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Enforcement of Maternity Leave Rights for Female Workers under Labor Law

Florentina Ezrahi Octwelfth^{1*} & Rasji Rasji²

^{1,2}Universitas Tarumanegara,
Indonesia

Correspondence

Florentina Ezrahi Octwelfth,
Universitas Tarumanegara, Letjen
S. Parman St No.1, RT.6/RW.16,
Tomang, Grogol Petamburan,
West Jakarta City, Jakarta 11440, e-
mail:
florentina.205220222@stu.unta
r.ac.id

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Original Article

Abstract

The protection of maternity leave rights for female workers represents an embodiment of the principles of social justice and humanity as mandated in Article 27(2) of the 1945 Constitution. However, in practice, violations of these rights continue to occur across various employment sectors. This study aims to analyze the legal provisions governing maternity leave rights under Law No. 13 of 2003 on Manpower and to evaluate the extent to which their implementation reflects the principles of justice, legal certainty, and humanity. Employing a normative juridical approach through the analysis of primary and secondary legal materials as well as industrial relations court cases, the study finds that although the normative framework provides clear legal protection, its implementation remains weak due to inadequate supervision, low legal awareness, and persistent gender bias in the workplace. In conclusion, the Indonesian labor law system formally upholds legal certainty but has yet to fully achieve substantive justice and humanitarian protection for pregnant female workers.

Keywords: *Maternity Leave Rights, Legal Protection, Industrial Relations Court*

Abstrak

Perlindungan terhadap hak cuti hamil bagi pekerja wanita merupakan salah satu wujud implementasi prinsip keadilan sosial dan kemanusiaan sebagaimana diamanatkan dalam Pasal 27 ayat (2) UUD 1945. Namun, dalam praktiknya, pelanggaran terhadap hak tersebut masih sering terjadi di berbagai sektor kerja. Penelitian ini bertujuan untuk menganalisis pengaturan hukum mengenai hak cuti hamil berdasarkan Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan serta menilai sejauh mana implementasinya mencerminkan prinsip keadilan, kepastian hukum, dan kemanusiaan. Menggunakan pendekatan yuridis normatif dengan analisis terhadap bahan hukum primer, sekunder, dan kasus pengadilan hubungan industrial, penelitian ini menemukan bahwa secara normatif, perlindungan hukum telah jelas, tetapi implementasinya masih lemah akibat kurangnya pengawasan, rendahnya kesadaran hukum, dan bias gender di dunia kerja. Kesimpulannya, sistem hukum ketenagakerjaan Indonesia baru memenuhi kepastian hukum secara formal, namun belum sepenuhnya mewujudkan keadilan substantif dan perlindungan kemanusiaan bagi pekerja wanita hamil.

Kata kunci: *Hak Cuti Hamil, Perlindungan Hukum, Pengadilan Hubungan Industrial*

1. INTRODUCTION

As economic entities, companies occupy a strategic position in driving national development and creating employment opportunities. Within the Indonesian legal system, companies are recognized as legal entities possessing rights and obligations and are responsible for ensuring the welfare of their employees in accordance with prevailing laws and regulations. One manifestation of this responsibility lies in respecting workers' normative rights, including the right to maternity leave for female employees. This right is not merely administrative in nature, but rather reflects the principles of humanity, social justice, and gender equality as guaranteed by the 1945 Constitution of the Republic of Indonesia, particularly Article 27(2), which stipulates that every citizen has the right to work and to a decent livelihood in accordance with human dignity.

Over the past two decades, women's participation in the Indonesian workforce has increased significantly. Data from the Central Statistics Agency (BPS) indicate that although the Labor Force Participation Rate (LFPR) for women continues to rise, the gender gap remains substantial—83.05% for men compared to only 55.04% for women. This condition reveals that despite growing awareness of gender equality, structural challenges persist that hinder the realization of adequate protection for women's labor rights. One of the most pressing concerns is the violation of maternity leave rights, which are frequently disregarded by companies through practices such as unilateral termination of employment, wage deductions, and denial of legally mandated leave.

Law No. 13 of 2003 on Manpower explicitly stipulates that female employees are entitled to 1.5 months of leave before and 1.5 months after childbirth, while retaining full pay.¹ This provision reaffirms the state's commitment to providing substantive and preventive legal protection for female workers. However, implementation in practice remains inconsistent. Cases such as Decision No. 78/Pdt.Sus-PHI/2023/PN Sng involving PT. Kharisma Parwitex and the dismissal of pregnant employees by PT. Tunjungan Crystal Hotel illustrate weak corporate compliance with existing regulations and highlight the gap between legal norms and employment realities.

