

Gaps in Legal Protections for Female Workers: A Socio-Legal Study in Tolitoli, Indonesia

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Abstract

The lack of adequate safety, health guarantees, and protection of rights for female workers presents a significant challenge within Indonesia's labor sector, particularly in Tolitoli Regency. This study seeks to analyze the legal protection available to female workers across the country, with a specific focus on the fulfillment of their rights in Tolitoli Regency. Employing an interdisciplinary approach, the research utilizes a socio-legal methodology, supported by empirical observations. Data sources include relevant laws, regulations, and previous research findings, assessed through scientific and descriptive qualitative methods. The findings indicate that while Indonesian labor laws provide a normative framework for worker protection, specific legal safeguards for female workers are not fully enforced. There are clear disparities in the ability of different societal groups to access the protections and rights guaranteed by the state. In Tolitoli, many female workers are still unable to fully exercise their rights. Female workers are often regarded as mere production tools rather than valuable assets, which leads to a low level of employer responsibility, with profit motives prevailing. The Omnibus Law on Job Creation is expected to enhance the business environment while ensuring that female workers' rights are protected.

Keywords: Female workers, legal protection, socio-legal analysis, Tolitoli regency, labor rights.

1. Introduction

Labor protection is a global cornerstone for ensuring workers' dignity, safety, and well-being across industries. It encompasses a broad range of policies, laws, and regulations designed to protect workers from exploitation, discrimination, and hazardous conditions (Jain et al., 2018; Shrestha et al., 2024; Tamers et al., 2019). These protections uphold fundamental rights and promote fair treatment in the workplace, shielding workers from risks such as unfair wages, unsafe environments, excessive hours, and denial of basic human rights like rest periods and leave entitlements. Beyond individual well-being, labor protection is integral to social and economic stability. Protected workers are more productive, motivated, and committed, contributing to industry efficiency and competitiveness. This positive cycle fosters economic growth, reduces inequality, and strengthens social cohesion (Alam et al., 2020; Mihardjo et al., 2020). Labor protections also address systemic inequalities related to gender, race, and socioeconomic status, promoting more inclusive and just societies. Globally, labor protection influences international trade and economic development. Countries with strong protections attract investment and maintain a positive reputation, while weak protections can lead to exploitative practices, such as child and forced labor, harming individuals and tarnishing national images (Jenkins, 2022; Milner, 2021). International organizations like the ILO advocate for universal labor standards to ensure that economic progress does

not come at the expense of workers' rights. In an era of rapid technological advancement and evolving work structures, labor protection remains crucial. Adapting protections to new forms of employment, such as gig and remote work, is essential to maintaining relevance and effectiveness, ensuring job security, social protection, and the right to collective bargaining (Boeri et al., 2020; Liu-Farrer & Shire, 2023).

In the context of Indonesia, this protection is not only a matter of economic development but also a constitutional obligation. The protection of workers, particularly female workers, is essential in promoting equal opportunities and fair treatment, free from discrimination (Bishu, S. G., & Headley, 2020; Hutchings et al., 2020; Kabeer, 2021). This legal framework is intended to guarantee the rights of workers while balancing the needs of employers and the evolving business environment. Ensuring that workers are treated with dignity allows them to contribute meaningfully to society, develop their potential, and improve their quality of life, thus fulfilling their roles as productive members of society. However, despite the existence of comprehensive legal protections, significant gaps remain in the implementation of these laws, particularly concerning female workers (Bilan et al., 2020; Jamshed, 2024).

Discrimination against female workers continues to be a prevalent issue, with many employers failing to provide the necessary safety, health, and reproductive rights protections mandated by law. While laws such as Law No. 13 of 2003 on Manpower and Ministerial Decree No. 224/Men/2003, Article 76 lay out the obligations of employers, the enforcement of these protections often falls short (Arini et al., 2021). This article identifies and addresses these gaps by examining how these laws are implemented through employment agreements and the role of relevant authorities in monitoring compliance. Labor protection is further detailed in Articles 67 to 101 of the Manpower Law, covering the rights of disabled workers, children, women, working hours, occupational safety and health, wages, and welfare (Arini et al., 2021). In Indonesia, these protections are thoroughly regulated by law and articulated in government regulations and ministerial decrees. However, female workers still face challenges in securing the rights guaranteed to them by law. The persistence of these issues highlights the need for improved enforcement of labor protections. Despite these legal frameworks, the implementation often falls short, particularly in the protection of female workers, which remains a significant concern across industries in Indonesia.

