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The Rights of Paternity Leave for Husbands in Indonesian Legal Renewal

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Abstract

Gender equality and gender mainstreaming are the result of unifying efforts of legislative, executive and judicial bodies in Indonesia. Gender mainstreaming operationally can be interpreted as a national development with a gender perspective. This study aimed to examine the newly framed labor regulations in Indonesia related to the right of paternity leave; to investigate how a need was felt to regulate leave permits for husbands/families to accompany women who give birth/miscarriage to help recovery of the mother after giving birth. This study adopted a scientific approach by using normative juridical law research ¹²sign. Normative juridical research uses library law materials as primary legal materials. The primary legal material for this study was obtained from the Draft Law on Maternal and Child Welfare, 2022 which is seen as a ³⁶revolutionary plan to resolve issues related to gender equality and gender mainstreaming. The results ³⁶revealed that the current policies on paternity leave in Indonesia are influenced by ³⁶cultural and economic practices, and ³⁶gendered social structures

Keywords: Husbands, Indonesian legal renewal, Paternity leave

Introduction

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Gender equality in the Indonesian archipelago is a result of sociological and cultural processes related to the division of roles and positions between men and women in a society (Nuraeni & Suryono, 2021). These processes and division of roles are compatible with gender mainstreaming, which is one of the global strategies to promote gender equality. State institutions worldwide discuss reform measures in the legal field related to gender equality and implement them with the unifying efforts of legislative, executive and judicial agencies. Gender mainstreaming operationally can be interpreted as a national development with a gender perspective. Gender mainstreaming will have a maximum impact on equality if it is carried out by all levels of society, including the members of government and private institutions such as social organizations, political organizations, social organizations, religious organizations and others to the smallest unit, namely the family (Yuslin, 2021).

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Gender is a concept used to identify differences between men and women from a biological aspect. Gender cannot be equated with sex, in which sex is generally used to identify men and women based on the biological anatomy of the genitals. In the view of feminists, all forms of provisions in society that determine the difference between a man and a woman are included in the field of gender studies (Suhra, 2013). Gender restrictions give birth to gender discrimination, especially against women. Discrimination against women continues to occur in the world. The strength of patriarchal culture is still a stereotype that places women in a marginalized position (Sastrawati, 2018).

Paternity leave is a leave policy availed by male workers when their wives give birth to children. The paternity leave entitlements vary country-wise in terms of eligibility, duration, benefits, multiple births, and the type of birth (natural / caesarian) and adoption. According to one ILO report, 78 countries have provided statutory rights to paternity leave, setting quite long duration of paternity leave for father/husband, such as Norway (16 weeks), Sweden (10 weeks), and Finland (7 weeks). Granting paternity leave entitlement, allows the husband to share duties with his partner, especially in the early days. This is useful for preventing baby blues syndrome. Along with the increasing awareness of the importance of the husband's role to accompany his wife to take care of the baby and the importance of the child's right to get father's attention, the companies that set paternity leave policies take longer than recommended by the government. Several other benefits are counted from paternity leave. Women in particular get additional time to recover from childbirth shocks as they enjoy emotional support of husbands. Other benefits of paternity leave include on-time immunization, child's cognitive development, lower infant mortality, prolonged breast feeding, reduction of parenting stress, post-partum depression, maternal mortality and intimate partner violence.

In Indonesia, the 2003 Manpower Law entitles employed married fathers to two days' paid paternity leave at the time of the birth of a child or for miscarriage. The National Civil Service Agency Regulation No 24/2017, however, allows all male civil servants in Indonesia one month of paternity leave with full basic pay. The reason for the variance in the period of paternity leave in comparison with the western countries is that still traditional gender roles are strongly followed in Indonesia, due to their patriarchal norms, religious beliefs, and Islamic family law. The Indonesian society is traditional in form and believes that a woman's role in society is to care for the home, children and elderly parents; though the extension of paternity leave for civil servants signifies a shift towards gender equality.

Labor regulations in Indonesia do not explicitly regulate the paternity leave policy. However, Article 93 of Law Number 13 of 2003 concerning Manpower regulates the obligation of employers to pay wages for male workers if the wife gives birth and miscarries. In a more progressive legal development, integrity is needed to expand the perspective of gender equality in all forms of activities in the preparation and formulation of laws and regulations. It becomes a necessity if the provisions in the laws and regulations become the legal basis that is responsive to gender.