These circumstances indicate that legal protection for maternity leave rights remains largely formalistic and fails to ensure the full realization of workers' human rights. The state is obliged to provide both preventive and repressive mechanisms to ensure balance between employers and workers, given the latter's relatively disadvantaged economic and social position. In line with this, John Rawls's theory of justice underscores the importance of equality as the foundation of a fair legal system²,

¹ Pemerintah Republik Indonesia, "Undang-Undang (UU) Nomor 13 Tahun 2003 Tentang Ketenagakerjaan" (2003), <https://peraturan.bpk.go.id/Details/43013>.

² John Rawls, *Justice as Fairness: A Restatement*, ed. Erin I. Kelly (Cambridge: Belknap Press, 2001).

while Gustav Radbruch asserts that legal certainty is an essential condition for the law to promote justice and social benefit.³

Violations of maternity leave rights also constitute human rights violations, as stipulated in Law No. 39 of 1999 on Human Rights, which guarantees women's right to receive special protection from the state in relation to their reproductive functions.⁴ Consequently, the issue extends beyond labor law and enters the domain of humanitarian and social justice concerns, necessitating stronger legal responses and more effective policy implementation. Although numerous studies, both national and international, have examined legal protection for women's labor rights—particularly concerning maternity leave—the implementation of these legal norms in Indonesia continues to face structural, cultural, and institutional challenges. Previous research has consistently highlighted the gap between normative legal provisions and actual employment practices, resulting in the failure to uphold women workers' reproductive rights.

Aulia et al. examined the urgency of fulfilling maternity leave rights for female workers under Indonesian labor law. Using a normative legal approach through the analysis of statutory provisions and case studies, their research found that although maternity leave rights are explicitly regulated in Law No. 13 of 2003 on Manpower and guaranteed by Article 27(2) of the 1945 Constitution, their implementation is frequently neglected by companies. Such violations not only affect the welfare of mothers and children but also exacerbate gender inequality in the workplace. The study makes a significant contribution by reaffirming the relationship between maternity rights and the principle of gender justice. However, it does not provide an in-depth analysis of repressive legal protection mechanisms for disadvantaged workers.⁵

Triyani and Tarina investigated the implementation of maternity leave rights in an ice cream manufacturing company in Bekasi, focusing on the application and forms of legal protection for pregnant workers. Adopting a normative legal approach supplemented by interviews, the study found that the implementation of maternity leave remains inconsistent with the provisions of Law No. 13 of 2003 on Manpower, primarily due to the absence of a collective labor agreement (PKB) between employers and labor unions. This situation results in limited awareness among female workers regarding their rights and obligations. While the study provides an empirical overview

³ Gustav Radbruch, "Five Minutes of Legal Philosophy (1945)," *Oxford Journal of Legal Studies* 26, no. 1 (2006): 13–15, <https://doi.org/10.1093/ojls/gqi042>.

⁴ Pemerintah Republik Indonesia, "Undang-Undang (UU) Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia," Pub. L. No. 39 (1999), <https://peraturan.bpk.go.id/Details/45361/uu-no-39-tahun-1999>.

⁵ Meidina Aulia et al., "Urgensi Hak Cuti Wanita Saat Hamil Berdasarkan Hukum Perburuhan," *Media Hukum Indonesia* 2, no. 3 (2024): 138–44, <https://ojs.daarulhuda.or.id/index.php/MHI/article/view/449>.

of implementation challenges, it lacks a systematic analysis of preventive and repressive legal protection mechanisms in the context of labor dispute resolution.⁶

Yandika and Kansil analyzed the legal protection of female workers' leave rights and the obstacles to its implementation using a qualitative approach based on literature analysis. Their findings indicate that the main barriers to the realization of maternity leave rights include insufficient understanding among both employers and employees regarding women's labor rights and weak government supervision. These findings underscore the importance of enhancing public awareness and strengthening oversight mechanisms to ensure effective implementation of maternity rights. However, the study does not explore the relationship between weak supervision and the principles of justice and legal certainty that should be upheld by the state.⁷

Sopandani et al. focused on the forms of legal protection provided to pregnant workers and corporate responsibilities in fulfilling reproductive rights in high-risk work environments. Employing a normative legal approach combined with regulatory and case analyses, their research revealed that although maternity leave rights are legally guaranteed, practical implementation remains suboptimal. Several companies fail to comply with provisions related to transfers from hazardous work, unilaterally reduce working hours, or even pressure female employees to resign. The study identifies weak government supervision, low corporate awareness, and ineffective complaint mechanisms as major obstacles. While it recommends enhancing supervision and improving institutional capacity, it does not establish a theoretical legal framework to assess the effectiveness of these protections.⁸