Labor laws in Indonesia are fundamentally designed to protect and regulate the rights and obligations of both workers and employers (Hamid, 2021; Perdana, 2021; Ramadhan et al., 2021). However, in practice, numerous issues arise that often disadvantage workers, particularly in the legal protection of female workers. Previous research has primarily focused on the implementation of legal protections for female workers employed in night shifts, concluding that these protections have not been fully realized (see Cannizzaro et al., 2020; Kader et al., 2021; Leso et al., 2020; Westwell et al., 2021). This article takes a different stance, arguing that while labor regulations exist, their implementation, especially regarding the legal protection of female workers, remains inadequate. The rights of female workers, guaranteed by the constitution, laws, and various implementing regulations, are not fully upheld in practice. This research seeks to fill this gap by providing a comprehensive examination of the existing legal protections for female workers and the extent to which these protections are effectively enforced, particularly in Tolitoli Regency, where significant deficiencies have been observed.

Observations from several companies in Tolitoli Regency highlight significant gaps in the fulfillment of female workers' rights. A notable deficiency is the absence of lactation facilities in workplaces, which are crucial for female workers who have recently given birth and bring their infants to work. This lack of facilities directly contradicts the provisions of labor laws. Despite ongoing efforts to promote gender equality, women are still often regarded as secondary to men in the workplace. One common justification

for gender-based discrimination is the perception that married women take more leave than their male counterparts. Achieving effective labor protection requires comprehensive, integrated, and continuous planning and implementation (Dennerlein et al., 2020; Langenwalter, 2020). As key legal subjects in labor relations, both employers and workers play vital roles in a nation's economy, making it essential to have clear regulations governing their legal relationship. The observation of significant gaps, such as the absence of lactation facilities in workplaces in Tolitoli Regency, Indonesia reveals the stark reality that female workers are still denied their legally guaranteed rights, which not only violates the law but also hinders efforts to achieve gender equality.

Therefore, this article seeks to explore the legal protection for female workers in Indonesia, with a focus on assessing the fulfillment of their rights in the workplace, particularly in Tolitoli Regency. By examining these issues, the article aims to provide a clearer understanding of the gaps in the current system and propose an ideal framework for safeguarding female workers' rights under the existing laws and regulations. Ensuring that these protections are not just theoretical but also practical is essential for achieving true gender equality in the workplace. Therefore, this article aims to bridge the gap between existing legal protections and their enforcement, particularly focusing on female workers in Tolitoli Regency, Indonesia to ensure that these rights are not merely theoretical but effectively upheld, contributing to genuine gender equality in the workplace.

2. Methodology

2.1 Research Design

The research methodology employed in this study is a mixed-method approach, incorporating socio-legal research with an interdisciplinary perspective. This approach aims to provide a deep understanding of how law interacts with society and how social issues influence the application of legal principles. Socio-legal research has two primary characteristics: first, it involves the study of legislation and policies to explain the philosophical, sociological, and juridical problems of written law. Second, it uses an interdisciplinary approach, particularly integrating social sciences, to contextualize legal phenomena within the social and cultural environment in which the law operates. The focus of this research is on legal development, either by creating new laws or improving existing regulations, with a specific emphasis on maternity rights as the central object of analysis in the context of legal protection for workers in companies.

2.2 Materials

In conducting this research, the study relies on various sources of legal materials to analyze the issues at hand. These include primary legal materials, secondary legal materials, and tertiary legal materials. The processing of these legal materials involves descriptive qualitative analysis, which focuses on non-quantifiable data. The legal materials gathered are then reviewed, examined, and categorized, incorporating both legal and social science perspectives into distinct sections to transform the data into meaningful information.

2.3 Research Procedure

The study includes empirical research that focuses on observing and measuring data. The socio-legal approach enhances doctrinal analysis by incorporating insights from non-legal disciplines, allowing for a more nuanced understanding and resolution of legal issues observed in the field. This interdisciplinary approach enriches doctrinal analysis with methods from other relevant disciplines, providing a more comprehensive examination of the data. In addition to doctrinal research, this study investigates how legal provisions function in practice. The empirical aspect of the research emphasizes data observation and

measurement through scientific methods and qualitative descriptive approaches, including mapping the protection of female workers in the workplace.

2.4 Data Analysis

The data analysis technique used in this study is the processing of legal materials, which follows several stages. First, Editing involves revisiting the legal materials obtained to ensure completeness and refining them into simpler formulations if necessary. Second, Systematization entails selecting and classifying legal materials, logically organizing the research data to establish connections between different legal materials. Finally, Description involves presenting the research findings based on the legal materials collected and analyzing them in detail. This systematic approach ensures a comprehensive understanding of the legal protections for female workers and the effectiveness of existing regulations.

