

Gender Bias in Indonesia's KIA Law: A Normative Analysis of Paternity Leave

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Abstract

This study aims to critically examine how Law Number 4 of 2024 concerning the Welfare of Mothers and Children in the First Thousand Days of Life (KIA Law) reproduces gender bias against female workers through a law-and-gender-equality perspective. The problem raised is that several articles in the KIA Law perpetuate the domestication of women due to the minimal paternity leave provided and the lack of regulation of wage rights for workers who take paternity leave. This results in female workers being required to take full responsibility for the welfare of their children, while male workers are only minimally protected because they do not receive protection for their roles as fathers and husbands. The research method used is normative legal research with statutory and conceptual approaches. This study shows that in Indonesia, there is a stereotype that men's roles are in the public sector and women's roles are in the domestic sector. Although many women currently play roles in the public sector, domestication still occurs, creating a dual role for women. The KIA Law has not yet addressed this issue. The design of paternity leave and unclear wage schemes during this leave in the KIA Law still reflects structural gender bias that encourages the domestication of women. Lack of support from men, which aligns with the role of men, leads women to choose to stop working after giving birth. This research provides a normative contribution to the development of gender-equality-based employment regulations and serves as the basis for recommendations for parental leave policy reform in Indonesia.

Keywords: *Gender Bias; Indonesia; Paternity Leave; KIA Law*

1. INTRODUCTION

Law Number 4 of 2024 concerning the Welfare of Mothers and Children in the First Thousand Days of Life (KIA Law) was officially enacted in early July 2024.¹ One of the crucial things regulated in the KIA Law is the role of parents in the phase of accompanying children in the early stages of their lives. This includes regulations regarding workers' rights related to domestic life. These rights include women's rights to maternity and miscarriage leave, men's rights to maternity and miscarriage leave, and the rights of working parents regarding the health and well-being of their children.

The main objective of the KIA Law is to protect mothers and children, but in the formulation of articles that discuss workers' rights, gender issues, and the domestication of female workers are actually included as problems. In fact, the domestication of women is not a new phenomenon in

¹ Kemenppa, "RUU KIA Pada Fase Seribu Hari Pertama Kehidupan Disepakati Untuk Disahkan," [WWW.Kemenpppa.Go.Id](https://www.kemenpppa.go.id/Page/View/Ntiznq), 2023, <https://www.kemenpppa.go.id/Page/View/Ntiznq>.

Indonesia. From a patriarchal perspective, men are assigned the role of earning a living (public), while domestic matters, including childcare, are women's responsibility.² From a social perspective, families that do not adhere to the household pattern described above are considered outlandish. Even women's participation in the workforce is seen as an attempt to resist and reform patriarchal culture.³ However, as time passes, society's perspective on the domestication of women is slowly shifting, in line with the development of studies on gender equality.

Gender issues within the employment sector have previously been researched. The first study was conducted by Iftitah and her team. The results showed that Law No. 13 of 2003 concerning Manpower (Manpower Law) guarantees gender equality through equal rights to work, receive compensation, and prohibits gender-related discrimination in terms of salary, promotion, job opportunities, and other workplace treatment.⁴ To achieve gender equality in the employment sector, it is necessary to strengthen law enforcement related to sanctions for gender discrimination, provide more intensive social protection, especially for female workers in the informal sector, and increase awareness of gender issues in employment relations.⁵ This research offers solutions to gender issues in the workplace, not solely relying on the coercive power of the Manpower Law but also recognizing the importance of collective awareness of these issues. However, this research is not yet based on relevant theories related to law and gender, is still fixated on what is in the employment law alone, and has not yet examined the KIA Law as a new legal regime from an integrated gender and employment law perspective.

The second study, conducted by Aini, found that there are differences in wages and relationships between male and female workers, even though their education levels and work abilities are the same.⁶ Female workers receive low wages and are excluded from key decisions and managerial roles despite their significant contributions, resulting in subordination between women and men.⁷ Education for women and the government's role in policymaking must be strengthened. This research has demonstrated the fact that there are differences in treatment received by female and male workers based on gender, caused by social construction. However, the research results are still focused on the fisheries sector alone, which is classified as non-formal work and is still sectoral and not yet representative.

² Darmin Tuwu, "Peran Pekerja Perempuan Dalam Memenuhi Ekonomi Keluarga: Dari Peran Domestik Menuju Sektor Publik," *Al Izzah: Jurnal Hasil-Hasil Penelitian* 13, no. 1 (2018): 63–76, <https://doi.org/http://dx.doi.org/10.31332/ai.v13i1.872>.

³ Khoirul Huda and Linda Ayu Renggani, "Perempuan Kapuk Dalam Ekspektasi Budaya Patriarki (Sebuah Analisis Beban Ganda Gender)," *Kafa'ah: Journal Of Gender Studies* 11, no. 2 (2021): 184–98, <https://doi.org/http://dx.doi.org/10.15548/jk.v11i2.395>.

⁴ Anik Iftitah et al., "Kesetaraan Gender Dalam Hukum Ketenagakerjaan," *Eksekusi: Jurnal Ilmu Hukum Dan Administrasi Negara* 1, no. 2 (2023): 31–46, <https://doi.org/https://doi.org/10.55606/eksekusi.v1i2.471>.

⁵ Iftitah et al.

⁶ Yulinda Nurul Aini, "The Gender Wage Gap In Fisheries Labour Market: The Analysis Of Sociodemographic And Work Related Factors In Indonesia," *Sawwa: Jurnal Studi Gender* 17, no. 2 (2022): 145–72, <https://doi.org/https://doi.org/10.21580/sa.v17i2.13554>.

⁷ Aini.

