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Fulfillment of the Right to Health for Women Workers of Public Refueling Stations (Gas Station) in the Perspective of Law in Indonesia

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Abstract

The right to health is the right to obtain and enjoy the highest standards of health that can be achieved for everyone because naturally every human being is born free and equal. The equation applies to everyone including workers, both male workers, and female workers without being discriminatory. Especially for women workers of public refueling stations (gas stations) in fulfilling the right to health in a positive legal perspective amid the challenges of patriarchal culture faced. This study discusses the fulfillment of the right to health for women workers of public refueling stations (gas stations) from the perspective of law in Indonesia and the implementation of the fulfillment of these rights. The method used in this study is normative juridical with descriptive research specifications analysis, namely research by describing the applicable laws and regulations associated with legal theories and the practice of implementing positive laws related to problems. The research uses secondary data obtained through literature and is systematically described. The results showed that regulations regarding the fulfillment of the right to health for women gas station workers still refer to arrangements that are general and have not specifically regulated the right to health for female workers. The implementation can be seen from five factors that affect the fulfillment of the right to health for women gas station workers.

Keywords: The Right to Health, Women Gas Station Workers, Indonesian Law

1. Introduction

Indonesia as a country that participated in ratifying the International Covenant on Economic, Social, and Cultural Rights (ICESCR) through the ratification of Law Number 12 of 2005 automatically binds itself to all norms and values of human rights contained in the international covenant, especially those related to economic, social, and cultural rights. One of them is the right to health as stipulated in the provisions of Article 12 paragraph (1) of ICESCR which states that states parties to this covenant recognize the right of everyone to enjoy the highest attainable standard of physical and mental health. The right to health is not only interpreted as the right of everyone to be healthy or to be free from disease (Hartono et al., 2021). However, the right to health is the right to obtain

and enjoy the highest standards of health that can be achieved for everyone because naturally every human being is born free and equal (Hartono et al., 2021).

Further provisions regarding the right to health are accommodated in the constitution, especially the provisions of Article 28H paragraph (1) Constitution of the Republic of Indonesia of 1945 (hereinafter referred to as the 1945 NRI Constitution) which states that everyone has the right to live a prosperous life born and mentally, to live, and to have a good and healthy living environment and the right to obtain health services. The realization of this right to health must rest on the principle of non-discrimination, including for workers, both men, and women wherever they are.

Specifically, regarding the legality of labor regulation in Indonesia, it is comprehensively regulated in Law Number 13 of 2003 concerning Manpower and some of its changes in Law Number 11 of 2020 concerning Job Creation. Article 1 number 2 of the Manpower Law defines labor as a person who can do work to produce goods and or services both to meet his own needs and for the community. Juridically, the definition does not distinguish between male labor and female labor. Moreover, the phenomenon that has occurred recently in the world of work, some formal sectors of work not only involve men in their implementation but also involve women. This is motivated by the rapid progress of civilization, especially science and technology, which triggers changes in society, including the role of women. The formal sector as referred to is the sector where a person works for another person or agency or office or employer by receiving a salary in return for services (Novita, 2022). One of the formal sectors as referred to is working at public refueling stations (gas stations).

Based on the results of the population census of the Central Statistics Agency (BPS) in 2018 the female population in Indonesia is 131.9 million people, while the male population is 134 million people so almost the same number between male and female populations indicates that women are one of the contributors to the country's progress, especially in the field of employment (Databoks, 2018). BPS also recorded that the percentage of formal labor by gender in 2021 was 43.39% filled by men and 36.20% filled by women. The large number of women working in the formal sector creates various kinds of negative stigmas in society. This is because the patriarchal social system is still thick and closely held by several people in Indonesia. This assumption implies that women have always been left behind and marginalized in the fields of economics, education, health, employment, and politics fields caused of patriarchal culture. In societies with patriarchal cultures, men play more of a role in holding power which can automatically degrade the role and existence of women (Kurniawan, 2011). A woman is seen as someone who is not supposed to work and only serves her husband and does housework. Even if there is also a view that is reasonable for female workers but in the sector of work that is specifically for them such as being a sales promotion girl (SPG), shop assistant, or tailor. Thus, jobs that are considered abusive such as being a gas station operator are considered unsuitable for female workers.

The female workers who work at gas stations are certainly not a few experienced this gender discriminatory action. The Constitution in the provisions of Article 27 paragraph (1) of the 1945 NRI Constitution states that every citizen has concurrent positions in law and government. This provision is further elaborated in Article 5 of the Manpower Law which states that every worker has the same opportunity without discrimination to obtain employment. Then Article 6 of the Manpower Law reads that every worker or laborer has the right to get equal treatment without discrimination from employers. The acquisition of equal rights between male and female workers is also seen in the fulfillment of the right to health which is part of the constitutional mandate. Furthermore, the regulation regarding the right to health is contained in Article 164 of Law Number 36 of 2009 concerning Health which mandates that there is a need for occupational health efforts aimed at protecting workers to live healthy lives and be free from health problems and adverse influences caused by work.

