



RECONSTRUCTING PATERNITY LEAVE RIGHTS FROM A HUMAN RIGHTS PERSPECTIVE

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Abstract

The transformation of work–family relations in modern societies has generated a growing demand for labor regulations that are more responsive to the role of fathers in childcare. Within the current framework of labor law practice, the right to paternity leave for male workers remains subject to limited legal protection and has not fully reflected human rights principles, particularly those related to gender equality and the protection of family life. This study aims to examine the legal status and regulatory framework of paternity leave within the labor law system and to assess the quality of its protection from a human rights perspective following recent regulatory developments in the field of family welfare. The research employs a normative legal method using statutory and conceptual approaches. The legal materials analyzed include national legislation, international human rights instruments, as well as relevant legal doctrines and scholarly studies. The analysis reveals that although there is normative recognition of the father’s role within the family, the regulation of paternity leave remains minimal and fails to provide substantive legal protection, particularly in terms of leave duration and certainty of implementation. This situation indicates a tension between the state’s normative commitment to family rights and the practical reality of legal protection within employment relations. The study concludes that paternity leave should be understood as an integral component of social and family rights with a human rights dimension, thereby requiring strengthened regulation to effectively address the demands of gender equality and work–family balance.

Keywords: *paternity leave; human rights; labor law; family rights; gender equality*

Abstrak

Perubahan pola relasi kerja dan keluarga dalam masyarakat modern memunculkan kebutuhan akan pengaturan ketenagakerjaan yang lebih responsif terhadap peran ayah dalam pengasuhan anak. Dalam praktik hukum ketenagakerjaan, hak *paternity leave* bagi pekerja laki-laki masih menunjukkan perlindungan yang terbatas dan belum sepenuhnya mencerminkan prinsip hak asasi manusia, khususnya kesetaraan gender dan perlindungan kehidupan keluarga. Penelitian ini bertujuan untuk mengkaji kedudukan dan pengaturan hak cuti ayah dalam sistem hukum ketenagakerjaan serta menilai kualitas perlindungannya dari perspektif hak asasi manusia setelah adanya pembaruan regulasi di bidang kesejahteraan keluarga. Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan dan pendekatan konseptual. Bahan hukum yang dianalisis mencakup peraturan perundang-undangan, instrumen hak asasi manusia internasional, serta doktrin dan hasil penelitian ilmiah yang relevan. Pembahasan menunjukkan bahwa meskipun terdapat pengakuan normatif terhadap peran ayah dalam keluarga, pengaturan *paternity leave*



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masih bersifat minimal dan belum memberikan jaminan perlindungan yang substantif, baik dari segi durasi cuti maupun kepastian pelaksanaannya. Kondisi tersebut mengindikasikan adanya ketegangan antara komitmen normatif negara terhadap hak keluarga dan realitas perlindungan hukum dalam hubungan kerja. Penelitian ini menegaskan bahwa *paternity leave* perlu dipahami sebagai bagian dari hak sosial dan hak keluarga yang berdimensi hak asasi manusia, sehingga memerlukan penguatan pengaturan agar mampu menjawab tuntutan kesetaraan gender dan keseimbangan kerja–keluarga secara nyata.

Kata kunci: *paternity leave*; hak asasi manusia; hukum ketenagakerjaan; hak keluarga; kesetaraan gender

I. INTRODUCTION

Changes in social structures and work-family relationships in modern society create a need to update the labor law framework in line with human rights principles. Changes in contemporary family patterns are characterized by the increasing contribution of women in the workforce and a reduction in the traditional division of domestic duties. This development raises the need for a more equitable division of caregiving responsibilities between fathers and mothers. In this context, fathers' participation from the early stages of a child's life is no longer considered merely an additional role. A father's presence before and after childbirth plays a role in the mother's mental health. This participation also impacts the quality of care and the child's psychosocial development. Stronger and more supportive family relationships are among the positive outcomes of father involvement. This situation makes the issue of paternity leave a crucial element in discussions regarding the protection of family rights in the employment sector.

From a human rights perspective, recognizing fathers' contributions is closely linked to the principles of non-discrimination and gender equality in the employment context. The right to form a family and the protection of family life are fundamental rights protected by the 1945 Constitution of the Republic of Indonesia. This protection affirms that the state must protect the family as a social unit. This constitutional support is reinforced by various international human rights instruments ratified by Indonesia. One important instrument is the International Covenant on Economic, Social, and Cultural Rights (ICESCR). This instrument underscores the state's responsibility to create working conditions that enable workers to fulfill their roles within the family well. The principle of work-family balance is part of the social rights that must be fulfilled. Employment policies that are sensitive to changing gender roles reflect the normative implications of this principle.

