

THE FULFILLMENT OF THE RIGHT OF WELFARE FOR WOMEN WORKERS IN INDONESIAN

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ABSTRACT

Protection of the rights to receive welfare for female labor force is still inadequate. This is proven by many companies that provide minimal salaries for the workers, both basic salaries and food allowances. The women workers do not get welfare, and health. In addition, workers also threatened unilaterally termination of companies. This study is intended to determine, identify and analyze the factors that cause discrimination against female workers, and how to model the fulfillment of welfare rights for women workers by taking case studies at several companies in the District of Semarang, Central Java. This research used socio-juridical. The results showed that there are four factors that cause discrimination against female workers in Semarang regency, Central Java, namely: the company in employment in certain positions require a minimum of minimum / maximum can occupy a certain position. In this case, women are usually different ages required by men; there is a gender gap in working hours that are closely related to the amount of wages / salaries are received. Average hours of labor of men more than women; pregnant and lactating women do not get a guarantee of safety at work, and in fulfillment of reproductive rights; and marital status, in which the factor is related to the opportunities for women to get a job in a factory. Many job seekers, especially for women who are married, so it was hard to get a job. Regarding it, then the model of the right to welfare for women workers, especially in the district of Semarang is to integrate the values of human rights such as respect, protection and fulfillment in employment policies, both in the form of local regulation or other technical policy.

Keywords: Female labour; welfare rights, Policy

INTRODUCTION

Today's modern phenomenon, women contribute to improving the welfare of the family by working. The existence of women in the 20th century not only as a housewife, but it can also work to help her husband improve earnings because the economic needs of the family. Women have some potential that is not less than the men, both in terms of intellect, ability, and skill. Female workers who work in companies nowadays experiencing a dilemma situation which progressively tends to affect "marginalization" and "privatization" women's work, as well as concentrating on in the form of service work is not productive. This sometimes leads to the phenomenon of the declining position of women in employment.¹

The phenomenon of women in employment is also known as the "*industrial redeployment*", mainly occurs through the transfer of production processes in the manufacturing industry from developed countries to developing countries. The transfer of the production process that includes the transfer of capital, technology, machines, and industrial work environment west to developing countries such as known mainly occurred in the industries of textile, clothing, and electronics. However, because commodity these industries has reached advanced level of development in the production cycle, only half the labor force and rough rough is required in the transfer of the production process from developed countries to developing countries, including Indonesia.²

Legal protection for vulnerable groups, particularly for women workers is located in the state of life that respects and protects human rights. Vulnerability and discrimination are prevalent in female labor can occur for several reasons, among others, the: (1) a relation that is not balanced; (2) female sexuality; (3) legal culture (4) the doctrine of privacy; (5) the pattern of conflict resolution; and (6) of government apathy.

To understand the meaning of the term discrimination, can refer to the ILO Convention No. 111 Concerning Discrimination in Employment and Occupation It has been ratified by Act No. 21 of 1999 and the provisions of Act No. 39 of 1999 on Human Rights. In the Convention the term discrimination includes: (a) any distinction, exclusion, or preferential treatment on the basis of race, color, sex, religion, political beliefs, national or social origin that result negate or diminish equality of opportunity or treatment in employment or office; and (b) the distinction, exclusion or other preferential treatment resulting negate or diminish equality of opportunity or treatment in employment or occupation as defined by the member concerned after consultation with representative organizations of employers and workers if any, and with other appropriate bodies. The term "work" and "office" in the present Convention covers also the opportunity to join skills training, obtain employment and to particular occupations, and terms and conditions of employment.