As for the right to health owned by male and female workers, several differences are innate or natural. If women need additional rights such as the right to give birth, the right to miscarriage leave, and the right to breastfeed then male workers cannot have these rights. Protection of health rights for female workers at gas stations is very important considering that gas stations are open places, directly facing customers, and directly exposed to pollution coming from vehicles. The importance of fulfilling the right to health for female workers, especially those who work at gas stations, is very necessary. Therefore, this study was made to determine the fulfillment of the right to

health for women gas station workers from a legal perspective in Indonesia and the extent of the implementation of the rule of law.

2. Method

The approach method stated in this study is the normative juridical method, namely legal research carried out by prioritizing researching library or documentary materials in the form of primary, secondary, and tertiary legal materials (Soekanto, 1986). The approaches used to obtain information related to legal materials in this study include the statute approach and the case approach. The research specifications used are descriptive-analytical, namely by describing the applicable laws and regulations associated with legal theories and the practice of implementing positive laws related to problems (Soemitro, 1990).

The type of data used in this study is secondary data. The main activity of searching for secondary data is by conducting library research. The method of collecting legal materials used in this study is the literature method, which is a method carried out by tracing library materials. Legal materials that have been systematically organized according to classification are then analyzed and conclusions are drawn which produce prescriptions (solutions that should be). The method of presenting legal materials in this study will be presented in the form of a description that is arranged systematically, logically, and rationally. All existing data will be linked to one another in accordance with the subject matter studied, namely the Fulfillment of the Right to Health for Women Workers of Public Refueling Stations (gas stations) in a Legal Perspective in Indonesia so that it becomes a whole unit presented in narrative form.

The Method section describes in detail how the study was conducted, including conceptual and operational definitions of the variables used in the study, Different types of studies will rely on different methodologies; however, a complete description of the methods used enables the reader to evaluate the appropriateness of your methods and the reliability and the validity of your results, It also permits experienced investigators to replicate the study, If your manuscript is an update of an ongoing or earlier study and the method has been published in detail elsewhere, you may refer the reader to that source and simply give a brief synopsis of the method in this section.

3. Results and Discussion

3.1 Fulfillment of the Right to Health for Women Workers of Public Refueling Stations (Gas Station) in the Perspective of Law in Indonesia

The right to health is part of Human Rights as stipulated in the constitution, especially Article 28H paragraph (1) of the 1945 NRI Constitution which states that everyone has the right to live a prosperous life in birth and mind, to live, and to have a good and healthy living environment and the right to obtain health services. The responsibility to protect, advance, uphold, and fulfill the right to health as part of this human rights lies with the state, especially the government as mandated by Article 28I paragraph (4) of the 1945 NRI Constitution. The state's obligation to respect the right to health requires the state not to take actions that negate or diminish everyone's ability to enjoy the right to health (Hartono et al., 2021). Then the obligation of the state to protect (obligation to protect) the right to health requires the state to ensure that no person or group of people, including state apparatus and corporations can eliminate or reduce everyone's opportunity to enjoy the right to health (Hartono et al., 2021). Meanwhile, the state's obligation to fulfill the right to health refers to the state's obligation to take administrative, legislative, judicial, and policy steps to ensure that the right to health is fulfilled until maximum achievement (Hartono et al., 2021). What is meant by legislative action is to ensure and make laws and regulations that guarantee the fulfillment and protection of the right to health as part of human rights.

The General Commentary of the International Covenant on Economic, Social, and Cultural Rights that there are four indicators to assess the fulfillment of the right to health:

1. Availability guides so that the implementation of public health functions and health service facilities, goods and health services, as well as programs must be available in sufficient quantity. The adequacy of the facilities

- of goods and services varies and depends on many factors, including the level of development of the country. However, it also includes certain factors that affect health, such as healthy drinking water, adequate sanitation, hospitals, clinics, and health-related collaterals, as well as experienced and professional media personnel with competitive incomes and good drugs as referred to in the WHO Action Program on Essential Drugs.
2. Accessibility provides guidance that health facilities, goods, and services must be accessible to everyone without discrimination within the jurisdiction of the country. Healthcare providers must develop reasonable accommodation that meets the needs of the community in an inclusive manner. Accessibility has four interrelated dimensions:
 - a. Non-discriminatory. Health facilities, goods, and services must be accessible to all, especially to marginalized communities or communities not protected by law without discrimination on any basis.
 - b. Physical access. Health facilities, goods, and services must be physically affordable and safe for all, especially for vulnerable or marginalized groups. For example, ethnic minorities or alienated communities, women, children, people with disabilities, and people with HIV/AIDS. Accessibility also means that health services and health determinants, such as healthy drinking water and adequate sanitation facilities are physically accessible, including in suburban areas. Furthermore, accessibility includes access to buildings for people with disabilities.
 - c. Economic access. Health facilities, goods, and services must be economically affordable for all. The payment of health care services as well as services related to health determinants should be based on the principle of equality, by ensuring that services available both privately and publicly are affordable to all, including socially disadvantaged groups. Similarities require that the poor should not be burdened with health costs unprofessionally compared to the rich.
 - d. Access to information. Accessibility includes the right to seek and receive or share information regarding health issues. Access to this information must be managed while protecting the confidentiality of health data.
 3. Affordability guides so that all health facilities, goods, and services must be accepted by medical ethics and culturally appropriate. For example, respecting the culture of individuals, minorities, groups, and societies, and being sensitive to gender and life cycle requirements. It is also designed to respect the confidentiality of health status and the improvement of health status for those in need.
 4. The quality aspect provides guidance that in addition to being culturally accepted, health facilities, goods, and services are scientifically and medically appropriate and good quality. This requires, among others, medically capable and authorized personnel, medicines and hospital equipment scientifically recognized and not decades old, safe and drinkable drinking water, and adequate sanitation (Komisi Nasional Hak Asasi Manusia, 2009).