Sinta et al. analyzed the regulatory changes introduced by Law No. 11 of 2020, which eliminated several key rights of female workers previously protected under Law No. 13 of 2003. Their study highlights that these changes have sparked controversy due to concerns over diminishing legal protection for female workers. The study offers valuable normative and comparative insights across legal frameworks but does not empirically examine the implications of these changes for female workers in the public and private sectors.⁹

Susiana examined the rights of female workers from both constitutional and international perspectives, including the implementation of the Convention on the

⁶ Rismaenar Triyani and Dwi Desi Yai Tarina, "Perlindungan Hukum Terhadap Hak Cuti Pekerja Perempuan Hamil: Studi Pada Perusahaan Es Krim Di Bekasi," *Jurnal Hukum Bisnis Bonum Commune* 4, no. 1 (2021): 98–108, <https://doi.org/10.30996/jhbbs.v4i1.4572>.

⁷ Nayla Putri Yandika and Christine S T Kansil, "Perlindungan Hukum Terhadap Hak Cuti Pekerja Perempuan Dalam Sistem Ketenagakerjaan Indonesia," *Journal of Education Religion Humanities and Multidisciplinary* 2, no. 2 (2024): 1244–49, <https://doi.org/10.57235/jerumi.v2i2.4270%09>.

⁸ Piasti Sopandani et al., "Perlindungan Hukum Terhadap Ibu Hamil Dalam Undang-Undang Ketenagakerjaan," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 6, no. 1 (2025): 108–118, <https://doi.org/10.38035/jihhp.v6i1.6143>.

⁹ Sinta Sinta et al., "Perlindungan Hukum Terhadap Hak Cuti Haid, Hamil, Melahirkan Tenaga Kerja Perempuan Dalam Undang-Undang Ketenagakerjaan No.13 Tahun 2003 Dan Undang-Undang Cipta Kerja No. 11 Tahun 2011," *Nalar: Journal of Law and Sharia* 1, no. 3 (2023): 216–232, <https://doi.org/10.61461/nlr.v1i3.50>.

Elimination of All Forms of Discrimination Against Women (CEDAW), ratified through Law No. 7 of 1984. Her research concludes that although various national and international legal instruments guarantee equality and protection for female workers, discrimination, gender stereotypes, and patriarchal cultural norms continue to impede the fulfillment of these rights. While the feminist perspective enriches the theoretical dimension of her study, it does not specifically address the implementation of maternity leave rights within the context of Indonesian positive law.¹⁰

Djakaria reinforces these findings by demonstrating that violations of female workers' reproductive rights—including rights to safety, health, and maternity leave—continue to occur. Employing a normative legal approach, Djakaria found that the implementation of legal protection remains partial and weak, largely due to inadequate government oversight and employers' violations motivated by economic interests. The study provides a factual depiction of the persistent imbalance between employers and workers, identifying it as the root cause of ongoing violations of women workers' rights.¹¹

Nopianti et al. examined the fulfillment of pregnant workers' rights from the perspective of occupational safety and health (OSH). Focusing on the case of PT. AFI, the study found that the company continues to assign pregnant employees to night shifts without considering reproductive health aspects, in violation of Article 86(1) of the Manpower Law. The findings confirm that violations of maternity rights not only carry legal implications but also pose significant health risks to both mother and fetus. This study contributes to the discourse by integrating an occupational health perspective within the framework of labor law, although it does not explicitly connect its findings to John Rawls's principle of substantive justice.¹²

Most prior research has primarily emphasized the normative and descriptive dimensions of maternity leave rights, without thoroughly examining the effectiveness of labor law implementation in addressing concrete workplace violations. This study seeks to fill that gap by analyzing legal protection for female workers who are denied maternity leave rights, drawing upon John Rawls's theory of justice and Gustav Radbruch's theory of legal certainty. The originality of this research lies in its comparative-analytical approach that integrates legal norms and employment practices,

¹⁰ Sali Susiana, "Pelindungan Hak Pekerja Perempuan Dalam Perspektif Feminisme," *Aspirasi: Jurnal Masalah-Masalah Sosial* 8, no. 2 (2017): 207–22, <https://doi.org/10.46807/aspirasi.v8i2.1266>.

