

# LEGAL PROTECTION AGAINST DOMESTIC WORKERS AS VICTIMS OF VIOLENCE (CASE STUDY: ABUSE OF A DOMESTIC WORKER IN WEST BANDUNG)

MAHZANIAR<sup>1</sup>, SYARIFAH<sup>2</sup> and RAJIN SITEPU<sup>3</sup>

<sup>1,2</sup>Universitas Muslim Nusantara Al wasliyah, Indonesia.

<sup>3</sup>Universitas Islam Negeri Sumatera Utara, Indonesia.

Email: <sup>1</sup>Mahazaniar@umnaw.ac.id, <sup>2</sup>syarifah@umnaw.ac.id, <sup>3</sup>rajinsitepu331@gmail.com

## Abstract

This study aims to investigate various legal safeguards available to domestic workers (PRT) who have been harmed. Because the majority of this research is conducted on secondary data in libraries, the approach method utilized in the writing of this study is a normative approach or documentary legal research. Thus the results of the discovery were obtained. Specifically, the Criminal Code (KUHP) and Law Number 13 of 2006 Concerning the Protection of Witnesses and Victims regulate the protection given to people who have been the victims of criminal acts, especially in Article 5 paragraph (1), Law No. 23 of 2004 concerning the Elimination of Domestic Violence. In addition, obtaining guarantees or legal compensation for losses incurred by victims constitutes protection, including Counseling, legal services, restitution and compensation, and legal aid. In addition, every domestic worker chooses the rights regulated in Ministerial Regulation No. 2 of 2015, explaining the rights of domestic workers about the Protection of Domestic Workers, the Criminal Code (KUHP). Regarding the obstacles that arise in this case, namely the absence of laws governing the remuneration of domestic workers. This is important because the work is not easy, and the possibility of getting violent is substantial. For this reason, the Government needs to stipulate laws that regulate wages for domestic workers.

**Keywords:** Legal protection; victim; domestic workers

## 1. INTRODUCTION

Domestic workers (PRT) make up one of the jobs in Indonesia. Some claim that this job doesn't require a lot of training and only requires basic skills like cooking, housekeeping, and laundry, which is why it is in high demand. However, many people need to learn whether domestic workers are because they judge the scope of the household. Some people take on various temporary jobs, such as working as a housekeeper, because it's hard to find work. After all, there are few opportunities.

Until now, domestic workers are the main economic job of low-income families in Indonesia, this is also supported because the profession is a profession that is needed, especially in family life. However, even though this job is considered easy, the risk of getting good treatment or violence is very high. Such a report by The National Network for Domestic Workers Advocacy (JALA PRT) that there were at least 3,255 cases of violence experienced by domestic workers in the 2015-2022 period. Violence is increasing every year. Violence is one of the root causes of fundamental problems in human life that lead to fear, fear, pain, or death. Women and children are frequently the victims of violence, a violation of human rights, and a crime against humanity. The types of violence that occur to them are diverse, ranging from physical violence, psychological violence, threats, and anything that can harm others. Violence against women and children also often occurs in the employment sector, such as domestic workers (PRT) who have a boss or employer as the perpetrator.

Such a case that just viral on social media, a domestic worker in Bandung named Rohima received bad treatment from her employer. Initially, Rohima left for West Bandung in June 2022 through a local labor supplier she knew in her hometown of Garut. Rohima's goal in working is none other than to meet the needs of her children who are still in school. He also worked for the husband and wife team Tulio Kristian and Loura Francilia. They live in the Bukit Permata Housing Complex, West Bandung. After working for one month, Rohima began to receive verbal abuse, often being yelled at and scolded if there were mistakes in her work. However, three months later, Rohima began to be physically abused, such as being beaten, punched, and even stepped on until Rohima suffered physical injuries. This incident lasted for three months. until October 30, Rohima was rescued by several residents. Until now, Rohima has been under medical treatment while her employer has been reported and has become a suspect. Based on the preceding context, the issue lies in two areas: first, the policy of implementing legal protection for domestic workers who have been the victims of criminal acts in Indonesia, and second, the legal protection for domestic workers who have been the victims of criminal acts. This paper aims to determine the legal protection for female domestic workers who are the victims of criminal acts of violence based on the above description of the issues. As a result, the authors believe that a study on domestic worker legal protection is essential.

## **2. RESEARCH METHODS**

The examination strategy is elucidating research that intends to accurately depict a circumstance concerning the sorts and wellsprings of information. Because most of this research is conducted on secondary data in libraries, such as books and official government documents, the method used to write this research is a normative approach, also known as documentary law research. This study relies on secondary data, which can take the form of books or other documentation typically found in a library or on private property, as well as any other sources required in this study.

## **3. DISCUSSION**

### **3.1 Criminal Law Arrangements for Legal Protection for Domestic Workers as a Victim**

Indonesia is a legal state that has regulated all ill-treatment in existing laws. The law can be interpreted as a guideline used by law enforcement officers to regulate problems in social life. While the goal is to create an orderly, safe, and orderly society life and provide a sense of justice for the community. "A person engaged in domestic work in an employment relationship" is a definition of a domestic worker. Work as a domestic worker can be part-time or full-time; he may work for one household or multiple employers (household); he may live in the home of his employer (live-in worker) or his own home (live-out worker). A domestic worker may work in a nation she does not belong to covers all domestic workers in Convention No.189, even though nations may choose to exclude specific categories under extremely stringent conditions.

