



## Legal Aspects Of Female Workers At Night Entertainment

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### ABSTRACT

*The development of human life that lived in the millennial era and entered the Industrial Revolution resulted in night entertainment such as clubs and Discos is currently increasing in number. It is inevitable that nightclubs play an important role in encouraging several economic sectors in the country. The development of nightlife venues as a promising business has made many female workers involved because female workers can attract more customers to enter nightlife venues. Where it has been regulated in Article 76 of Law Number 13 of 2003 on Labor and human resources for women workers.*

### INTRODUCTION

Article 27 paragraph (2) of the 1945 Constitution states that "every citizen has the right to work and decent living for humanity". Furthermore, the NRI Constitution is implemented in Article 5 of Law Number 13 of 2003 on employment which states that "every worker has the opportunity without discrimination to obtain employment". This provision affirms that there is no difference between men and women in obtaining any form of employment provided that he is willing and able to do such work, including working in night entertainment venues.

The existence of nightlife venues today is increasing in number. It is undeniable that nightlife plays an important role as a driver of the economic sector of some circles in this country. The development of nightlife as a promising business, making many women workers involved in it because women workers can attract more customers to enter the nightlife. 1 female workers are part of the workforce, namely workers who have done work, either working for themselves or working in an employment relationship or under the orders of the employer (it can be a person, entrepreneur, legal entity or other entity) and for their services in the work concerned receive wages or benefits in other

forms. In other words, Labor is called a worker / laborer when he performs work in labor relations and under the orders of others by receiving wages or rewards in other forms. Female workers who work at night in entertainment places in the city of palu such as Space Bar, planet Palu (P2), are very vulnerable to indecent acts of visitors to the nightlife. In addition to the lack of good faith shown by the entrepreneur in this case the owner of the nightlife places such as not preparing transportation facilities to shuttle its employees and not preparing food in accordance with laws and regulations.

If viewed from the provisions in Article 76 paragraph (4) of the labor law above, it is clearly determined that employers are required to provide shuttle transportation for workers / women workers who leave and return to work between 23: 00 to 05.00. further provisions on the protection of women workers who work at night are regulated in the decree of the Minister of manpower and Transmigration of the Republic of Indonesia number. KEP-224/MEN/2003 Year 2003 on the obligation of employers who employ workers / women workers between 23.00 to 07.00. In accordance with the provisions of Article 2 Kepmenaker 224/2003, employers who employ women workers between 23.00-07.00 have an obligation to provide nutritious food and beverages.

The definition of nutritious food and drinks is explained in Article 3 Paragraph (1) that nutritious food and drinks must at least meet 1,400 calories and be given during breaks between working hours. This decree of the Minister of manpower and Transmigration not only regulates the provision of nutritious food but also regulates the provision of shuttle transportation facilities, as mentioned in Article 6 (1) of Kepmenaker 224/2003 which states that "employers are obliged to provide shuttle from the place of pick-up to the place of work and vice versa". The implementation of labor legislation is also intended to maintain a balance/harmony of the relationship between the rights and obligations of employers and women workers so that business continuity and peace of work in order to improve work productivity and Labor Welfare can be guaranteed.

## **METHOD**

The research method used in writing this law is a normative juridical approach. Normative juridical approach is a study that uses secondary sources obtained through library materials. This normative legal research usually includes: research on legal principles, research on legal Systematics, research on vertical and horizontal synchronization levels, Comparative Law and legal history. The method of this approach is carried out by studying the legal norms in legislation.

## **RESULTS AND DISCUSSION**

### **A. Legal Aspects Of Night Workers**

The preamble of the Constitution of the Republic of Indonesia year 1945 Paragraph IV, contains the purpose of the state that one of the duties of the Government of the state of Indonesia is to promote the general welfare. In order to realize the general welfare, the Indonesian government conducts national development in all fields, one of which is development in the field of Labor. In the explanation of Article 5 of Law No. 13 of 2003 on Labor affirms that every worker has the same rights and opportunities to obtain employment and decent living regardless of gender, ethnicity, race, religion, and political currents in accordance with the interests and abilities of the workers concerned, including equal treatment of persons with disabilities.