One example of discrimination in the workplace is when a parent company knowing there are women who are qualified to fill that position, and indeed women are shown to have appropriate competence but because of considerations of gender/race/

¹ Prayitno, Iwan. 2003. *Wanita Islam Perubah Bangsa*. Jakarta: Pustaka Tarbiatuna. page 185

² Ridzal, Fauzi. 2000. *Dinamika Gerakan Perempuan diIndonesia*. Yogyakarta: Tiara Wacana. Page 78

religion parent companies prefer to put men no more competent to fill a particular position in a subsidiary. Thus, the company can be said to have committed discrimination. Even record LKPA Central Java in 2014 reported high rates of discrimination and violence against women workers in Central Java with a composition as much as in 2598 (50%) of factory workers, in 1396 (27%) of domestic workers and in 1169 (23%) of other workers. More Friends of Women (NGO in Magelang District) released a report in 2014 that violence against women workers in Magelang District also happen that the number 32 cases of physical violence, sexual violence and violence Psychological 8 cases not recorded.

For women workers issues Employment Termination is a complex issue, because it has links with economic as well as psychological problems. Other factors that make labor (women) less protection for their *outsourcing* as a necessity in the practice of global business competition. Problematic provisions regarding Employment Agreement Specific Time, in which differences of treatment, especially in fulfilling the basic rights of workers lack legal protection. The use of temporary workers in the weakening position of trade unions due to the high *turnover* of workers.³

The problems of female workers drew attention, especially among legal experts stating that the perspective of the protection of workers' rights or labor Indonesia should be in line with the International Convention of 1990, which made the labor as a subject. Labor rights that must be protected to guarantee their civil rights and political, economic, social, and cultural, filled with the right to obtain information, and guarantee safety. Protection of preventive and repressive laws are expected to keep workers and their families, by providing guarantees for their welfare by paying the basic rights of workers.⁴

The rights of women workers who need protection in accordance with Act No. 13 of 2003 on Labour, among others: severance pay (Article 156 (2)), UMPK (Article 156 (3)), compensation of housing and treatment (Article 156 (4)) and money substitutes annual leave pregnant concerned or upon termination of employment, as well as money wages backdated dismissed, are rights that women workers are rarely accepted.

Based on the facts on the ground, recorded since about twenty years ago there is the tendency of feminization of labor characterized by increased Labor Force Participation Rate (LFPR) of women from 32.7 percent in 2000 to 39.2 percent in 2014. Or the increased participation female job seekers is getting higher from year to year. The increasing female workers are nothing but a part of the spirit of the woman that he did not want to just be considered proficient in domestic affairs. Women want to show that it also has its advantages as well as a man. The election of women as workers by the factory because they are very qualified in production cost reduction strategy. In this position, capitalism has reduced the role of women as just being implementer and the domestic holders. The economic function was abolished by accentuating the female reproductive function.⁵

Based on these realities, it can be formulated research problems as follows:

1. What factors are causing the occurrence of discrimination against women of factory workers in the district of Semarang, Central Java?
2. How to model fulfillment of the welfare rights for women of factory workers in the district of Semarang, Central Java?

RESEARCH METHODS

Legal research with socio-juridical approach is a combination of field research, as well as literature with a naturalistic approach.⁶ Sources and types of data is divided into primary, secondary and tertiary. The primary data obtained through documentation study and research library, consisting of primary legal materials (legislation and legal documents related to the fulfillment of the right to welfare for women of factory workers), secondary law (written references, books and documents public complaints, relevant with a research topic), and tertiary legal materials (dictionary of law, and statistics). Secondary data in the form of statements that contain words or stories from informants study were selected by *snowball sampling* through open ended interviews and depth (*focus group discussion*). The informant, as the main data sources were selected *purposively*. The data tertiary another form of data that is tentative, obtained through participant observation that direct observation of the research object without the intervention of its existence and the interaction between researchers and informants.