Recently, the House of Representatives initiated 40 days of leave for husbands whose wives give birth in the Draft Law on Maternal and Child Welfare, 2022. The proposal

regarding accompanying leave for husbands is contained in Article 6 paragraphs (1) and (2) of the draft Bill on Maternal and Child Welfare stating that husbands are entitled to a maximum of 40 days of paternity leave of assistance or mothers who experience a miscarriage for a maximum of 7 days. This proposal is a logical consequence of feeling the need to regulate leave permits for husbands/families to accompany women who give birth/miscarriage to help recovery of the mother after giving birth and/or mental health of women who have had a miscarriage.

Literature Review

- *Understanding the concept of gender equality against marginalization*

Understanding the concept of gender equality is very important in the development of various scientific aspects, including a legal and social sciences. Thinking about gender is an effort to develop equality between men and women. The strategy regarding the development of gender equality is called Gender Mainstreaming. The gender struggle in Indonesia has been outlined in the 1999-2004 State Policy Guidelines which aim to improve the position and role of women in the life of the nation and state through national policies carried out by capable institutions to fight for gender equality and justice; and improve the quality of the role and independence of women's organizations while maintaining the values of unity and integrity, as well as the historical value of women's struggles in the context of continuing efforts to empower women and the welfare of families and communities.

Gender differences causing gender inequality can also be seen from various forms of injustice that create obstacles and to achieve gender equality and empower all women and girls by removing all those obstacles. One of these forms of gender-based injustice is marginalization or the process of economic impoverishment, by women being subordinated or placed in an unimportant position in decision and policy making. This results in the formation of negative stereotypes, acts of violence, unbalanced workloads and the socialization of ideology values of gender roles that are not balanced.

The culture of discrimination against women is strengthened by the interpretation of religion, customs and cultures that marginalize women. These forms of discrimination include:

1. A culture that places women in a subordinate position. The subordination of injustice to women emphasizes the pattern that women are irrational, emotional and weak creatures. This condition causes women to be considered less important, so they cannot be placed in strategic positions in society (Cahyani, 2018).
2. There are negative stereotypes about women. Stereotype is labeling given to a certain group of people, ethnicity, nation and culture which always has a negative connotation so that it often causes injustice.
3. Violence against women. One form of gender inequality is the existence of acts of violence against women. Violence against women can be categorized into two general categories, namely physical and psychological violence.
4. Disproportionate workload. The burden of work on women is again based on a patriarchal culture, in which women do not have the right to be leaders in the household that the position of women is placed as assistants in the household who have the obligation to take care of the household, take care of children and other obligations without time limits and the right to self-development.

- *Gender equality and paternity leave*

Therefore, a new paradigm is needed that can balance the relationship between women and men in various walks of life. Balanced relations must be built in various layers of society, both in formal and informal institutions. The paradigm is realized by building a gender-based responsive relationship that aims to achieve gender equality and justice. Efforts to create gender equality are a form of resistance to actions that discriminate against one gender, especially women. Opportunities in all fields are also given by the government to women who are also working mothers. The government provides moral support to working mothers by allowing mothers to have maternity leave and paternity leave when the mother gives birth (Mahendradhani, 2020).

Paternity leave is a leave policy given to the male workers on the ground that their wives give birth to or adopt children. Paternity leave in employment policies, as an effort to achieve gender equality is very important to reconcile work and family life for male workers (Ariyani, 2017). The vast majority of countries throughout the world, and all OECD countries, provide paid parental leave to mothers (either as a parental or maternity leave policy), and a sizeable percentage of countries (94% of OECD countries) also allow fathers to take paid leave through a national paternity leave or shared parental leave policy (Petts, Carlson, & Knoester, 2020). The paternity leave policy reduces the public's view that the task of raising children is only the duty of women, who in this case are mothers. In fact, a wife needs the presence of a husband in the new era of becoming a mother, and a new born child needs the presence of a father.