General explanation this law expressly provides protection to women so that they have the same position as men before the law in terms of obtaining a decent life, as well as providing opportunities for women to work in cold fields provided that the

woman does the work according to her talents and desires.

The content of Law No. 13 of 2003 on Labor is a legal umbrella of protection for women to have the same rights in obtaining the desired job and obtaining a decent life. It is also mandated by the Constitution of the Republic of Indonesia year 1945 Article 27 paragraph (2) which states that "every citizen has the right to work and decent living for humanity".

Based on the article, it can be seen that the government gives equal rights to all Indonesian citizens both men and women to get jobs and protection in order to improve their welfare. This provision is emphasized in Article 6 of Law No. 13 of 2003 on employment, that "every worker/laborer is entitled to equal treatment without discrimination from employers". This makes it very clear that employers should not distinguish between male and female workers. Based on the provisions of laws and regulations that prohibit discrimination between male workers and female workers, the government is obliged to provide protection for the fulfillment of workers' rights, especially female workers. This does not mean that women get special treatment but given the nature of women who require women to get special protection related to health, decency, and safety.

Currently the profession that women can choose to earn a living is not only limited to office work with working hours between 09.00 s/d 17.00, there are also some specific jobs that require women to work at night. For example, women who work in nightlife places in the city of Palu such as Space Bar and Planet Palu (P2) which work between 22.00 s/d 05.00 is very vulnerable to indecent acts of visitors to the nightlife. This is exacerbated by the negative views of the community towards women workers who work at night, even though this work is forced to be done because it is a profession.

Employers should also designate pick-up and drop-off locations that are accessible and safe for women workers. In reality (das sein) this rule has not been implemented properly. These workers return home using private vehicles or are picked up by their families. Women workers who work at night are further regulated in the decree of the Minister of manpower and Transmigration number Kep-224/Men/2003 concerning the obligations of employers who employ women workers between 23.00 and 07.00.

In practice the above provisions are not implemented properly by employers in this case the owner of the entertainment venue. The government

has issued legislation that protects the rights of women workers, but the position of women workers as a weak group often leads to arbitrariness on the part of employers. The fulfillment of women workers' rights can run effectively if employers pay attention to the following things :

1. Workers as rights holders can enjoy their rights without any obstacles and interference from any party;
2. Workers as holders of these rights can make demands through adressant legal procedures. In other words, if there are parties that interfere, hinder or do not exercise this right, the worker can sue through the existing legal procedures to realize the right in question.

Legal protection for women workers is very necessary to ensure the rights of women workers in carrying out their work, so that workers will feel safe and have no worries about being treated arbitrarily. The existence of provisions that employers must meet the terms of employment provision of work in accordance with applicable laws and regulations, making employers who do not want to meet the terms of employment intended for employers who employ women workers can be sanctioned in accordance with applicable law, among others sanctions fines, sanctions confinement/imprisonment, sanctions closed business, and others.

In accordance with Article 2 Kepmenaker 224/2003, employers who employ women workers between 23.00-07.00 have obligations, among others:

1. Provide nutritious food and drinks
  - a. These nutritious foods and drinks must at least meet 1,400 calories and be given during breaks between working hours
  - b. Food and drink cannot be replaced with money
  - c. Provision of food and beverages, equipment, and dining room must be appropriate and meet the requirements of Hygiene and sanitation
  - d. Presentation of food and beverage menu provided to workers / laborers should vary
2. Maintain decency and safety during the workplace, by:
  - a. provide security officers at work
  - b. provide a decent bathroom/wc with adequate lighting and separate between female and male workers/laborers
3. Provide shuttle transportation for workers / women workers who leave and return to work between 23.00 to 05.00
  - a. Employers are required to provide a shuttle starting from the place of pick-up to the place of work and vice versa

b. Pick-up is carried out from the place of pick-up to the place of work and vice versa between 23.00 and 05.00

c. Employers should set pick-up and drop-off points at locations that are easily accessible and safe for women workers/laborers

d. The shuttle vehicle must be in proper condition and must be registered with the company.