Despite constitutional and international protection, the labor law framework in Indonesia does not fully reflect current social realities. Provisions regarding leave for male workers are still considered short-term, administrative permits. This approach indicates that paternity leave is not yet recognized as an independent right. Existing norms emphasize formal aspects rather than substantive protection. Limitations on the duration of leave hinder fathers' involvement in the early stages of childcare. Uncertainty regarding the implementation of leave also places male workers in a vulnerable position within the employment context. This practice has the potential to perpetuate the unequal division of domestic roles. This situation demonstrates a gap between social development and the normative construction of applicable labor law.

Historically, the regulation of paternity leave in Indonesian labor law originated with Law Number 13 of 2003 concerning Manpower. This law categorizes a man's right to leave upon the birth of his wife as essential leave. The amount of leave granted is very limited and not intended to optimally support early parenting. This structure reflects a conservative view of the division of gender roles within the family. Childcare responsibilities are considered primarily women's responsibilities. Several legal studies indicate that this approach contributes to low father involvement. Another impact is the reinforcement of gender stereotypes in work and family relationships. Such legal provisions tend to perpetuate structural inequities in the workplace.

Comparative studies show that many countries have adopted more progressive parental leave policies. Paternity leave is considered an individual right that cannot be transferred to the mother. Countries such as Scandinavia are examples of the implementation of this policy. Paternity leave is provided for a sufficient period and is accompanied by income guarantees. This policy encourages fathers to be more actively involved in childcare. Paternal involvement plays a role in creating a more balanced division of household responsibilities. An additional effect is seen in reducing the gender gap in the workforce. This regulation is interpreted as an element within the welfare state agenda and human rights protection.

Based on the above conditions, this study formulates issues regarding the regulation and implementation of paternity leave rights for male workers. The study focuses on the labor legal framework in Indonesia following the enactment of Law Number 4 of 2024 concerning the Welfare of Mothers and Children. This study also evaluates these provisions from a

human rights perspective. Paternity leave is understood as a legal issue related to employment relations and family rights. This perspective emphasizes the importance of gender equality in the analysis. The quality of legal protection is a primary priority in this study. The evaluation focuses on the content of the norms and their impact on male workers. The approach used allows for a more in-depth review of the state's role in fulfilling social rights. The purpose of this study is to analyze the position of paternity leave rights in Indonesian labor law. This study examines their compatibility with applicable human rights principles. Comparisons are made with the existing labor legal system. The aspect of protecting family rights is the primary focus of this study. Gender equality is considered an important benchmark in human rights protection. The state's responsibility for ensuring workers' welfare is also analyzed. This approach positions law as a dynamic tool for protecting human rights.

II. RESEARCH METHODS

This study employs a normative legal research method that focuses on the study of applicable legal norms, particularly regarding paternity leave rights for male workers. The normative legal research method was chosen because the issues analyzed relate to statutory regulations, human rights principles, and the concept of legal protection for family rights in the context of employment relationships. This research does not focus on collecting empirical data in the field, but rather on analyzing the legal norm system with the aim of evaluating the consistency, adequacy, and relevance of paternity leave regulations in Indonesian labor law, particularly following the enactment of Law Number 4 of 2024 concerning the Welfare of Mothers and Children (hereinafter referred to as Law No. 4 of 2024).

The approaches used in this research include both a statutory and a conceptual approach. The statutory approach is applied to analyze and compare paternity leave regulations in Law Number 13 of 2003 concerning Manpower (hereinafter referred to as Law No. 13 of 2003), Law Number 4 of 2024, and other relevant regulations. Meanwhile, the conceptual approach aims to explore ideas regarding human rights, family rights, gender equality, and workers' welfare rights related to paternity leave rights. These two approaches complement each other in assessing whether legal norms substantially reflect human rights principles.

The sources and types of legal materials used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations, such as the 1945 Constitution of the Republic of Indonesia, Law No. 13 of 2003, Law No. 4 of 2024, and international human rights instruments ratified by Indonesia. Secondary legal materials include legal textbooks, scientific journal articles, research results, and publications from international institutions discussing paternity leave, human rights, and labor law. Tertiary legal materials, in the form of legal dictionaries and encyclopedias, are used to clarify specific legal terms and concepts. The legal material collection technique is carried out through library research, which involves systematic searches of relevant print and electronic sources. The legal analysis technique used in this study is normative analysis, which involves inventorying, classifying, and interpreting legal materials in accordance with the research problem. The analysis is conducted through legal reasoning using a deductive method, drawing conclusions from general norms to their application in the specific context of paternity leave rights. The collected legal materials are systematically analyzed to assess the conformity between positive legal regulations and human rights principles, as well as to identify the strengths and weaknesses of paternity leave regulations in Indonesian labor law.