3. Findings and Discussion

3.1 Legal Framework and Provisions for Female Workers

The research reveals that Indonesia's legal framework for female workers is robust on paper, with a range of protections enshrined in laws that aim to safeguard their rights and well-being. Key legislative instruments, such as Law No. 13 of 2003 on Manpower, Law No. 21 of 2007 on the Eradication of Human Trafficking, and Government Regulation No. 78 of 2015 on Wages, collectively establish a comprehensive set of rights for female workers. These laws address essential aspects of employment, including the regulation of working hours, particularly for those working night shifts, ensuring safety and health measures are in place to protect them. The Manpower Law also provides for menstrual leave, recognizing the unique physiological needs of women, and mandates breastfeeding rights to support working mothers in balancing their professional and maternal duties.

Furthermore, Law No. 21 of 2007 plays a vital role in combating human trafficking, particularly targeting the exploitation of women in vulnerable sectors such as domestic work, prostitution, and forced labor. This law is crucial in a country where trafficking remains a significant issue, offering legal recourse to protect women from such exploitation. Similarly, Government Regulation No. 78 of 2015 ensures that female workers are entitled to equal pay for equal work, aiming to close the gender wage gap and promote fairness in the workplace. However, the research highlights a critical disconnect between the legal framework and its implementation. Despite these comprehensive legal provisions, the practical enforcement of these rights remains weak, with many companies failing to comply with the regulations. For example, the provisions for menstrual leave, equal pay, and protection against trafficking are often ignored or inadequately enforced, leading to the persistent neglect of female workers' rights. This issue is not unique to Indonesia; similar challenges are observed in other countries such as India and Bangladesh, where robust legal frameworks exist but are undermined by inconsistent enforcement, particularly in informal sectors where female workers are most vulnerable (Dharejo et al., 2023; Jafree, 2023; Raihan, 2020; Roychowdhury, 2020). The research suggests that this gap between law and practice in Indonesia, much like in these other contexts, is partly due to insufficient government oversight, lack of awareness among both employers and workers, and cultural norms that perpetuate gender inequality. Addressing these challenges will require not only strengthening enforcement mechanisms but also fostering greater awareness and societal shifts towards gender equality.

The findings indicate that while the legal framework is designed to protect female workers, its effectiveness is significantly undermined by poor enforcement and cultural barriers. This situation not only compromises the well-being of female workers but also perpetuates systemic gender inequalities in

the workplace. To bridge this gap, the research implies that there is a need for more rigorous enforcement mechanisms, including stronger penalties for non-compliance, increased awareness campaigns to educate both employers and workers about their rights and responsibilities, and cultural shifts to challenge the norms that allow gender discrimination to persist. Only by addressing these implementation challenges can the legal protections for female workers in Indonesia be fully realized, ensuring that the rights granted by law are effectively upheld in practice.

3.2 Challenges in Implementation and Enforcement

The research delves into the persistent challenges that hinder the effective implementation and enforcement of legal protections for female workers in Indonesia, revealing a complex web of issues that undermine the efficacy of the country's legal framework. Despite the existence of comprehensive laws designed to safeguard the rights of female workers, such as Law No. 13 of 2003 on Manpower, Law No. 21 of 2007 on the Eradication of Human Trafficking, and Government Regulation No. 78 of 2015 on Wages, the transition from legal provisions to practical enforcement remains fraught with difficulties.

One of the central challenges identified is the inadequate enforcement of these laws by companies across various sectors. The research indicates that many employers either fail to fully comply with the regulations or only implement them selectively. For example, while the law mandates menstrual leave and equal pay for female workers, these provisions are often ignored or insufficiently enforced. Female workers may find themselves working through menstrual pain without leave, and wage disparities between male and female workers persist despite legal requirements for equal compensation. This selective implementation not only deprives female workers of their rightful protections but also reflects broader issues within the enforcement mechanisms themselves. The research highlights inadequate enforcement of labor laws as a central challenge in protecting female workers, a problem that extends beyond Indonesia and is also observed in countries like Brazil and South Africa. In Brazil, despite the existence of laws such as the Brazilian Labor Code, which mandates equal pay and provides protections for women in the workplace, enforcement is often weak. Many employers in Brazil, particularly in informal sectors, fail to comply with these regulations, leading to persistent gender wage gaps and inadequate workplace protections for women (Gerard & Gonzaga, 2021; Manzano et al., 2021; Ponczek & Ulysea, 2022). Similarly, in South Africa, where laws like the Employment Equity Act aim to promote gender equality and protect female workers, enforcement is inconsistent. Studies have shown that female workers in South Africa often face discrimination in pay and employment conditions, and legal protections are not always upheld, particularly in rural and informal sectors (Behtoui et al., 2020; Bilan et al., 2020; Kaggwa, 2020).

