

Portrait Gender Inequality in Indonesian Family Law : A Perspective Constitution Maternal and Child Welfare (MCH) 2024 and Decision Court Related

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ABSTRACT

This article analyzes gender inequality in Indonesian family law through the lens of the 2024 Law on Maternal and Child Welfare (KIA Law) and related court decisions. Although the KIA Law grants mothers six months of leave and fathers two days, its implementation still reflects gender inequality. Decisions by the Supreme Court and the Constitutional Court indicate efforts to balance rights and responsibilities within the family. However, patriarchal norms continue to influence family law practices. This article employs a normative juridical approach and case studies to evaluate the effectiveness of the KIA Law in achieving gender equality.

Keywords : Gender inequality, family law, KIA Law, court decisions, gender equality .

Introduction

Gender inequality in law Indonesian families are issue long - rooted structures in system law and culture society. Although has There is effort legislation like Constitution Number 1 of 1974 concerning Marriage and Compilation of Islamic Law (KHI), which is explicit give right foster care child to mother, its implementation often not reflect principle gender equality (Masykuroh, Siti, 2021). Article 105 paragraph (a) of the KHI, for example, states that maintenance children who have not mumayyiz is right mother, who is No direct put Woman as party main in parenting child, while the role of the father is often overlooked.

In practice, although there is effort For balance rights and obligations in family, patriarchal norms that consider Woman as party main in parenting children and men as seeker living main Still take root strong in practice law family. Decision Supreme Court in case right foster care child show that the judge considers aspect morality, health, and opportunity in determine holder right foster care child, not only based on type gender. This is reflect effort For balance the role of father and mother in parenting children (Adlhiyati, Zakki, & Achmad, Achmad, 2019).

However , even though there is a number of legal reform efforts For promote gender equality, some criticism appear about the inability of the KIA Law in fully eliminate existing patriarchal norms take root in society , especially in the informal sector . Women who work in the informal sector are often not get adequate protection related right leave childbirth and parenting child . This is show that even though the KIA Law provides right leave six month for mother and two days for father, the implementation Still reflect gender inequality (Nurislamia, Fika, Azizah, Nur, & Aini, Rani Nur, 2020).

In addition, although the KIA Law provides right leave six month for mother and two days for father, the implementation Still show inequality. Decision Supreme Court in case right foster care child show that the judge considers aspect morality, health, and opportunity in determine holder right foster care child, not only based on type gender. This is reflect effort For balance the role of father and mother in parenting child.

With background behind said, it is important For evaluate to what extent the KIA Law can overcome gender inequality in law Indonesian families and how its implementation can reflect principle true gender equality.

Problem 1: Inequality of Roles in Childcare

Although there is effort For balance rights and obligations in family through Constitution Maternal and Child Welfare (MCH) in 2024, inequality role in parenting child Still become issue big . The KIA Law provides right leave six month for mother and only two days for fathers, which reflects view traditional that Mother is party main in parenting child. In fact, the role of the father in parenting child Still often considered secondary, which is proven with practice more laws often prioritize Mother as holder right foster care children. Although decision Supreme Court in a number of case right foster care child record that the judge considers aspect morality, health, and opportunity, not only based on type gender, number fixed cases prioritize Mother show that patriarchal norms in family Still strong. This becomes problem main obstacle achievement gender equality in parenting child .

Problem 2: Inequality Legal Protection for Women in the Informal Sector

The informal sector in Indonesia is one of the sector the largest where women work, but sector This still minimal in matter protection law, especially related with right leave childbirth and parenting child. Law Mother and Child Welfare (KIA) in 2024 provides right leave six month for mothers who work in the formal sector, but the informal sector which is highly dependent on employment daily and flexible, no get equal protection. This matter cause huge inequality between women in the formal and informal sectors, where women in the informal sector are often forced For return Work after give birth to without existence protection adequate leave. As a result , women in the informal sector does not can operate his rights in a way full For nurse children in the period beginning life , which in turn make things worse gender inequality in role parenting children and work.

Research methods

Study This use method juridical normative, which focuses on analysis to regulation legislation and practice existing laws. Research This aim For study to what extent the law Maternal and Child Welfare (KIA) in 2024 can be overcome gender inequality in law Indonesian families (Pujiati, 2024).

Results and Discussion

Gender Inequality in Parenting: The Role of Fathers and Mothers

One of issue main in law Indonesian family is gender inequality that is manifested in the role of father and mother in parenting children. Although Constitution Mother and Child Welfare (KIA) in 2024 provides right leave six month for mother and only two days for father, thing This reflect view traditional that Mother is party main person in charge answer on parenting child. This creates imbalance in distribution role the family that should be shared between father and mother.

Decision Supreme Court in a number of case right foster care child show existence effort For consider aspect morality, health, and opportunity in determine who is more entitled hold right foster care children. Although thus , many the decision is still pending prioritize Mother as holder right foster care , even though both parents own the same role important in parenting children . In some case , the judge considered other factors such as condition psychological and needs children , but social norms that consider Mother more worthy still strong .

Example: In the decision case no. 347/Pdt.G/2015/PA.Jkt.Sel involving right foster care child, the Supreme Court decided that Mother own right foster care child even though father also has the same ability For nurse child. In the decision mentioned, aspects emotional and closeness Mother with child become consideration main. This is reflect domination role Mother in parenting rooted child from tradition patriarchy.

