

The Implementation of Nature Law on Human Rights Law of Women Economic Workers

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ABSTRACT

Discrimination based on sex attempted to lost, however still only happens major differences between men and women in this case: common employment opportunities, wages, and legal protection. Women as workers, citizens, and as the living God has the rights and obligations, and also the same opportunities with men, in terms of the work, including parallels the wages and benefits, removal action firing workers because of pregnancy or because of the status of marriage, can be categorized as actions that violate human rights, while Indonesia has ratified the rules of his nature recognize the position of the labor law women so it expected discrimination can be removed mostly reduced so that it does not happen again discrimination against women workers.

Key Words: equality, work, law, and gender

INTRODUCTION

Along with the development of the era, the level of education, the progress of science and technology, equal of rights between men and women is a reality in all sectors of life. Discrimination based on sex attempted to lost, however still only happens major differences between men and women in this case : common employment opportunities, wages, and legal protection (Julie Mertus, 2009). The discriminatory treatment is still ongoing, get a long time to take care of the household and children, various needs of the husband is not counted as any work that is something donations for the domestic economy. The husband and family members can produce money and recorded in the statistics, while women because her work allows the husband and sons of work considered her work was not "Work". But without the help of a woman it is impossible for the husband and the children can go to school and work with good. In other thing also considered an imbalance is the son as the elders guarantee, and daughter as not guarantee (Tapi O. Ihromi, 2005), so that education for the son is greater than the daughter.

DISCUSSION

A. Labor Issues Assessment

Issues that often accompany women workers in Indonesia, when classified as : problems before working, working time, and after working. Constitutionally, the principle of *equality before law* applies to all people, both men and women, (T. Mulya Lubis) so also provisions in the constitution where every citizen has the same position in the law (Mari, 1997) so that it can be concluded that every person is entitled to be treated on equal treatment as the equivalent, (Scot Davidson, 1994) in other words equal and not different, as what was said by Dworkin that everyone must be treated with respect and the same attention. In line with the above opinion John Rawls holds that there is a common conception of justice and equality stating that all primary social needs such as freedom and opportunity, income and wealth should be distributed evenly. He acknowledged the diversity in the talent and the same capabilities must get the same opportunity to get the same lot, even though they are different in terms of race gender and social and economic level (Ratna M., 1999). The focus of our conception of the contextual equality is to give attention and honor to every man, while the given treatment is adjusted with the context of each individual (Sri W., 1998).

According to Komariah Emong Sapardjaja (2002) that women entitled to enjoy and get the protection of human rights as human rights and freedom of human rights as the man in all fields, among others : right on the livelihoods and life; rights to equality with men; the right to freedom and personal security; the rights over the same protection in advance of the law; the right to be free from all forms of discrimination, and the right to get physical and mental health services ideally; rights to work and good working conditions and the right not to suffer persecution or cruelty, treatment or torture is inhuman and arbitrary; and others.

Regarding the protection of Labor woman also stated that the guarantee of rights and livelihood that worthy as listed in the Article 27 of the Constitution, actually also can be seen in the Article 25 paragraph (1) and (2) Declaration of Human Rights in 1948, reads :

- (1) Everyone has the right to the level of life that ensures the health and good condition by himself and his family including the food, clothing, housing and health care and social efforts are required and entitled to guarantee at the time of the experience of unemployment, widows, elderly or lacked provision others because the situation outside his dominion.
- (2) Mothers and children get eligible for the maintenance of the special assistance. All children born both inside and outside the marriage, must have the same social protection.

In ILO conventions Number 100 Years 1951 has been ratified by Law Number 7 Year 1984 about the approval of the Convention on the elimination of all forms of discrimination against women (convention of the elimination of all forms of discrimination against woman) carried out in the general Council of the PBB assembly on December 18 1979, this convention respied remember that discrimination against women violated the principles of equal rights and respect for the dignity of man. Is an obstacle to the participation of women on the basis of equality with men in political life, social, economic and cultural as countries which ratified the convention and Indonesia condemned discrimination against women. Next, women workers have the same rights and opportunities in the office, and profession as well as in getting the facilities and work suggestions as a form of active participation in development that have contributed to the economic growth. The demands of wage equation for the same job are the economic rights of women. (Ratna S., 1997).

B. An Instrument of Common Employment Opportunities

Similarities in the facilities include : social security, the protection of health and safety. Social security is one of the facilities given in a concept that have characteristics, as follows :

1. Funded by the contribution that is usually divided between employers and workers;
2. The participation is required except with the specific reason;
3. The contribution collected in a special fund it guarantees payable;
4. More funds that not used are invested in order to get an additional income;
5. The right of a person to guarantee protected by his contribution without the existence of checking the needs or means;
6. The greatness of the contribution or warranty based on what and who the corresponding;
7. Usually accident warranty program funded by the employer with the possibility of assistance from the government transferred from the general revenues.