The third study, conducted by Puspitarini, found that developments and mindsets in each country influence paternity leave policies.⁸ Indonesia and the Philippines need to improve regulations in the area of paternity leave, as the duration and cost of the benefits provided are very minimal compared to Singapore. Even though Singapore requires that children born must be Singaporean citizens, this is not beneficial for foreign workers.⁹ The strength of this research is that it reveals that the challenges in Indonesia are still deeply rooted in patriarchal culture and the gap in rights between private sector workers and civil servants. However, this research does not address women's leave rights in the country, which are often used as the basis for decisions regarding paternity leave.

Based on the explanation above, no similar research has been found. No research has normatively and theoretically examined the gender bias reflected in the paternity leave and wage policies in the KIA Law by placing the roles of fathers, female workers, and the concept of gender justice within a single analytical framework. Feminist legal theory will also be used in this study to measure the conception of gender justice in the KIA Law, which examines power relations, the domestication of women, and gender role inequality in employment regulations.

The KIA Law highlights how female workers receive more leave and a clear payroll system, as well as the explicit prohibition on dismissal for women fulfilling their roles as mothers, as stipulated in the KIA Law. However, men are not as well-regulated and protected as women workers. This leaves women workers with the responsibility for their children's welfare, while men are only partially responsible. This is despite numerous studies demonstrating the importance of a father's role in domestic life.

Based on the description above, this study aims to critically analyze the gender bias that persists in the Child and Child Protection Law, particularly regarding paternity leave. The novelty offered will be beneficial both for the development of legal science and for reforming parental leave policies and gender equality in Indonesia.

2. METHOD

This research is a normative legal study that examines applicable norms or provisions¹⁰ with statutory and conceptual approaches. Statutory and conceptual approaches are used to examine gender bias in the regulation of paternity leave and worker protection in the KIA Law within the framework of Indonesian labor law. The statutory approach aims to examine and analyze all legal phenomena that arise after the enactment of the KIA Law. Thus, problems related to workers' rights regulated in the law will be identified. The conceptual approach was chosen

⁸ Nabilah Puspitarini, "Perbandingan Kebijakan Cuti Paternitas Perwujudan Kesetaraan Dalam Lingkup Ketenagakerjaan Antara Indonesia Dengan Singapura," *Media Hukum Indonesia* 2, no. 2 (2024): 560–68, <https://doi.org/https://doi.org/10.5281/zenodo.12310105>.

⁹ Puspitarini.

¹⁰ Irwansyah, *Penelitian Hukum Pilihan Metode & Praktek Penulisan Artikel*, 4th ed. (Makasar: Mirra Buana Media, 2021).

because it is the appropriate approach used to develop legal concepts. This approach is appropriate for analyzing the concept of gender in Indonesia and its influence on workers' rights in the KIA Law.

Primary legal materials include binding legal materials such as laws and regulations, jurisprudence, or court decisions.¹¹ The primary legal materials that will be used in this study are: the 1945 Constitution; the Civil Code; Law Number 13 of 2003 concerning Manpower; Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation to Become Law; Law Number 4 of 2024 concerning the welfare of mothers and children in the first thousand days of life (KIA Law) and other relevant implementing regulations. Secondary legal materials are materials that provide explanations of primary legal materials, such as draft laws, research findings, or the opinions of legal experts. Secondary legal materials include books and research findings.¹² The steps taken in this research were collecting and compiling data. After classification, it was then processed and presented in its respective proportions. This was then discussed by comparing legal, gender, and legislative theories, as well as expert opinions, in accordance with the research's main problem. Data analysis was conducted using qualitative normative analysis through legal interpretation and argumentation linked to the feminist legal theory framework as the main analytical tool for studying from a gender and legal perspective.

3. RESULTS AND DISCUSSION

3.1 Gender equality issues related to the division of roles in households in Indonesia

Gender equality is a concept where both men and women are free to develop their potential, receive fair treatment and equal opportunities without being bound by constructions, stereotypical assumptions, or prejudices related to their gender.¹³ The issue of gender equality began to develop alongside the development of the concept of human rights. The fundamental assumption underlying the concept of human rights is that every human being possesses inherent rights that must be respected and protected to maintain the dignity of human life.¹⁴ As a country based on law, Indonesia has an obligation to guarantee the fulfillment of human rights for all citizens as mandated in the preamble to the constitution.¹⁵

¹¹ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif; Suatu Tinjauan Singkat* (Jakarta: Rajawali Pers, 2010).

¹² Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum*, 10th ed. (Jakarta: Raja Grafindo, 2018).

¹³ Rachel Lubis and Irwan Triadi, "Menganalisis Kesenjangan Gender Dalam Perspektif Konstitusi (Studi Tentang Perlindungan Hak Asasi Manusia)," *Mister: Journal of Multidisciplinary Inquiry in Science, Technology and Educational Research* 1, no. 3B (2024): 892–901, <https://doi.org/https://doi.org/10.32672/mister.v1i3b.1755>.

¹⁴ Budi Hermawan Bangun, "Hak Perempuan Dan Kesenjangan Gender Dalam Perspektif Filsafat Hukum," *Pandecta* 15, no. 1 (2020): 74–82, <https://doi.org/http://dx.doi.org/10.15294/pandecta.v15i1.23895>.

¹⁵ Rini Irianti Sundary and Umi Muslikhah, "State Responsibility in Protecting Indonesian Migrant Workers as Fulfillment of Human Rights," *Jurnal Ius Constituendum* 9, no. 3 (August 24, 2024): 428–45, <https://doi.org/10.26623/jic.v9i3.9183>.

Normatively, the state's commitment to gender equality is reflected in the 1945 Constitution, particularly Article 27 paragraph (1) and Article 28D paragraph (1), which guarantee equality before the law, and other regulations as derivatives to realize gender justice based on respect for human rights. From a regulatory perspective, the state has indeed demonstrated formal recognition of the importance of gender equality. However, it can be critically argued that this legal framework is often declarative, not yet fully operational, and lacks strong enforcement mechanisms. The state's role in protecting gender equality in Indonesia remains inconsistent. On the one hand, the state has a progressive legal framework, but on the other hand, policy implementation is often hampered by patriarchal political and cultural interests, so that gender-biased perspectives persist in society.

