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Legal Protection for Domestic Workers: Fulfilling Rights and Strengthening Labor Regulations

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Abstract

Domestic workers play a vital role in supporting household activities; however, in practice, they continue to face various issues regarding their legal status, the fulfillment of labor rights, and protection against exploitation and violence. This study aims to analyze the legal protection afforded to domestic workers and the fulfillment of their normative rights within the employment relationship, based on applicable legal provisions. The research employs a normative legal method utilizing both statutory and conceptual approaches. Legal materials were analyzed using a descriptive-qualitative method through a literature review, examining the 1945 Constitution of the Republic of Indonesia, Law Number 13 of 2003 concerning Manpower, Law Number 11 of 2020 concerning Job Creation, and the Regulation of the Minister of Manpower Number 2 of 2015 concerning the Protection of Domestic Workers. The findings indicate that domestic workers constitutionally possess the right to work and a decent standard of living, as well as the right to fair remuneration and treatment within the employment relationship. However, the regulatory framework concerning domestic workers remains fragmented, as there is currently no specific legislation at the level of an Act that comprehensively governs these employment relationships. While the Regulation of the Minister of Manpower Number 2 of 2015 establishes a basis for protection, it does not fully guarantee certainty regarding wages, working hours, rest periods, leave, social security, supervision, and dispute resolution. Therefore, strengthening specific regulations is essential to ensure legal certainty, fairness, equality, and effective protection for domestic workers.

Keywords

Domestic Workers; Legal Protection; Manpower; Normative Rights; Regulation.

1. Introduction

The difficulty of securing employment due to limited job opportunities has driven some individuals to enter the informal labor sector as a means of meeting their livelihood needs. One growing occupation within this sector is that of domestic workers commonly referred to in daily life as household assistants. Domestic work plays a vital role in supporting the continuity of family activities; however, the occupation has yet to receive legal recognition and protection comparable to that afforded to workers in the formal sector. This situation places domestic workers in a relatively vulnerable position, particularly regarding the fulfillment of rights concerning wages, working hours, rest periods, social security, and workplace safety, as well as protection against violence and discriminatory treatment. Research on domestic workers indicates that domestic work is still frequently viewed as informal labor, meaning that the rights of these workers are not yet optimally protected within Indonesia's labor law system (Yusmita & Ufran, 2023).

Constitutionally, the right to employment and fair treatment within the employment relationship is a fundamental right of citizens. Article 27, Paragraph (2) of the 1945 Constitution of the Republic of Indonesia affirms that every citizen has the right to work and to a livelihood befitting human dignity. This provision is reinforced by Article 28D, Paragraph (2) of the 1945 Constitution, which guarantees every individual the right to work and to receive fair and proper remuneration and treatment in employment relationships. Consequently, the classification of work as domestic labor should not serve as grounds to diminish an individual's fundamental rights as a worker. From the perspective of the rule of law as affirmed in Article 1, Paragraph (3) of the 1945 Constitution the state is obligated to establish legal certainty and protection for groups of workers who occupy vulnerable positions (Hanifah, 2020).

Issues arise because the general provisions of Law Number 13 of 2003 concerning Manpower as amended by various labor regulations do not provide specific rules that comprehensively accommodate the unique characteristics of the employment relationship involving domestic workers. Domestic workers differ from corporate employees because their work is performed within a household setting, and the legal relationship is largely based on an agreement between the worker and the employer. Consequently, there is a gap between the recognition of domestic workers as individuals performing labor and the formal application of labor protections. Sonhaji (2020) explains that the protection of domestic workers within the national legal system remains problematic; existing provisions fail to guarantee optimal protection, while the workers' own understanding of their rights and obligations remains limited.

The government has actually issued the Regulation of the Minister of Manpower Number 2 of 2015 concerning the Protection of Domestic Workers as a specific instrument to safeguard domestic workers. However, the existence of this regulation has not fully resolved the issues, as its provisions remain limited and lack the legal force and level of protection equivalent to a formal law. Azhari and Halim (2021) found that the rights of domestic workers are not comprehensively regulated to ensure a decent standard of living, and the Regulation of the Minister of Manpower Number 2 of 2015 has not fully served as an instrument of state protection for them. Similar issues are evident regarding wages and employment agreements. Pariutami and Udiana (2020) demonstrated that discrepancies between wage payments and employment agreements can give rise to legal protection issues, while the Regulation of the Minister of Manpower Number 2 of 2015 remains limited in providing legal certainty for domestic workers.