In view of the data of Jamsostek participants listed does not be detail towards how many are men and women that could not be traced how the number of women workers who participate as participants of Astek. Thus, discriminatory treatment happened to employment of women in this participation in social security, because women workers (already married) treated as single women so that the company does not need to give the allowance for the health of the family, which resulted in the difference in the number of accepted wages, nor in giving retirement age which gives discrimination where a women worker can ask in the early retirement age 40 years.

The rights of Health and Safety Rights are also fundamental rights for workers (Saparinah, 2001), because the work that does not pay attention to the aspects of health can cause consequences for workers, like the tools in her work which cause diseases such as in the case of ear damage, eyes can even endanger the life of the workers.

There is also the problem of overtime that can cause physical burden, as overtime by pregnant women cause danger for the health of the fetus infant and mother. The gap between the treatment of women and men workers due to public policy that less good, economic factors and cultural factors. In

fact (de facto) in the field of life and development, when observed from the gender, there are gaps and gender inequity.

C. The Dynamics of Equality and Gender Theories

Constitutionally, there was no difference between men and women both have the same position in advance of the law and the government. The convention of Women emphasizes the equality and justice between men and women (equality dan and equity) namely equal rights and opportunities and equal treatment in all areas and all activities. (Achie SL., 2007) The challenges on the Inequality inherent in the understanding of Human Rights, which bore postulat is all human beings have equal rights which stick to himself. Gender differences including general and prohibited on discrimination.

The women convention was based on the principles, as follows : a) equity toward substantive equality; b) the principle of non-discrimination between women and men; c) principle of state obligation.

- a) On equity, means the right to the same with male the implications of this opinion that women should be treated in accordance with the standard male, this felt not just because of the recognized biological differences, the nature of women compared with the difference based on gender is a social construction. But also acknowledged that not only the biological factors that cause the differences between men and women but cultural factors, where this culture will interact with biological factors and become institutionalised.
- b.) The Principle of Non-discrimination in Article 1 The Convention Cedaw, said that for the purpose of the convention is now the term discrimination against women means that every differentiation, exclusion or limitation is made on the basis of gender that has the purpose or effect to reduce or eliminate the recognition, imputes or the use of human rights or freedom of the freedom of the subject in the field of political, economic, social civilian culture or any other by women regardless of the status of their marriage on the basis of the similarities between men and women.
- c) The Principle of the obligation of the state, listed in the provisions of Article 2 of CEDAW, namely : In the pursuit of progress to eliminate the discrimination against women there are 7 state obligations as follows : **First**, enter and enforce the basis of equality of men and women in the constitution and national legislation that right. **Second**, take legislative measures that right and prohibits all forms of discrimination against women including enforce the punishment for sanctions. **Third**, form a legal protection for the rights of women with men for the implementation of effective protection for the actions of any discrimination and insuring them through the national court authorities. **Fourth**, rein works or practice of discrimination against women and ensure the government authorities and institutions of the government to act in accordance with this obligation. **Fifth**, take all appropriate measures to eliminate discrimination against women by each of the company organization, **sixth**, took the right steps to reduce or eliminate the laws, regulations, customs and practices of discrimination against women. **Seventh**, revoke all provisions of national law which is the discrimination against women.

The classical Western political thinkers such as Plato and Aristotle and their theories about the growth and importance of the modern state system such as Thomas Hobbes and John Locke, often does not discuss about gender issues in the theory of that time (Classical western political thinkers, such as Plato and Aristotle, and those theorising to development and meaning of the modern state system, such as Hobbes and Locke, didn't ignore gender in the ways that contemporary theorists often do), (Jan, 1996) only in his theory, he distinguishes that the man was superior and woman is inferior. Suwarni, (1994) tells about the genuine mithos undermining the kinship system that makes a covenant father line political rule of men and the rules of gender as a group that is higher than the group of women. The contract is not solely viewed from the side of the women but reviewed from the exception. This was built on the right of a natural woman (Carole Pateman's retelling of the nyth of origin [1988] sees the overthrow of the despotic fathers through a fraternal contract establishing the political rule of [elite] men and the gender rule of men of men as a group over women as a group. This contrac did not simply overlook women, but was constituted on the basis of their exlusion). In the literature of women studies often used the term of gender namely the situation where the individual born biologically as men and women through the attributes of masculinity and femininity has been transformed both are often

supported by the values of the system or the symbol of the corresponding community, in the movement of the women there are 3 main approach.

