

THE UNCERTAINTY OF LEGAL PROTECTION FOR HOUSEMAIDS IN INDONESIA

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ABSTRACT

Several cases of physical, psychological, and sexual violence against housemaids in Indonesia have been documented, despite the existence of laws that aim to protect them. The Law Number 13 of 2003 on the Ministry of Manpower and the Ministry Regulation Number 2 of 2015 on the Protection of Housemaids are insufficient to prevent unfair treatment of housemaids. This study investigates this issue by examining the situation of housemaids in Surabaya, East Java, Indonesia. Using a normative-empirical research approach, this article reveals that legal protection for housemaids in Indonesia is still uncertain due to two primary factors. Firstly, the lack of clarity in the rules requires the development of special laws that specifically address the protection of housemaids. Secondly, the lack of knowledge among housemaids renders them vulnerable to being underestimated and humiliated. The urgency of legal protection for housemaids in Indonesia is underscored by the prevalence of domestic violence and unfair compensation. Therefore, a comprehensive and exhaustive legal framework is necessary to provide a sufficient access to justice mechanisms for housemaids, including legislative acts that are specifically tailored to their needs. Furthermore, rehabilitation is a vital mechanism, particularly for housemaids who have suffered from violence. This can involve providing temporary shelters, counseling, and protection from retaliation.

Keyword: Legal Protection, Housemaids, Indonesia

INTRODUCTION

Housemaids play a crucial role in helping individuals manage their domestic needs. They are essential workers who provide household services to individuals in exchange for wages and/or other forms of compensation. As informal workers in Indonesia, housemaids are entitled to constitutional protection, as guaranteed by Article 27 of the 1945 Constitution of the Republic of Indonesia. This article states that every citizen has the right to work and a living worthy of humanity. The Minister of Manpower

Regulation Number 2 of 2015 defines a housemaides/ domestic worker (PRT) as an individual who performs household work for an employer in a household setting. This regulation highlights the importance of recognizing the role of housemaids as workers who deserve legal protection and fair treatment.¹

Despite the essential role they play in modern society, domestic workers in Indonesia continue to lack legal protection. Unlike other workers, they are not covered by the Law of the Republic of Indonesia Number 13 of 2003 on Manpower, and there is no specific regulation in place to protect their rights. This lack of protection has resulted in exploitation, discrimination, and violence in their labor relations. This situation is not only unjust but also contravenes their constitutional rights as citizens and workers. As such, it is essential to formulate a policy of legal protection for domestic workers to ensure their rights are upheld and respected.²

According to the latest statistics, in 2020, the number of domestic workers in Indonesia exceeded 4 million.³ This figure has been steadily increasing since the International Labor Organization (ILO) released a report in 2012, which estimated that there were 2.6 million Indonesians working as domestic workers, with a staggering 75% of them being female. The majority of these domestic workers hail from rural areas and typically possess low levels of education.⁴ The ILO's report also provided data on the distribution of domestic workers across different regions in Indonesia. According to the statistics, the Special Capital Region of Jakarta had the largest number of domestic workers, with a staggering 801,566 individuals, followed by East Java with 402,762, Central Java with 399,159, West Java with 276,939, Banten with 100,352, and Bali with 99,277. Other regions with significant numbers of domestic workers include South

¹ Fahrinda Khansa Pramesti and Nabiatatus Sa'adah, "Access to Safety for Domestic Workers in Indonesia," *Pandecta Research Law Journal* 19, no. 1 (June 30, 2024): 1–22, <https://doi.org/10.15294/pandecta.vol19i1.2732>.

² Triana Sofiani et al., "Policy of Legal Protection Formulation for Domestic Workers in Indonesia Based on Constitutional Rights," *Journal of Law, Policy and Globalization* 28 (2014): 30–38, https://www.academia.edu/68526701/Policy_of_Legal_Protection_Formulation_for_Domestic_Workers_in_Indonesia_Based_on_Constitutional_Rights.

³ Serikat Buruh Migran Indonesia, "SBMI Mendesak DPR-RI Untuk Segera Membahas Dan Mengesahkan RUU Perlindungan Pekerja Rumah Tangga," *Sbmi.or.Id*, 2024, <https://sbmi.or.id/sbmi-mendesak-dpr-ri-untuk-segera-membahas-dan-mengesahkan-ruu-perlindungan-pekerja-rumah-tangga/>.

⁴ Siti Maizul Habibah, Oksiana Jatiningsih, and Iman Pasu Marganda Hadiarto Purba, "Jaminan Hak Asasi Manusia Bagi Pekerja Rumah Tangga Melalui Perjanjian Kerja Di Surabaya," *Jurnal HAM* 12, no. 2 (August 26, 2021): 245–60, <https://doi.org/10.30641/ham.2021.12.245-260>.