Type a descriptive qualitative with models of research-grounded, using cross-checking technique in the examination of the validity of data that is consistent with the reference triangle, then do the tactics that stimulate the chain of evidence, closed with a dialogical interpretation. Analysis of data using interactive models of analysis, including the reduction of data, display data and concluding drawing.⁷

³ Outsourcing is delegating the daily operation and management of a business process to outside parties (companies providing outsourcing services). Through devolution, the management is no longer carried out by the company, but rather delegated to outsourcing services company. Lihat dalam Suhardi, Gunarto. 2006. *Perlindungan Hukum Bagi Para Pekerja Kontrak Outsourcing*. Yogyakarta: Atma Jaya. page 5

⁴ Damanik, Sehat. 2006. *Perjanjian Kerja Menurut UU No. 13 Tahun 2003 Tentang Ketenagakerjaan*. Jakarta: Publishing. page 36

⁵ Tjandraningsih, Indrasari. 2014. *Buruh Perempuan Menguak Mitos Gender*. Pustaka Pelajar: Yogyakarta. page 155

⁶ Muhadjir, Noeng. 1998. *Metodologi Penelitian Kualitatif*. Yogyakarta: Rake Sarasin. page 47

⁷ Nazir, Moh. 1988. *Metode Penelitian*. Cet. Ke-3. Jakarta: Ghalia Indonesia. page 235

The social setting in this study is relevant stakeholders increase the welfare rights for women of factory workers in the district of Semarang, Central Java. Informants in this study is the head of the company, several labor organizations, women workers and some labor and gender NGOs, and community leaders concerned.

RESULTS AND DISCUSSION

1. Existing Condition Welfare Rights for Women of Factory Workers in Semarang District

Semarang District is one of the districts of 29 districts and 6 cities in Central Java province. Semarang regency is one of the industrial centers in Central Java. The number of companies in the District by funding Disnakertrans of Semarang Central Java province in 2013 reached 3162 companies consisting of large-scale enterprises, medium and small, employing 38.327 female workers and 63.391 male workers.⁸

Biggest contributor to the GDP in the District of Semarang in 2014 was the processing industry sector (48%) and the trade, hotels and restaurants (23%). Two of the sector has always accounted for the GDP and increasing significantly each year. Industries of small and medium in the district of Semarang totaling 1.439 pieces which include the food industry is 519 units (36%), wood 290 units (20%), woven fabric 183 units (13%), and other small industrial 318 units (22%).⁹

Strategic location of Semarang District linking Semarang and Solo and Yogyakarta became the target of investors, especially those in the industry and textile products. In the Semarang District are 31 textile industry, including the PT Ungaran Indah Busana and PT Semarang Garment, PT. Ungaran Sari Garment, PT. Apac Inti Corpora, PT. Morich Indo Fashion, PT. Sinabro/Global Garment, PT. Liebra Permana, PT. Batam Textile Industry and so on.

Factory and textile products offers ample opportunity for a country to start the industrialization of its economy. The industry plays an important role in increasing the export orientation, especially in Asian countries. The total of workers who are absorbed in the textile sector are 52.377 people (68.15%) of all workers in the industrial sector in Semarang District. Different data at Semarang. The study will take samples at PT Ungaran Indah Busana and PT Semarang Garment.

a. PT Ungaran Indah Busana

PT Ungaran Indah Busana is a Domestic Investment in the field of garment industry. The company is located at Jl Raya Karangjati-Pringapus Km 5 Ungaran of Semarang District. Workers totaled 2.180 consisted of as many as 2.082 people female and male 98 people, aged ≥ 18 years. Permanent workers are 70%, and 30% of the contract labor. PT Ungaran Indah Busana has a training program for its workers. This company does not have a waste management installations with adequate.

The working time imposed is 7 hours/day and 40 hours/week. The highest wage amounted to Rp. 3.500.000, and the lowest wages amounting to Rp. 1.200.000. Facilities of Health and Occupational Safety, which is provided is P3K and officer, and firefighters. The welfare facilities for workers include employees of cooperatives, religious facilities, sports and arts, work uniforms, lockers, cafeteria and meeting rooms.