Concerning domestic workers' fundamental rights:

1. Protection of all domestic workers' human rights and promotion (Preamble; Article 3)

2. Protection of fundamental rights and principles at work: (a) opportunity of affiliation and compelling acknowledgment of the right to aggregate bargaining; (b) the end of all forms of compulsory or forced labor; (c) the end of child labor; and (d) occupational and employment discrimination. (Articles 3, 4, 11)
3. Fair working conditions and decent living conditions (Article 5) Effective protection from all forms of abuse, harassment, and violence (Article 6)

In this case, domestic workers cannot be underestimated because of their status. This is because domestic workers have rights that must be respected and protected. Domestic workers are the same as other workers who must be given legal protection for themselves to realize their rights of domestic workers as they should. However, in Indonesia, many domestic workers are victims of violent crimes. Violence is a serious problem that the Government must address. Thus in Indonesia, legal protection for everyone has been constitutionally guaranteed in the Constitution of the Republic of Indonesia Articles 28 D and Article 28 G (1945). The legal protection includes:

1. Equal treatment before the law and fair legal protection and certainty;
2. Get the right to a feeling that everything is good and security from the danger of dread to do or not accomplish something, which is common liberty;
3. Get protection from being tortured;
4. Get protection against discriminatory treatment; and
5. Obtain protection to maintain order in society, the nation, and the state through mutual respect for the human rights of others.

The behavior that violates a person's rights and causes suffering is governed by both formal and material criminal law in the Republic of Indonesia's 1945 Constitution. The Criminal Code (KUHP) establishes guidelines for providing victims of crime with protection regulated in Law No.13 of 2006 concerning Protection of Witnesses and Victims, particularly in Article 5 paragraph (1), and Law No. 23 2004 concerning the Elimination of Domestic Violence.

In addition, obtaining legal guarantees or compensation for the loss of victims is one form of protection, which includes:

1. Compensation and restitution,
2. Counseling
3. Services for lawyers, and
4. Aid with the law.

Meanwhile, parties who provide protection to obtain legal guarantees for losses who have become victims of violence include:

1. police, to report and prosecute domestic violence offenders;
2. advocates to help victims through the legal process; and
3. to assist victims during the court proceedings, additional law enforcement personnel.

In addition, in this instance, the practices of implementation that are carried out for victims of violence include protecting victims, providing victims with comprehensive treatment and recovery, and taking action against perpetrators of violence. In addition, it is outlined in Ministerial Regulation No. 2 of 2015 regarding the Protection of Domestic Workers, which explains the rights of domestic workers, as well as in the Criminal Code (KUHP) and Law No. 23 of 2004 regarding the Elimination of Domestic Violence, which stipulates that domestic workers enter into agreements within the scope of the household. Article 2 of Law Number 23 of 2004 demonstrates this.

Victims receive the following types of protection:

1. To not be tortured;
2. Get protection against discriminatory treatment;
3. Obtain information;
4. Get good treatment;
5. Get wages by the work agreement;
6. Drink and eat healthy;
7. Get enough time off;
8. Get leave entitlements; and
9. Get the opportunity to worship according to their religion.

Regarding criminal sanctions, among others, in the case of:

1. Assault and rape are controlled in Articles 285 to 291 of the Lawbreaker Code. A maximum of twelve years in prison is imposed in the event of severe injury and a maximum of fifteen years in the event of death;
2. Violence or dangers of viciousness to drive somebody to accomplish something although their desire to the contrary is controlled in Article 335 of the Lawbreaker Code with a most extreme detainment of one year or the most excellent fine of 4,000 500 rupiahs;
3. Murder, as defined in Articles 338 to 350 of the Criminal Code, carries a maximum sentence of fifteen years in prison if committed with intent to commit the crime, a maximum sentence of twenty years if committed with the intent to commit the crime; and
4. Articles 351 to 358 of the Criminal Code govern prosecution, which carries a maximum penalty of twelve years and eight months in prison or a fine of four thousand and five hundred rupiahs. If it causes serious injury, it is punishable by five years in prison; if it causes death, it is punishable by seven years. In this instance, the protection practice is carried out by safeguarding the rights of every citizen and preventing all forms of violence.

### **3.2 Obstacles in legal protection of domestic workers and solutions to solve them.**

Many people consider domestic workers' jobs low, but the Indonesian people need the services of domestic workers to deal with all the work at home. Thus, even though it is a job that is considered low, it does not necessarily mean that the employer can treat things outside the limits, such as violence. Even though domestic workers typically come from lower-income families and have lower education levels, every domestic worker has rights that must be fulfilled by their employer, such as providing a decent wage, an excellent place to live, and ensuring comfort and comfort security. But the facts regarding the salary itself are that there is no minimum salary limit for a housemaid, hours of work, and the absence of social security (health insurance). Jobs that are clear according to the field, the age of the workers, the absence of an official domestic help agency, specific regulations regarding the rights of domestic workers in the form of specialized laws that restrict workers, and other factors.