Specifically, regarding the fulfillment of the right to health for workers in Indonesia, it can be further reviewed, one of which is based on labor law. In essence, the position of employers and workers is balanced and equal in accordance with the provisions of Article 27 paragraph (1) of the 1945 NRI Constitution. However, in the aspect of employment, according to Sudarjadi in Riyadi and Talib, under certain conditions the position can turn out to be unbalanced because workers are often in a weak position (Riyadi & Thalib, 2020). This is what causes the protection and fulfillment of the right of workers, including the right to health in the workplace, to be important to protect.

The right to health for workers has been regulated both through Law Number 13 of 2003 concerning Manpower and its amended rules in Law Number 11 of 2020 concerning Job Creation. The basic right of workers to occupational safety and health is contained in the formulation of Article 86 paragraph (1) of the Manpower Law which states that every worker/laborer has the right to obtain protection, one of which is occupational safety and health. Furthermore, the provisions of paragraph (2) order that to protect the safety of workers/workers to realize optimal work productivity, it is necessary to organize occupational safety and health efforts. These efforts in Article 87 are realized by the implementation of an occupational safety and health management system. Regulations regarding the occupational safety and health management system are then further regulated through Government Regulation Number 50 of 2012 concerning the Implementation of the Occupational Safety and Health Management System.

According to Article 1 paragraph (2) of Government Regulation Number 50 of 2012 concerning the Implementation of the Occupational Safety and Health Management System, what is meant by occupational safety and health (K3) is all activities that are sought to ensure and protect the safety and health of workers through efforts to prevent accidents and occupational diseases. In the formulation of Article 6 of the Government Regulation, it is regulated that the occupational safety and health management system (hereinafter referred to as SMK3) is an effort carried out by entrepreneurs including the determination of K3 policies, K3 planning, implementation of K3 plans, monitoring and evaluating K3 performance, and reviewing and improving K3 performance. SMK3 must be applied by every company that employs at least 100 workers/laborers or has a high level of potential danger in accordance with the provisions of Article 5 paragraph (2) of the Government Regulation.

In this case, public refueling stations (gas stations) are workplaces with a fairly high potential for danger because they are related to fuel oil (BBM). According to the Ministry of Energy and Mineral Resources, there are 4 potential dangers caused by fuel, including fire and explosion hazards, poisoning hazards, environmental pollution, and static electricity hazards (Tim Independen Pengendalian Keselamatan Migas Dirjen Minyak dan Gas Bumi Kementerian ESDM, 2018). Some examples of accidents that occurred at gas stations such as the gas station fire on Jalan Mayjen Sungkono, Bumiayu, Malang on March 18, 2021, ago. This fire incident originated from one of the public transport cars that were filling up with gasoline in the state running engine (Arifin, 2021). In addition, another incident occurred on August 6, 2021, when a gas station in the Semen Tonasa Office Area, Pangkep Regency caught fire and caused one resident to die on the spot while two other residents suffered burns (Yunus, 2021). These two events are enough to illustrate the high potential dangers of working at gas stations. Therefore, in seeking the protection of the right to safety and health of workers at gas stations, employers, in this case, PT Pertamina, are required to make K3 guidelines for workers who work at gas stations in accordance with the provisions of Government Regulation Number 50 of 2012 concerning the Implementation of the Occupational Safety and Health Management System.

In addition, the Ministry of Energy and Mineral Resources has issued a Gas Station Safety Guideline which is a guideline for gas station business license holders in the health aspects of gas station operations, namely as follows:

1. The management of gas stations must ensure that all workers included in the gas stations are in good health.
2. Management must inspect and monitor all potential health hazards in the gas station work environment regularly and continuously at least once a year.
3. Management should check the health of all its workers at the time of admission and during regular employment.
4. The management of the gas station must have and store data on the health condition of all gas station workers.
5. Gas stations must include their workers in the applicable national health insurance (Yunus, 2021).

Furthermore, regarding the protection of the right to health for female workers at gas stations, Article 28D paragraph (2) of the 1945 NRI Constitution formulates that everyone has the right to work and receive fair and decent remuneration and treatment in employment relations. In terms of gender between men and women who work, some things are natural in women that make them deserve certain protections and rights that are different from men. Based on data from the National Statistics Agency, the Labor Force Participation Rate (TPAK) of women in 2021 was 66.35% compared to men as much as 69.39%. This number has increased since 2019, namely 55.51%, and in 2020 as much as 61.26% (Badan Pusat Statistik, 2019-2021). Increasing women's participation in the world of work, especially in the public sector, should be a common concern, especially for countries and employers who employ women to protect rights that should be fulfilled.