PT Ungaran Indah Busana has been a BPJS to enroll all workers related accident insurance, life insurance, and retirement. Retirement program implemented by the pension funds of employer. Industrial relations conducted through the employment relationship, the Company Regulations, and the organization of labor which includes the bipartite.

Part regardless of sex, is part of packing, cutting, mechanics, warehouse and security. Women workers were also given the chance to hold a position of prestige in PT Ungaran Indah Busana of Semarang, namely the warehouse in charge of male workers. Women workers remain as 70%, and contract workers some 30%. Wages of female workers fixed and non-fixed as Rp 1.419.000, plus a premi, meal and transport. allowance. If the absent without explanation then the present premi salary cut, whereas if the permit is not official, the wages of the working day cut. Workers who were laid off received severance pay corresponding company rules and regulations. Bai female menstruation leave for 2 days, and maternity / give birth leave for 90 days, and miscarriage leave for 45 days.

The right to food rations for women workers is realized by PT Ungaran Indah Busana in the form of meal allowance. Catering are also provided for workers who work at night (until 21:00 pm). As for health insurance for workers and existing family health insurance, Accident Insurance, is given in case of occupational accidents during working hours; Dead Insurance, and Old Age Insurance. The guarantee of the Health only through P3K. The freedom of association through Woker Unions of Indonesi and opportunities to organize protection. The right to the provision of security guards for women already exists security of women, while the shuttle transportation is provided only for workers who left work at 21:00 pm.

The fulfillment of the right of workers to breastfeed has been fulfilled with the availability of time and a special breastfeeding room. Amenities bathroom specifically women are also provided. Other facilities are places of worship (mosque). Locker and cafeteria. Unfortunately they lack the socialization of labor rights of women.

⁸ <http://nakertransduk.jatengprov.go.id/index.php/page/details/page-1379397637/jumlah-perusahaan-dan-tenaga-kerja-tahun-2013.html>

⁹ <http://www.semarangkab.go.id/utama/selayang-pandang/kondisi-umum.html>

b. *PT Semarang Garment.*

PT Semarang Garment is Domestic Investment. The company is located at Jl. Soekarno Hatta Km 25, Wujil village, Bergas district of Semarang. Number of employees 2.536 consisted of as many as 2,409 people of working women and male as many as 127 people, aged ≥ 18 years. They are all permanent workers with a monthly wage.

PT Semarang Garment has a training program for its workers, apprenticeship and training facilities. Associated with the production of solid waste, the company already has the installation of adequate waste management. The highest wage amounted to Rp 5.150.000, and the lowest wages amounting to Rp 1.419.000. All workers receive Minimal Money of Regency.¹⁰ Companies providing religious holiday allowance for > 1 month wages. Amenities Occupational Health and Safety is provided is P3K, polyclinics, officers of Occupational Health and Safety, paramedics and firefighters. While the welfare facilities for workers include employees' cooperative, unit Family Planning companies, places of worship, sports and arts, work uniforms, lockers, cafeteria, meeting rooms and recreational facilities for employees working one year.

PT Semarang Garment has registered its workforce participated in workers' social security that includes accident insurance, life insurance, pension and health care benefits. industrial relations conducted through the employment relationship, the Employment Agreement, and the organization of labor, including the bipartite, labor unions of Company Level, Committee of Occupational Safety and Health, and the Indonesian Employers' Association (APINDO).

Employed women were given the chance to hold a position of prestige in PT Semarang Garment, like Chiev and SPV in charge of male workers. women workers still earn wages of 1.431 million per month. If the absent without explanation then then the present premium salary, whereas if the permit is not official, deductions from wages of the working day. The working hours are 07:00 to 16:00 pm during five working days. In addition to the monthly salary also get other income, in the form of holiday allowance and money on leave, as well as their reward for workers who exceed the target Rp. 50.000 each month and Rp. 100.000 each year for eligible). But if it does not meet the target does not get punishment. If dismissed termination of employment, workers receive severance pay in accordance with company rules and regulations. Leave for women workers is menstruation for 2 days, generous maternity/childbirth for 90 days, and miscarriage leave for 45 days. Substitute money off is one times the pay day the rest of leave not taken.