Beyond the issue of wages, protections regarding working hours and leave rights are also critical matters. Research by Andreansyah and Rusdiana indicates that the

lack of adequate regulations on working hours for domestic workers can negatively impact their health and well-being. Meanwhile, studies by Kurniadi and Nugroho show that regulations concerning leave rights for domestic workers under the Minister of Manpower Regulation No. 2 of 2015 remain very limited, meaning implementation relies heavily on agreements between the domestic worker and the employer. This vulnerability is compounded by the fact that domestic workers particularly women may face physical or non-physical violence within a workplace that is simultaneously the employer's private home. Picauly (2022) emphasizes that female domestic workers are a group vulnerable to various forms of violence, thereby necessitating more effective legal protection.

Given these circumstances, the issue of legal protection for domestic workers extends beyond the mere existence of regulations; it also encompasses the certainty of legal status, the fulfillment of statutory rights, oversight mechanisms, dispute resolution, and protection against violence and discrimination. Consequently, research into legal protection for domestic workers is crucial for analyzing the extent to which Indonesia's labor law framework provides fair and adequate protection for this workforce. Such a study is also essential for identifying existing legal gaps and weaknesses, as well as for formulating strategies to strengthen regulations, thereby ensuring that domestic workers secure a more certain legal standing and level of protection within the employment relationship.

2. Methods

This study employs a normative legal research method, focusing on the analysis of legal norms, doctrines, principles, and provisions regarding legal protection for domestic workers in Indonesia. Normative legal research is utilized to analyze the alignment between prevailing legal provisions and the need for protection for domestic workers, who constitute a vulnerable group of workers. The study adopts both a statute approach and a conceptual approach. The statute approach involves examining the 1945 Constitution of the Republic of Indonesia, Law Number 13 of 2003 concerning Manpower, as amended by relevant legislation specifically Law Number 11 of 2020 concerning Job Creation and the Regulation of the Minister of Manpower Number 2 of 2015 concerning the Protection of Domestic Workers. Meanwhile, a conceptual approach is employed to understand the concepts of legal protection, employment relationships, workers' rights, justice, and legal certainty within the context of domestic work.

The legal materials utilized consist of primary, secondary, and tertiary sources. Primary legal materials comprise legislation directly related to employment and the protection of domestic workers. Secondary legal materials include legal treatises, scholarly journal articles, research findings, and expert opinions relevant to the research topic. Tertiary legal materials consist of legal dictionaries, encyclopedias, and other supporting sources used to clarify legal concepts and terminology. Data collection was conducted through library research, involving the search for, identification of, and cataloging of relevant legal materials. Subsequently, the materials were analyzed using a qualitative-descriptive approach by interpreting legal provisions and relating them to the issue of domestic worker protection. This analysis aimed to determine the forms of legal protection available, identify regulatory weaknesses and gaps, and formulate measures to strengthen legal protection for domestic workers in order to ensure decent, fair, and humane work.

3. Results and Discussion

3.1 The Legal Status and Protection of Domestic Workers in the Indonesian Legal System

The results of the normative legal research indicate that the status of domestic workers (PRT) within the Indonesian legal system still faces a primary issue: the absence of regulations that comprehensively and specifically govern the employment relationship between domestic workers and their employers. Constitutionally, domestic workers hold the same status as other citizens and are entitled to work and a decent livelihood, as guaranteed by Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Furthermore, Article 28D paragraph (2) guarantees the right to work and to receive fair and decent remuneration and treatment within the employment relationship. Consequently, the nature of work performed in a domestic setting cannot serve as grounds to deny workers their fundamental rights. Hanifah (2020) emphasizes that the protection of domestic workers is closely linked to the principles of the rule of law and legal certainty, as without a clear legal basis it is difficult for domestic workers to secure effective protection.