Sulawesi (62,237), Lampung (60,461), and Yogyakarta (39,914), while the remaining numbers are scattered across other areas.⁵

As society continues to evolve and human civilization advances, a pressing issue has emerged regarding the role of domestic workers in their employers' homes. Beyond the surface-level concerns of vulnerability to violence, a deeper problem is beginning to manifest: discrimination against domestic helpers. The community's neglect of their rights and obligations, coupled with the psychological toll of alienation and feelings of isolation, has led to a range of issues, including acts of violence. According to the National Network for Domestic Worker Advocacy, a staggering 417 housemaids suffered from physical, psychological, and economic violence in 2020 alone. This alarming statistic underscores the need for greater attention and support for these often-overlooked workers.⁶

The lack of a law protecting Housemaids has allowed exploitation to thrive. This is partly due to the stereotypical view that considers Housemaids' work unimportant and views them as subordinate entities that don't require protection. As a result, many Housemaids start working at a young age, often between 10-14 years old, while others begin at 15-23 years old. The lack of education and skills required for their work, combined with the high demand for young and cheap labor, perpetuates the cycle of exploitation.⁷

Mostly domestic helpers are women, which in the community's eyes is a community born with intimidation⁸. Therefore, attention to the group of Housemaids cannot be separated from the agenda of the women's movement in this country. The importance of the women's movement being involved in advocating for the rights of Housemaids is also because this issue is inseparable from a gender-biased perspective. For instance, household work is often transferred to Housemaids as unproductive work

⁵ Muhtadi Muhtadi, "Perlindungan Hukum Bagi Pekerja Rumah Tangga Di Bandar Lampung," *FIAT JUSTISIA: Jurnal Ilmu Hukum* 8, no. 4 (August 14, 2015): 642–56, <https://doi.org/10.25041/fiatjustisia.v8no4.318>.

⁶ Bimo Aria Fundrika and Dini Afrianti Efendi, "Hari PRT Internasional, Banyak PRT Rentan Alami Kekerasan Dan Eksploitasi," *Suara.Com*, 2020, <https://www.suara.com/lifestyle/2020/06/17/011000/hari-prt-internasional-banyak-prt-rentan-alami-kekerasan-dan-eksploitasi>.

⁷ Rika Putri Subekti, "Urgensi Ratifikasi Konvensi International Labor Organization: Perspektif Perlindungan Pekerja Anak Pada Sektor Rumah Tangga," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 7, no. 1 (May 28, 2018): 24–36, <https://doi.org/10.24843/JMHU.2018.v07.i01.p03>.

⁸ Siti Magfirah Makmur and Irwansyah Reza Mohamad, "Tinjauan Hukum Perlindungan Terhadap Pekerja Rumah Tangga," *At Tanwir Law Review* 1, no. 1 (2021): 43–51, <https://download.garuda.kemdikbud.go.id/article.php?article=3585026&val=31101&title=TINJAUAN%20HUKUM%20PERLINDUNGAN%20TERHADAP%20PEKERJA%20RUMAH%20TANGGA>.

with no social, economic, or political value.⁹ The problem is that, in Indonesia, female comprised 90% of the housemaids, thus making them even more vulnerable. Several cases of physical, psychological, and sexual violence that happened against housemaids are due to discriminative environment. This problem urges for the access of justice for housemaids in Indonesia.¹⁰

The power imbalance between employers and Housemaids creates a unique dynamic that fosters covert exploitation. The lack of clear boundaries and rules allows for flexible work arrangements, which often benefit the employer at the expense of the domestic worker. This can result in losses for the domestic worker, including reduced wages, irregular working hours, and limited access to holidays and facilities.¹¹ The private nature of domestic work also blurs the lines between employer and employee, making it difficult for domestic workers to assert their rights. Live-in Housemaids are particularly vulnerable to exploitation, abuse, and violence, with few options to escape the situation. As a result, many domestic workers struggle to have their rights fulfilled and are trapped in their roles without the means to escape.¹²

This article focuses on reducing domestic violence against domestic workers. This can be done through two main approaches: the "system" approach and the "actor" approach. The system approach involves collaborating with lawmakers and the government to establish regulations that safeguard domestic workers. The actor approach emphasizes advocating for the rights of domestic workers, especially women, through targeted efforts. To effectively implement these strategies, comprehensive research is essential to inform policies and programs that support and protect the rights of domestic workers.

RESEARCH METHOD

This article employs a normative empirical research method to investigate the extent of protection for housemaids in Surabaya in relation to Indonesia's existing legal

⁹ Marzellina Hardiyanti and Ani Purwanti, "Optimalization Of Legal Protection For Female Housemaids In Indonesia," *Diponegoro Law Review* 4, no. 2 (October 1, 2019): 256–73, <https://doi.org/10.14710/dilrev.4.2.2019.256-273>.