The Manpower Law also provides rights to female workers in accordance with applicable regulations. Women's rights regulated in Law Number 13 of 2003 concerning Manpower are related to their reproductive functions, namely regarding menstruation, pregnancy, childbirth, miscarriage, and breastfeeding. The provisions of Article 81 of the Manpower Law contain the formulation that female workers who are in their menstrual period feel pain and inform employers that they are not obliged to work on the first and second days of menstruation. Then Article 76 of Manpower Law stipulates that employers are prohibited from hiring pregnant female workers who according to doctors are dangerous to the health and safety of the womb and herself when working between 23.00 and 07.00.

If a female worker gives birth, she is entitled to rest for 1.5 months before giving birth and 1.5 months after giving birth as stipulated in the provisions of Article 82 of the Manpower Law. As for female workers who experienced their death, they are entitled to a break for 1.5 months. Furthermore, female workers are also allowed to breastfeed their children if this must be done at work time. After Law No. 13 of 2003 concerning Manpower was amended by Law Number 11 of 2020 concerning Job Creation, the provisions in these articles have not changed.

In addition, Law Number 36 of 2009 concerning Health also provides special arrangements regarding the protection of the right to health for workers as stated in Chapter XII concerning Occupational Health. Article 164 paragraph (1) of the Health Law stipulates that occupational health efforts are aimed at protecting workers to live healthy lives and be free from health problems and adverse influences due to work. Article 164 of the Health Law emphasizes how the government must set occupational health standards and workplace managers are obliged to implement these established health standards in the workplace to protect workers to live healthy lives and be free from health problems and adverse influences caused by work, both formal and informal workers. If taken from the example of a case of the right to health for female workers at gas stations, gas station managers must pay attention to a healthy and responsible gas station environment. Observing a healthy gas station environment will have a good impact on female workers who are pregnant for the health of the fetus and themselves. Then Article 165 paragraph (1) and Article 166 paragraph (1) of the Health Law instructs the obligations that must be obeyed by the workplace manager. Article 165 paragraph (1) states that workplace managers are obliged to carry out all forms of health efforts through prevention, improvement, treatment, and recovery efforts for the workforce. Furthermore, Article 166 formulates that the employer or employer is obliged to guarantee the health of workers through prevention, improvement, treatment, and recovery efforts and bear the entire cost of maintaining the health of workers.

Some of these provisions regulate the obligation of employers to make efforts to ensure the health of workers. If it is related to the context of the right to health for women workers at gas stations, gas station managers need to take preventive measures to avoid an unhealthy gas station area environment by improving the governance of gas stations that meet workplace health standards. This is needed because the work environment has risk factors for the onset of disease. Then the gas station manager is also obliged to carry out treatment or recovery for his workers, especially for female workers if there is a condition that results in the worker's illness due to unhealthy work environment conditions.

Arrangements regarding the fulfillment of the right to health of female workers are very adequate. In relation to labor, especially the right to health for female workers, it is regulated in Article 49 of Law Number 39 of 1999 concerning Human Rights which reads:

1. Women have the right to vote, be elected, be appointed to jobs, positions, and professions in accordance with the requirements and laws, and regulations.
2. Women are entitled to special protection in the performance of their work or profession against matters that may threaten their safety and or health concerning women's reproductive function.
3. Special rights attached to women due to their reproductive function are guaranteed and protected by law.

Under these provisions, it is known that female workers obtain the same rights as male workers under certain conditions and get special protections that may threaten their safety or health concerning the female reproduction function guaranteed and protected by law. The protection provided by this human rights law to female workers is something that confirms that the right to health for female workers is a top priority because of certain conditions that are not owned by male workers. Thus, the protection of the right to health for female workers, especially those who work at gas stations, has certainly been regulated and paid attention to by lawmakers as stated in several positive laws in Indonesia. The protection of the right to health for female workers is something that must continue to receive attention. This attention is due to the vulnerability of violations of the right to health that should be obtained by female workers.

Thus, the protection of the right to health of women gas station workers as contained in the Manpower Law which is further regulated in Government Regulation Number 50 of 2012 concerning the Implementation of the Occupational Safety and Health Management System, the Health Law, and the Human Rights Law has been

comprehensively accommodated and does not conflict with human rights, especially women's rights. However, what needs to be considered is that in making K3 guidelines, employers should specifically regulate the safety and health of female workers. In addition to being related to reproductive function, of course, it must also be considered regarding the safety and psychological health of female workers considering that in the world of work female workers can experience unreasonable treatment such as sexual violence which is very detrimental.

Based on the explanation above, basically in Law Number 13 concerning Manpower, Law Number 36 of 2009 concerning Health, and Government Regulation Number 50 of 2012 concerning the Implementation of the Occupational Safety and Health Management System do not regulate the protection of the health of female workers separately from male workers. Thus, the fulfillment of the right to health for women gas station workers refers to the Manpower Law, the Health Law, and the Government Regulation Number 50 of 2012 concerning the Implementation of the Occupational Safety and Health Management System which has implications for legal protection to review the health rights of female workers at gas stations still refers to general arrangements that generalize the position of male and female workers.