Access to paternity leave is also important because spending time with children from they were born is beneficial to both parents and children. Engaging in caregiving and developmentally appropriate activities (e.g., reading, playing) fosters young children's developmental growth, attachment to parents, and contributes to better health, fewer behavioral problems, and more positive educational outcomes (Petts & Knoester, 2018). Parental leave entitlements are reserved to fathers only and are non-transferable to mothers ("use-it-or-lose-it"). Thus, the paternity leave policy seeks to increase the participation of fathers in childcare activities. Despite the substantial improvement in female labor market opportunities in recent decades, women continue to devote much more time to unpaid and care work than men. A more balanced distribution of unpaid work within households may allow women to spend more time and effort in paid work, fostering their professional careers. A greater involvement of fathers in childrearing may also affect employers' decisions regarding the hiring and promotion of women, potentially reducing gender disparities in the labor market (Farré & González, 2019). The paternity leave policy is seen as reducing discrimination against female workers.

- *Legal instruments to protect gender mainstreaming*

One of the efforts that can be made to realize commitment towards gender equality is to develop responsive laws. The initial step of gender mainstreaming in Indonesia can be seen with the issuance of President Abdurrahman Wahid's instructions, in which there are three policies from President Gus Dur related to gender equality. These policies were considered successful in bringing gender issues into government issues; therefore, the involvement of women in government began to be considered, including changing the name of the ministry of women's roles to become the ministry

of men's empowerment. The Presidential Instruction provides an understanding of Gender Mainstreaming as a strategy built to integrate gender into an integral dimension of the design, preparation, implementation, monitoring and evaluation of national development program policies (Zaman, 2022).

The first legal instrument in Indonesia that mandates gender mainstreaming was Presidential Instruction No. 9 of 2000 on Gender Mainstreaming in National Development. This was seen as a step towards strengthening legal efforts to achieve gender equality. In the presidential instruction, it is expressly stated that "all offices of the Ministry, Non-Ministerial Government Institutions, Secretariat Leaders of the Highest/Higher State Institutions, Commander of the Indonesian Armed Forces, Indonesian Police, Attorney General's Office and Governors and Regents/Mayors to implement Gender Mainstreaming".

These instructions also reiterated the Article 10 paragraph (1) of Law Number 39 of 1999 concerning Human Rights, which stipulated that women held an important position in continuing their offspring, so that the state needs to respect and protect women workers relation to their reproductive rights. These instructions were further strengthened by Law Number 12 of 2011 concerning the Establishment of Legislation and later amended by Law Number 15 of 2019. In June 2022, the Legislative Body of the DPR RI approved a draft law related to gender mainstreaming, namely the Maternal and Child Welfare Bill based on the provisions of all earlier Bills and included in the National Legislation Program for 2020-2024. This new Draft Law stipulates rights and privileges to women who give birth and also includes those who experience a miscarriage.

There are other Laws related to the subject, for example, Article 82, paragraph (1) of Law Number 13 of 2002 concerning Manpower regarding maternity leave regulated that female workers were entitled to only one and a half month of leave before giving birth and one and a half month after giving birth. Article 93 paragraph (4) of the Manpower Law had stipulated that the husband's accompanying leave for a wife giving birth or miscarriage was 2 days; however, this was amended under the Draft Law on Maternal and Child Welfare of June 2022 where the husband was to be given the right to take 40 days of paternity leave to accompany his wife after giving birth and a maximum of 7 days for the case of the wife experiencing a miscarriage. The Draft Law on Maternal and Child Welfare of June 2022 also made additional effort to improve the welfare of children, provide health insurance, and ascertain nutritional adequacy to the welfare of mothers and children. These legal instruments guaranteed welfare protection for mothers who worked in private as well as state-owned companies (Sari, 2014).

Methodology

This research is a scientific paper obtained by using normative juridical law research methods. Normative juridical research is legal research that uses library law materials as primary legal materials. The primary legal material is obtained from the Draft Law on Maternal and Child Welfare, which is supported by the Manpower Act and other laws and regulations relevant to gender mainstreaming issues. The primary legal materials are supported by secondary legal materials sourced from scientific works, research results, jurisprudence and related doctrines. The results of the research materials will be arranged systematically, and then presented descriptively to obtain relevant answers to the problems raised in this paper. This research will examine progressive efforts in reconstructing paternity leave policies.

