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### THE USAGE OF MENSTRUAL LEAVE FROM THE PERSPECTIVE OF INDONESIAN REGULATION

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**Abstract:** The development of a nation can not be separated from the strengthening of macro- and micro- economics. Strengthening the economy is determined also by the variable productivity, satisfaction, motivation and well-being of its workforce. In order to achieve this goal, Section 81 Law 13 as in force at 2003 was issued by the Government. This paper will utilize this Act as a basis to address the physiological processes of menstruation and the effect on a company's productivity of the health of female employees. The mechanism of granting leave for female employees who are menstruating will also be considered.

Bearing in mind that many female employees are unaware of the existence of this act and also have a weaker bargaining position, not all companies when formulating regulations recognise the effects of menstruation, including lack of socialisation, resulting in neglect of inherent rights including menstruation leave.

In cases of dispute over menstruation leave, parties representing employers, workers/employees and government organisations should participate in a tripartite cooperation process in order to facilitate communication, consultation and deliberation.

**Keywords:** productivity, employees, menstruation leave, tripartite.

#### Preliminary

National development is essentially carried out in order to establish and build a complete Indonesian people. Indonesian society in order to build just a prosperous society, prosperous, equitable, both material and spiritual, based on *Pancasila* and the Constitution of the Republic of Indonesia Year 1945. In the implementation of national development, the workforce has a role and a very important position as a principal and as well as the goals and development objectives.

On the other hand, national development was also carried out in order to achieve high economic growth, because of the easy success of development is usually used as a measurement indicator of the success of development in the economic sector. Achievement of this economic growth will succeed where all variables when supporters aligned with the performance of economic growth, but when there is a variable which is a barrier for this economic growth then we can be sure that the macro economic development also faltered. And one that can be used as a variable support for the economic development of good performance is high productivity. Productivity is not just resting on capital, materials, machinery, and management, but the most vital it is in humans. Performance of an industry to decline when labor productivity is low.

As reported by Sunaryo Sumadji, 1996, 'that integrated development planning system to achieve high national productivity'. Similarly expressed by Susilo Bambang

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### Preliminary

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On the other hand, national development was also carried out in order to achieve high economic growth, because of the easy success of development is usually used as a measurement indicator of the success of development in the economic sector. Achievement of this economic growth will succeed where all variables when supporters aligned with the performance of economic growth, but when there is a variable which is a barrier for this economic growth then we can be sure that the macro economic development also faltered. And one that can be used as a variable support for the economic development of good performance is high productivity. Productivity is not just resting on capital, materials, machinery, and management, but the most vital it is in humans. Performance of an industry to decline when labor productivity is low.

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Yudhoyono, 1996, "that which is external challenge is how we improve competitiveness, which certainly based on efficiency and national productivity is high, <sup>5</sup> that Indonesia can compete in the economic arena is very liberalistik".

In accordance with the role and position of employee is <sup>5</sup> very vital, it would require development on the employment sector. All this is done to improve the quality of the workforce and participation in the development and improvement of employee protection and family in accordance with human dignity and values.

As stated by Roosgandha Elizabeth, in her research in 2006., "... The development of national employee and agricultural development. Thus the main concern of agricultural development goals related to employment to achieve higher levels of productive employment opportunities and the <sup>10</sup> business opportunities".

Protection of employees as intended are to guarantee basic rights for workers / employees and guaranteeing equal <sup>8</sup> opportunity and treatment without discrimination on any ground for the creation of the welfare of the workers / employees and their families by taking into account the development progress of the business world.

In connection with the above issues, in fact there has been some law in the field of employee before a lot of regulating employee. On the other hand, the dynamics and demands <sup>14</sup> of the rights of citizens is growing then the rules and regulations that already exist, it is deemed no longer appropriate to the needs and demand of manpower. <sup>2</sup>

As reported by the Board of Research and Development of Human Rights, 2003, that the protection of employee is intended to guarantee the basic rights of workers / employees and guaranteeing equal opportunity and treatment without discrimination on any grounds to realize the welfare of the workers / employees and their families to remain attention to the development progress of the business world. In this connection, it is an economy which is driven by the people for the interests of the people, an ideal that needs to be realized.