¹⁰ Hardiyanti and Purwanti.

¹¹ Briliyan Erna Wati, "Dimensi-Dimensi Perlindungan Hukum Bagi Pekerja Rumah Tangga Di Era Industrialisasi," *Palastren* 7, no. 1 (2014): 153–68, <https://journal.iainkudus.ac.id/index.php/Palastren/article/view/1002>.

¹² Sri Tutatmiyah and Y Annalisa, "Pengakuan Hak-Hak Perempuan Sebagai Pekerja Rumah Tangga (Domestic Workers) Sebagai Bentuk Perlindungan Hukum Menurut Hukum Positif Indonesia," *Journal Dinamika Hukum* 13, no. 1 (2013): 50–58, <https://dinamikahukum.fh.unsoed.ac.id/index.php/JDH/article/view/155>.

framework. This research is grounded in the social sciences, reflecting daily experiences within society. Legal sociology research aims to empirically assess how social processes and behaviors influence the creation, application, and societal impact of legal norms, as well as how the rule of law affects social behavior. The study was conducted in Surabaya, focusing on several upscale neighborhoods, including West, East, and Central Surabaya. Data were collected through in-depth interviews with domestic workers.

RESEARCH OUTCOME AND DISCUSSION

1. Theory of Alienation

Alienation refers to the disconnection of individuals from themselves and others.¹³ Karl Marx identified four specific forms of alienation, i.e. alienation from Work, workers are estranged from their labor because the products of their work are taken away by others, alienation from the Act of Production, alienation from Human Nature, and alienation from Others. Capitalism leads to a situation where individuals are valued based on their market position rather than their inherent human qualities.

The term "alienation" derives from the English word meaning to make something or a situation feel foreign or isolated. In the context of work, alienation highlights a fundamental contradiction in society: the tension between human nature-shaped and redefined by social roles and the actual working conditions within the capitalist system. This notion aligns with Lawang's explanation, as referenced by Puspitasari, which asserts that alienation represents the loss of individual control over one's creative activities and production.¹⁴

2. Factors Contributing to Alienation Among Housemaids

The alienation experienced by Housemaids is both their rights as workers and their rights as women. *First*, the working hours of Housemaids are unlimited and too long, especially for Housemaids who live with their employers. This working time without rest

¹³ Derajat Fitra Marandika, "Keterasingan Manusia Menurut Karl Marx," *TSAQAFAH* 14, no. 2 (November 27, 2018): 229–322, <https://doi.org/10.21111/tsaqafah.v14i2.2642>.

¹⁴ Desi Puspitasari, "Alienasi Dan Glokalisasi Bahasa Jawa Sebuah Studi Fenomenologi Di Kota Surakarta," *Jurnal Analisa Sosiologi* 7, no. 2 (2018): 201–12, <https://media.neliti.com/media/publications/445229-none-c4bac2fb.pdf>.

will impact their mental and physical health¹⁵. *Second*, there is no social security, be it social security for health or employment. When an accident occurs, what is done is borrowed from the employer to treat the injuries suffered by Housemaids .¹⁶

Third, Housemaids who live at home with their employers do not have a day off. For example, they continue to work from Monday to Sunday, so Housemaids have no time to self-development and socialize with other communities. *Fourth*, not to mention the existence of pressure actions from employers, Housemaids cannot take any action from their treatment because there is a power relationship. Housemaids do not dare to negotiate with employers. As employer's position is higher than Housemaids.

It is also vulnerable to violence both in the form of physical and verbal violence. They also receive unilateral treatment in salary deductions under the pretext of being legal and even not being paid at all.¹⁷ One of the reasons for this is the existence of power relations and the absence of a law that protects Housemaids. According to Rosseau, as quoted by DwiYanti, the possibility of smooth relations between workers and employers, namely by carrying out psychological contracts, the employee's perception of the realization and reciprocal obligations to the company. The psychological contract includes humanitarian talks related to expectations and emotional components.¹⁸

Avoiding the alienation of Housemaids would need to have clear definitions of several things, i.e. daily working hours, rest periods, night work hours, overtime work, compensation, weekly breaks, annual leave, public holidays, sick leave and maternity leave, minimum wages, salary payment, and work termination.¹⁹

In Indonesia, domestic workers employed informally lack essential legal protections, including contracts, regular hours, maternity leave, and social security. A national survey conducted in 2015 revealed that 81% of these workers received no weekly rest, and 60% worked over 40 hours a week, often earning significantly below the

¹⁵ Maslihati Nur Hidayati, "Upaya Perlindungan Pekerja Rumah Tangga Sebagai Kelompok Masyarakat Yang Termarginalkan Di Indonesia," *Jurnal Al-Azhar Indonesia Lembaga Penelitian Dan Pengabdian Masyarakat* 1, no. 1 (2011): 1–18, <https://jurnal.uai.ac.id/index.php/SPS/article/view/8>.