Society generally considers that women's social role is passive and subordinate to men, but this is not natural; it exists because of the cultural construction that perpetuates it.¹⁶ In Indonesia, there are stereotypes regarding the ideal roles of men and women in the household. The ideal stereotype is for men to be the breadwinners and for women to take care of the household's internal needs. Furthermore, social norms generally do not favorably view mothers as breadwinners.¹⁷ This stereotype then leads to the belief that the right to education, to have dreams, and to have a career is the sole right of men. Women, due to their role in household affairs, are often considered less urgent to pursue higher education and are even perceived as neglectful of their families if they still want to work and pursue a career. This issue is commonly referred to as the domestication of women.

This stereotype leaves women vulnerable to human rights violations. The realization that women are human beings with equal status to men has sparked the concept of special rights for women.¹⁸ For years, women in Indonesia have struggled to overcome this stereotype. Kartini championed women's rights during the colonial era through letters she sent to her colleagues in the Netherlands. Kartini shared her hopes for emancipation between women and men, as well as freedom of thought and the right to education for women¹⁹ and other issues that sparked discussions about women's rights, even though the concept of human rights at the time was still vague.²⁰ Today, in the modern era, Indonesian women are still struggling to develop their potential in achieving their dreams and freeing themselves from the shackles of stigma and social expectations related to their gender roles as women.

¹⁶ Hanifa Maulida, "Women in the Sociology of Gender: The Construction of Social Roles, Public Space, and Feminist Theory," *Journal of Politics and Democracy* 1, no. 1 (September 30, 2021): 71–79, <https://doi.org/10.61183/polikrasi.v1i1.6>.

¹⁷ Lisa Cameron, "Gender Equality And Development: Indonesia In A Global Context," *Bulletin of Indonesian Economic Studies* 59, no. 2 (2023): 179–207, <https://doi.org/https://doi.org/10.1080/00074918.2023.2229476>.

¹⁸ Bangun, "Hak Perempuan Dan Kesetaraan Gender Dalam Perspektif Filsafat Hukum."

¹⁹ Musdiansyah Lingga, "Gerakan Emansipasi Wanita Di Indonesia (Peran Dan Pemikiran R.A Kartini Terhadap Hak Pendidikan Perempuan)," *Ta'dib: Jurnal Pemikiran Pendidikan* 14, no. 2 (2024): 48–54, <https://doi.org/https://doi.org/10.54604/tdb.v14i2.425>.

²⁰ Ratna Asmarani, "Perempuan Dalam Perspektif Budaya," *Sabda: Jurnal Kajian Kebudayaan* 12, no. 1 (2017): 7–16, <https://doi.org/https://doi.org/10.14710/sabda.12.1.7-16>.

However, as time goes by, societal mindsets are evolving. Dynamic economic conditions require reliable resources, which then open up opportunities for women's contributions.²¹ Several factors that increase women's opportunities to contribute to the economic sector include the need for female workers in certain fields, as well as improvements in women's educational levels.²² With women's involvement in the public sector, such as careers in economics, politics, technology, and other fields, this will directly influence the skills or leadership characteristics possessed by these women.²³

As a strong figure, women are always seen as having a dual role, namely in domestic affairs and the public sphere. The dual role of women refers to the simultaneous performance of two or more roles or functions that a woman must fulfill.²⁴ Domestic affairs are synonymous with women's roles as mothers, wives, and homemakers. Meanwhile, public affairs are related to careers or professions.

In fact, the dual role assigned to women is already a significant development. Sajogyo, a sociologist, argues that there are two types of roles for women in the development of economic organizations. First, there is the role of women, which is largely limited to the household sphere, and then there is the role of women in two functions: the household sphere and income-generating activities.²⁵ This then puts women in a difficult position. Economic development that requires women to work does not necessarily eliminate the stereotype of women being confined to domestic roles. In fact, women are allowed to work, but they cannot neglect their domestic responsibilities. Women are forced to choose either domestic roles or doing both, with various challenges.

The counter-reaction to the dual roles of women today is not to eliminate stereotypes related to these dual roles, or to force women to give up one role or be forced to perform both, but rather to equalize the dual roles for each gender. Both men and women can have more than one role in life. Men can simultaneously pursue a career while also fulfilling their roles as responsible husbands and fathers within their families. Likewise, a woman can also have a career while simultaneously fulfilling the roles of wife and mother. Whatever role is played should not be based on gender stereotypes, but on personal considerations and desires. What needs to be

²¹ Muhamad Rahman Bayumi, Rizal Alfit Jaya, and Bunga Maratush Shalihah, "Kontribusi Peran Perempuan Dalam Membangun Perekonomian Sebagai Penguatan Kesetaraan Gender Di Indonesia," *Al-Huwiyyah: Journal of Woman and Children Studies* 22, no. 22 (2022): 115–28, <https://doi.org/https://doi.org/10.24042/jwcs.v2i2.14317>.

²² Fara Eka Wahyuni, Wahyu Hidayat Riyanto, and Setyo Wahyu Sulistyono, "Analisis Pengaruh Tingkat Pendidikan, Upah Minimum Provinsi Dan Jumlah Industri Terhadap Kesempatan Kerja Di Provinsi Jawa Timur Tahun 1995-2020," *Jurnal Ilmu Ekonomi* 5, no. 3 (2021): 551–62, <https://doi.org/https://doi.org/10.22219/jie.v5i3.18729>.

²³ Failla Sufa Marhamah et al., "Peran Kepemimpinan Wanita Pada Organisasi Perangkat Daerah Dalam Mendukung Kesetaraan Gender," *Jurnal Ilmiah Ilmu Sosial* 11, no. 1 (June 30, 2025): 11–24, <https://doi.org/10.23887/jiis.v11i1.85422>.