Results

- *International Conventions on Gender Equality* ²²

In 1979, the international convention namely the Convention on the Elimination of all Forms Discrimination against Women (CEDAW), advocated elimination of all forms of discrimination against women. It emphasized eliminating all forms of violation of equal rights and giving respect to women, equality between women and men, both in politics, social, economy and culture (Jamil, 2014). It was emphasized in Article 4 paragraph (1), that the CEDAW participating countries should make temporary special regulations (affirmative action) which aimed to accelerate *de facto* equality between men and women (Jamil, 2014).

The concentration of legal reforms in terms of gender equality is a goal that has been agreed upon by the Indonesian government and international organizations (United Nations, 2002). This has become an international commitment for governments around the world. The Indonesian government has also ratified various world conventions related to gender equality including:

1. ILO Convention No. 100 of 1950 which contained the equality of remuneration and wages for male and female workers. In the convention, the countries involved were asked to provide guarantees in the implementation of the principle of equal pay for male and female workers (Putri, Idris, & Pratiwi, 2019). The results of the convention concerning gender mainstreaming were ratified in Law Number 80 of 1957 concerning Equal Remuneration for Men and Women for Work of Equal Value.
2. ILO Convention No. 111/1985 which was ratified by Law No. 21/1999 concerning ratification of ILO Convention Discrimination in Respect of Employment and Occupation (Putri et al., 2019).
3. New York Women's Political Rights Convention, after the birth of the UDHR as an international human rights instrument, especially regarding the position of women in family and social life,
4. The 1953 Women's Political Rights Convention which was later ratified in Law Number 68 of 1956 concerning the Agreement on the Concession of Political Rights. Womankind (Rahmatunnisa, 2016).
5. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which was ratified in Law Number 7 of 1984 dated July 24, 1984 concerning Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (Kartika & Rosdalina, 2001).
6. The Fourth World Conference held in Beijing in 1985 on women. At the conference it was agreed on the "Beijing Platform for Action" (BPFA) which criticized 12 critical areas faced by female workers in the world such as issues of women's rights in the fields of education, health and employment (Giri, 2017).
7. Jakarta Declaration of 1994.
8. Signing of the global agreement document on Sustainable Development Goals (SDG). The SDGs are a global action plan that has been agreed by the world leaders including Indonesia to end poverty, reduce inequality and protect the environment (The Ministry of Women's Empowerment and Child Protection, 2017). In terms of gender mainstreaming the SDGs have 5 targets that are expected to be achieved by 2030, namely:

- a. Ending all forms of discrimination;
- b. Eliminating all forms of violence;
- c. Eliminating all harmful practices;
- d. Recognizing and appreciating service and work;
- e. Ensuring that all women can participate fully in political, social and economic life.

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- *Presidential Instruction Number 9 of 2000 concerning Gender Mainstreaming in National Development*,

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The contents of Presidential Instruction Number 9 of 2000 concerning Gender Mainstreaming in National Development, among others include:

1. Carrying out gender mainstreaming in order to carry out planning, preparation, implementation, monitoring, and evaluation of national development policies and programs with a gender perspective in accordance with their respective fields, duties, functions and authorities; 14
2. Taking seriously the Guidelines for Gender Mainstreaming in National Development as attached to this Presidential Instruction as a reference in implementing gender mainstreaming;
3. Formation of a Ministry of Women's Empowerment to provide: technical assistance to government agencies and institutions at the central and regional levels in the implementation of gender mainstreaming; and to report the results of the implementation of gender mainstreaming to the president.
4. Government agencies to collectively or individually function in accordance with their respective fields of duties and functions as well as their respective authorities to stipulate further provisions required for the implementation of this Presidential Instruction.

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- *Progressive Changes and Evolution of Maternal and Child Welfare Bill*

The development of the times and the increasing awareness of equal rights between men and women open up opportunities for women to make changes. Women are no longer only as housekeepers but can together with men become the backbone of the family by working in various sectors so that they get income or salaries. The existence of women in the world of formal and informal work requires a system that can regulate the protection of women, especially against the nature of women. By nature, working women are inherently natural to experience periods of menstruation, pregnancy, childbirth and breastfeeding. These natural rights are not owned by men; therefore, there needs to be special protection so that working women can develop themselves to the maximum in at work, without discrimination on the assumption that these natural things can hinder the performance and potential of women workers.