The right to food rations for women workers by PT Semarang Garment embodied in the form of meal allowance. Catering are also provided for workers who work at night and overtime more than 3 hours. As for health insurance for workers and the nuclear family health insurance through social insurance for labour (BPJS), Work Accident Insurance, is given in case of occupational accidents during working hours, Dead Insurance; and Old Age Pension in the form of severance from the company after five years of work and pensions of BPJS, as well as the Health Insurance through clinical service companies who also provides supplements and vitamins. The freedom of association through unions labour of Indonesia and organizational protection have also been arranged in the company regulations, including structure, guidance, and protection for workers.

The fulfillment of the right of workers to breastfeed but given no freezer facilities and time to express the milk. Amenities bathroom specifically women are provided. Other facilities are places of mosque. Unfortunately they lack the socialization of labor rights of women.

2. The factors causes of Discrimination Against Women Factory Workers in Semarang Regency, Central Java

Fulfillment of welfare rights for workers is an obligation that must be met by the employer.¹¹ Article 27 paragraph (2) and Article 28D (2) 1945 Constitution guarantees that everyone is entitled to work and a decent living for humanity, as well as rewarded and fair treatment and decent in the employment relationship.

Worker protection is intended to ensure that workers are treated more humanely, and have the opportunity to carry out various tasks and duties of religious and social. Protection of laborers regulated in the Act Number 13/2003 on Employment, Article 67 until Article 101, involve protection of workers with disabilities, children, women, working time, health and safety, wages and welfare.

Theoretically, employment protection, including: (i) the protection of economic, namely in the form income fairly, including when workers are unable to work against their will; (ii) social protection, namely in the form of work health insurance, and freedom of association and protection of the right to organize; and (iii) technical protection, namely in the form of security and safety.¹²

¹⁰ Upah Minimum Kabupaten/kota (UMK) pada tahun 2015 tertuang ke dalam Keputusan Gubernur Jateng Nomor 560/85 Tahun 2014 yang ditetapkan 20/11/2014. Untuk UMK Kabupaten Semarang 2015 sebesar Rp 1.419.000

¹¹ Labor protection in the form of security and safety; protection to get a job (inside and outside the country); protection of fundamental rights of workers; protection of occupational safety and health; protection of wages and social insurance; and protection of the right of association.

¹² Khakim, Abdul. 2003. *Hukum Ketenagakerjaan Indonesia*. Bandung: PT. Citra Aditya Bakti. page 61.

Urgen consideration the protection of employment for women: (i) The women are generally powered weak, delicate, but diligent; (ii) moral norms must be prioritized in order to force a woman wokers not affected by the negative actions of workers of the opposite sex, especially when employed night; (iii) The women workers were generally work the works of fine in accordance with the nature of fineness and strength; and (iv) the labors, there are still girls, some are already married or family which itself has loads of households that must implemented anyway.¹³

In accordance with the data of the study, in addition to the wage issue, the protection of women workers both in terms of safety at work, and in terms of the fulfillment of the reproductive rights of women workers are still not fully protected. There is also a gender gap in terms of the allocation of working hours which are closely related to the amount of salaries are received. Average hours of labor of men more than women. If the note of the conditions on the ground, can be found of restrictions job requirements that lead to sex discrimination. Discrimination practices can actually occur at the time of evaluation work to increase class wage structure, for working women and men.