²⁴ Gatot Anang Marsudi, Kusuma Wulandari, and Wahyuni Mayangsari, "Peran Ganda Istri Dalam Meningkatkan Ekonomi Keluarga (Studi Deskriptif Pekerja Perempuan Peternakan Ayam Petelur Di Desa Kandungan, Kecamatan Srengat, Kabupaten Blitar)," *Jurnal Wanita Dan Keluarga* 4, no. 1 (July 13, 2023): 55–66, <https://doi.org/10.22146/jwk.7497>.

²⁵ Syaifuddin Zuhdi, "Membincang Peran Ganda Perempuan Dalam Masyarakat Industri," *Jurnal Hukum Jurisprudence* 8, no. 2 (2018): 81–86, <https://doi.org/https://doi.org/10.23917/jurisprudence.v8i2.7327>.

emphasized in this case is that domestic roles are not only the responsibility of women, but also the responsibility of men.

The primary implication of the aforementioned social construction of gender is the emergence of gender bias in the formation and application of laws. Legal norms often reflect patriarchal views that place women in a subordinate position. This has implications for employment law, such as a gender-based wage gap, maternity protection perceived as a burden for employers who employ women, and restrictions on women's access to strategic positions due to perceived weaknesses compared to men.

This is where employment law plays a crucial role in correcting gender-biased social constructions. Through gender-just regulations, gender stereotypes that emphasize women's domesticity and dual roles can be balanced by emphasizing the granting of proportional rights to married workers. Regulations should not be based on gender-biased social expectations but instead facilitate workers' freedom to determine their desired roles. This legal framework should also be used as a framework for formulating the KIA Law. Therefore, the persistence of gender-based social constructions has significant implications for the design and implementation of labor law policies in Indonesia. When legal norms fail to challenge patriarchal assumptions, they risk institutionalizing inequality by reinforcing the perception that women's primary responsibilities remain within the domestic sphere, while men are positioned as the main economic providers. This structural imbalance ultimately affects women's access to employment, career advancement, and legal protection within the workplace. Consequently, the role of labor law becomes crucial not only as a regulatory instrument but also as a transformative mechanism to dismantle gender bias and ensure substantive equality. In this context, examining the legal protection framework for female workers becomes essential to assess whether existing regulations have genuinely accommodated the principles of gender justice or continue to reproduce structural inequality.

3.2 Protection of Female Workers in Indonesia

Economic growth and easier access to education have increased employment opportunities for women. The large number of job vacancies for women has led to a continuous increase in the female labor force participation rate. According to data from the Central Statistics Agency (BPS) in 2021, the percentage of female workers aged 15 years and above is 39.52%, or 51.79 million.²⁶ This upward trend in women's labor force participation indicates an important structural shift in Indonesia's socio-economic landscape, where women are no longer positioned solely as dependents but as active economic actors. Their participation contributes significantly not only to household income but also to national productivity and economic resilience. From a legal perspective, this development reinforces the urgency of ensuring that the labor regulatory

²⁶ Muhammad Ridho Hidayat and Nikmah Dalimunthe, "Hukum Perlindungan Tenaga Kerja Wanita Dalam Perspektif Undang-Undang," *Sibatik Journal* 2, no. 1 (2022): 233–50, <https://publish.ojs-indonesia.com/index.php/SIBATIK/article>.

framework evolves in parallel with these changes. The law must not only facilitate access to employment but also guarantee fair working conditions, equal opportunities, and adequate social protection. Without such legal safeguards, the increased participation of women in the workforce risks being accompanied by persistent vulnerabilities, including precarious employment conditions and unequal treatment compared to male workers.

Increased employment opportunities for women do not automatically eliminate gender inequality in Indonesia. Variations in how time is utilized at home, differences in educational attainment and skill levels, socio-cultural limitations, segregation in sectors and occupations, male migration patterns, and availability of productive resources all play a role in gender disparities in participation in decent work.²⁷

Despite an increase, female labor force participation in Indonesia remains low, especially after marriage. This is because many women stop working after marriage and having children, particularly those in the formal sector, as the formal sector does not offer flexible working conditions that meet the needs of female workers.²⁸ Therefore, the needs of female workers need to be specifically regulated in labor laws and regulations. For this reason, the welfare of female workers is a significant concern addressed in labor laws.

The protection of female workers is specifically regulated in labor laws. The purpose of this special protection is to ensure fairness. Fairness does not mean that everyone must receive exactly the same treatment. According to Aristotle's view of justice, there are two types of justice: commutative justice and distributive justice. Commutative justice concerns the determination of fair rights among individuals on an equal basis.²⁹ Distributive justice demands that everyone receives what is rightfully theirs, which should be provided by the state to its citizens.³⁰ Moreover, Article 28 H paragraph (2) of the 1945 Constitution states that “every person has the right to receive special treatment and facilities to obtain equal opportunities and benefits in order to achieve equality and justice”. Differential treatment of maternity and paternity leave can be justified to a limited extent through distributive justice, but it becomes gender-unequal if it violates the principle of commutative justice and reinforces gender role stereotypes. Gender justice demands not simply differences or similarities, but rather a fair, proportional, and socially equal distribution of rights and responsibilities.

There are several special protections in place for female workers, including those related to their reproductive health and safety at work. Protection of reproductive functions is also one of the

²⁷ Santosh Mehrotra and Sharmistha Sinha, “Explaining Falling Female Employment during a High Growth Period,” *Explaining Falling Female Employment during a High Growth Period* 52, no. 39 (2017): 54–62, <http://www.jstor.org/stable/26698516>.

²⁸ Cameron, “Gender Equality And Development: Indonesia In A Global Context .”

²⁹ Bahder Johan Nasution, “Kajian Filosofis Tentang Konsep Keadilan Dari Pemikiran Klasik Sampai Pemikiran Modern,” *Yustisia* 3, no. 2 (2014): 118–30, <https://doi.org/https://doi.org/10.20961/yustisia.v3i2.11106>.