1. *Radical feminism*

The structure of the society based on the relationship hierarchies based on sex, male dominated the women because the benefits from the existence of the subordination of women. The spotlight is two main concepts are namely patriarchal and sexuality.

2. *Liberal feminism*

The important view is every man and woman has the right to develop the ability and its rationale optimally. There is no institution that can be claimed that right and the state intervention that is expected to ensure that the right is accomplished. Sexual discrimination in the sense of limitation of the possibility of developing ability is transgression. Basically the rights of women are human rights, regardless of the particularities of the culture of religious teaching and the level of development of women in the entire world right to enjoy human rights.

3. *Socialist feminism*

In this Socialist Feminism mentioned about the nexus between the domination of the male and the process of capitalism, so that more noted about work biodiversity and patriarchal forms of sexual division of labor because both this cannot be removed from the community production mode.

The gender equality does not mean that women should be the same as the man. Gender Equality means that the opportunity and their rights is not dependent on whether the biological women and men enjoy the same status, located in the condition and the same opportunity to be able to realize its potential as human rights optimally. (Saparinah, 2001).

E. The Theory of Nature and Godhead Laws

It is used the theory of the law of nature in explaining the understanding of human rights, due to the Human Rights (human rights or the rights of man known in the beginning is probably products nature law. While the teaching of the law of nature can be seen from its appearance both in ancient times (Hammurabi) from Babylonia around twenty centuries BCE until on modern sects that appears mid-century with future philosophers. Hammurabi is known as a king that eliminate the contradiction and uphold the rule of his people. Various laws while making it known as "the Code of Hammurabi", and he vilified as ..the king of justice, and to lead his people with justice. In addition when viewed from the philosophy of the law (ontology), the oldest law is the law of nature as the law inherent in all things with the meaning before the country is the law already exists. because the law is not merely a country product, but the state is built on the basis of the law (constitution). So it is not surprising when there is the view of the theory of the law the law of nature is seen as a law of the highest superior).

Based on the explanation above, there are several views of the experts in the law that supports the theory of the law of nature or the right in understanding the concept of Human Rights, especially adherents understand the law of nature such as Hugo de Groot (Grotius), John Locke and Thomas Aquinas. The natural rights developed contains the seeds of the idea that every person is the individual autonomous region. By large numbers in the explain this kodrati rights author try quoting the opinion of John Locke, about natural rights, in addition to the views of other legal experts such as Scott Davidson. Then the views of the law of nature of mempostulatkan thomistik that the law of nature is a part of the law of the Lord is perfect that can be known through reason man.

A view that explained that throughout the twentieth century to 17 law of nature continuously enhanced and then turned into the nature right. Through this theory, the rights of the individual subjective recognized. The supporters of the doctrine of the nature rights is John Locke who argued that all individuals imbued by nature, inherent rights over the life, liberty and wealth which is their own and cannot be moved or revoked by the state. (J.C. Smith, David N, Weisstub, 1992)

From the point of view of this nature rights John Locke explained there are two things that the individual is autonomous creatures are able to elect, both the validity of the government is not only dependent on the will of the people but also on the willingness and ability of the government to protect the rights of the natural individual. In regard to this John Locke only reveals the theory that actually for the first time expressed by the Stoic presented by Zeno in the days of the ancient Greeks and then at the time of the Roman Empire defended by Cicero.

Then John Locke explains in natural conditions (state of nature) man has the rights of nature that cannot be bothered, namely the right to life, free rights, property rights and the rights of happiness. Different with Hobbes who proposed in the state of nature there is such a situation of the jungle

wilderness, then according to John Locke in the state of nature there is a situation that is safe, peace and mutual understanding between individuals. In this situation man has the rights as given by the nature of nature to him. The rights of the individual to whom by nature, inherent rights over the life, liberty and wealth which is the right of their own and cannot be moved or revoked by the state. (Mariam, 1991).

CONCLUSION

Based on the explanation above, problems that often accompany of women workers in Indonesia, if classified it can be divided into the problem : before working, on the work, and time after work.

The Problem before the work (prae employment problem) problems that often appear, for example the limited job opportunities to man. Additional requirement than men and society views against women workers. The Problem during the work (during employment problem). The problem that appears, for example the difference treatment by men work is limited career or positions which clashed with its function as a wife as well as the mother (dual function). The Problem after work (post employment problem) issues that may arise are retirement age early from men and its problems women face other old time.

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