Results of the study there are at least four main factors that cause discrimination against women workers in the district of Semarang, Central Java, namely factors: (1) age, the company in employment in certain positions require a minimum/maximum age sustained occupy a certain position. Usually required age of women is different from men age; (2) Hours of Work, there is also a gender gap in terms of the allocation of working hours which are closely related to the amount of salaries are received. Average hours of labor of men more than women; (3) Pregnancy and Breast-feeding, pregnant and lactating women are lacking in terms of safety at work, and in terms of fulfillment of reproductive rights; and (4) marital status, this factor is associated with the opportunities for women to get jobs in the factory. Many job seekers, especially for women who are married is difficult to get a job because of their marital status

3. Model Fulfillment of Welfare Rights for Women Workers In Semarang regency, Central Java

The state obligations of human rights can be categorized in three levels, namely the obligation to respect, *to* protect and to fulfill. If the obligation to "respect" essentially limits the role of the state, then the reverse obligation "fufillt" requires states to be proactive aiming to strengthen people's access to resources. This obligation is the most demanding state intervention (*positive measures*) to guarantee the right of everyone to the opportunity to gain that can not be fulfill through its own efforts. Protection requires states to guarantee and protect human rights. This obligation is often called negative rights, where the state in this case is passive. The state only gives the constitutional regulation so that all citizens can enjoy basic rights that should be owned.

Respect can be interpreted as a guarantee of human rights in the act. While protection presupposes the active role of the state to provide the prevention of threats of violence or other acts where any adverse or harm any individual. The fulfillment of human rights is to realize the country's agenda or provide tools that can support that rights, as guaranteed by the rules of law, can significantly be enjoyed by any individual or group. For example, access to justice, to health, to economic, public facilities and so forth.

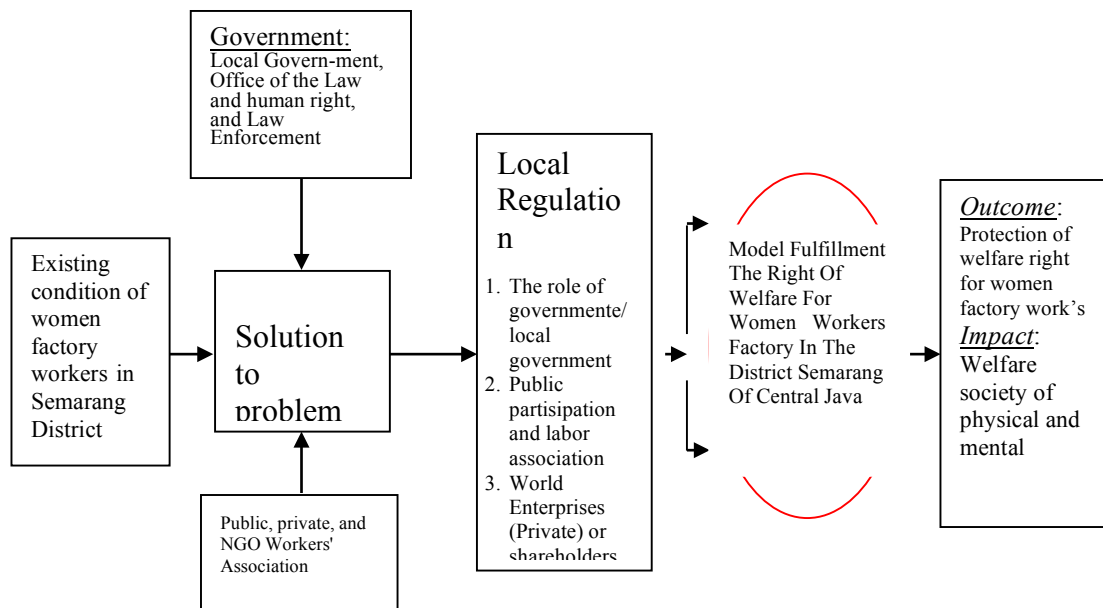
Model fulfillment of the welfare right for women workers in the district of Semarang, Central Java is a systematic effort to honor, to protect and to fulfill welfare rights for women workers. The regional governments should establish a regional regulation on employment to protect female workers. The regulation should at least be implemented into three policy, namely: (i) protective policies that are directed at the protection of reproductive functions, such as menstruation, giving birth/abortion, or restrictions on employment in the mining sector, etc; (ii) corrective, that policy is directed towards improvement in workers' status, such as a ban on layoffs in women who are being married or pregnant etc; and (iii) non-discriminatory, ie policies aimed at equality of rights and obligations between male and female workers.