#### **B. Facts field non - fulfillment of labor rights of women who work at night entertainment venues in the city of Medan**

In practice there are several factors that cause the non-fulfillment of the rights of women workers who work in nightlife venues scattered in the city of Palu are as follows :

a. Lack of knowledge of workers / laborers of their rights that have been guaranteed by law, the number of working population in Indonesia according to the Central Statistics Agency published in 2015 reached 120 million. The number of working population continues to increase from year to year. To protect the rights of workers, the Government sets the basis of its policy in the form of Law No. 13 of 2003 on Labor. It is unfortunate, however, that few workers understand their statutory rights.

b. Lack of awareness of employers regarding the protection of the rights of workers/women workers, employers are basically concerned with the welfare of the company so that the rights of workers/women workers get less attention even though these rights have been regulated in the law, but actually the company knows that workers/workers have rights listed in the law. As it is known that all obligations imposed on employers who employ female labor at night, are expenses for employers, including the provision of nutritious food and beverages, the provision of shuttle facilities, the provision of separate bathrooms/lavatories between men and women, etc., are all sources of expenditure for employers.

While on the other hand the instinct of an entrepreneur is to get the highest profit from the smallest sacrifice. Therefore, all the obligations imposed on him as an entrepreneur who employs female labor at night are perceived by him as something that only harms him, so employers tend to ignore them. The tendency of employers to act like that is also supported by the condition of the workforce who tend not to dare to demand what is their right on the grounds of fear of being fired. This further increases the arrogance of entrepreneurs. There is one principle of the employer about his arbitrariness in hiring women

workers, namely, who wants to accept working conditions as they are, then he can be accepted to work, but who does not want to accept such conditions can quit his job.

#### c. Weak Supervision From The Employment Service

Supervision of the Ministry of Labor provided for in articles 176 to Article 181 of Law Number. 13 of 2003 concerning manpower which states that in order to ensure the implementation of labor arrangements according to this law and other implementing arrangements, a labor supervision system is established, and in the explanation it is also stated that the functions of Labor supervision are as follows :

##### a. Supervise the implementation of legal provisions regarding employment

The legal provisions in question are the legal provisions as mentioned above, namely the laws and regulations that provide for the regulation of legal protection of women workers who work at night. If in the practice of organizing a business, the supervisor finds that the entrepreneur concerned has violated the provisions of the legislation, the supervisor can immediately take action in accordance with applicable law, and the company that committed the violation may be subject to sanctions in accordance with those specified in the legislation.

##### b. Provide technical handling and advice to employers and workers on matters that can ensure the effectiveness of the implementation of labor regulations.

Technical handling in question is in the event of discovery of violations of the provisions of legislation, the supervisor first of all provide technical handling first, in the form of explaining what should be done entrepreneurs. In addition to being a notification about what the entrepreneur should do, this technical handling can also be in the form of temporary closure of the company that violates the provisions of the law until the company actually implements the provisions of the law and stops the violation.

##### c. Reporting to the authorities about fraud and irregularities in the field of labor that are not clearly regulated in the legislation

From the above factors, it can be concluded that the government has sought optimal legal protection for women workers who work at night. It's just that in practice in the field, often entrepreneurs in every possible way try to violate all the provisions of the

legislation. This is done by employers because they do not want to carry out obligations for employers who employ female workers at night, for example providing shuttle facilities, providing nutritious food and drinks for employees, providing separate bathing/WC facilities between male and female employees, and others. All obligations that are considered entrepreneurs are only an obstacle to obtaining optimal profits. Entrepreneurs have the principle that all these regulations are only detrimental and limit their scope.

## CONCLUSION

The legal aspects of female workers at night entertainment venues have not been in line with the labor law because most employers have not been able to carry out their obligations such as creating a sense of security in carrying out work and providing shuttle facilities for female workers as mandated in Article 76 of Law Number 13 of 2003 on Labor and factors- the rights of women workers who work in nightlife places scattered in the city of Palu include, first, the lack of knowledge of workers / workers on their rights that have been guaranteed by law. Second, the lack of awareness of employers regarding the protection of workers ' rights / women workers. Third, the weak supervision of the Employment Service

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