3.2 Analysis of the Implementation of the Fulfillment of the Right to Health for Women Workers at Gas Station

The preamble to the 1945 NRI Constitution explains the purpose of the Indonesian nation, namely to protect the entire Indonesian nation and all Indonesian bloodshed and to promote the general welfare, educate the nation's life, and participate in carry out world order based on independence, lasting peace, and social justice. According to Thomas Aquinas, the well-being of society itself is the purpose of the law as a rational arrangement (Marzuki, 2017). In the end, enforcement of laws related to the public interest is carried out by the state (Marzuki, 2017). Law enforcement is the activity of integrating the relationship of values described in the rules of a stable embodiment and attitude of action as a series of elaboration of final stage values to create, maintain, and maintain social peace in life (Soekanto, 2008). Soerjono Soekanto at least provided the determining factors that the law would be effective. These legal factors include:

1. Its legal factors (legislation),
2. Law enforcement factors, namely the parties who form and apply the law,
3. Factors of means or facilities that support law enforcement,
4. Community factors, namely the environment in which the law applies or is applied,
5. Cultural factors, namely as a result of work, creation and taste based on human nature in the association of life.

Laws or statutes in a material sense include written regulations that are generally accepted and made by the ruler both at the central and regional levels. According to Soerjono Soekanto, the measure of effectiveness in the first factor, namely the law or law:

1. The existing regulations regarding certain areas of life are already quite systematic.
2. The existing regulations regarding certain areas of life are quite synchronous, hierarchically and horizontally there is no conflict.
3. Qualitatively and quantitatively the regulations governing certain areas of life are sufficient.
4. The issuance of certain regulations is in accordance with the existing juridical requirements (Soekanto, 2008).

If looking at the regulations governing the protection and fulfillment of the right to health for female workers in general, it is quite adequate. Starting from the 1945 NRI Constitution which guarantees the right to health constitutively in Article 28H paragraph (1), Articles 86-87 of the Manpower Law regarding the right to safety and health for workers, Chapter XII of the Health Law on Occupational Health, and Article 49 of the Human Rights Law which regulates the rights of women in carrying out work. At the level of norms, all these rules do not conflict with each other in regulating the right to health for female workers. Unfortunately, specifically, the regulation on the protection of rights for female workers in the employment sector that has a high potential for danger such as gas stations is inadequate, including the right to health. This has implications for legal protections to examine the health rights of female workers at gas stations still referring to general arrangements that generalize the position

of male and female workers. In fact, as a workplace with a high potential for danger, gas stations should be able to accommodate natural differences between men and women, especially related to their reproductive function.

Related to law enforcement factors, what is meant by law enforcement is those who are directly involved in the field of law enforcement which not only includes law enforcement but includes peace maintenance (peaceful enforcement). Law enforcement includes those serving in the judiciary, prosecutors, police, civil service, and society (HS&Nurbani, 2017). Soerjono Soekanto sees that the problems that affect the effectiveness of written law in terms of officials will depend on the following:

- a. To what extent officers are bound by existing regulations?
- b. To what extent officers are allowed to give discretion?
- c. What kind of example should be given by officers to the community?
- d. To what extent the degree of synchronization of the assignments given to the officer thus gives strict limits to his authority (Soekanto, 2008).

The issue of fulfilling the right to health for female workers at gas stations, especially when viewed from law enforcement factors, should each of the officials, both the judiciary, the prosecutor's office, the police, the judiciary, and the correctional service synergize with each other in upholding the formulations in the Manpower Law, the Health Law, the Human Rights Law, and the Occupational Safety and Health Management System Regulation in seeking the protection of the right to health for female gas station workers. Judicial power as part of the judicial institutions based on Article 24 of the 1945 NRI Constitution plays a role in adjudicating violations of the law. Therefore, an important role lies in the institution of judicial power in adjudicating cases of violations of the provisions of the Manpower Law, the Health Law, the Human Rights Law, and the Occupational Safety and Health Management System Regulation, especially against articles related to the right to health for female workers. Then if you look at the role of the prosecutor's office, there is in terms of prosecuting criminal acts that are related to / injuring the right to health for female workers at gas stations. The police act as investigators in criminal acts related to/injuring the right to health for female workers at gas stations. The authorship itself certainly plays its role as an assistant to the judge in seeking material truth by siding with the interests of the suspect/defendant in similar cases (Marpi, 2020). Finally, the correctional institution or prison plays a role in guiding prisoners who are proven to have violated the law against the provisions of the right to health for female workers at gas stations.