As in Article 10 paragraph (1) of Law Number 39 of 1999 concerning Human Rights stipulates that "everyone has the right to form a family and continue their offspring through a legal marriage." The essence of the article places women in an important position in continuing their offspring, so that the state needs to respect and protect women workers in relation to their reproductive rights. However, there are still forms of discrimination against women workers in Indonesia, not only discrimination against pregnant and breastfeeding women but discrimination in terms of wages and the provision of welfare benefits. It is common for male workers to receive benefits for their children and wives, but not vice versa where female workers do not receive benefits for their children and husbands.

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For this reason, the protection of the rights of women workers needs to be regulated in a legislation that is gender equal. Where in the regulation is expected to represent and accommodate the needs of the rights of women workers both in terms of income and protection of women's natural rights. One of the studies on the protection of women's natural rights is maternal rights. Maternal rights are related to reproductive health rights. This aspect of the protection of maternal rights must be harmonized with the provisions of the labor laws in Indonesia. Maternal rights that need to be guaranteed legal protection include:

1. the right not to be terminated due to pregnancy or a change in marital status;
2. the right to take time off work due to pregnancy while still getting wages;
3. the right to obtain the provision of social services in the form of providing facilities and infrastructure for lactation, child care and workloads that are not dangerous for pregnant women (Nurjannah, 2003).

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- *The Draft Law on Maternal and Child Welfare*

The latest product from the parliament as a strong commitment in achieving gender equality in Indonesia is the issuance of a draft law on maternal and child welfare. The Draft Law on Maternal and Child Welfare is made based on the provisions stipulated in Law Number 12 of 2011 concerning the Establishment of Legislation as amended by Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning Formation of Legislation. The Draft Law on Maternal and Child Welfare has been included in the National Legislation Program for 2020-2024.

In June 2022, the Legislative Body of the DPR RI approved a draft law related to gender mainstreaming, namely the Maternal and Child Welfare Bill, 2022. The drafting of the Maternal and Child Welfare Bill, 2022 is a commitment from the DPR in realizing welfare for mothers and children. The Draft Law on Maternal and Child Welfare Bill, 2022 stipulates a number of rights that can be obtained by a mother/wife who gives birth and includes those who experience a miscarriage to obtain their rights humanely. These rights include the right to obtain health services, the right to obtain health insurance during pregnancy, the right to receive treatment and special facilities, public facilities and infrastructure that support the activities of pregnant women. In addition, the Draft Law on Maternal and Child Welfare, 2022 also stipulates the right of a mother's companion after giving birth or having a miscarriage to get assistance from her family or husband. This is regulated aiming to provide a sense of security and comfort to mothers or women in general and to obtain protection from all forms of violence and discrimination against women. In one of the articles of the Draft Law on Maternal and Child Welfare, 2022 it is regulated that women can avail maternity leave, up to six months, without being dismissed from work, and would get a salary from corporate social security and responsibility funds (Garnesia, 2022).

The draft Law on Maternal and Child Welfare, 2022 provides new mothers with greater opportunities to face the post-natal transition period related to child care, exclusive breastfeeding and mental and physical changes. Previously, in Article 82 paragraph (1) of Law Number 13 of 2002 concerning Manpower regarding maternity leave, it was regulated that female workers were only entitled to one and a half months of leave before giving birth and one and a half months after giving birth. The Draft Law on Maternal and Child Welfare, 2022 was designed not

only for the benefit of women but also as an effort to improve the welfare of children. The Draft Law on Maternal and Child Welfare also regulates the certainty of health insurance, nutritional adequacy to the welfare of mothers and children. This is because there is no guarantee of welfare protection for mothers who work in both private and state-owned companies (Sari, 2014).

The issue of paternity leave was born from the awareness of the importance of giving maternity leave rights for fathers or husbands. The draft Law on Maternal and Child Welfare also considered the psychological and mental needs of mothers after giving birth or those who experienced miscarriage where the husband has the right to take 40 days of leave to accompany his wife after giving birth and a maximum of 12 days for the case of the wife experiencing a miscarriage. Previously, in Article 93 paragraph (4) of the Manpower Law, it was stipulated that the husband's accompanying leave for a wife giving birth or miscarriage was 2 days.