III. RESEARCH RESULTS

The regulation of paternity leave rights within the Indonesian labor law framework exhibits limited and minimalistic protection. Research into legal sources indicates that paternity leave has not been accepted as an independent parental right, equivalent to maternal leave. Existing regulations instead position paternity leave as an adjunct to family events, rather than as part of workers' social rights. This thinking reflects a long-standing view in labor law that focuses solely on productivity. The father's role in the household is still considered less important than the mother's. Meanwhile, changes in modern family structures require more flexible legal recognition. This discrepancy between social conditions and normative regulations highlights the issue of paternity leave within the human rights sphere.

Prior to the enactment of Law No. 4 of 2024, regulations regarding paternity leave were only indirectly included in Law No. 13 of 2003, specifically in Article 93 paragraph (2) letter c of Law No. 13 of 2003. The right to leave for men was listed as "leave for important reasons" and only valid for a very limited period. These provisions do not provide sufficient opportunities for fathers to play an active role at the birth of a child. These regulations also

lack protection against potential discrimination in the workplace. As a result, many male workers hesitate to exercise their right to leave. This phenomenon reflects the lack of legal recognition of fathers' position within the family. These merely symbolic regulations subordinate family interests to the priority of the employment relationship.

Article 6 of Law Number 4 of 2024 brought significant change with the introduction of paternal companion leave as an aspect of welfare policy for mothers and children. This regulation demonstrates the government's official recognition of the importance of fathers' roles in supporting maternal and child health. This provision also marks a shift in thinking from an individual approach to a family-based approach. However, the substance of the regulation still raises issues due to the relatively short duration of the leave. Furthermore, the regulation is not yet equipped with an adequate oversight mechanism. In practice, the implementation of companion leave remains highly dependent on individual company policies. This situation illustrates the gap between normative recognition and the effectiveness of legal protection.

From a human rights perspective, restrictions on paternity leave regulations are closely linked to the principles of gender equality and the prohibition of discrimination. The right to have a family is a fundamental right recognized by many international human rights documents, particularly those of the International Labour Organization (ILO). When countries provide few opportunities for fathers to engage in early childcare, it creates gender-based inequities. Women indirectly bear a greater burden of caregiving responsibilities. Men are hampered by a legal system that does not support their role at home. This situation demonstrates the gender bias embedded in legal norms. In the realm of human rights, this situation has the potential to violate the principle of substantial equality.

The right to fair and decent work is inseparable from the right to a balanced family life. The International Labour Organization (ILO) emphasizes the importance of a balance between work and family as part of the right to social welfare. Minimal paternity leave arrangements force men to choose between work and family responsibilities. The pressures resulting from this structure negatively impact the quality of family life and the mental health of workers, particularly men. Labor law should serve as a protective tool, not a source of dilemmas and anxiety for male workers. Fair employment relationships should enable

workers to fully fulfill their social roles. This view emphasizes that paternity leave is a human rights issue, not simply an administrative measure.

Limitations in paternity leave arrangements also influence social views regarding gender roles within the family. Legal regulations that do not support the active participation of fathers reinforce the view that women should be responsible for childcare. This view has direct consequences for inequality in the employment sector. Women often face obstacles in their careers due to the burden of caregiving. Conversely, men lose the opportunity to forge deeper emotional bonds with their children. From a human rights perspective, gender-based restrictions contradict the principle of substantial equality. Such legal regulations exacerbate structural inequalities in the work-family relationship.

Research on paternity leave arrangements demonstrates a strong link to welfare rights theory. This theory considers social rights as part of the state's responsibility to ensure the well-being of its citizens. Parental leave, including paternity leave, serves as a tool to ensure the well-functioning of families. When the state restricts the duration and access to leave for fathers, the quality of fulfillment of family welfare rights is diminished. From a welfare rights perspective, the state is considered the primary entity responsible for creating a balance between work and family life. This analysis shows that minimal protection is inconsistent with the principles of a welfare state.

In addition to welfare rights, the concept of substantive equality in human rights is also crucial in assessing paternity leave. Substantive equality requires not only formal equal treatment but also policies that address structural inequities. In the case of paternity leave, substantive equality requires regulations that provide real opportunities for fathers. Minimal provisions are insufficient to change unfair gender dynamics. Legal norms should serve as a vehicle for social change. Paternity leave policies in Indonesia remain limited to formal equality. Strengthening norms is needed to achieve the goal of substantive equality.