To examine how the role of law enforcement officers is implemented in the context of protecting the right to health for women workers at gas stations that have been running, we can first observe how the right to health for gas station workers is empowered by employers and highlighted by law enforcement. Although no data shows the number of gas station workers who experience health problems nationwide (Universitas Pahlawan Quality and Entrepreneurship, 2018). However, based on studies conducted by several parties at certain gas stations, it is proven that gas station operator workers are prone to health problems. However, there has been no effort towards changes made by law enforcement to address this problem, especially preventively. In the event of an accident such as a gas station fire that threatens the health of the worker, responsibility for the incident is viewed on a case-by-case basis (Dananjaya, 2020). Or it can be said, the mechanism for solving cases by law enforcement is only limited to finding which party is responsible and then being asked for compensation. When viewed from the perspective of workers, such an event can endanger their health and safety and should be sought to be avoided.

Another factor in law enforcement efforts to fulfill the right to health for women gas station workers is facilities and facilities. The facilities and facilities as referred to include educated and skilled human resources, good organization, adequate equipment, sufficient finances, and so on (HS&Nurbani, 2017). In reality, working at gas stations makes female workers inseparable from the environment which poses a bad risk to health. In general, this is in line with what was conveyed by Dr. dr. Nendah Roestijawati, MKK. States when interview that five risk factors for the work environment can cause disease, these five factors include physical, biological, chemical, psychological, and ergonomic factors.

As for the specifics according to Laila and Shofwati. one of the locations of the source of lead exposure is a gas station. Exposure to gas station lead comes from premium gasoline fuel released in the form of steam. Some of the impacts that can be caused by exposure to this lead include anemia, increased risk of reproduction, to a decrease

in sexual arousal, especially in the intensity of high exposure (Laila & Shofwati, 2013). The research on Blood Lead Levels and Health Complaints at Female Gas Station Operators also tried to describe data on complaints of the digestive system and nervous system experienced by 34 female gas station operators in the Ciputat and Ciputat Timur Districts of South Tangerang. Some of the complaints of the digestive system experienced are nausea, reduced weight, and anorexia. Meanwhile, complaints of the nervous system include fatigue, headaches, and ringing in the ears (Laila & Shofwati, 2013). Thus, facilities and facilities are one of important things in supporting the fulfillment of the right to health for female workers at gas stations. Although in fact facilities such as adequate equipment for occupational health care the last protection of controlling work environment factors. This is as stated by dr. Wening Tri Maranti, Sp.Ok. when interview that related to the hierarch of controlling work environment factors ranging from elimination, substitution, engineering control, control, administrative, and the last is personal protective equipment. That way, the personal protective equipment needed by women gas station workers must refer to the potential dangers around, if there are large amounts of chemicals, then nose and mouth protection is important. If exposed to sunlight, sunglasses are needed, and use long sleeves to avoid exposure to ultraviolet rays. Furthermore, it is related to the factors of society that can be interpreted as several people in the broadest sense and bound by a culture that they consider to be the same so that in the context of law enforcement it is closely related to where the law applies and is applied (HS&Nurbani, 2017). This community factor can be in the form of stigma against female workers at gas stations and how public awareness is to protect their right to health. Women as operators of workers at gas stations are characterized as being able to attract attention and work more dexterously than men. In an interview conducted with Mr. Singgih the person in charge (PIC) of gas stations in Purwokerto with unit number 44.531.19 said that the reason for hiring female employees tends to be a marketing strategy. Ironically, in a study conducted by Lamopia and Wulandari, data was found that a gas station in Denpasar, Bali with unit number 54,801.50 hired female workers by telling them to dress sexily when working instead of the usual gas station operator uniforms (Lamopia&Wulandari, 2017). This kind of condition shows the stigma adopted by certain communities that women's bodies can be used as separate commodities to increase economic benefits, especially at gas stations. Here else, all gas station workers, both men, and women, should be dressed according to the prescribed standards that will protect the body more than skimpy clothing. Meanwhile, in a study on the protection of women gas station workers conducted at 6 gas stations in Padang city, it was revealed that there was discrimination against female workers. Gas stations do not accept married female workers, so their right to get a job is limited. In addition, they also do not get the protection of the right to health specifically from gas stations under the pretext of gender equality (Sari&Montessori, 2018). The existence of these events is enough to prove how the stigma of society, towards women in particular, greatly affects the fulfillment of the right to health for women workers at gas stations.

The last factor is the cultural factor which can be interpreted as a habit that is constantly carried out by the community regarding the treatment of a legal provision. One of the habits of some people who are prohibited when in the SBPU area is smoking. Smoking at gas stations can cause fire hazards because when refueling, around the dispenser area there will be fire vapor. The fire vapor will cause a fire when given a lighter such as embers (one of which is from a cigarette), camera flashes, and telephone signals (Pertamina, 2021).

The ban on smoking at gas stations has become part of the SOP (Standard Operating Procedure) which is manifested in the form of warning signs installed in each gas station unit. Nevertheless, there are still consumers who do not heed the warning signs to the point of fatality. In line with what was conveyed by Ayu Anggraeni, who is a female gas station worker in Sokaraja, Banyumas with unit number 44.531.16, who said that there are still many motorists who ignore the appeal of smoking bans at gas stations. On the other hand, there was a mini SPBUN fire in Labuhan Village, Sreseh District, Sampang Regency, Madura. The fire was triggered by the presence of cigarette butts lying in the area of the fuel-filling machine (Sutriyanto, 2020). Besides being able to trigger fires, the culture of smoking gas stations is also detrimental to the health of female gas station workers. If the worker is pregnant, exposure to cigarette smoke can affect pregnancy because cigarette smoke contains carbon monoxide and nicotine which can adversely affect the fetus (Hanum & Wibowo, 2016). Thus, there is a need for awareness and support from the community to participate in realizing the fulfillment of the right to optimal health for women workers at gas stations.

