



Gender Discrimination in Indonesian Labor Law: A Juridical Analysis of the Job Creation Law

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<p>Article History Received: 2026-04-06 Revised: 2026-04-16 Published: 2026-05-14</p> <p>Keywords: <i>discrimination; gender; employment; law; Job Creation Law</i></p>	<p>The enactment of Law Number 11 of 2020 concerning Job Creation has important implications for the labor protection system in Indonesia, including in efforts to realize gender equality in the work environment. Normatively, the principle of equal rights and prohibition of discrimination is still recognized in the framework of national labor law. However, the changes in regulations introduced through the Job Creation Law raise a number of problems related to the protection of women workers. This study aims to examine the regulation of gender equality in Indonesian labor law after the enactment of the Job Creation Law, identify provisions that have the potential to give rise to gender discrimination, and assess the effectiveness of these laws in preventing injustice against women workers, especially in the aspects of wages, promotions, and working conditions. The research method used is normative juridical with a regulatory approach and a conceptual approach. The results of the study show that although the Job Creation Law does not expressly contain discriminatory norms, some regulations related to labor relations flexibility and the wage system have the potential to have a greater impact on women workers. In addition, weak supervision and law enforcement cause the effectiveness of this law in preventing gender discrimination to be suboptimal. Therefore, it is necessary to strengthen implementing regulations and employment policies that are oriented towards gender justice.</p>

I. INTRODUCTION

Employment is a strategic sector that has an important role in the economic and social development of a country. Employment relations are not only related to economic aspects, but also touch on the dimensions of human rights, social justice, and human dignity. In the Indonesian context, the guarantee of the right to work and to receive fair treatment without discrimination has been affirmed in the 1945 Constitution of the Republic of Indonesia. The principle of equality before the law means that every citizen, regardless of gender, has the right to equal employment opportunities and legal protection (Nasution et al., 2022).

However, the employment reality in Indonesia shows that gender equality has not been fully realized. Women workers still face various forms of discrimination, both direct and indirect. Such discrimination can be in the form of wage

differentials for equal work, limited access to strategic positions and promotions, and working conditions that do not take into account the specific needs of female workers. In addition, female workers are also often placed in sectors with lower levels of protection and unstable employment relationships (Nasution et al., 2022).

Gender discrimination in employment cannot be separated from structural and cultural factors that develop in society. The still strong patriarchal culture also influences the perspective of women's roles in the workforce, which is often considered as a secondary or complementary worker. This view has an impact on industrial relations policies and practices that are less sensitive to the principles of gender justice. As a result, although legal norms have regulated the prohibition of discrimination, their implementation has not been

fully able to provide effective protection for women workers (Wahyudi & Ambarsari, 2018).

In order to answer the challenges of economic development and job creation, the Indonesian government has carried out regulatory reforms through the ratification of Law Number 11 of 2020 concerning Job Creation. The law is designed to simplify regulations, increase investment, and encourage economic growth and labor absorption. However, the deregulation and flexibility approach promoted by the Job Creation Law has raised various criticisms, especially regarding the potential reduction in protection of workers' rights (Rozikin & Muhyiddin, 2025).

In the context of gender equality, the Job Creation Law raises its own concerns. Some regulatory changes, such as labor relationship flexibility, productivity-based wage systems, and working time management, have the potential to have an unbalanced impact on female workers. Women workers, who generally have a double burden between work and domestic responsibilities, are a more vulnerable group to be affected by labor policies that are oriented towards economic efficiency alone. (Harahap, 2020).

In addition, legal protection for women workers is not only determined by the substance of legal norms, but also by the effectiveness of their implementation. Weak labor supervision, lack of workers' access to complaint mechanisms, and low legal awareness are factors that hinder efforts to prevent gender discrimination. In such conditions, normatively gender-neutral legal provisions can cause substantive injustice if they are not accompanied by affirmative policies and consistent law enforcement (Hernawan, 2013).

Based on this description, it is important to conduct an in-depth study on the regulation of gender equality in Indonesian labor law after the enactment of the Job Creation Law. This study is relevant to assess whether the law is in line with the principles of non-discrimination and gender justice, and the extent of its effectiveness in preventing discrimination against women workers, especially in terms of wages, promotions, and working conditions. Thus, this research is expected to make an academic and practical

contribution to the development of employment law that is more equitable and gender-perspectived.

II. RESEARCH METHODS

This research is a normative juridical law research that focuses on the study of legal norms regarding gender equality in the field of employment (Rizkia & Fardiansyah, 2023). The study was carried out through the study of laws and regulations, legal principles, as well as legal doctrines and concepts related to gender discrimination in Indonesian labor law, especially after the enactment of Law Number 11 of 2020 concerning Job Creation.