¹¹ Mulyani Djakaria, "Pelindungan Hukum Bagi Pekerja Wanita Untuk Memperoleh Hak-Hak Pekerja Dikaitkan Dengan Kesehatan Reproduksi," *Jurnal Bina Mulia Hukum* 3, no. 1 (2018): 15–28, <https://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/56>.

¹² Wike Nopianti, Tri Setiady, and Muhamad Abas, "Tuntutan Pekerja Terhadap Hak Maternitas Bagi Tenaga Kerja Wanita Hamil Yang Tidak Di Penuhi Secara Keadilan Ditinjau Dari Perspektif Hukum Kesehatan Dan Keselamatan Kerja: Studi Kasus PT. Alpen Food Industry Bekasi," *Unes Law Review* 6, no. 3 (2024): 8941–52, <https://doi.org/10.31933/unesrev.v6i3.1799>.

as well as its evaluation of the effectiveness of legal protection through actual case studies in Indonesia. The main objectives of this research are:

- 1) To analyze the legal provisions governing maternity leave rights for female workers under Law No. 13 of 2003 on Manpower, and to examine the forms of legal protection available when companies fail to fulfill these rights; and
- 2) To assess the extent to which the implementation of these legal provisions reflects the principles of justice, legal certainty, and humanity as mandated by Article 27(2) of the 1945 Constitution.

2. RESEARCH METHODOLOGY

This study employs a normative juridical approach to analyze the legal norms regulating maternity leave rights for female workers in Indonesia and the forms of legal protection available against violations of these rights. This approach was chosen because the issues under study are rooted in Indonesia's positive legal system and its application within industrial relations practices. This research is categorized as doctrinal legal research, utilizing three primary approaches:

- 1) The statutory approach, which examines labor-related legislation such as Law No. 13 of 2003 on Manpower and Law No. 11 of 2020 on Job Creation;
- 2) The conceptual approach, which explores the underlying concepts of justice, legal protection, and gender equality; and
- 3) The case approach, which analyzes relevant judicial decisions, including Industrial Relations Court Decision No. 78/Pdt.Sus-PHI/2023/PN Smg.

The legal materials used in this study consist of:

- 1) Primary legal materials, including the 1945 Constitution of the Republic of Indonesia, the Manpower Law, the Job Creation Law, the Human Rights Law, Government Regulation No. 36 of 2021, and judicial decisions from both the Industrial Relations Court and the Supreme Court;
- 2) Secondary legal materials, comprising legal literature, previous research, academic journals, and expert opinions in labor law; and
- 3) Tertiary legal materials, such as legal dictionaries and encyclopedias.

All legal materials were obtained through library research using credible and authoritative sources, including the Ministry of Manpower's Legal Documentation and Information Network (JDIH), the Supreme Court of the Republic of Indonesia, Google Scholar, and the Scopus database, to ensure the validity, reliability, and relevance of the data analyzed.

The analysis of legal materials was conducted using descriptive qualitative methods through deductive legal reasoning, beginning from general legal norms and proceeding toward their application in specific cases.¹³ The analytical process involved (1) compiling an inventory of legal materials, (2) interpreting and evaluating the conformity of positive legal norms with the principles of justice and legal protection, and (3) conducting a comparative analysis with international legal instruments, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and ILO Convention No. 183 on Maternity Protection.

To ensure the validity and credibility of the findings, this study employed triangulation of legal sources and systematic verification of legal arguments. These procedures were designed to ensure that the conclusions drawn possess a strong normative foundation and remain contextually relevant to the implementation of employment law in Indonesia.

3. RESEARCH RESULT AND DISCUSSION

3.1. Legal Regulations on Maternity Leave Rights for Female Workers Under Law Number 13 of 2003 and the Forms of Legal Protection Provided

This study aims to analyze the legal framework governing maternity leave rights for female workers under Law Number 13 of 2003 concerning Manpower and to identify the forms of legal protection available to female workers when such rights are not fulfilled by employers. The analysis emphasizes not only the normative dimensions of the law but also evaluates the extent to which its implementation achieves substantive justice for female workers in Indonesia.

The findings reveal that Indonesia's labor law system explicitly provides a comprehensive legal foundation for maternity leave as an integral part of female worker protection. However, implementation remains problematic due to weak enforcement mechanisms and low legal awareness among both employers and workers.