With those reasons should be revised or improved at the same time improvements to the act which regulates the employment, especially those protecting women workers. This is done because it must fulfill <sup>4</sup> the mandate of the constitution and implemented the basic state that is contained in Article 5 paragraph (1), Article 20 paragraph (2), Article 27 paragraph (2), Article 28 and Article 33 paragraph (1) Law Constitution of the Republic of Indonesia Year 1945.

As it is known that for women workers also regulates their rights within the rules and regulations about leave entitlements such as time of menstruation, for those who are pregnant have the right to rest for a half months before delivery, as well as for women who miscarry obtain the right breaks 1.5 (one half) months, and women workers who are still breastfeeding her child is also entitled to the opportunity to breastfeed her child despite fitting during work time. In the use of these rights of women workers are still entitled to full wages.

Of the two noble goals of development on top of it, should be <sup>8</sup> the ideal delivery of industrial relations, namely a system of relationships formed among actors in the process of producing goods and / or services comprising employers, workers / employees, and government based on the values of *Pancasila* and the Constitution of the Republic of Indonesia Year 1945. In fact, oddly posed precisely. How not,

because the goal is the one with the other goals have a contradiction. Economic development to achieve economic growth leads to prosperity will be realized if supported by a productive workforce. On the other hand, manpower development with a set of rules protect workers' rights, including rights where workers enjoy the unproductive periods.

#### Problems

The background of the above problems, can be shown that there is a gap between reality and expectations. Of the gap or gaps it can be formulated as the following problem, How do the women get menstrual period? Menstrual influence on whether the health condition of women workers and the productivity of the company? What is the mechanism granting leave for women workers who are getting menstrual period? As the research results reported by Arifin Arifin (*Menstruation and Accidents Employment Relations in the Company*, 2004), that the World and manufacturing industry has grown so rapidly. In various parts of the world, centers and manufacturing industry has exploded to meet the consumer demand is so great. It has made such a high competition among businesses. Various kinds of strategies they apply to the goods they produce can compete in the market. Improving the quality of production so as not to disappoint the consumer as well as reduced cost of production they have done.

#### Discussion

For large companies, the mechanization of the means of production has a lot to make changes by increasing the quality and the low cost of production. But for midsize companies down, it becomes a problem so they took another way, namely the use of female labor as their employees.

Taking women's employee is not without reason. To some extent, women are renowned as a meticulous woman, so for jobs that require high accuracy, preferably women than men. It is directly or indirectly are expected to improve the quality of goods that firms produce. Another thing that can be used as a reason for that is because the cost to pay them less. During the industrial revolution in England, the labor of women and children are preferred because they are smaller wages.

In the case of the use of women's rights above all there is not such a complicated issue, both from companies and from the labor of women, except in the use of Menstruation Leave rights.

Menstruation is a process of releasing the inner lining of the uterine wall due to the influence of hormones that occur regularly in women aged. Siklus normal menstrual lasted 25,8 days plus or minus two to three days. This cycle can vary on each woman a normal and healthy.

At each cycle identified three main time periods ie during 2-8 days. At that time, the inner lining of the uterine wall is removed while the content of the release of hormones from the ovary is the lowest. Period of proliferation until day 14. At that time in the uterine lining grows returns between can occur 12-14 days to release the cell from the ovary, called ovulation. After this, enter a period of uterine secretions,



where the influence of hormones, the inner lining of the uterus wall become thick and ready for breeding welcoming fertilization outcome.