The research approach used includes a regulatory approach and a conceptual approach. The approach to laws and regulations is carried out by analyzing the provisions in the 1945 Constitution, Law Number 13 of 2003 concerning Manpower, Law Number 11 of 2020 concerning Job Creation, and other related regulations. A conceptual approach is used to examine the concepts of gender equality, discrimination, and legal protection in the perspective of employment law and human rights.

The source of legal material consists of primary legal materials in the form of laws and regulations, secondary legal materials in the form of legal literature and scientific works, and tertiary legal materials in the form of legal dictionaries and encyclopedias. The collection of legal materials is carried out through literature studies, while the analysis is carried out qualitatively with legal interpretation to draw deductive conclusions and provide normative recommendations related to strengthening legal protection for women workers.

III. RESULTS AND DISCUSSION

A. Gender Equality Regulation in Indonesian Labor Law After the Enactment of the Job Creation Law

The regulation of gender equality in Indonesian labor law after the enactment of Law Number 11 of 2020 concerning Job Creation cannot be separated from the constitutional principle that places every citizen in an equal position before the

law. The Indonesian Constitution guarantees the right of everyone to obtain a decent job and livelihood, so that the state is normatively obliged to establish a labor policy based on justice and non-discrimination, including against gender differences (Harahap & Nasution, 2025).

Prior to the arrival of the Job Creation Law, the principle of gender equality in employment had been accommodated through Law Number 13 of 2003 concerning Manpower. The regulation affirms equal opportunities and treatment for every workforce and contains special protections for female workers, especially those related to reproductive function and biological conditions. This approach shows that previous employment laws not only emphasized formal equality, but also sought to provide protections tailored to the factual conditions of women workers (Matindas, 2018).

After the Job Creation Law was enacted, there was a significant change in the structure of employment regulation through an omnibus law approach that was oriented towards simplifying regulations and increasing the flexibility of the labor market. In the context of gender equality, this law does not fundamentally remove the pre-existing principle of non-discrimination. However, the reinforcement of norms that specifically have a gender perspective is also not explicitly visible, so that existing arrangements tend to maintain general provisions without meaningful development (Risnandar & Habeahan, 2024).

The gender-neutral arrangement has legal implications in employment practices. Formally formulated equality does not always result in substantive equality conditions. In the reality of the world of work, women workers still face various vulnerabilities stemming from structural, social, and cultural factors, such as multiple workloads, gender stereotypes, and limited access to strategic positions. This condition shows that equal treatment does not necessarily create justice for socially disadvantaged groups (Dyan Arni Firmanti, 2023).

In addition, the Job Creation Law also brought changes in the regulation of employment relations, the wage system, and working hours. Expanded labor relationship flexibility has the potential to

increase job uncertainty, especially for female workers who are more in jobs with contract status or sectors with minimal protection. In this context, flexibility that is not accompanied by adequate protection can actually increase gender inequality in the labour market (Tektona, 2022).

From a gender justice perspective, employment law should not only ensure equal treatment, but also ensure justice through corrective measures against structural inequality. Effective protection requires affirmative policies that are able to respond to the specific needs of women workers. However, the Job Creation Law has not explicitly adopted this approach, so the effectiveness of gender protection is still highly dependent on implementing policies and practices in the field (Wijaya et al., 2022).

Furthermore, the regulation of gender equality after the enactment of the Job Creation Law shows that the integration between labor law and gender mainstreaming policies has not been optimal, which has become a national agenda. The absence of a strong gender perspective in the substance of this law reflects a gap between policy commitment and normative arrangements, which ultimately results in the lack of comprehensive protections for women workers in the workforce.

B. Potential Discriminatory Provisions Against Women Workers in the Job Creation Law

Law Number 11 of 2020 concerning Job Creation normatively does not contain provisions that explicitly distinguish the treatment of workers based on gender. The principles of equality and non-discrimination are still maintained as part of the national employment law system. However, the assessment of the existence or absence of discrimination cannot stop at normative formulations alone, but it is necessary to look at the real impact of the application of these norms in labor relations practices. In this context, the Job Creation Law holds the potential for indirect gender discrimination, especially against women workers. (Wijaya et al., 2022).

One aspect that has the potential to cause gender inequality is the regulation of labor

relationship flexibility. The Job Creation Law expands the use of fixed-time work agreements and outsourcing systems with the aim of increasing the efficiency and competitiveness of the business world. Although this provision is generally applicable, in employment practice women workers are more concentrated in jobs with contract status and low levels of job security. This condition makes female workers more vulnerable to be affected by labor flexibility policies than male workers.