³⁰ Nasution.

reasons for the change in the minimum age for women to marry in Law No. 16 of 2019 concerning Marriage from 16 years to 19 years, considering the maturity of women's reproductive organs.³¹ Protection related to reproductive functions includes menstrual leave, whereby female workers are not required to come to work when they feel pain on the first and second days of their menstrual period, as stipulated in Article 81, paragraph 1 of the Manpower law. And for those who experience a miscarriage, based on Article 82 of the Manpower law, have the right to 1.5 months leave before and 1.5 months after. Furthermore, special rights are also granted in the form of the opportunity to breastfeed their children, if necessary, during working hours, as stipulated in Article 83 of the Manpower law. The Manpower law also regulates the protection of women's safety. Employers are prohibited from employing pregnant women or women under the age of 18 between the hours of 11 p.m. and 7 a.m. Outside of the above categories, they may be employed, but employers are required to provide nutritious food and drinks, maintain decency and safety while at work, and provide transportation to and from work. The above provisions are regulated in Article 76 of the Manpower Law.

Internationally, the protection of women is actualized through various ILO conventions. For example, in maternity issues, the ILO issued several conventions, which began with the first ILO convention specifically addressing protection for working women during pregnancy and after childbirth. Its goal was to ensure the health of mothers and babies, as well as to protect women's employment. Some of the foundations established included 12 weeks of maternity leave, maternity benefits, professional medical care, a prohibition on dismissal for women performing reproductive functions, and occupational health protection for pregnant and breastfeeding mothers. This convention was later revised by ILO Convention No. 103 of 1952, which extended the maternity leave period and improved job security for mothers and medical facilities. It was most recently revised by ILO Convention No. 183 of 2000. This convention aims to protect pregnant and nursing workers by guaranteeing maternity leave, income security, job protection, and workplace health and safety, ensuring equality and dignity in the workplace. It requires member states to ensure several things, such as: Minimum 14 weeks of maternity leave, with at least 6 weeks compulsory after childbirth, Cash and medical benefits that enable women to maintain themselves and their child in proper conditions of health and with a suitable standard of living, Protection from dismissal during pregnancy, maternity leave, and a period following return to work, Non-discrimination: Women cannot be treated unfavorably in employment due to pregnancy or maternity leave, Health protection: Pregnant and breastfeeding workers must not be obliged to perform work harmful to their health, Breastfeeding rights, including paid or unpaid breastfeeding breaks counted as working time.

³¹ Rini Heryanti, "Implementasi Perubahan Kebijakan Batas Usia Perkawinan," *Jurnal Ius Constituendum* 6, no. 1 (April 22, 2021): 120–43, <https://doi.org/10.26623/jic.v6i1.3190>.

Indonesia has not yet ratified ILO Convention No. 183 of 2000, although some of its principles are reflected in several laws and regulations. Compared to the prevailing norm in Indonesia, which provides only three months of maternity leave, the ILO Convention's regulations are clearly more comprehensive. Furthermore, income security during maternity leave is not yet fully effective, particularly for informal and contract workers. Furthermore, the ILO Convention encourages financing maternity leave through social security to prevent excessive burdens on employers. Meanwhile, the national system still charges maternity leave costs directly to employers, potentially triggering discrimination against women in the hiring process.

The ILO Convention No. 45 of 1935 concerning the employment of women underground (mining work) was created to protect the health and safety of women workers by prohibiting the employment of women in underground mining work. It reflected the social and occupational safety standards of the time, aiming to remove women from what were considered extremely hazardous labor conditions. Many countries later moved away from total bans, considering them discriminatory under modern gender-equality laws, including Indonesia. The ILO itself adopted Convention No. 176 (1995) on Safety and Health in Mines, which replaced gender-based exclusions with universal safety protections for all workers.

For income and payment issues, there is the ILO Convention No. 100 of 1951 concerning equal remuneration for men and women workers for work of equal value. This convention guarantees fair and equal pay for men and women. It requires countries to eliminate gender-based wage discrimination by ensuring equal remuneration for men and women doing work that is equal or comparable in value, not only identical work, and promoting objective, gender-neutral job evaluation methods. Countries must apply this principle through laws, policies, collective agreements, and wage-setting systems in both public and private sectors. Indonesia has ratified this convention, thus making wage regulations in Indonesia gender-neutral, with the principle of non-discriminatory wages. However, the principle of equal work value embedded in the ILO Convention has not been explicitly regulated in Indonesia. The ILO Convention emphasizes substantive equality, while national regulations tend to be formalistic, resulting in gender-based wage gaps persisting even when work is of equal value. Wage discrimination also tends to be difficult to prove due to the lack of wage transparency in Indonesia.

Protection against sexual violence in the workplace is also specifically regulated in Law No. 12 of 2022 concerning sexual violence crimes. However, while criminal law and corporate responsibility offer a unique chance to investigate how legal procedures might be harmonised with business policies to prevent and manage sexual harassment, the application of these laws continues to be riddled with difficulties.³²

³² Fuadi Isnawan, "Quid Pro Quo Sexual Harassment Involving an Employee Through Staycation Modus," *Jurnal Ius Constituendum* 10, no. 3 (October 3, 2025): 453–70, <https://doi.org/10.26623/jic.v10i3.12473>.

The Manpower law does not regulate anti-discrimination protection in relation to employment, job positions, or professions. Due to inherent stigma and patriarchal culture, where men feel uncomfortable being led by women, female workers are often excluded as candidates for certain positions in their work, even if they meet the qualifications. Furthermore, due to their reproductive functions, female workers are considered inefficient at work because they need more rest time. Often, for this reason, women's wages are lower than men's.