Article 82 paragraph (1) of the Manpower Law stipulates that female workers are entitled to maternity leave for one and a half months before childbirth and one and a half months after childbirth, totaling three months. This provision is mandatory and cannot be derogated from by employment agreements, company regulations, or collective labor agreements, categorizing it as a non-derogable right that cannot be waived under any circumstance. Furthermore, Article 83 guarantees the right of female workers to breastfeed their children during working hours, while Article 84 ensures that workers exercising their right to rest remain entitled to full wages. Collectively, these

¹³ Muhammad Siddiq Armia, *Penentuan Metode & Pendekatan Penelitian Hukum* (Aceh: Lembaga Kajian Konstitusi Indonesia, 2022).

provisions provide comprehensive protection encompassing the biological, social, and economic dimensions of female workers' welfare.

A review of legal documents and court rulings indicates that these provisions align with Article 27 paragraph (2) and Article 28H of the 1945 Constitution, which guarantee citizens' rights to employment, a decent standard of living, and protection of personal welfare. This legal principle reinforces that maternity leave is not merely an administrative entitlement but a fundamental human right within the employment sphere.¹⁴

Despite this, the implementation of maternity leave regulations has not been fully effective. Secondary data obtained from regional Manpower Office (Disnaker) annual reports and Industrial Relations Court (PHI) decisions reveal persistent violations, including denial of maternity leave on the grounds of workforce demands, wage deductions during leave, and termination of employment for pregnant or postpartum workers.

The PT. Tunjungan Crystal Hotel (2023) case illustrates such violations, where a pregnant employee was dismissed due to alleged decreased productivity. The Industrial Relations Court ruled that this action violated Article 153 paragraph (1)(e) of the Manpower Law and ordered the company to reinstate the worker. This case exemplifies the discrepancy between protective legal norms and discriminatory labor practices in reality. The main contributing factors include inadequate labor supervision, low legal literacy among workers, and fear of retaliation or job loss that discourages reporting violations. Legal protection for female workers denied maternity leave is categorized into two main forms: preventive and repressive legal protection.

1) Preventive Legal Protection

Preventive measures are implemented through the establishment of clear regulations and the supervision of labor conditions. Pursuant to Articles 176–180 of the Manpower Law, labor inspectors are authorized to conduct workplace inspections, issue warnings, and recommend sanctions for non-compliance. Additionally, labor unions play an essential role in providing legal education and assistance to workers experiencing rights violations.

2) Repressive Legal Protection

In cases where violations have occurred, workers may seek remedies through the industrial relations dispute settlement mechanisms established under Law Number 2 of 2004. These mechanisms include bipartite negotiation, mediation (tripartite), and litigation before the Industrial Relations Court (PHI), which holds the

¹⁴ Menteri Tenaga Kerja dan Transmigrasi Republik Indonesia, "Keputusan Menteri Tenaga Kerja Dan Transmigrasi Republik Indonesia Nomor KEP.224 /MEN/2003 Tentang Kewajiban Pengusaha Yang Mempekerjakan Pekerja/Buruh Perempuan Antara Pukul 23.00 Sampai Dengan 07.00" (2003), <https://jdih.kemnaker.go.id/peraturan/detail/301/keputusan-menakertrans-nomor-224-tahun-2003>.

authority to issue final and binding decisions. However, empirical findings indicate that most disputes are resolved at the mediation stage due to limited legal assistance and lengthy court procedures.

These findings reinforce the argument that although the existing regulations are comprehensive, the effectiveness of legal protection ultimately depends on consistent enforcement and a robust oversight mechanism. The results of this study are consistent with the findings of Aulia et al. and Nazara et al., who observed that the implementation of maternity leave rights in Indonesia remains largely formalistic and has yet to achieve substantive justice due to weak enforcement of sanctions.¹⁵ Similarly, previous studies by Istiarti and Susiana found that approximately 64% of female workers in the private sector encounter administrative barriers when applying for maternity leave, particularly within small and medium-sized enterprises.¹⁶

This study extends previous analyses by incorporating a human rights (HAM) perspective in examining the legal protection of female workers. Within the human rights framework, the denial of maternity leave constitutes a violation of Article 49 paragraph (2) of the Human Rights Law, which guarantees special protection for women against threats to their health and safety in the workplace. Consequently, the right to maternity leave should not be viewed merely as an employment issue, but rather as a constitutional and moral imperative directly linked to human dignity.¹⁷

The results further indicate that an effective legal system must embody three fundamental values: justice, legal certainty, and expediency. The Manpower Law fulfills the principle of legal certainty, as its provisions are explicit and binding. However, with regard to justice and expediency, implementation remains suboptimal, as many workers continue to experience barriers in fully exercising their rights.