4. Conclusion

Based on the results of the research and discussion that has been described earlier, the author provides the following conclusions:

1. The fulfillment of the right to health for women gas station workers is generally accommodated in laws and regulations in Indonesia, such as the 1945 NRI Constitution which guarantees the right to health constitutively in Article 28H paragraph (1), Article 86-87 of the Manpower Law on the right to safety and health for workers, Chapter XII of the Health Law on Occupational Health, and Article 49 of the Human Rights Law which regulates the rights of women in carrying out work. At the level of norms, all these rules do not conflict with each other in regulating the right to health for female workers. However, specifically, the regulation on the protection of rights for women workers in the formal sector such as gas stations is inadequate, including the right to health. Because the regulation does not specifically regulate the protection of the health of female workers separately from male workers. This has implications for legal protections to examine the health rights of female workers at gas stations still referring to general arrangements that generalize the position of male and female workers.
2. The implementation of the fulfillment of the right to health for women gas station workers can be seen from five factors, namely their legal factors (laws), law enforcement factors, factors of facilities or facilities that support law enforcement, community factors, and cultural factors. These five factors influence each other in optimizing the fulfillment of the right to health for workers, especially women at gas stations.

5. Suggestion

Based on these conclusions and consideration of several aspects of this study, the author gives the following suggestions:

1. It is necessary to establish a comprehensive regulation regulating the rights to health for women, especially those who work at gas stations, not only limited to regulations that are common in nature for both men and women as they are currently in force.
2. The need for further research on the implementation of the regulation of the right to health for women workers at gas stations, especially related to community factors due to stigma and patriarchal culture that causes women to still have difficulty working in the formal sector and is more emphasized to be in the domestic sector.

References

- Arifin, Zainul. 2021. *Kronologi Kebakaran SPBU Mayjen Sungkono Malang [Chronology of the Gas Station Fire, Maj. Gen. Sungkono Malang]*. Kronologi Kebakaran SPBU Mayjen Sungkono Malang - Surabaya Liputan6.com. Diakses pada Senin, 1 Agustus 2022, Pukul 12.35 WIB.
- Dananjaya, Dio. 2020. *Kendaraan Terbakar di SPBU, Siapa yang Bertanggungjawab? [Vehicle Caught Fire at Gas Station, Who is Responsible?]*. Kendaraan Terbakar di SPBU, Siapa yang Bertanggung Jawab? (kompas.com). Diakses pada Senin, 1 Agustus 2022, Pukul 13.50 WIB.
- Hanum, Hanifah & Aditya Wibowo. (2016). Pengaruh Paparan Asap Rokok Lingkungan pada Ibu Hamil terhadap Kejadian Berat Bayi Lahir Rendah [Effect of Environmental Cigarette Smoke Exposure in Pregnant Women on Low Birth Weight Events]. *Medical Journal of Lampung University*, 5 (5), 22 – 26.
- Hartono, Mimin Dwi dkk. (2021). *Standar Norma dan Pengaturan Nomor 4 tentang Hak atas Kesehatan. [Standard Norms and Regulations Number 4 on the Right to Health]*. Jakarta Pusat: Komisi Nasional Hak Asasi Manusia Republik Indonesia (Komnas HAM).
- HS, Salim dan Erlies Septiana Nurbani. (2017). *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi. [Application of Legal Theory to Thesis and Dissertation Research]* Jakarta: PT Raja Grafindo Persada.
- Jumlah Penduduk Perempuan Indonesia pada 2018 Mencapai 131.9 Juta Jiwa. [Indonesia's Female Population in 2018 Reached 131.9 Million] Jumlah Penduduk Perempuan Indonesia pada 2018 Mencapai 131,9 Juta Jiwa | Databoks (katadata.co.id). Diakses pada Rabu, 23 Juli 2022, Pukul 18.45 WIB.
- Komisi Nasional Hak Asasi Manusia. (2009). *Komentar Umum Konvensi Internasional Hak Sipil dan Politik, Konvenan Internasional Hak Ekonomi Sosial dan Budaya [General Commentary of the International*

