cannot be separated from their nature to go through the process of conceiving and giving birth to a child, reproductive rights are a form of legal protection for a woman to be able to continue working without losing her human rights

(Nwokeocha, 2023a). However, in reality, the reproductive rights of women workers are often ignored by companies, so that many women workers do not get their reproductive rights as they should, and it is not uncommon for miscarriages to occur among women workers. Adiyanti explained that a woman who is pregnant has the right to inform the company where she works if the work she accepts could endanger her pregnancy. (Adiyanti, 2018).

It's just that there are still many women who do not dare for fear of losing their jobs. Even though legally everyone has the right to express their opinion without violating the law and respecting the opinions of others. Hence it should be

the company applies existing regulations as a form of protection for female workers in this case the reproductive rights of women in the form of female workers have the right to rest for one and a half months before giving birth and one and a half months after giving birth as stipulated in Article 82 paragraph (1) of the Labor Law .

RESEARCH METHODS

The type of research used in this research is descriptive research. Descriptive research is a research method that only describes or describes the state of the object to be studied. In this research means to describe clearly and systematically about how the law protects the right to leave for pregnant women workers. (Bashrowi and Nahrowi, 2008). The qualitative research instrument is the researcher himself. One of the data sources used is literature study, which uses library sources to gain research power without doing field work. Researchers use a qualitative descriptive method with literature review sources by reviewing previous studies (Nwokeocha, 2023b).

RESEARCH RESULTS AND DISCUSSION

In order to obtain funds to meet the various needs of life, everyone must somehow work, working for others inevitably leads to a work relationship, namely a work relationship. The employment contract is contained in Article 1(15) of the Indonesian Labor Code, so an employment relationship is a relationship created between an employer and a worker based on an agreed work contract, where the employment relationship consists of several elements, such as work, wages and orders.

The working relationship between employers and workers is usually regulated in an employment contract, which also regulates the rights and obligations of the parties. Respect for workers' rights is a very important obligation of employers to their workers, especially when hiring women workers who have special rights such as maternity leave rights under the pre- and post-employment rights law. Birth under Section 82 of the Labor Act." (Wibowo, 2018) This article regulates the right to rest (maternity) for working women for 3 months, which can be divided into two parts, namely 1.5 (one and a half) months before birth and another one and a half months after birth. from birth (Obichili et al., 2023).

Worker protection is a very important issue to guarantee the realization of workers' rights, this is in accordance with the essence of Law no. 13 of 2003. It can be said that the protection of workers has not been fully implemented in Indonesia, especially the protection of women workers, where there are still many employers who do not want to give privileges to women workers such as maternity leave. For example, pregnant women often feel threatened by losing their jobs, while the Manpower Law clearly states that employers cannot terminate employment on the grounds that the female worker is pregnant and is considered to only be detrimental to the company, such as the number of workers. This is of course very much contrary to the provisions of Article 153(1)(e) which states that employers cannot terminate employment for workers who are pregnant, giving birth or breastfeeding.

However, there is still much that can be found in a direct employment relationship depending on the contractor for various reasons. Employers are of the opinion that maintaining and providing maternity leave and continuing to pay full wages in accordance with applicable regulations will be detrimental to the employer because it is considered that the worker or employee does not benefit the employer or slows down the process. during leave. Going forward and vice versa only add to the company's cost burden because they have to pay salaries in full (Daniel et al., 2022).

Legal protection is a form of protection of human rights. People who are harmed and protected by other people in society so that they can enjoy all the rights granted by law, or in other words legal protection, are various means that must be provided by the police institution to maintain a sense of physical and spiritual security against disturbances and various threats from any party. or as a collection of rules or norms that will protect one thing from another. (Philipus, 1987) Based on the results of the study it was found that the forms of legal protection for pregnant women workers' leave rights include (Ejem et al., 2022):

1. Maternity Leave Rights. It is known that every female worker who works gets the right to maternity leave as stipulated in the employee work contract agreement, as follows: Article 15:
 - a. All female workers who are about to give birth are entitled to maternity leave, with the provision of leave, one and a half months before delivery and one and a half months after delivery.
 - b. If the employee is going to apply for maternity leave, the application is considered valid if it is accompanied by a doctor's statement and signed by the head of the respective unit.
 - c. For female workers who are pregnant at 5 (five) months of gestation are not required to work shifts by submitting an application letter to the head of the respective unit and attaching a doctor's certificate or due to medical considerations.
 - d. In the condition of having an abortion, the woman is given a rest period of 1.5 (one and a half) months from the time the miscarriage occurs according to a doctor's certificate (Ioraa, 2022).
2. Wages during pregnancy. Based on the employment contract agreement between the worker and the company, it is known that while undergoing the maternity leave rights of the female worker, the wage or salary as stipulated in the employee work contract agreement is as follows: Article 16:
 - a. Salary/wages are efforts to receive compensation given by employers to workers or work or services that have been performed which are valued in the form of money and are determined according to an agreement or laws and regulations.
 - b. For female workers who are on maternity leave, a salary/wages of 80% (eighty percent) of the amount of salary/wages received provided that they have status as permanent employees.