Protecting vulnerable groups—specifically pregnant women workers—represents a practical application of the principle of justice as fairness.¹⁸ This principle requires that all labor policies consider the socio-economic conditions of female workers, who occupy a structurally weaker position than employers. Therefore, maternity leave regulations must be implemented progressively through strengthened supervision, stricter sanctions, and expanded access to legal assistance for affected workers.

¹⁵ Aulia et al., “Urgensi Hak Cuti Wanita Saat Hamil Berdasarkan Hukum Perburuhan”; Arya Pratama Nazara et al., “Analisis Hukum Terhadap Hak Cuti Haid Dan Cuti Melahirkan Dalam Praktik Dunia Kerja Di Indonesia,” *Presidensial: Jurnal Hukum, Administrasi Negara, Dan Kebijakan Publik* 2, no. 2 (2025): 328–343, <https://doi.org/10.62383/presidensial.v2i2.909>.

¹⁶ VG. Tinuk Istiarti, “Penerapan Hak Cuti Melahirkan Bagi Pekerja Perempuan Di Sektor Formal,” *Jurnal Kesehatan Lingkungan Indonesia* 11, no. 2 (2013): 103–8, <https://doi.org/10.14710/jkli.11.2.103-108>; Susiana, “Pelindungan Hak Pekerja Perempuan Dalam Perspektif Feminisme.”

¹⁷ Muhammad Thaib, *Buku Penyelesaian Perselisihan Hubungan Industrial* (Yogyakarta: Deepublish, 2019).

¹⁸ Jiehuang Zhang, Ying Shu, and Han Yu, “Fairness in Design: A Framework for Facilitating Ethical Artificial Intelligence Designs,” *International Journal of Crowd Science* 7, no. 1 (2023): 32–39, <https://doi.org/10.26599/IJCS.2022.9100033>.

Maternity leave rights also serve as a vital instrument for promoting family welfare and human resource development. Female workers perform dual roles—as productive employees and as mothers responsible for nurturing future generations. When these rights are denied, the consequences extend beyond individual productivity losses, diminishing women’s participation in the national labor force.

Effective implementation of maternity leave rights fosters an inclusive and equitable work environment. Empirical evidence from countries such as Japan and South Korea demonstrates that the effective enforcement of maternity and paternity leave policies enhances female workers’ loyalty and retention.¹⁹ Thus, protecting these rights carries long-term strategic significance for national economic sustainability.

Based on the overall findings, it can be concluded that Indonesia’s legal framework governing maternity leave rights is normatively comprehensive and progressive. Nevertheless, its practical implementation continues to face structural and cultural challenges. Legal protection for pregnant workers remains predominantly formal (legal-formal protection) and has not yet achieved substantive justice. The primary constraints include weaknesses in the labor inspection system and the limited number of inspectors, low legal awareness among female workers, reluctance to report violations due to social and economic pressures, and insufficient enforcement of sanctions against non-compliant companies.

This study underscores the urgency of adopting an integrated approach that links law, public policy, and social awareness to ensure effective protection. Strengthening the institutional capacity of the Manpower Office (Disnaker), empowering labor unions, and providing legal assistance to victims of maternity leave rights violations are strategic measures that must be prioritized. Ultimately, the right to maternity leave should be recognized not only as an administrative entitlement but as a manifestation of social justice, constitutional protection, and respect for the dignity of working women. The effective realization of this right reflects the extent to which the state upholds the principles of justice and gender equality in the workplace.

3.2. Legal Provisions on Maternity Leave Rights for Female Workers Under Law Number 13 of 2003 and the Forms of Legal Protection Provided

This study aims to evaluate the extent to which the implementation of legal provisions governing maternity leave rights for female workers in Indonesia reflects the principles of justice, legal certainty, and humanity as mandated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. The primary focus is to assess the effectiveness of the implementation of maternity leave rights as stipulated in Articles 82,

¹⁹ Mary Brinton and Eunmi Mun, “Between State and Family: Managers’ Implementation and Evaluation of Parental Leave Policies in Japan,” *Socio-Economic Review* 14, no. 2 (2015): 257–281, <https://doi.org/10.1093/ser/mwv021>.

83, and 84 of Law Number 13 of 2003 concerning Manpower, and to determine the degree to which these constitutional principles are realized within industrial relations practices in Indonesia.

Based on an analysis of primary and secondary legal materials, as well as Industrial Relations Court decisions, the study found that, normatively, Indonesia's labor law system provides relatively comprehensive protection for maternity leave rights. Article 82 of the Manpower Law guarantees a 1.5-month leave period both before and after childbirth, while Article 84 ensures that workers are entitled to receive full wages during this period. These provisions demonstrate strong legal certainty concerning the protection of female workers during pregnancy and postpartum recovery.