The model is in the process requires an inventory database of personnel, equipment, infrastructure and documentation, as well as the standard norm application guidelines criteria in organizing labor inspection. It would also require the device to monitor the performance of inspectors with the involvement of the central and regional tripartite labor inspection as an officer. In order to strengthen the capacity of labor inspectors the necessary coordination and cooperation of Employment and the Ministry of Home Affair and the provincial government. The central government authority to establish supervisory systems and manage the attendant labor inspectors, while the provincial government organized labor inspection authorities.

Protection of welfare rights for female workers can be done by the government or the local government to issue policies legal protection for workers, so the company will pay more attention to the welfare of workers. Here is a chart of the design of a model of the welfare right for women factory workers in the district of Semarang, Central Java.

Chart 1. Draft Model Fulfillment of the Welfare Right for Women Factory Workers In Semarang regency, Central Java

¹³ Kartasapoetra, Gunawi et. Al. 2008. *Hukum Perburuhan Pancasila Bidang Pelaksanaan Hubungan Kerja*. Bandung: Amrico. page 43



Based on the chart above, the welfare right for women workers in the district of Semarang, Central Java can be illustrated in three aspects, namely structural, process and outcome. Structural aspects of a normative framework for the fulfillment of Employment human rights includes the planning and implementation of policies for compliance as well as labor rights through legislation policy participation, inclusive, empowering, non-discrimination and accountability. At the level of human rights based implementation of employment policies, the necessary coordination and integrity of the local government units upholds professionalism and integrity.

- a. Structural aspects of a normative framework for the fulfillment of Employment human rights includes the planning and implementation of policies for compliance as well as labor rights through legislation policy participatory, inclusive, empowering, non-discrimination and accountability.
- b. Aspects of the process of fulfilling Employment human rights is the efforts of local governments to carry out its obligations in the form of: (1) availability is the Government's obligation and Local Government to ensure the availability of jobs and employment guarantee; (2) accessibility, namely the obligation to remove the exclusivity of employment based on the prohibition against discrimination (race, economic status, gender, social status, birth status of minorities); (3) adaptability the obligation to adjust the type and time of working with and working conditions, especially for those with the disorder or children of minority and indigenous populations; (4) acceptability, namely the obligation to establish minimum standards to improve the quality of work and employment in line with human rights.
- c. Aspects of the results is an indication of the fulfillment of the ultimate goal of human rights law itself and in accordance with the needs of the community.

The key to successfully model of the welfare right for women factory workers in the district of Semarang, Central Java is how local governments to coordinate and respond to all the human rights instruments that exist, so the goal of the ultimate fulfillment of human rights into the value systems that are familiar and in accordance with the needs of the community, "*yam societas ibi ius*".

CONCLUSION

Based on data analysis, it can be concluded that: (1) the fulfillment of the welfare right for women factory workers, including protection of economic, technical, social and ethical realities on the ground during the study refers to the existence of four main factors that cause discrimination against women factory workers in the district of Semarang, Central Java, which is a factor age, work hours, pregnancy and breast-feeding, as well as marital status, (2) Model fulfillment of the welfare right for women factory workers in the district of Semarang, Central Java is in the policy of law regarding the respect, protection and fulfillment of human rights in the field of employment as an instrument to control society subsequently be formalized in the form of local laws by involving the community more large. The employment of local regulations should be followed policies that are protective, corrective and non-discriminatory. At the level of human rights based implementation of employment policies, the necessary coordination and integrity of the Local Government Units upholds professionalism and integrity. The model can be illustrated in three aspects, namely structural aspects of the process and outcome aspects.

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