A normative issue arises regarding Law Number 13 of 2003 concerning Manpower. The manpower regulations within this Law do not, in essence, provide specific provisions for domestic workers. Consequently, domestic workers do not receive the same scope of labor protection as workers engaged in formal employment relationships with companies. Through normative-juridical research, Pranoto (2023) found that the Manpower Law does not specifically provide legal protection for domestic workers. To address this limitation, the government issued the Regulation of the Minister of Manpower Number 2 of 2015 concerning the Protection of Domestic Workers. However, the existence of this ministerial regulation has not fully resolved the issue, as its legal standing remains subordinate to the Law, and the scope of its regulations is relatively limited. Minister of Manpower Regulation No. 2 of 2015 established a foundation regarding the rights and obligations of domestic workers and their employers, including the importance of employment contracts. However, the regulation lacks comprehensive protection mechanisms specifically addressing wage standards, working hours, rest periods, social security, oversight mechanisms, and dispute resolution. Azhari and Halim (2021) indicate that the rights of domestic workers are not fully regulated to ensure a decent standard of living, as the regulation focuses primarily on placement agencies. This situation highlights a gap between the protection needs of domestic workers and the available legal instruments.

From an employment relationship perspective, domestic work essentially meets the criteria of an employment arrangement, as it involves tasks performed by an individual for another party in exchange for remuneration. This relationship may be formalized through an employment agreement, whether in writing or based on a mutual understanding between the parties. Habibah, Jatiningsih, and Purba (2021) identify the employment agreement as a crucial instrument for safeguarding the fundamental rights of domestic workers, as it provides clarity regarding the work itself, wages, rights, obligations, and working conditions. However, the issue lies in the often-imbalanced bargaining power between domestic workers and their employers, meaning that the resulting agreements do not necessarily reflect the principles of fairness. Weaknesses in protection are also evident regarding social security. Harapan and Westra (2019) found that domestic workers still face obstacles in accessing employment-related social security, even though, conceptually, they can be categorized as workers entitled to social protection. This demonstrates that the issues facing domestic workers stem not only from a lack of regulations but also from inconsistencies between regulations and a lack of clarity regarding the mechanisms for their implementation.

Thus, research findings indicate that legal protection for domestic workers within the Indonesian legal system remains fragmented. While the state has provided protection through the 1945 Constitution, the Manpower Law, the Human Rights Law, the Law on the Elimination of Domestic Violence, and the Minister of Manpower Regulation No. 2 of 2015, there is still no specific regulation at the statutory level that comprehensively integrates all the rights of domestic workers. Therefore, strengthening the legal standing of domestic workers requires specific legislation that provides certainty regarding worker status, employment relationships, normative rights, oversight, social security, and dispute resolution mechanisms. These findings align with research by Fajrianto (2023), which states that the absence of specific regulations can lead to the infringement of domestic workers' constitutional rights particularly the rights to equality before the law, decent work, and fair remuneration.

3.2 Fulfillment of Domestic Workers' Normative Rights and the Urgency of Strengthening Regulations

Further normative analysis indicates that the issue of domestic worker protection extends beyond merely recognizing their status as workers; it also encompasses the fulfillment of normative rights within the employment relationship. These normative rights include the right to fair wages, humane working hours and rest periods, leave entitlements, social security, occupational health and safety protections, protection against violence, and certainty regarding the termination of employment. Limited regulation of these aspects creates opportunities for the exploitation of domestic workers, as the employment relationship takes place within a private setting that is relatively difficult for labor oversight mechanisms to reach. Regarding wages, domestic workers face vulnerability because remuneration is often determined through individual agreements between the worker and the employer. While this model offers flexibility, it can also create an imbalance in bargaining power. Pariutami and Udiana (2020) indicate that wage payments failing to align with the agreed terms can lead to disputes between domestic workers and their employers. This highlights the importance of employment contracts that clearly specify the wage amount, payment schedule, nature of the work, and the rights and obligations of each party.

In addition to wages, working hours constitute an aspect requiring clearer regulation. Andreansyah and Rusdiana (2022) found that domestic workers lack certainty regarding working hour limits because the provisions on working hours in the Manpower Law and the Job Creation Law do not specifically cover them. This ambiguity can lead to excessive workloads, particularly for domestic workers who live with their employers. Therefore, specific regulations are needed to establish limits on working hours, daily and weekly rest periods, and working conditions for domestic workers residing in their employers' homes. The right to leave is also a crucial aspect of worker protection. Kurniadi and Nugroho (2021) point out that while the Regulation of the Minister of Manpower No. 2 of 2015 does include the right to leave as one of the entitlements of domestic workers, it fails to provide detailed provisions regarding standards and implementation. Consequently, the fulfillment of this right relies heavily on the agreement reached between the domestic worker and the employer. From a legal protection perspective, this situation is inadequate, as workers' rights should ideally not depend solely on the employer's discretion.