It is therefore obvious that there are several articles and provisions that are of public concern in the Draft Law on Maternal and Child Welfare, among others, can be seen in the Table 1:

Table 1: Substances in the Draft Law on Maternal and Child Welfare

No.	Provision	Substance
1	Article 4 paragraph (2);	The rights of every working mother include: a. getting at least 6 (six) months of maternity leave, whereas previously in the Manpower Act, maternity leave was granted for 3 (three) months. b. getting a break of 1.5 (one and a half) months or in accordance with a certificate from a gynecologist or midwife if she has a miscarriage; c. getting the opportunity and place to do lactation (breastfeeding, preparing, and/or storing breast milk during working hours; and/or d. get the necessary leave for the best interests of the child in accordance with the provisions of the legislation.
2	Article 5 paragraphs (1) and (2);	Every mother who exercises the right to maternity leave cannot be dismissed from her job and still gets her rights in accordance with the provisions of the legislation in the field of manpower. Every mother who exercises this right gets 100% (one hundred percent) full rights for the first 3 (three) months and 75% (seventy-five percent) for the next 3 (three) months.
3	Article 6 paragraphs (1) and (2)	Husbands are entitled to paternity leave for a maximum of 40 days or miscarriage for a maximum of 7 days.

These points become interesting things that are in the public spotlight, especially human rights activists against women. The Draft Law on Maternal and Child Welfare is considered to have a strong side for women who have been part of the struggle for

gender equality. By extending the duration of maternity leave from three months to six months, along with permission to leave the husband to accompany his wife who gave birth to 40 days, it is expected that it will help mothers in caring for their new born children. It is also interesting that the Maternal and Child Welfare Bill is given permission to leave for 7 days to the husband to accompany his wife who has a miscarriage. This can be appreciated and sensitive because when a miscarriage occurs in pregnancy, it is not only the wife/woman who experienced the miscarriage that needs to be given time to recover physically and psychologically but this is also needed by the man or husband. Miscarriage is an event of loss of a prospective baby that is certainly a hope not only by women as prospective mothers but also by men who become prospective fathers.

Awareness of the importance of paternity leave in Indonesia can be seen from the Regulation of the State Civil Service Agency Number 24 of 2017 through the provision of leave for important reasons without reducing the right to annual leave of 12 (twelve) days received by the State Civil Service Agency. The rules in the Regulation of the State Civil Service Agency regarding the right to maternity leave are focused on the letter E section regarding leave for important reasons in numbers 3, 6, and 14. Male civil servants whose wives give birth/C-section can be given leave for important reasons by attaching letter information on hospitalization from the Health Service Unit. The length of leave for important reasons is determined by the official who is authorized to give leave of no longer than 1 (one) month, and while exercising the right to leave for important reasons, the civil servant concerned receives the income of the civil servant. This awareness has prompted several companies in Indonesia to start granting longer leave to husbands to accompany their wives who have given birth or have had a miscarriage, even though the Draft Law on Maternal and Child Welfare has not yet been promulgated.

The Draft Law on Maternal and Child Welfare is considered not only beneficial for male workers but also for companies, which laid importance to paternity leave as follows:

1. *Providing support to the wife.* The main benefit of paternity leave is how husbands can provide support by being directly present in helping wives who have given birth or have had a miscarriage. The presence of a husband in the process will greatly help provide moral support and a sense of comfort to the mother, because it can be a mental reinforcement of the mother emotionally.
2. *Preventing depression in mothers who have just given birth or have had a miscarriage.* The depression does not only occur in mothers or women who have had a miscarriage, but mothers who have just given birth also has a great potential for depression. Depression in mothers who have just given birth is called postpartum depression. Postpartum depression is a condition in which a mother feels excessive sadness, guilt and other common forms of depression such as insomnia, loss of appetite, intense irritability, and difficulty bonding with the baby for a long time after giving birth (Fairus & Widiyanti, 2017). With the presence of the husband in the early days of giving birth, it is possible for the husband to share tasks with his wife to take care of the baby, including preventing the baby blues syndrome in the mother.

3. *Improving the welfare of the workers.* The benefits of giving maternity leave to husbands do not only provide benefits to workers but will indirectly have an impact on the welfare and loyalty of the workers themselves.