In addition, the potential for gender discrimination also arises in the regulation of the wage system. The emphasis on productivity and performance as the basis for determining wages tends to ignore the social factors that affect the position of women workers in the workforce. Women workers generally face the dual burden of work and domestic responsibilities, which can impact working hours and opportunities to increase productivity. Without a gender-sensitive wage policy, this system has the potential to perpetuate the wage gap between female and male workers, even though the legal norms are neutral (Hidayati et al., 2022).

The potential for indirect discrimination can also be found in more flexible working hours and overtime hours. Greater discretion for employers in managing working hours often has implications for increased workloads without balanced protections. For female workers, especially those who have family and parenting responsibilities, these conditions can be a structural obstacle in maintaining their jobs and accessing job promotion opportunities. As a result, female workers are at risk of being excluded from job competition not because of a lack of competence, but because of structural limitations that are not accommodated by regulations (Sadono & Rahmijati, 2021).

Furthermore, the lack of affirmative regulation in the Job Creation Law increases the potential for gender inequality. The absence of an obligation for employers to implement gender-friendly policies, such as work arrangements that are responsive to reproductive needs and parenting roles, causes the protection of female workers to be highly dependent on the company's internal policies. In

practice, this condition has the potential to widen the gender gap, especially in a work environment that does not have a commitment to the principle of equality (Purnama & Amelia, 2021).

From a legal and gender justice perspective, discrimination does not always appear in the form of explicit discrimination. Discrimination can occur structurally through policies that appear to be neutral, but result in disproportionate impacts on certain groups. In this context, several provisions in the Job Creation Law have the potential to give birth to substantive gender discrimination if they are not accompanied by supervisory mechanisms and implementing policies that are oriented towards the protection of women workers (Kamil, 2024).

C. Effective Job Creation Law to Prevent Gender Discrimination of Women Workers

Law Number 11 of 2020 concerning Job Creation normatively recognizes the principle of gender non-discrimination through general regulations regarding equal employment rights and wages. However, the existence of these norms has not been fully effective in preventing discriminatory practices against female workers, especially in the aspects of wages, promotions, and working conditions. The effectiveness of a regulation is not only measured by the existence of legal norms, but also by its ability to change employment practices that have long been influenced by unequal social and cultural structures (Tektona, 2022).

In practice, the wage gap between female and male workers is still found significantly. National employment data show that there is a difference in average hourly wages that is detrimental to female workers, even though education and work experience levels are relatively comparable. This condition reflects that the normatively recognized principle of wage equality has not been fully implemented substantively in the Indonesian labor market. A number of studies also consider that the orientation of the Job Creation Law which emphasizes flexibility and ease of doing business tends to place the issue of protecting women workers as a secondary aspect (Munawar et al., 2021).

Conceptually, the Job Creation Law integrates the previous employment provisions with the aim of creating a conducive investment climate. The principle of equal pay is affirmed as part of the general norms of employment and in line with international standards regarding fair wages. However, these norms are declarative and have not been equipped with adequate operational instruments, such as special monitoring mechanisms or indicators for measuring gender-based wage gaps. As a result, the implementation of equality norms is highly dependent on implementing policies and corporate practices, which in many cases are not yet gender-sensitive.

The disparities that occur cannot be understood solely as individual problems, but as a manifestation of structural discrimination in the world of work. Women workers tend to be concentrated in sectors with lower wage rates and limited access to promotions. Job segregation, gender stereotypes, and the weak bargaining position of female workers are factors that are not expressly intervened by the Job Creation Law. This condition is exacerbated by the expansion of the contract and outsourcing work system that increases the vulnerability of women workers in employment relationships (Wijaya et al., 2022).

1. Wages

The wage regulations in the Job Creation Act normatively adopt the principle of equal pay for equal work, as known in international labor standards. However, these provisions have not been accompanied by effective monitoring mechanisms, such as the obligation to evaluate the wage gap or strict administrative sanctions for employers who commit violations. As a result, unequal wage practices are still ongoing and have a greater impact on female workers. The absence of affirmative policies in the wage system makes equality norms tend to stop at the formal level (Purnama & Amelia, 2021).

2. Promotions

In terms of promotion of positions, the Job Creation Law does not specifically regulate the guarantee of equal access for women workers. The increasingly flexible pattern of employment relationships through short-term contracts and outsourcing has an impact on limited career

development opportunities for female workers. In addition, reproductive responsibilities and parenting roles are often perceived as barriers to productivity, thus affecting performance appraisals and promotion opportunities. This condition shows that neutral legal norms have not been able to challenge discriminatory practices stemming from patriarchal work culture (Hidayati et al., 2022).

3. Working Conditions

In terms of working conditions, female workers still face a variety of risks, including overwork, lack of support facilities, and vulnerability to gender-based violence in the workplace. Independent reports show that cases of violence against women workers are still occurring repeatedly and have not decreased significantly after the enactment of the Job Creation Law. The regulatory orientation that emphasizes the acceleration of economic activities is considered to have not been balanced with the strengthening of labor supervision, so that the protection of safe and decent working conditions for women workers is not optimal (Hidayati et al., 2022).