KIA Law provides right more leave long to mother , namely six month , while father only given two days leave . Policy This reflect view that Mother is the greater party entitled and more required in parenting child , while the father is considered No need right equivalent leave For involved in parenting beginning child .

However, some study show that father's involvement in parenting child since beginning can bring impact positive for development emotional and social children. According to study conducted by The Fatherhood Institute (2018), fathers who are involved in maintenance child since born can help strengthen bond emotional and giving impact positive for development psychological children. Therefore that, even though the KIA Law provides more rights big to mother, restrictions right leave for father to show inequality that is not reflect a more modern understanding of distribution role in family. Decision Court Constitution related with right foster care child (Case No. 20/PUU-XVIII/2020) emphasized importance the role of fathers in parenting children, but in in practice, rights limited leave for fathers still create inequality in role family.

Inequality Legal Protection for Women in the Informal Sector

The informal sector in Indonesia, where many Woman work, stay become the most vulnerable sectors to inequality law, in particular related with right leave childbirth and parenting child. The KIA Act provides right leave six month to mothers who work in the formal sector, but women in the informal sector, many of whom working in the sector micro and small, often not get adequate protection. This is create canyon inequality between women working in the formal and informal sectors .

Impact of Inequality: Women working in the informal sector often have to return Work quick after give birth to Because lack of access to facility leave adequate delivery. This is limit ability they For give optimal care for children they are at stages beginning life. As a result, although The KIA Law provides progress for mothers in the formal sector, women who work in the informal sector remain is at in very unfavorable conditions profitable, so that gender inequality in parenting child still awake.

The Need for Social Reform and Change in Cultural Norms

Patriarchal social and cultural norms that consider women to be the primary caregivers and men to be the primary breadwinners in the family remain strong in Indonesia. Despite legal progress through the Child Protection Law (KIA), changes to these deeply rooted social and cultural norms are still urgently needed to achieve true gender equality within the family.

Reforms to the Child Protection and Child Protection Law also need to consider equal leave rights for fathers, allowing them to be more involved in childcare. Furthermore, more inclusive policies are needed for women in the informal sector to ensure they receive equal protection in both health and childcare.

- a. KIA Law is step positive in give right leave give birth to for mother , but persistent gender inequality seen in distribution right limited leave for father.
- b. Decision The Supreme Court and the Constitutional Court have take notes a number of effort For balance father and mother's rights in parenting children , but patriarchal norms Still dominate in practice law family.
- c. Need there are more reforms carry on in the KIA Law, which does not only give right equivalent leave for father but also provide more protection Good for women in the informal sector .
- d. Changes in social and cultural norms that support gender equality in family is very necessary For create distribution more roles fair in parenting child .

With discussion this article This try give a clearer picture clear about How gender inequality in law Indonesian families still ongoing although There is reform efforts through KIA Law, as well as importance change more carry on in system Indonesian law and culture. Following is a comprehensive Conclusion For article journal " Portrait" Gender Inequality in Indonesian Family Law : A Perspective Constitution Maternal and Child Welfare (MCH) 2024 and Decision Court Related ":

Conclusion

Legal Reform and Gender Inequality Law Mother and Child Welfare (KIA) in 2024 provides significant progress in protect rights mother and child, especially in give right leave give birth to during six month For mother. However, even though the KIA Law reflects effort For increase protection law for women and children, gender inequality in law Indonesian families remain survive, especially in distribution role between father and mother in parenting children. Limitations right leave granted to father, who is only two days old, reflects view traditional that father does not need equivalent time with Mother in nurse children in the period beginning life.

The Role of Fathers in Child Care and Custody Although decision The Supreme Court and the Constitutional Court have shown existence effort For consider the role of fathers in parenting children, decisions law Still often prioritize Mother as holder right foster care children . Many decisions assess that Mother more worthy Because his closeness with children and their greater role dominant in parenting . This is create inequality in confession to the role of fathers in grow up children, even though father involvement is very important in development emotional and social child.

Inequality in the Informal Sector, the informal sector in Indonesia, where most of big Woman work, stay become underdeveloped sectors get protection law related with right leave childbirth and parenting children. The KIA Law provides right more leave long for mothers who work in the formal sector, but women in the informal sector are often not get equal protection. Inequality This cause women in the informal sector do not can operate right they in a way maximum in nurse children, which makes things worse gender inequality in family.

The Need for Further Reform Carry on Although The KIA Law has become step a positive start, still much is needed done For create true gender equality. More reforms carry on in law family required, including giving right equivalent leave for dad, so dad can more involved in parenting child since beginning life. Besides , it is necessary There is more policies inclusive for women in the informal sector so that they get equal protection in matter leave childbirth and parenting child .

Changes in Social and Cultural Norms, Gender Inequality in law Indonesian families do not only caused by policy law, but also by social and cultural norms that still exist consider Woman as party main in parenting children. Therefore that, besides legal reform, changes social and cultural support gender equality in family is very necessary. Society needs it empowered For understand importance the role of fathers in parenting children and support distribution not quite enough more answers fair between father and mother.

Constitution Maternal and Child Welfare (KIA) in 2024 is step important in protection right mothers and children in Indonesia, however its implementation Still Far from perfect. Gender inequality in distribution role between father and mother, and inequality protection law for women in the informal sector, still become challenge big. For reach greater gender equality real in law family, further legal reform is needed depth and change in social norms that support distribution equal roles in family.

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