8 The expected justice is justice that is not gender-based, but gender-equal justice between men and women. By realizing gender equality justice between men and women, harmony, security and peace will be realized. Gender equality means that men and women are in the same status and conditions in fully realizing human rights and contributing to national development. Likewise, giving leave to husbands to accompany a wife who gives birth is part of the realization of gender equality for men. Literally, men do not experience the process of pregnancy, childbirth, and breastfeeding. However, the husband has a role as a companion and the person who is prioritized to provide assistance to post-natal mothers. The husband's involvement after giving birth will create a sense of empathy⁴² and a sense of concern for the husband towards his wife which can strengthen the relationship between husband and wife, as well as the relationship between father and child. In the context of relationships in the family, interpersonal communication becomes an important thing in maintaining the level of closeness of parents with children. Therefore, the role of fathers in supporting the creation of harmonious family communication is mandatory. A father should also be able to play his role as the head of the family by being the first reference for his children (Lukman & astasari, 2019).

It is an act of injustice and gender inequality if in the case of the birth of a child; only the mother is charged with the right to care for the child after giving birth. This will change gender equality by making both husbands and wives as the victims of gender itself. Indicators show that gender equality can be seen from the access factors owned by men and women such as to access and g⁸; the opportunity to be part of development resources; the participation factor or the participation of women and men who both have the right to participate in development programs; the benefit indication factor, in which women and men can equally enjoy the same facilities from the results of development; and the control factor that can be seen from the position of men and women who both have full authority in making decisions (Quraisy & Nawir, 2005).

Policy making and implementing gender-based development programs require processes and stages that are carried out in a planned, structured and systematic way to fit the objectives. Several things that need to be done in creating policies that are responsive to gender mainstreaming are increasing the capacity of implementing resources from gender mainstreaming; preparing gender mainstreaming tools consisting of analysis, training, monitoring and evaluation tools; and establishing gender mainstreaming implementation mechanisms such as establishing communication forums, working groups and establishing focal points in each sector. It will be more effective if these things coupled with the readiness of formal policy makers to formulate and develop commitments that are in line with the government's objectives in gender mainstreaming efforts by establishing institutions and strengthening institutional capacities to encourage effective processes. In the perspective of gender mainstreaming as outlined in the Draft Law on Maternal and Child Welfare, justice and gender equality are the expected ideal conditions, in which equality is a condition where men and women are in an equal position both practically and ideally.

Discussion

The root of the problems that exist in Indonesian culture that makes it difficult to fulfill the human rights of women is the concept of patriarchal culture. A patriarchal culture that places women in unequal power relations with men complicates the process of forming an orthodox understanding of equal rights between men and women. This has implications for the domestic sphere. Parenting is seen only as a woman's responsibility. The problem will be more complex if the women work and no one takes care of the children. When women have difficulty playing these two positions, what happens is that women's positions in the public sphere are sacrificed. This means that the working women will retreat both on their understanding of the demands placed on them as women and on the pressure of their environment (Herawati, 2016).

The culture of child care which is only imposed on women has implications for policies in the field of employment. Law Number 13 of 2003 concerning Manpower explicitly regulates maternity leave, but only slightly regulates paternity leave. Maternity leave can be seen in Article 82 which stipulates the right to leave for women for three months, namely the right to get a break for 1.5 (one and a half) months before giving birth to a child and 1.5 (one and a half) months after giving birth according to the calculation of the obstetrician or midwife. The right of leave is also granted to female workers/laborers who experience a miscarriage, which is entitled to a 1.5 (one and a half) month rest or according to a certificate from a gynecologist or midwife. Paternity leave arrangements are very far compared to maternity leave. Article 93 of Law Number 13 of 2003 concerning Manpower only provides leave for husbands if the wife gives birth or miscarries, paid for 2 (two) days. This significant difference in regulation cannot be separated from the view that pregnancy and childbirth are only women's business. This is certainly an important agenda in gender mainstreaming.