- Convention on Civil and Political Rights, International Covenant on Social and Cultural Economic Rights]. Jakarta: Komisi Nasional Hak Asasi Manusia.
- Kurniawan, Nalom. (2011). Hak Asasi Perempuan dalam Perspektif Hukum dan Agama [Women's Rights in Legal and Religious Perspectives]. *Jurnal Konstitusi*, 4 (1), 153 – 174.
- Lamopia, I Wayan Gede & Riza Wulandari. (2017). Pemaknaan Seragam Seksi Bagi Operator Perempuan SPBU 54.801.50. [Meaning of Sexy Uniforms for Female Gas Station Operators 54.801.50] *Jurnal Asketik*, 1 (2), 101 – 110. <https://doi.org/10.30762/ask.v1i2.522>.
- Marpi, Yapiter. (2020). *Ilmu Hukum Suatu Pengantar*. [Legal Science an Introduction] Tasikmalaya: PT. Zona Media Mandiri.
- Marzuki, Peter Mahmud. (2017). *Pengantar Ilmu Hukum (Edisi Revisi)*. [Introduction to Legal Science (Revised Edition).] Jakarta: Penerbit Kencana.
- Najmi, Nur Laila & Iting Shofwati. (2013). Kadar Timbal Darah dan Keluhan Kesehatan Pada Operator Wanita SPBU. [Blood Lead Levels and Health Complaints at Female Gas Station Operators] *Jurnal Kesehatan Reproduksi*, 4 (1), 41 – 49.
- Novita, Sari. *Analisis Fakto-Faktor yang Berhubungan dengan Pemilihan Lapangan Pekerjaan di Sektor Informal oleh Perempuan Nikah di Desa Kuntu Kabupaten Kampar*. [Facto Analysis of Factors Related to Job Selection in the Informal Sector by Married Women in Kuntu Village, Kampar Regency] *Jurnal Ekonomi*. <https://repository.unri.ac.id/handle/123456789/2937>. Diakses pada Minggu, 3 Juli 2022, Pukul 11.00 WIB.
- Pertamina. 2021. *Pertamina Apresiasi Operator SPBU yang Ingatkan Pelanggan Tidak Merokok di SPBU Perintis Makassar*. [Pertamina Appreciates Gas Station Operators Who Remind Customers Not to Smoke at Makassar Pioneer Gas Stations]. Pertamina Apresiasi Operator SPBU yang Ingatkan Pelanggan Tidak Merokok di SPBU Perintis Makassar | Pertamina. Diakses pada Senin, 1 Agustus 2022, Pukul 11.30 WIB.
- Riyadi, Condro S. & Mutia CH. Thalib. (2020). Jaminan Perlindungan Hukum Terhadap Kesehatan dan Keselamatan Kerja Kepada Tenaga Kerja Konstruksi. [Guaranteed Legal Protection of Occupational Health and Safety to Construction Workers]. *Jurnal Legalitas*, 12 (2), 79 – 93. <https://doi.org/10.33756/jelta.v13i02.7607>.
- Sari, Diana Rumala & Maria Montessori. (2018). Perlindungan Perempuan Pekerja Stasiun Pengisian Bahan Bakar Umum (SPBU) di Kota Padang. [Protection of Women Workers of Public Refueling Stations (SPBU) in Padang City]. *Journal of Civil Education*, 1 (2), 108 – 115. <https://doi.org/10.24036/jce.v1i2.180>.
- Soekanto, Soerjono. (1986). *Pengantar Penelitian Hukum* [Introduction to Legal Research]. Jakarta: UI Press.
- Soekanto, Soerjono. (2008). *Faktor- Faktor Yang Mempengaruhi Penegakan Hukum*. [Factors Affecting Law Enforcement] Jakarta: Penerbit UI Press.
- Soemitro, Ronny Haniatjo. (1990). *Metode Penelitian Hukum dan Jurimetri*. [Legal Research Methods and Jurimetry] Jakarta: PT Ghalia Indonesia.
- Sutriyanto, Eko. 2020. *SPBU di Sampang Terbakar Hebat Gara-Gara Putung Rokok*. [Gas Station in Sampang Burned Badly Because of Putung Cigarettes] SPBU di Sampang Terbakar Hebat Gara-Gara Putung Rokok - Tribunnews.com. Diakses pada Rabu, 17 Agustus 2022, Pukul 19.58 WIB.
- Tim Independen Pengendalian Keselamatan Migas Dirjen Minyak dan Gas Bumi Kementerian ESDM. 2018. *Keselamatan SPBU: Pedoman Teknis dan Pembelajaran dari Kejadian*. [Gas Station Safety: Technical Guidelines and Learning from Events.]
- Tingkat Partisipasi Angkatan Kerja Menurut Jenis Kelamin (Persen). [Participation rate by gender (percent).] Badan Pusat Statistik (bps.go.id). Diakses pada Selasa, 19 Juli 2022, pukul : 19.30 WIB.
- Universitas Pahlawan Quality and Entrepreneurship. 2018. *Malapetaka Di Balik Senyum Petugas SPBU*. [The Doom Behind the Gas Station Attendant's Smile] Artikel Kesehatan “MALAPETAKA DI BALIK SENYUM PETUGAS SPBU” – Universitas Pahlawan Tuanku Tambusai. Diakses pada Rabu, 10 Agustus 2022, Pukul 21.04 WIB.
- Yunus, Muhammad. 2021. *SPBU di Pangkep Meledak dan Terbakar, Satu Warga Meninggal Dunia*. [Gas Station in Pangkep Explodes and Catches Fire, One Resident Dies] SPBU di Pangkep Meledak dan Terbakar, Satu Warga Meninggal Dunia - Suara Sulsel. Diakses pada Senin, 1 Agustus 2022, Pukul 15.50 WIB.