Domestic workers face heightened vulnerability when subjected to violence. Because they particularly women work within their employers' private homes, they encounter structural barriers to accessing protection and reporting acts of violence. Picauly (2022) emphasizes that female domestic workers are susceptible to both physical and non-physical violence; consequently, legal protection must address not only the fulfillment of labor rights but also the safeguarding of the workers' dignity

and personal integrity. Sihombing, Nuraeni, and Satory (2022) further note that while policies protecting female domestic workers who are victims of violence exist through various criminal provisions, these measures remain limited in scope and do not yet constitute a dedicated protection system for domestic workers.

These issues highlight the importance of establishing specific regulations regarding domestic workers. Cheung, Prianto, and Hardjono (2023) identify legal protection for domestic workers as an urgent necessity, arguing that their status as informal workers should not deprive them of labor rights. Meanwhile, Dewi and Widiyastuti (2023) emphasize the importance of recognizing the care work performed by domestic workers through an approach encompassing recognition, reduction, redistribution, reward, and representation. This approach reflects the understanding that protecting domestic workers requires more than merely prohibiting exploitation; it also entails acknowledging the economic and social value of domestic work, ensuring a fair distribution of workloads, providing appropriate remuneration, and creating avenues for worker representation.

Based on these findings, the strengthening of regulations should ideally encompass at least five aspects. First, the recognition of domestic workers as workers possessing rights and obligations within the employment relationship. Second, clear employment contracts covering the nature of the work, wages, working hours, rest periods, and procedures for terminating employment. Third, social security and occupational health and safety protections. Fourth, accessible mechanisms for oversight and dispute resolution. Fifth, specific protections against violence, discrimination, and exploitation, particularly for female domestic workers. Thus, enacting specific legislation for domestic workers is not merely a matter of law-making; it is part of the state's obligation to ensure that the principles of equality, justice, legal certainty, and respect for human dignity are upheld across all forms of employment relationships.

4. Conclusion

Based on the results of research employing a normative legal method, it can be concluded that legal protection for domestic workers in Indonesia has not yet been optimally implemented. Constitutionally, domestic workers possess the same rights to obtain employment and a decent livelihood, as well as to receive fair remuneration and treatment within the employment relationship. However, regarding statutory regulations specifically Law Number 13 of 2003 concerning Manpower there are no provisions that specifically and comprehensively regulate the status and rights of domestic workers. This situation places domestic workers in a legally weaker position compared to workers in the formal sector. These findings align with research indicating that the Manpower Law does not provide specific protection for domestic workers and that the Regulation of the Minister of Manpower Number 2 of 2015 concerning the Protection of Domestic Workers has proven insufficient in providing comprehensive protection.

Minister of Manpower Regulation No. 2 of 2015 does indeed provide a foundation for the protection of domestic workers, particularly regarding employment agreements, rights and obligations, and protection against inhumane treatment. However, the regulation remains limited in ensuring the fulfillment of domestic workers' normative rights such as wage certainty, working hour limits, rest periods, leave, social security, oversight mechanisms, and dispute resolution. Issues concerning wages and the ambiguity of the employment relationship indicate that agreements between domestic workers and employers need to be strengthened so that they do not rely solely on the respective bargaining power of the parties involved. Furthermore, the nature of domestic work taking place within the private sphere complicates oversight and law enforcement mechanisms. Domestic workers

are also vulnerable to violence, exploitation, discrimination, and disproportionate workloads.

Thus, the enactment of legislation on the protection of domestic workers represents a crucial step toward addressing the legal gaps and deficiencies that have hitherto prevented domestic workers from receiving equal protection. Strengthening such regulations must aim to ensure legal certainty, justice, equality, and respect for human dignity, thereby shifting the perception of domestic work from that of informal labor lying outside the scope of legal protection to that of work possessing economic and social value work that warrants effective state protection.

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Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

Data Disclosure Statement

The data that support the findings of this study are available from the corresponding author upon reasonable request.



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