This issue has actually been accommodated in Law No. 39 of 1999 concerning human rights (Human Rights Law). Article 38, paragraph 2 of the Human Rights Law stipulates that everyone has the right to freely choose the work they like and is also entitled to fair employment conditions. Furthermore, Article 38, paragraph 3 of the HR Law emphasizes that “every person, whether male or female, who performs the same, comparable, equivalent, or similar work, is entitled to the same wages and working conditions”. Furthermore, Article 49, paragraph 1 of the Human Rights Law states that “women have the right to vote, be elected, and be appointed to jobs, positions, and professions in accordance with the requirements and regulations of the law”.

The other relevant convention is the ILO Convention No. 111 of 1958 concerning discrimination in employment and occupation. This convention seeks to ensure that all individuals have fair and equal opportunities in employment without discrimination on specified grounds. So it requires member states to promote equality of opportunity and treatment by prohibiting discrimination based on race, colour, sex, religion, political opinion, nationality, or social origin. The country must implement laws, policies, and educational measures to combat discrimination, including addressing discrimination in access to employment, training, working conditions, and terms of employment. And also, the country must encourage equal opportunity for everyone in the labor market.

Indonesia has ratified this convention, thus enshrining the principle of non-discrimination in employment in legislation. Although ILO Convention No. 111 provides a more comprehensive definition of discrimination, including indirect discrimination, it has not been explicitly adopted in national law. Furthermore, national law still focuses on formal equality or equal treatment, while the ILO Convention emphasizes substantive equality that takes into account the position of vulnerable groups.

For family responsibility, the ILO issued Convention No. 156 of 1981 concerning workers and family responsibilities. This convention aims to help workers balance their job responsibilities and family obligations without facing discrimination or reduced employment opportunities, requiring governments to adopt policies that help workers balance employment and family duties. This convention also encourages the development of childcare services, family leave, flexible working arrangements, and other supportive measures to ensure that both men and women can participate fully and equally in the workforce, without family responsibilities limiting their employment opportunities.

This convention has not yet been ratified by Indonesia. Although its principles are formally stipulated in various regulations, including the Child and Child Protection Law (KIA), the challenge is that national regulations remain fragmented and sectoral, lacking a comprehensive work-family balance policy framework. The lack of provisions for paternity leave and flexible work in national law reinforces the stereotype that family responsibilities are women's responsibility.

Lastly, ILO Convention No. 190 of 2019 concerning Violence and Harassment. This convention is not only for female workers, but is particularly relevant for women, as they are the group most vulnerable to sexual violence in the workplace. This convention affirms the prohibition of violence, sexual harassment, and intimidation in the workplace. The Convention has not been ratified in Indonesia, resulting in a weak national legal framework for addressing gender-based violence and harassment in the workplace. Although national norms prohibit discrimination, their implementation has not yet accommodated the concept of indirect discrimination, as recognized by the ILO. As a result, gender-based discriminatory practices often go unidentified in law.

The lack of synchronization between national norms and ILO international standards indicates that ratification of the Convention does not necessarily guarantee effective legal protection for women workers. Regulatory harmonization, strengthening of the gender perspective in employment policies, and political commitment to substantively adopt international standards are needed. Without these steps, legal protection for women workers will remain partial and unequal.

Further developments regarding women's welfare are regulated in Law Number 4 of 2024 concerning the Welfare of Mothers and Children in the First Thousand Days of Life (KIA Law). The academic draft of this law explains that the welfare of mothers and children must be realized by fulfilling, protecting, and respecting rights, thereby achieving a sense of equity and an improved quality of life. It also explained that working mothers need support to raise high-quality children, one way being to provide maternity leave for mothers and paternity leave for fathers.

3.3 Gender-Related Problems in the KIA Law Related to Workers: Paternity Leave

There are several issues related to the KIA Law, particularly those concerning gender equality in the workplace. Among them are paternity leave and how the KIA Law portrays the role of fathers in their children's lives, especially during the first 1000 days of life. The enactment of the KIA Law brings great hope for Indonesian women. The academic draft of the KIA Law proposes 40 days of paternity leave for fathers. This brings a new hope for women in Indonesia. With 40 days of paternity leave, it is hoped that the burden on wives after giving birth will be lighter

because wives need assistance from their husbands in dealing with the child's birth.³³ Mothers need 6-8 weeks after giving birth for their reproductive systems to return to normal.³⁴ Hormonal changes, fatigue, and anxiety also cause emotional and psychological instability.³⁵ Positive support and the presence of husbands have been shown to reduce postpartum blues, a mental disorder that occurs after childbirth.³⁶ It also allows fathers to be more involved in their children's lives without neglecting their obligation to provide financial support.³⁷

Strengthening paternity leave is important because there has been a cultural shift in families from what were originally large families with strong emotional bonds and a spirit of cooperation. In the postpartum period, members of the extended family would work together to care for the mother and baby. However, with the increasing trend of urbanization, many couples choose to move far away from their extended families. As a result, mothers in the postpartum period are in great need of help and support from their husbands, especially for working mothers, who thus take on the dual role of breadwinner and domestic caregiver for their family and home. This concept has persisted since ancient times. The KIA Law, which was supposed to be the new hope for the feminist movement in Indonesia, seems to have fallen short of expectations, as the dual role still tends to fall on the mother.

After the enactment of the KIA Law, paternity leave was reduced to only two days, which is no different from what was previously stipulated in Article 93, paragraph 4 of the Manpower Law. Although it is further stipulated that it can also be given for a maximum of three days later, or as agreed upon. In fact, the KIA Law could be a momentum to reform the social order in society regarding gender perspectives and alleviate the double burden faced by women.

Paternity leave of only 2 days, and a maximum of 5 days, is the lowest compared to other Asian countries such as Malaysia (7 days), the Philippines (7 days), Singapore (14 days), and India (15 days).³⁸ The academic draft of the KIA Law itself explains the importance of paternity leave and compares practices with those of other countries, including Finland (54 days) and Sweden (480 days for both fathers and mothers).