However, the findings reveal a significant gap between the law in the books and the law in action. Across various regions, violations of maternity leave rights remain common, including the denial of leave, wage deductions, and even termination of employment for pregnant workers. Data from local Manpower Offices and Industrial Relations Courts indicate that most complaints filed by female workers involve unlawful termination during pregnancy or after childbirth. This situation illustrates that, in practice, the implementation of labor laws has not fully embodied the principle of substantive justice as mandated by the Constitution.

Field studies and literature reviews further show that many companies still lack internal policies that support pregnant and breastfeeding employees, such as the provision of lactation rooms, workplace health facilities, or flexible working arrangements. This is inconsistent with Article 83 of the Manpower Law, which requires employers to provide opportunities for female workers to breastfeed their children during working hours. Empirical evidence demonstrates that these obligations are frequently neglected, often justified by arguments related to production efficiency.

The research findings confirm that the implementation of legal provisions on maternity leave rights in Indonesia has not yet fully reflected the principles of justice, legal certainty, and humanity in an integrated manner. While the existing legal framework provides a strong normative foundation, its empirical enforcement remains weak due to several key factors:

- 1) Weak labor supervision by local governments, resulting in many violations going undetected or inadequately addressed.
- 2) Low legal awareness among female workers, which leads to underreporting of violations to the relevant authorities.
- 3) Gender discrimination in industrial relations, where companies are reluctant to employ or retain pregnant workers due to perceptions of decreased productivity.
- 4) Ineffective enforcement of administrative and criminal sanctions, resulting in minimal deterrent effects for non-compliant employers.

These findings indicate that the protection of maternity leave rights remains predominantly formalistic and has not yet fully achieved the substantive justice and humanitarian values mandated by the 1945 Constitution.²⁰ The results of this study are consistent with the findings of Sinta et al. and Yandika and Kansil, who report that the implementation of maternity leave rights in the private sector continues to face significant challenges due to weak labor oversight mechanisms.²¹ Similarly, research by Nopianti et al. and Triyani and Tarina concludes that, despite the existence of clear legal norms regulating maternity leave rights, legal awareness among employers remains low, leading to the establishment of internal company policies that effectively curtail the statutory rights of female workers.²²

However, the findings of this study extend previous research by emphasizing the linkage between the protection of maternity leave rights and the constitutional principle enshrined in Article 27 paragraph (2) of the 1945 Constitution, which affirms that every citizen has the right to decent work and a decent livelihood. In this context, violations of maternity leave rights constitute not only breaches of labor law but also infringements of constitutional and human rights, as stipulated in Article 28H paragraph (1) of the 1945 Constitution and Article 49 paragraph (2) of Law Number 39 of 1999 concerning Human Rights.

The analysis reveals that the principle of justice has not been fully realized in the implementation of maternity leave rights. Justice within the employment context requires the equitable distribution of rights and responsibilities between workers and employers. Nevertheless, in practice, the economic interests of companies often outweigh the social and reproductive interests of female workers. Although the legal provisions in the Manpower Law are clear and mandatory, non-compliance by employers and weak law enforcement render legal certainty valid only *de jure*—on paper—but ineffective *de facto* in practice. This condition contradicts the fundamental principle of the *Rechtsstaat* (Rule of Law), which mandates that law must function as an effective instrument to protect vulnerable groups, including pregnant women workers.

The research affirms that the right to maternity leave forms an integral part of reproductive rights, which must be respected as a fundamental human right. Denial of this right undermines women's dignity and their dual role as mothers and productive workers. Therefore, the protection of female workers is not merely a matter of labor

²⁰ Pemerintah Republik Indonesia, “Undang-Undang Dasar Negara Republik Indonesia Tahun 1945” (1945), <https://peraturan.bpk.go.id/Details/101646/uud-no-->.

²¹ Sinta et al., “Perlindungan Hukum Terhadap Hak Cuti Haid, Hamil, Melahirkan Tenaga Kerja Perempuan Dalam Undang-Undang Ketenagakerjaan No.13 Tahun 2003 Dan Undang-Undang Cipta Kerja No. 11 Tahun 2011”; Yandika and Kansil, “Perlindungan Hukum Terhadap Hak Cuti Pekerja Perempuan Dalam Sistem Ketenagakerjaan Indonesia.”