Previous studies around the world have shown that adequate paternity leave plays a role in improving the balance between work and family life. In countries like Sweden, with long, non-transferable paternity leave policies, father participation is higher. This study also links paternity leave with improved maternal mental health and better child development. These findings can be used as a comparison to the situation in Indonesia. This comparison indicates that national policies are lagging behind. This lag underscores the need for more progressive

legal changes. International human rights standards serve as a significant reference in this process.

Unlike previous studies, which tended to be descriptive or comparative, this study establishes Law No. 4 of 2024 as the focus of the normative evaluation. It not only detects changes in norms but also analyzes their legal meaning. Law No. 4 of 2024 is seen as a benchmark for the direction of public policy in protecting families. This approach provides an opportunity for a more in-depth analysis of the state's commitment to human rights. New norms are evaluated not only based on their existence but also on the quality of their protection. This position brings new analytical contributions to the study of labor law. This perspective also enriches academic thought.

The results reveal that despite progress in norms, the substance of paternity leave regulations remains inconsistent with global human rights standards. The short duration of leave reflects a low level of protection provided. Weak implementation guarantees increase the risk of rights violations. Symbolic norms are potentially ineffective in driving social change. In the context of human rights, the effectiveness of norms is a key indicator of a state's fulfillment of obligations. The discrepancy between norms and practice indicates the need for an evaluation of existing policies. This analysis emphasizes the importance of a substantive approach to lawmaking.

The researchers in this discussion present a key argument that paternity leave should be considered a fundamental human right. This right is closely related to the right to family and the principle of gender equality. If paternity leave is considered merely an additional benefit, the meaning of this right is diminished. From a human rights perspective, paternity leave should be recognized as part of the social rights enjoyed by workers. This right is part of workers' status as citizens. This argument broadens understanding of the relationship between labor law and human rights. This approach strengthens the normative basis for demands for legal reform.

The academic contribution of this research lies in shifting the analytical focus from the existence of norms to the quality of rights protection. This research systematically integrates a human rights perspective into labor law studies. This approach fills a gap in research that previously separated labor issues from family rights. This integration enriches national legal discussions. This research also provides an evaluative framework for policymakers. This

contribution is relevant in developing just laws. This position emphasizes the importance of an interdisciplinary approach.

This research also contributes methodologically through the collaboration of normative analysis and human rights theory. This approach allows for more in-depth legal evaluation. The analysis focuses not only on legal texts but also considers their social impact. This methodology is highly relevant for examining legal issues related to social issues. The incorporation of welfare rights theory further strengthens existing normative arguments. This approach creates opportunities for more in-depth study. This methodological contribution is key to the development of legal science. This method enriches legal analysis in Indonesia.

This discussion demonstrates that paternity leave is a key indicator in assessing the extent to which the law supports family and gender equality. Strengthening paternity leave regulations has a broad impact on the social order. A human rights perspective provides a comprehensive evaluation framework. This study connects legal norms, human rights theory, and social conditions in an integrated manner. The academic value of this discussion lies in its ability to provide a new normative perspective. This approach encourages more open and inclusive legal reform. This study creates opportunities for further research in the fields of labor law and human rights.

IV. CONCLUSION

Based on a normative review of paternity leave regulations in Indonesian labor law, this study concludes that legal protection for male fathers has not fully embraced human rights principles. The issues surrounding the regulation and implementation of paternity leave, along with its evaluation from a human rights perspective, indicate that prior to the enactment of Law No. 4 of 2024, this right was viewed as a temporary and administrative work permit, not a parental right. While Article 6 of Law No. 4 of 2024 does represent formal state recognition of the role of fathers in the context of maternal and child welfare, its regulatory aspects remain inadequate to provide adequate legal protection. The limited duration of leave and the lack of robust protection mechanisms indicate that paternity leave has not been recognized as an essential component of the right to family life and the right to fair treatment in employment. From a human rights perspective, this situation illustrates that the principles of gender equality and non-discrimination are still substantially unfulfilled in labor law. Theoretically, the findings reinforce the importance of the concepts of welfare rights and

substantive equality as a basis for evaluating parental leave policies. Practically, the results of this study demonstrate that strengthening paternity leave norms is essential so that legal regulations do not simply rely on formal recognition but also ensure fathers' active participation in family life. This conclusion suggests that labor law reform from a human rights perspective still requires further development to ensure paternity leave truly functions as a worker and family right protected by the state.

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