Based on Law Number 13 of 2003 concerning Manpower, the term worker or laborer is anyone who works and receives compensation in other forms. This definition is general so that it has a broad meaning because it can include anyone, both male and female workers, whether individuals, partnerships, legal entities or others who receive remuneration in other forms. (Muchsin, 2003) For male workers, female workers also have equal opportunities in the world of work. However, working women have different needs than men, so they enjoy special rights such as the right to leave during menstruation, the right to leave for pregnancy and childbirth, the right to leave for abortion, the right to pay for pregnancy. and maternity care, the right to breastfeed and/or express breast milk and the right to equality in work and position (Martins, 2022).

1. "The right to maternity leave is one of the basic rights/protection of women as stipulated in Law Number 13 of 2013 concerning Manpower which states that female workers or laborers are entitled to rest 1.5 months before giving birth and 1.5 months after giving birth according to the calculation of the obstetrician or midwife.
2. Provision of leave rights for obstetric examination. This right is given to female employees who are pregnant in urgent circumstances, where the company gives tolerance to their female employees not to enter by attaching a statement from the doctor and a handwritten permit.
3. Pregnant workers are not required to work shifts. Based on Article 76 of Law Number 13 of 2003 concerning Manpower, it is stated that women aged less than 18 (eighteen) years and pregnant women who according to a doctor's statement are dangerous to the health and safety of their womb or himself when working at night, namely 23.00 to 07.00. If a pregnant female worker is imposed a curfew by the company, the company is required to provide nutritious food and drinks, maintain decency and safety while at work, and provide shuttle service for female workers who depart and return between 23.00 to 05.00. This is as contained in Article 2 of the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number: Kep-224/Men/2003 concerning the Obligations of Employers Who Employ Female Workers/Labourers Between 23.00 and 07.00.
4. Remuneration during maternity leave. Based on research results it is known that regarding the wages received by employees who take maternity leave, the Company provides wages in the form of money in the amount of 80% of their basic salary in accordance with the previously agreed work contract agreement.

Maternity leave is a form of corporate responsibility towards female workers as a form of legal protection. This achievement is carried out in accordance with the employment contract between the employee and the company. The employee's obligation is to fully perform the obligations stated in the employment contract. Employees must properly demonstrate their abilities based on work agreements effectively and honestly. He must give attention and commitment to his work. (Hidayat Muharam, 2006)

Aqad The practice of menstruation and maternity leave in Islamic law has a very strategic place and role in various muamalah affairs. The Aqad took place very influential. With aqad, we can also change authority, responsibility and change something. In fact, according to the provisions of the aqad law, the exercise of the right to enjoy maternity benefits is a form of aqad implementation between the company and the worker. However, in mu'amalah transactions, there are pillars and conditions that must be met that affect whether the contract is valid or not. In this context, an aqad or agreement is made between the company and employees that fulfills the principle of the agreement. Because of the conditions that have been agreed before. However, there are still a number of rights that have not been implemented under Article 83 of the Labor Law No. 13 of 2003, namely the granting of child custody if necessary. Done during working hours. as stated in the employment contract, namely the existence of maternity leave rights and wages during maternity leave.

In addition, based on research results it is known that the company's responsibility for maternity leave entitlements between companies and their employees includes granting maternity leave entitlements, granting maternity leave entitlements, etc. in rotation. and paid during maternity leave. From a Muslim point of view, aqad or agreements made by companies with employees fulfill the principle of agreement. Because of the conditions that have been agreed before. However, there are several rights that have not been fulfilled under article 83 of the Labor Law No. 13 of 2003, namely the right to breastfeed if done while working."

CONCLUSION

Based on the research results, it can be concluded that the form of legal protection regarding maternity leave rights for pregnant employees is included in the employment contract in many companies, that is. the right to pregnancy and payment during maternity leave. In addition, based on the research results it is also known that in several companies the company's responsibility for maternity leave rights includes granting maternity rights. With the right to maternity leave, pregnant workers do not have to work shifts and pay during maternity leave. From an Islamic point of view, the aqad or contract that a company makes with its employees fulfills the principle of the contract. Because according to the clause that has been agreed before. However, there are still several rights that have not been fulfilled under Article 83 of the Labor Law No. 13 of 2003, namely granting the right to breastfeed a child if it has to be done during working hours.

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