D. Legal Protection of the Rights of Women Workers in the Perspective of the Job Creation Law

Legal protection of the rights of women workers is an important part of the labor law system that aims to ensure justice, legal certainty, and labor welfare. Within the framework of Law Number 11 of 2020 concerning Job Creation, the protection of women workers is still recognized as part of the principle of equal rights and non-discrimination in employment relations. However, the effectiveness of such protection needs to be further studied, not only from the normative side, but also from its implementation in employment practices (Mulia & Ahmad, 2024).

Normatively, the Job Creation Law does not remove the recognition of the basic rights of women workers that have previously been regulated in labor laws and regulations. The right to equal employment opportunities, fair treatment, and guarantees of decent working conditions remain part of the national labor law system. Thus, textually, female workers are still positioned as

legal subjects who have the same rights and obligations as male workers in employment relationships (Mokoginta, 2022).

However, the regulatory approach carried out by the Job Creation Law emphasizes more on the flexibility and efficiency of the labor market. This approach has implications for the level of protection of women's workers' rights, especially for those who are in vulnerable positions due to irregular employment status or low-protection work sectors. Without adequate safeguards, the flexibility of employment relationships has the potential to reduce the effectiveness of legal protection for women workers (Catur et al., 2020).

The protection of the reproductive rights of women workers is one of the important aspects of labor law. In the perspective of the Job Creation Law, the regulation of these rights has not been significantly strengthened. Provisions related to maternity leave, menstrual leave, and occupational health protection still refer to previous arrangements and implementing regulations. This condition shows that the Job Creation Law has not fully responded to the special needs of women workers comprehensively within the framework of legal protection with a gender perspective (Catur et al., 2020).

In addition, legal protection for women workers is also related to the guarantee of fair wages and equal career development opportunities. In practice, the Job Creation Act has not provided a specific mechanism that effectively ensures equal pay between female and male workers for work of equal value. Similarly, in the aspect of job promotion, the absence of affirmative provisions causes structural obstacles faced by women workers to be difficult to overcome through existing legal instruments.

From a law enforcement perspective, the protection of women's workers' rights is highly dependent on the effectiveness of labor supervision and access to dispute resolution mechanisms. The Job Creation Law has not presented a significant breakthrough in strengthening the gender-sensitive surveillance system. The limited number of labor supervisors and the low access of women workers to grievance

mechanisms are still the main obstacles in the protection of their rights (Iswaningsih et al., 2021).

From a gender justice perspective, effective legal protection is not only measured by the existence of neutral legal norms, but also by its ability to provide real and equitable protection for vulnerable groups. Legal protection for women workers within the framework of the Job Creation Law still requires strengthening through affirmative policies, gender mainstreaming in implementing regulations, and law enforcement that is more responsive to structural inequalities in the world of work.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on the results of the analysis, it can be concluded that after the enactment of Law Number 11 of 2020 concerning Job Creation, the principles of equality and non-discrimination in Indonesian labor law are still normatively maintained and based on constitutional guarantees and previous regulations. However, the Job Creation Law does not present a substantive strengthening of gender equality because it tends to use a gender-neutral approach without specific provisions that are responsive to the vulnerability of female workers.

This normative approach that is general has implications for limited protection against structural inequality that women workers still experience, so that guaranteed equality is more formal than substantive. Although it does not contain explicitly discriminatory provisions, some provisions in the Job Creation Law have the potential to indirectly cause gender discrimination, especially in the aspects of work flexibility, wage system, and working hours.

In practice, this regulation has not been effective in preventing wage gaps, limited promotions, and unequal working conditions for female workers. Legal protection of the rights of women workers still depends on derivative policies and law enforcement, so it is necessary to strengthen it through gender mainstreaming, affirmative policies, and labor supervision that is more responsive to gender justice.

B. Suggestion

Governments and lawmakers need to strengthen labor regulation by integrating gender justice perspectives more firmly, both through the improvement of the Job Creation Law and its implementing regulations, especially related to wages, promotions, and working conditions for women workers. In addition, employment supervision must be improved through gender-responsive mechanisms, accompanied by effective sanctions for employers who engage in discriminatory practices. On the other hand, employers are expected to develop internal policies that are gender-friendly and ensure a safe and equal work environment. Women workers and trade unions also need to increase legal awareness and advocacy roles to strengthen bargaining positions in labor relations, while academics and researchers are expected to continue to empirically examine the impact of the Job Creation Law on gender equality in order to provide more comprehensive and equitable policy recommendations.

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