The low wages given to Domestic Workers are far below the standard of living wages compared to the work hours and forms of work. The Government has set a minimum wage standard for women workers in the formal sector. Still, that standard only covers domestic workers if they are considered domestic workers in the informal sector. Therefore, compared to the wages of other workers and the regional standard of living, the wages received by Domestic Workers are the lowest with the most extended working hours. Moreover, they often receive lower wages than previously agreed. There should be a standard wage for Domestic Workers which is calculated based on work experience, type and workload, number of people in the family served, and regional standard of living.

In addition, another obstacle is that domestic workers often receive acts of violence, both physical and sexual violence. Research conducted by the TND NGO (2003) shows that domestic workers are easily subject to sexual violence treatment due to the following reasons: First, the relationship between domestic helpers and employers is based on power and domination, which can be manifested in the form of physical violence or intimidation, threats, orders, and insults based on differences in social class and gender. This is seen in Rohima's case. For three months, she was physically abused, but as a domestic worker, she could not speak up even when Rohima's residents met her. She did not admit that the injuries suffered were violence by her employer. he said that the injury was caused by his fall. The second thing, the employer sees domestic workers as people who need money but do not have the skills and education, so their bargaining position is low. Furthermore, the absence of social control and other family members can prevent sexual violence against domestic servants. If a domestic helper becomes pregnant as a result of sexual intercourse with her employer, she will be asked to leave the house and be looked down upon by society. Social sanctions cause physical and psychological absence of social control and other family members that can prevent sexual violence against domestic servants. If a domestic servant becomes pregnant due to sexual intercourse with her employer, she will be asked to leave the house and be looked down upon by society. Social sanctions cause physical, psychological, and lack of social control and other family members that can prevent sexual violence against domestic helpers. If a domestic helper becomes pregnant as a result of sexual intercourse with her employer, she will be asked to leave the house and be looked down upon by society. Social sanctions cause physical, psychological, economic, and social in Domestic Helpers. Additionally, domestic helpers who have been the victims of sexual violence must deal with the guilt of being pregnant outside of wedlock.

#### 4. CONCLUSION

The results of the discovery were obtained. Specifically, the Criminal Code (KUHP) and Law Number 13 of 2006 Concerning the Protection of Witnesses and Victims regulate the protection given to people who have been the victims of criminal acts, especially in Article 5 paragraph (1), Law No. 23 of 2004 concerning the Elimination of Domestic Violence. In addition, obtaining guarantees or legal compensation for losses incurred by victims constitutes protection, including Counseling, legal services, restitution and compensation, and legal aid. In addition, every domestic worker chooses the rights regulated in Ministerial Regulation No. 2 of 2015, explaining the rights of domestic workers about the Protection of Domestic Workers, the Criminal Code (KUHP). Regarding the obstacles that arise in this case, namely the absence of laws governing the remuneration of domestic workers. This is important because the work is not easy, and the possibility of getting violence is substantial. For this reason, the Government needs to stipulate laws that regulate wages for domestic workers.

#### References

1. Ali, A. (2010). *Menguak Teori Hukum (Legal Theory) & Teori Peradilan (Judicialprudence) Termasuk Undang-Undang (Legisprudence) Volume I Pemahaman Awal*, Jakarta: Kencana Prenada Media Group.
2. Direktorat Jenderal Peraturan Perundang-Undangan Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia.
3. Gosita, A. (1993) *Kedudukan Korban di Dalam Tindak Pidana, dalam Masalah Korban Kejahatan*. Jakarta: CV Akademika Pressindo.
4. Gultom, M. (2012). *Perlindungan Hukum Terhadap Anak Dan Perempuan*. Bandung: Refika Aditama.
5. *Kitab Undang-Undang Hukum Pidana (KUHP)*;
6. Mukti Fajar ND dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Hukum Empiris*, 2010, Yogyakarta: Pustaka Pelajar.
7. Peraturan Menteri Nomor 2 Tahun 2015 tentang Perlindungan Pekerja Rumah Tangga (PRT).
8. Putri, C. P. (2020). *Perlindungan Hukum terhadap Hak Pekerja Perempuan Di Masa Pandemi Covid-19*. *Legalitas: Jurnal Hukum*, Vol.12(2), h. 226-230
9. Sali S. (2022). "Urgensi Undang-Undang tentang Perlindungan Pekerja Rumah Tangga dalam Perspektif Feminis". *Jurnal Legislasi Indonesia*. Vol. 7 (2). Jakarta:
10. *Undang-Undang Nomor. 23 Tahun 2004 tentang Penghapusan Kekerasan Dalam Rumah Tangga (KDRT)*.
11. *Undang-Undang No.13 Tahun 2006 tentang Perlindungan Saksi dan Korban*.
12. Winarta, F.H. (2011) *Bantuan Hukum di Indonesia Hak Untuk Didampingi Penasehat Hukum Bagi Warga Negara*. Jakarta: PT Elex Media Komputindo.