Refers to menstruation or menstrual blood, periodic expenditure and body cells of the vagina from the uterine wall of women. Menstruation begins at puberty and marks a woman's ability to bear children, although possibly other health factors could limit this capacity. Menstruation usually begins between ages 10 and 16 years, depending on various factors, including women's health, nutritional status, and body weight relative to height.

Menstruation continues approximately once a month until she reaches the age of 45-50 years, again depending on health and other effects. End of the ability of women to menstruate is called menopause and marks the end of the period of pregnancy a woman. The average length of menstrual cycle is 28 days, but ranged between 21 to 40 days. Cycle length can vary from one woman during different moments in his life, and even from month to month depending on various things, including physical health, emotional, and nutritional woman.

Menstruation is a part of the regular process that prepares the female body for pregnancy each month. This cycle involves several stages that are controlled by the interaction of hormone secreted by the hypothalamus, the gland below the forebrain, and ovary.

At the beginning of the cycle, the cells lining the uterus begins to grow and thicken. This layer acts as an advocate for the developing fetus if a woman is pregnant. Hormone signals the eggs in the ovary to begin growing. Shortly thereafter, an egg is released from the ovaries of women and began to move toward the fallopian tubes into the uterus continues. When the egg is not fertilized by sperm during sexual intercourse (or when artificial insemination), the uterine lining will be separated from the uterine wall and begin to shed and will be removed through the vagina. Period of bloodletting, known as the menstrual period (or periods, or menstruation), lasted for three to seven days.

When a woman becomes pregnant, her monthly menstruation will stop. Therefore, disappearance of monthly menstruation is a sign (though not always) that a woman is pregnant. Pregnancy can be confirmed with a simple blood test.

Unless a girl has been prepared for the coming period, this could be a disappointing moment for him. The girls who do not know their bodies and reproductive processes can be assumed that menstruation was evidence of disease or even punishment will bad behavior. The girls are not taught to think of menstruation as a normal bodily functions can suffer great shame and feeling dirty when their first menstruation. Even during menstruation finally recognized as a normal process, feeling dirty can live into adulthood. However, in recent years of education anatomy and physiology have made a better acceptance of menstruation. In fact, many women who see menstruation with pride as a process that only occurs in women. Some families even have a special celebration to honor the maturity of a young woman. According Praise Astuti, in her research, Influence Pre Menstrual Syndrome, on employee productivity of women, 2007. Explained that, despite that, many women experience physical discomfort for several days before their menstrual period to come. Approximately half of all women

suffer from dysmenorrhea, or painful menstruation. This is especially common early adulthood. The symptoms of menstrual disorders may include softened breasts, sore nipples, swollen, and irritability. Some women experience a fairly severe disorders such as cramps caused by the contraction of uterine smooth muscles, headaches, pain in the middle of the abdomen, anxiety, fatigue, nasal congestion, and wanted to cry. In its most severe, often involving depression and anger, the condition is known as menstruation or PMS (pre menstruation symptoms), and may require medical treatment.

In some cases the courts in England and France, the lawyers have used the existence of PMS to argue about the current capabilities of the decline of crime. In the past, PMS is considered as a psychosomatic condition, and continues to be the subject of ridicule, PMS is now known to have an organic cause. Several treatments have been created to deal with the symptoms of PMS.

Some women experience a condition known as amenorrhea, or failure to menstruate during the time of renewal. This condition can be caused by a variety of factors including stress, lose weight, exercise regularly, or disease. Conversely, some women experience excessive menstrual flow, a condition known as menorrhagia. Not only is blood flow to many, but can take longer than normal period

### **Finding**

In fact, the use of these leave entitlements was still a problem for companies and for women workers. Why is that? The debate over whether or not menstruation leave for women workers are still busy and apparently warmly discussed. Apparently, not all agree with the holding of menstruation leave as those made by women workers themselves. Act NO 13 of 2003 on the manpower<sup>7</sup> department, mentioned in article 81 paragraph (1) Workers / employees are women who feel pain during menstruation and notify the employer, are not obliged to work on the first and second at the time of menstruation. And in paragraph (2) The provisions referred to in paragraph (1) provided for in employment agreements, company regulations, or cooperative agreement.