Another significant challenge is the lack of awareness and understanding among both employers and workers regarding the specific legal rights and protections available to female workers. Employers may not fully comprehend their obligations under the law, while workers, especially those with lower levels of education, may not be aware of the protections to which they are entitled. This lack of awareness leads to a situation where violations of workers' rights are not reported or challenged, as workers may not realize that their rights are being infringed upon, or they may fear retaliation from their employers. The research highlights that this fear of reprisal is particularly pronounced among female workers in precarious employment situations, who may be hesitant to assert their rights due to concerns about job security. In Kenya, the situation is comparable, where despite legal protections under the Employment Act, many female workers, particularly in the informal sector, are unaware of their rights (Kriitmaa, 2023; Mukobi, 2021). Employers often exploit this lack of awareness, and workers, fearing job loss or other forms of reprisal, rarely challenge these violations. The research from Kenya also indicates that the fear of reprisal

is especially severe among female workers in precarious jobs, similar to the findings in Indonesia.

3.3 Socio-Cultural and Economic Barriers

The research highlights that socio-cultural and economic barriers are significant impediments to the effective protection and enforcement of female workers' rights in Indonesia. These barriers are deeply rooted in the country's societal norms and economic realities, and they pose substantial challenges to the implementation of legal protections designed to safeguard female workers. One of the most pervasive socio-cultural barriers is the entrenched patriarchal norms. Patriarchal norms in Indonesian society reinforce traditional gender roles, positioning men as primary earners and women as secondary workers. This deeply ingrained perspective limits opportunities for female workers and influences their treatment in the workplace. Despite legal provisions guaranteeing equal pay and non-discrimination, women often face wage disparities, limited career advancement, and inadequate recognition of their contributions. Cultural beliefs that undervalue women's work perpetuate these discriminatory practices. Additionally, societal expectations demand that women balance professional responsibilities with caregiving duties, which can hinder their ability to fully engage in their careers. For example, many women hesitate to take maternity leave or breastfeeding rights due to fears of being perceived as less committed by their employers. Research in other contexts reveals similar challenges faced by female workers due to entrenched patriarchal norms. In India, for example, Pandya and Bhangaokar (2015) found that societal expectations viewing men as primary earners and women as homemakers significantly limit women's participation in the workforce.

Economic barriers exacerbate these challenges, especially for women in low-paying or informal jobs. Driven by economic necessity, many women accept substandard working conditions, including low wages, long hours, and unsafe environments. Wage disparities persist, with women often earning less than men for the same work, further contributing to economic insecurity. Additionally, female workers often lack access to social security and other critical benefits, particularly in informal sectors where legal protections are weak. The intersection of socio-cultural and economic barriers creates a cycle of disadvantage for female workers. This findings in resonance with the work of Armstrong (2022) who found that women, driven by economic necessity, often accept substandard working conditions, such as low wages, long hours, and unsafe environments. These conditions persist despite legal protections, largely due to weak enforcement in informal sectors. Addressing these issues requires comprehensive efforts, including education to challenge traditional norms and stronger enforcement of labor laws, particularly in informal sectors, to ensure women's rights are respected and their contributions valued.

4. Conclusion

The aim of this research was to explore the effectiveness of Indonesia's legal framework in protecting the rights of female workers, focusing on the laws and regulations in place, the challenges in their implementation, and the socio-cultural and economic barriers that impact these protections. The research reveals that while Indonesia has established a robust legal framework designed to safeguard female workers, including key legislative instruments such as Law No. 13 of 2003 on Manpower, Law No. 21 of 2007 on the Eradication of Human Trafficking, and Government Regulation No. 78 of 2015 on Wages, the practical enforcement of these protections remains inconsistent and inadequate.

The main findings indicate that there is a significant gap between the legal provisions and their implementation. Despite comprehensive laws that address crucial aspects such as working hours, equal pay, and protections against exploitation, many companies fail to comply with these regulations. This non-

compliance is largely due to insufficient government oversight, a lack of awareness among both employers and workers, and entrenched cultural norms that perpetuate gender discrimination. Furthermore, socio-cultural and economic barriers exacerbate these challenges, creating a reinforcing cycle of disadvantage for female workers. Cultural expectations that prioritize men's roles and undervalue women's work, combined with economic pressures that force women to accept substandard working conditions, undermine the effectiveness of legal protections.

Based on these findings, the research recommends several measures to bridge the gap between the legal framework and its implementation. There is a pressing need for more rigorous enforcement mechanisms, including stronger penalties for companies that fail to comply with the law and enhanced government oversight to ensure that labor regulations are properly enforced. Additionally, widespread awareness campaigns are necessary to educate both employers and workers about their rights and responsibilities. Addressing the socio-cultural barriers requires initiatives that challenge traditional gender norms and promote gender equality, while economic interventions should focus on improving women's access to education, training, and economic opportunities, particularly in informal sectors. By taking a comprehensive approach that addresses both cultural and economic factors, it is possible to create a more equitable and just environment for female workers in Indonesia, where their legal rights are fully realized and respected in practice.

5. References

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