The implementation of gender mainstreaming is aimed at the implementation of national development programs with a gender perspective in order to provide justice and realize gender equality in the life of a household, society, nation and state. Sustainability of gender mainstreaming activities requires practical and strategic steps to create ideas about gender equality in the form of laws and regulations, because the content and material to be regulated is sensitive so that it requires gender responsiveness to be able to accommodate all problems and aspirations from the community (Farida, 2018). This is considering that a statutory regulation in various types and hierarchies starting from the Constitution, Laws, MPR Decrees, Government Regulations in Lieu of Laws, Government Regulations, and Presidential Regulations to Regional Regulations must have legal specialists who do not may conflict or overlap with other rules. This becomes a problem in realizing legal products in the form of legislation that is sensitive and gender responsive, because it requires clear gender welfare benchmarks and parameters.

The Draft Law on Maternal and Child Welfare provides detailed arrangements regarding the rights and obligations of pregnant women, husbands, even the state and employers. Where pregnant women are required to check their pregnancy health regularly through health services, are required to care for, nurture, educate and protect children with love. This obligation reflects the commitment of the government to give birth to a golden generation as the nation's next generation. This concentration is

regulated in Article 20 paragraph (1) of the Draft Law on Maternal and Child Welfare which requires the provision of health care facilities that provide easy access and the best health services for mothers and children. Paragraph (2) also regulates the facilities referred to in the form of providing health information and education services to pregnant women; provision of health administration services; giving priority in health examinations; providing action and treatment; and the provision of appropriate special health facilities and infrastructure for mothers and children.

In relation to what is regulated in Article 20, the Article 21 stipulates sanctions for the provision of health facilities that do not meet the provisions in Article 20 with sanctions in the form of administrative sanctions. Health services for pregnant women and childbirth in the Draft Law on Maternal and Child Welfare require the availability of other supporting public facilities, facilities and infrastructure that can provide convenience for mothers and children to use these facilities both at work, public places and public transportation. These provisions are regulated in Article 22 paragraphs (1) and (2) of the Draft Law on Maternal and Child Welfare. Paragraph (3) also regulates supporting facilities for mothers and children such as providing lactation rooms, child care rooms, child care, safe play areas for children, as well as in public spaces providing priority seats for children and mothers, including provide special counters. Article 23 of the Draft Law on Maternal and Child Welfare regulates the imposition of sanctions in the form of guidance and/or administrative sanctions to managers of workplaces, public facilities and public transportation providers who comply with the provisions of Article 13 of the Draft Law on Maternal and Child Welfare.

Current policies on paternity leave, cultural and economic practices, and gendered structures influence attitudes toward paternity leave and create institutional constraints with regard to who is able to take paternity leave and for how long (Petts, Knoester, & Li, 2020). In the world, some countries even set the duration of paternity leave for father/husband which is quite long. In addition to Indonesia, European countries have regulated paternity leave by setting a fairly long duration of leave for husbands, others, such as Norway (16 weeks), Sweden (10 weeks), and Finland (7 weeks). Paternity leave-taking may also lead to higher levels of fathers' involvement with children. Because father involvement is associated with a number of positive outcomes for children, it is important to analyze the implications of leave-taking for father involvement in greater detail. Studies from Europe have indicated that fathers took longer periods of paternity leave when their children were born engaged in childcare tasks more frequently and reported closer relationships with their young children when compared to fathers who took shorter periods of leave. There is also evidence from the United States showing that longer periods of paternity leave were associated with higher levels of father involvement (Knoester, Petts, & Pragg, 2019).

Conclusion

In the perspective of gender equality, gender mainstreaming is defined as the embodiment of providing equal opportunities and positions between men and women regardless of gender. In the Draft Law on the Welfare of Mothers and Children, although in its concept and formulation, the title has a tendency to favor the protection of women, but in the formulation of the articles, it contains provisions that

also protect the rights of male workers regarding pregnancy, postpartum and miscarriage experienced by the wife. The Draft Law on Maternal and Child Welfare in article 6 paragraphs (1) and (2) also regulates the husband's right to obtain permission to leave for a longer period of time than previously regulated in the labor law. In a gender perspective, the provisions in the article will provide gender-based justice and foster togetherness responsibilities as husband and wife (family) and not only impose post-natal obligations on the wife. Likewise, in the event of a miscarriage, the husband is given a period of leave of up to 7 days, considering that the event of a miscarriage is prone to cause depression in women. Therefore, they need support and moral assistance from the closest person, namely the husband.

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