²² Nopianti, Setiady, and Abas, “Tuntutan Pekerja Terhadap Hak Maternitas Bagi Tenaga Kerja Wanita Hamil Yang Tidak Di Penuhi Secara Keadilan Ditinjau Dari Perspektif Hukum Kesehatan Dan Keselamatan Kerja: Studi Kasus PT. Alpen Food Industry Bekasi”; Triyani and Tarina, “Perlindungan Hukum Terhadap Hak Cuti Pekerja Perempuan Hamil: Studi Pada Perusahaan Es Krim Di Bekasi.”

regulation but also a moral and humanitarian imperative closely tied to the sustainability of human resource development.

Furthermore, this study concludes that the implementation of maternity leave rights in Indonesia only partially fulfills the constitutional principles guaranteed by the 1945 Constitution. In terms of legal certainty, the existing regulations provide clear and structured protection. However, in practice, the realization of justice and humanity remains inadequate. Legal protection tends to be reactive (repressive), provided only after violations occur, rather than proactive (preventive) to avert potential infringements.

Preventive legal protection measures, as stipulated in Articles 176–180 of the Manpower Law, require strengthening through capacity building and increasing the number of labor inspectors, as well as enhancing coordination among the government, labor unions, and non-governmental organizations. In addition, repressive legal protection through the Industrial Relations Court must be administered promptly, fairly, and without discrimination to ensure a meaningful deterrent effect for employers who violate labor laws.

The analysis further shows that industrial relations dispute resolution mechanisms—bipartite negotiation, tripartite mediation, and adjudication by the Industrial Relations Court—play a vital role in maintaining stable employment relations and embody humanitarian principles that uphold workers' rights.²³ Nonetheless, their effectiveness remains limited, as most disputes conclude without adequate settlements, and workers are frequently reluctant to pursue litigation due to financial and procedural constraints.

These findings suggest that the protection of maternity leave rights serves as a critical indicator of a nation's commitment to upholding social justice and gender equality. The state bears an obligation to ensure that every female worker enjoys her rights without discrimination, in accordance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Labour Organization (ILO) Convention No. 183 on Maternity Protection.

Therefore, the implementation of maternity leave rights should not be perceived merely as an administrative requirement but as a tangible test of the state's dedication to realizing the principles of social and humanitarian justice mandated by the Constitution. Justice will be achieved when the law transcends formal regulation and delivers substantive protection and tangible benefits to vulnerable groups within the workforce.²⁴

²³ Kadek Agus Sudiarawan et al., "Formulation of Online Dispute Resolution in Realizing Fair Industrial Relations Dispute Settlement: A Comparative Study," *Jurnal IUS Kajian Hukum Dan Keadilan*, 12, no. 2 (2024): 227–248, <https://doi.org/10.29303/ius.v12i2.1308>.

²⁴ H. Margono, *Asas Keadilan, Kemanfaatan Dan Kepastian Hukum Dalam Putusan Hakim*, ed. Tarmizi Tarmizi (Jakarta Timur: Sinar Grafika, 2019).

4. CONCLUSION

This study aims to conduct an in-depth analysis of the legal provisions governing maternity leave rights for female workers under Law Number 13 of 2003 concerning Manpower and to evaluate the forms of legal protection available when these rights are not fulfilled by employers. Furthermore, the study examines the extent to which the implementation of these legal provisions reflects the principles of justice, legal certainty, and humanity as mandated by Article 27(2) of the 1945 Constitution.

The findings reveal that, from a normative perspective, Indonesia's labor law system provides adequate protection for maternity leave rights through Articles 82–84 of the Manpower Law, which guarantee rest periods, full wage entitlement, and protection against dismissal during pregnancy. However, in practice, implementation remains suboptimal. Numerous companies continue to violate these provisions by denying leave, reducing wages, or terminating employment contracts. This indicates that legal certainty exists merely in a formal sense, while justice and humanity have not been fully realized. The study concludes that legal protection for female workers remains reactive and fragmented. Weak supervision and enforcement mechanisms, low legal awareness among workers, and persistent gender bias in the workplace constitute major barriers to achieving fair and humane protection.

This research contributes to the enrichment of labor law studies by linking statutory provisions with constitutional and human rights principles. Practically, the findings provide policy insights for the government to enhance labor inspection mechanisms, strengthen sanctions against violators, and promote gender-responsive and socially just employment policies. The limitation of this study lies in its empirical scope, which is confined to a limited number of court decisions and secondary data, and therefore may not represent all industrial sectors. Future research should adopt a socio-legal approach that integrates normative analysis with field interviews involving workers and employers to obtain a more comprehensive empirical understanding of the implementation of maternity leave rights in Indonesia.

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