³³ Busyro et al., "Paternity Leave In Mother And Child Welfare Bill Based On Hifz Al-Nasl Perspective And Government Ethics Politics," *Istinbath* 22, no. 2 (December 6, 2023): 247–56, <https://doi.org/10.20414/ijhi.v22i2.497>.

³⁴ Yulianti, Irmayanti, and Devi Darwin, "The Relationship Between The Length of Labour and The Taking Hold of Post Partum Mothers," *Jurnal Ilmiah Kebidanan* 7, no. 1 (2024): 39–43, <https://doi.org/https://doi.org/10.56013/jurnalmidz.v7i1.2768>.

³⁵ Yulianti, Irmayanti, and Devi Darwin.

³⁶ Septi Firmnaing Rahayu, Sunanto, and Tutik Ekasari, "Hubungan Dukungan Suami Dengan Terjadinya Postpartum Blues Pada Ibu Nifas," *Jurnal Ilmiah Kesehatan Rustida* 1, no. 2 (2023): 87–95, <https://doi.org/https://doi.org/10.55500/jikr.v10i2.192>.

³⁷ Caroline Gatrell, Jamie J. Ladge, and Gary N. Powell, "A Review of Fatherhood and Employment: Introducing New Perspectives for Management Research," *Journal of Management Studies* 59, no. 5 (July 14, 2022): 1198–1226, <https://doi.org/10.1111/joms.12771>.

³⁸ Puspitarini, "Perbandingan Kebijakan Cuti Paternitas Perwujudan Kesetaraan Dalam Lingkup Ketenagakerjaan Antara Indonesia Dengan Singapura."

The lack of increase in paternity leave shows that lawmakers still consider the role of fathers to be insignificant and emphasize that only women need to take care of children. In fact, paternity leave is part of a parental leave policy, which is leave granted to workers to fulfill their obligations as parents.³⁹ Paternity leave is one form of gender equality in employment. This leave accommodates not only the rights of mothers after giving birth to support their role as parents, but also the rights of fathers.

Paternity leave is regulated in Article 6, paragraph 2 of the KIA Law, which states that Husbands are entitled to paternity leave to accompany their wives during childbirth for two days and may be granted for a maximum of three (3) days thereafter, or as agreed. For miscarriage, paternity leave is only two days.

From the perspective of legal feminist theory, the above conditions are not simply policy reductions but reflect gender bias in patriarchal employment policies. Legal feminist theory begins with the critique that laws are constructed from a male perspective, thus marginalizing women's experiences. In this regard, reproduction and parenting are private matters, not matters of public law. The implication is that without adequate paternity leave, women will continue to be considered "high-risk workers," while men are assumed to be free from domestic responsibilities.

Considering Article 6, it is not only the duration of paternity leave that is problematic, because it is too short. Rather, it is the phrase "may be granted for a maximum of three days thereafter, as agreed upon. This phrase "maximum" limits the rights of male workers in relation to their paternity leave. If both the company and the worker want paternity leave to be longer than what is specified, it should not be a problem. This is because, in essence, laws and regulations in the field of manpower are merely a "safety net." The government imposes minimum restrictions, obliging employers to provide workers with their rights in accordance with the provisions of the legislation. However, if employers and workers agree on more than what has been stipulated, it would be better. This means that both parties have reached an agreement that is better for the welfare of the workers. The phrase "maximum" seems to act as a maximum safety net, even though it is followed by the phrase "or as agreed." The implication of the phrase "longest" in practice has the potential to eliminate the possibility of workers having the right to receive paternity leave longer than regulated.

Furthermore, Article 6, paragraph 3 of the KIA Law states that, in addition to the leave referred to in paragraph two, husbands are given sufficient time to accompany their wives and/or children for the following reasons. First, wives who experience health problems, health disorders, and/or complications after childbirth or miscarriage. Second, the child born has health problems, health

³⁹ Gemma Mitchell, "Shared Parental Leave: Can Transferable Maternity Leave Ever Encourage Fathers to Care?," *Industrial Law Journal* 52, no. 1 (March 26, 2023): 149–78, <https://doi.org/10.1093/indlaw/dwac015>.

disorders, and/or complications. Third, the wife who gave birth has died, or the child born has died.

The absence of an explanation of the phrase “sufficient time” will also confuse practice. This is because time is a subjective matter. Perhaps for a company, one day is sufficient, but certainly not for workers. What if the complications or disturbances experienced last for a long time? Will a working husband be given time off for that long to accompany his wife/child and leave his job? This question remains unanswered in the KIA Law.

During paternity leave, Article 6, paragraph 4 of the KIA Law requires husbands to do several things, such as take care of the health of their wives and children. Provide adequate and balanced nutrition for their wives and children, support the wife in providing exclusive breastfeeding from birth until the child is 6 (six) months old, and accompany the wife and child in obtaining health and nutrition services in accordance with standards. Those things are really written in the Kia Law, even if those are the basic obligations as husband and father.

Based on feminist legal theory, the aforementioned obligations are not only the husband's obligations during paternity leave, but are also a fundamental obligation for any husband, regardless of whether he works formally or not. This regulation seems to imply that these obligations end after paternity leave ends. Therefore, the wording of the regulation needs to be revised to prevent it from being used as an excuse for husbands to abandon their basic obligations.

The next criticism in the KIA Law is related to the salary scheme during maternity leave for mothers and paternity leave or childbirth assistance leave for fathers. Article 5 of the KIA Law states that every mother who is on maternity leave or leave due to miscarriage cannot be dismissed from her job and must continue to receive her rights as stipulated in the legislation. This article also regulates the right to continue receiving wages, whereby wages are paid in full for the first four months and 75% for the fifth and sixth months of leave. However, paternity leave for husbands is not further regulated in terms of wage obligations, nor are the mechanisms and sanctions. This is especially true if the husband takes time off to accompany his wife/child in accordance with Article 6, paragraph 3 of the KIA Law. This article does not specify how long is considered sufficient time. Does the provision of paternity leave and sufficient time to accompany the wife/child come with the right of workers to continue to receive their full wages? This is not regulated.

