

Hak atas cuti haid dan melahirkan bagi perawat perempuan: studi sosiolegal terkait implementasi undang-undang ketenagakerjaan di Rumah Sakit Umum Daerah Kota Bogor = The right to menstruation and maternity leave for female nurses: sociolegal studies related to implementation of labor law in Regional Public Hospital in Bogor

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Abstrak

ABSTRAK

Hak cuti melahirkan dan hak cuti haid merupakan dua hak terhadap kesehatan reproduksi yang secara adikodrati melekat pada kondisi biologis perempuan. Posisi kedua hak tersebut telah diakomodasi dalam instrumen hukum di tataran internasional maupun nasional. Penelitian ini menggunakan metode sosio-legal menelaah implementasi pemenuhan hak cuti melahirkan dan hak cuti haid bagi profesi perawat yang bekerja di Rumah Sakit Umum Daerah RSUD Kota Bogor. Instrumen hukum hak cuti melahirkan dan cuti haid diklasifikasikan menurut status kepegawaian perawat yang dibagi menjadi perawat Aparatur Sipil Negara ASN dan perawat non-ASN. Bagi jenis hak cuti melahirkan, Perawat ASN telah diakomodasi oleh instrumen Pasal 325-327 Peraturan Pemerintah Nomor 11 Tahun 2017 tentang Manajemen Pegawai Negeri Sipil sedangkan perawat non-ASN dapat merujuk pada pengaturan Pasal 81 Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan. Namun, permasalahan pemenuhan hak cuti melahirkan bagi perawat di RSUD Bogor terletak pada periode pengambilan cuti. Sedangkan bagi hak cuti haid, kekosongan hukum ditemui dalam pengaturan bagi perawat ASN dimana Undang-Undang Aparatur Sipil Negara beserta peraturan turunannya tidak mengatur hak cuti haid. Di satu sisi, pengaturan cuti haid bagi perawat non-ASN mengandung inkonsistensi dalam tingkat Peraturan Daerah. Dalam tataran implementatif, cuti haid sering pula diperlakukan hanya sebagai cuti sakit, sehingga menghilangkan kekhasan filosofis urgensi cuti haid dalam siklus alamiah mensutrasi dalam realitas biologis perempuan. Penemuan tersebut turut disertai oleh minimnya pengetahuan perawat perempuan terhadap eksistensi hak cuti haid sebagai salah satu hak pekerja serta penyamarataan 'subjek' perawat ASN dengan perawat non-ASN oleh pihak manajemen RSUD Bogor yang pada akhirnya meniadakan instrumen cuti haid bagi perawat non-ASN.

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ABSTRACT

Menstrual leave and Maternity leave are rights regarding women reproductive health that attached to the biological conditions of women and these rights has been accommodated in international and national legal instruments. The purpose of this research, through socio legal methods, is to examine the implementation of maternity leave and menstrual leave rights for the nurses whose working in the General Hospital of Bogor City RSUD . The legal instruments use for maternity leave and menstrual leave can be classified based on their employment status, which divided into Nurses as a civil servant ASN and non civil servant nurses Non ASN nurses . For the maternity leave ASN Nurses has been accommodated by Article 325 327 of Government Regulation Number 11 of 2017 regarding Civil Servant Management while for non ASN nurses has been regulated through Article 81 of Law Number 13 of 2003 regarding Labor Law. However, there are issues in the implementation of maternity leave for nurses in RSUD Bogor, which lies in the period of the

leave. While for Menstrual leave, there has been no legal basis for ASN nurses to have such right, because The Civil State Apparatus Act and its derivative regulations do not regulate such rights. While menstrual leave for non ASN nurses has inconsistencies within the level of Regional Regulations and its implementation. On the implementation, menstrual leave is often treated as a sick leave, thus eliminating the philosophical uniqueness of menstrual leave as the natural cycle of menstruation as part of the biological reality of women. Also based on the findings, there are several other issues, the lack of knowledge by the female nurses of the existence of the menstrual leave as part of the workers 39 rights, also the over generalization of the 39 subject 39 of the nurses over their employment status as ASN nurses and non ASN nurses by the management of RSUD Bogor which ultimately abolished the menstrual leave for non ASN nurses.