Legislation above has been set firmly on women's rights, including menstruation leave entitlements, but not all firms set the rules is due to several factors, such as lack of socialization of the latest available product legislation, yet there is a translation from the government on new legislation products for example in the form of technical rules, as well as decisions that can be used as a guide for companies and workers, in formulating the collective agreement which is the result of negotiations<sup>2</sup> between the workers / employees who registered at employment agencies with the entrepreneurs, or some businessman or entrepreneur associations contains the terms of employment, rights and obligations of both parties. So in practice<sup>15</sup> this would later become the reference for the formulation of company policy which contains the terms of employment and order companies, as well as in formulating a joint agreement between the workers / employees with employers or employer that contains the terms of employment, rights and obligations the parties.

**Conclusion**

In fact, even many working women who do not know the existence of this Law. Though aware that not all women suffer from pain or complaints during menstruation. This law has proved that menstruation leave is the right of every woman worker. Yet when women experience menstruation, hormone levels in their bodies change, it causes an unstable emotional changes, hormonal changes other than that it sometimes makes them more careless than the other days usually. Of course this is very dangerous for safety, especially if it is held by female workers are heavy equipment. Likewise, if this position of women workers are at managerial level, it is feared she will take strategic decisions regarding the continuity of the company and carelessly. This could be a not good sign for the company and can end up with a great loss for the company. At the same women during menstruation will experience pain so severe that even make them unconscious and unable to move from his bed.

For those who work in an office with room cooling and easy access to replace the pads may be no problem. Women workers will feel it when they work in the field or factory that access to his little room apart, of course, this is a constraint during the menstrual discomfort for both parties the employee or the employer or employer representative.

Worried misused, most companies have not fully enforce this rule. But if the company really pay attention to the welfare of its employees in this case is certainly concerns of women workers can be overcome with their menstrual cycles of data collection, intensive checks by the company doctor, giving the sense that they are not sick and called in sick would be a real pain etc.. Various efforts to prevent the occurrence of abdominal pain when menstruation should be considered as a traditional herbal drink etc. before your period arrives.

Pain when menstruation signifies an organ is not functioning properly from here will be able to see the health of employees of a company. If the employees who take leave period must always be the same people who already have advised them to do further tests.

The fundamental point is limited both in terms of productivity and the limitations of the workers themselves do not understand the existence of this rule. Besides these limitations, the working relationship between employers and workers / employees who work under the agreement, the element of work, wages, and the command is not yet clear and definite so that the bargaining position of women workers is so low that they received only by reason rather than unemployed, workers receive under any circumstances offered for fear removed or replaced by those willing to accept this condition.

**Recommendations / Suggestions**

The procedures for granting time off menstruation of women workers can be done in the following way, Menstruation Leave for Employee can use the leave is for 2 (two) days if it interferes in her job by showing proof of a doctor.

This is where the real important role for unions / labor unions as <sup>1</sup> an organization formed of, by, and for the workers / laborers in both the company and outside the



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This is where the real important role for unions / labor unions as an organization formed of, by, and for the workers / laborers in both the company and outside the

company, which is free, open, independent, democratic, and responsible for, defend and protect the rights and interests of the workers / laborers, especially women workers powerless to increase the welfare of the workers / laborers and their families.

So that could be done or braided forum for communication and consultation on matters pertaining to industrial relations in the company between employers and trade unions / labor unions. Since the function of bipartite cooperation institution is the communication of ideas between workers and employers.

If in future there is still disagreement on the issue of use Menstruation leave this and all parties should enable the role of tripartite cooperation in order to place a forum for communication, consultation and deliberation on the subject of menstruation leave usage is between elements of the organizations of employers, workers / employees, and government. With the government there is expected to occur more dialogue to bring benefits to all parties to the dispute.

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