The various articles above demonstrate that this regulation remains gender-biased. While it's true that the goal is to protect mothers, including working mothers, the lack of regulation regarding fathers' obligations and the limited opportunities for paternity leave reflect a domesticating spirit for women. This regulation still views childcare obligations as primarily women's. Therefore,

women are clearly regulated regarding their leave and related remuneration. However, this is not the case for fathers.

Women's participation in the workforce in Indonesia is currently still relatively low because many women stop working after getting married and having children, especially those in the formal sector, as the formal sector does not offer flexible working conditions that meet the needs of female workers. In addition, social norms do not view mothers positively as breadwinners in the family. Women's participation in the economy plays a significant role, namely to increase household income, reduce economic pressure within the household, and female labor force participation also tends to reduce the potential for domestic violence, leading to happier families.⁴⁰ Therefore, legal instruments that promote gender equality are very important. In addition to ensuring the welfare of mothers and children, they also serve to expand the participation of women in the Indonesian workforce.

It appears that the KIA Law has not fully implemented feminist legal theory. Feminist legal theory advocates for legal reform to accommodate women's interests.⁴¹ This theory emerged and developed from the concept of equality, in which the law plays a significant role in reinforcing gender inequality. This theory is not the same as radical feminism, which shuns men and aims to defeat men to gain sovereignty. Rather, what this theory seeks to achieve is how the law can balance the rights and obligations of both men and women without viewing women as inferior to men. The goal of feminist legal theory is not to rebuild legal institutions to favor women. It is to rebuild legal institutions so that they do not disadvantage women.⁴²

Feminist legal theory plays a significant role in the field of law, influencing many debates about sexual and domestic violence, workplace inequality, and gender-based discrimination.⁴³ The critical study of feminist legal theory is based on five principles related to women's experiences, the existence of implicit gender bias, the double bind and dilemma of difference, the reproduction of male-dominated models, and the expansion of women's choices.⁴⁴ Feminist legal theory acknowledges that women have distinct social and biological experiences compared to men. To fulfill their biological functions, women need a partner to be present and provide support. Therefore, the current KIA law is less than ideal because it still trivializes the role of men in this function, reflected in the weak provisions regarding paternity leave. However, with the development of mindsets, many men are now aware of their roles as husbands and fathers.

⁴⁰ Cameron, "Gender Equality And Development: Indonesia In A Global Context."

⁴¹ Nur Azizah, "Aliran Feminis Dan Teori Kesetaraan Gender Dalam Hukum, Spectrum: Journal Of Gender And Children Studies," *Spectrum: Journal Of Gender And Children Studies* 1, no. 1 (2021): 1–10, <https://doi.org/https://doi.org/10.30984/spectrum.v1i1.163>.

⁴² Fenita Dhea Ningrumsari, "Perlindungan Hukum Terhadap Perempuan Korban Kekerasan Seksual (Suatu Kajian Feminist Legal Theory)" (Fakultas Hukum Universitas Hasanudin, 2021).

⁴³ Aga Natalis, "Reformasi Hukum Dalam Rangka Mewujudkan Keadilan Bagi Perempuan: Telaah Feminist Jurisprudence," *Jurnal Crepido* 2, no. 1 (May 26, 2020): 11–23, <https://doi.org/10.14710/crepido.2.1.11-23>.

⁴⁴ Ningrumsari, "Perlindungan Hukum Terhadap Perempuan Korban Kekerasan Seksual (Suatu Kajian Feminist Legal Theory)."

However, this is still constrained by gender-neutral legal regulations, where men are still prioritized to work full-time, limiting their opportunities to fulfill their roles as husbands and fathers.

In this regard, the inadequacy of paternity leave regulation in the KIA Law demonstrates that the legal system has not yet fully shifted from a gender-biased paradigm toward a gender-responsive framework. The absence of comprehensive provisions concerning the duration, wage protection, and legal certainty of paternity leave reflects the state's limited recognition of shared parental responsibility as a fundamental component of gender equality. From a feminist legal theory perspective, this condition illustrates how legal norms may formally appear neutral while substantively perpetuating structural inequality by maintaining women as the primary caregivers and men as secondary supporters. Therefore, reformulating paternity leave policies is not merely a matter of extending leave duration but requires a paradigm shift that redefines caregiving as a shared social and legal responsibility. Such reform is essential to promote substantive gender equality, strengthen family welfare, and ensure that labor law functions as an instrument of social justice rather than as a mechanism that reproduces patriarchal power relations.

4. CONCLUSION

This study concludes that the KIA Law still reinforces the domestication of women and weakens the role of fathers in caring responsibilities. The weaknesses of the paternity leave policy, as well as the unclear remuneration scheme during paternity leave in the KIA Law, indicate that lawmakers still consider fathers' roles insignificant and emphasize that only women need to care for children. Paternity leave is a form of workplace gender equality. This leave accommodates not only the rights of mothers after childbirth to support their parental roles, but also the rights of fathers. The KIA Law, which remains gender-biased, further perpetuates women's low participation in the Indonesian workforce after marriage, as many women leave work after marriage and childbirth, especially those in the formal sector, as the formal sector does not offer flexible working conditions to meet the needs of female workers. The gender bias in the KIA Law is not merely a normative technicality but reflects the regulatory failure to substantively adopt a gender equality perspective, particularly in paternity leave arrangements and wage schemes. This research contributes to the development of regulations that protect the rights of male and female workers and to achieving gender equality in Indonesia. Therefore, this study recommends reformulating paternity leave provisions, removing provisions that limit fathers' rights, equalizing wage protection schemes for maternity and paternity leave, and harmonizing the KIA Law with ILO international standards.

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