¹⁶ Acmad Nurhadi, "Penerapan Metode Waterfall Dalam Sistem Informasi Penyedia Asisten Rumah Tangga Secara Online. *Jurnal Khatulistiwa Informatika*," *Jurnal Khatulistiwa Informatika* 6, no. 2 (2018): 97–106, <https://ejournal.bsi.ac.id/ejurnal/index.php/khatulistiwa/article/view/5726>.

¹⁷ Sonhaji, "Perlindungan Pekerja Rumah Tangga Dalam Sistem Hukum Nasional," *Administrative Law and Governance Journal* 3, no. 2 (June 1, 2020): 250–59, <https://doi.org/10.14710/alj.v3i2.250-259>.

¹⁸ DwiYanti Retno, "Problem-Problem Psikologis Dalam Relasi Pembantu Rumah Tangga Wanita Dengan Majikan Wanita (Studi Tentang Identifikasi Dan Solusi Problem) ," *Psycho Idea* 8, no. 2 (2010): 27–40, <https://jurnalnasional.ump.ac.id/index.php/PSYCHOIDEA/article/view/232>.

¹⁹ Hidayati, "Upaya Perlindungan Pekerja Rumah Tangga Sebagai Kelompok Masyarakat Yang Termarginalkan Di Indonesia."

minimum wage. As of August 2021, the average monthly wage for domestic workers was merely IDR 425,000, with some facing indefinite hours and being expected to remain on call 24/7. The International Labour Organization (ILO) reported that only 11% of domestic workers in the region receive the minimum wage enjoyed by other workers.

²⁰ Additionally, there is no comprehensive national database to monitor the welfare of the estimated 5 million domestic workers, who are particularly vulnerable to various forms of harassment and violence, including physical, verbal, and sexual abuse, as well as trafficking. The National Advocacy Network for Domestic Workers reported 3,255 allegations of violence between 2015 and 2022, though the true number is likely higher due to underreporting of incidents such as sexual harassment, wage deductions, and unpaid wages.²¹

Because domestic workers operate in private settings, government oversight is limited, allowing conditions resembling modern slavery to persist. These workers often experience excessive workloads, a lack of agency, isolation, and inhumane treatment. According to the Global Slavery Index 2018, an estimated 40.3 million people worldwide live in slavery, with women representing 71% of this population and 24.9 million in forced labor. The UN special rapporteur highlighted domestic servitude as a persistent form of slavery, prevalent in both developed and developing nations.²²

3. An Urgent Need for Ratification

The passage of the Domestic Workers Protection Bill would enable Indonesia to ratify ILO Convention 189, which sets an international standard for the rights of domestic workers. Currently, the Philippines is the only country in Asia and the Pacific that has ratified this crucial convention, highlighting a significant gap in regional protections for domestic workers. Ratifying this convention would enhance Indonesia's position in advocating for the rights and protections of migrant domestic workers abroad, particularly in addressing issues of violence, exploitation, and discrimination.²³ To effectively oversee the ratification of the Domestic Workers Protection Bill and ensure its successful

²⁰ Hidayati.

²¹ Hidayati.

²² Hidayati.

²³ Desi Yunitasari and Devi Yuvitasari, "A Long Road To Fulfilling The Rights Of Indonesian Domestic Workers: One Step Forward For Ratifying The Domestic Workers Protection Bill?," *Blogs.Cuit.Columbia.Edu*, 2023, <https://blogs.cuit.columbia.edu/rightsviews/2023/05/14/a-long-road-to-fulfilling-the-rights-of-indonesian-domestic-workers-one-step-forward-for-ratifying-the-domestic-workers-protection-bill/>.

implementation, a concerted effort is needed from various stakeholders within the community. Religious leaders can play a vital role by advocating for the dignity and rights of domestic workers from a moral and ethical standpoint, encouraging their congregations to recognize the value of fair treatment for all workers. Employers, too, must be engaged in the conversation, fostering an awareness of their responsibilities and the positive impact of treating domestic workers with respect and fairness.

Civil society organizations are essential partners in this endeavor, as they can provide support and resources to navigate the legislative process while raising public awareness about the importance of the bill. These organizations often have direct contact with domestic workers and can amplify their voices, ensuring that their experiences and needs are front and center in discussions surrounding the bill's passage.²⁴

The media also has a crucial role to play in monitoring and reporting on the developments regarding the Domestic Workers Protection Bill. By increasing public discourse around the issue, the media can help build momentum for change and hold policymakers accountable. Investigative reporting can illuminate the plight of domestic workers, shedding light on the challenges they face and advocating for their rights.

In essence, the ratification of the Domestic Workers Protection Bill requires a holistic community approach that integrates the efforts of religious leaders, employers, civil society organizations, and the media. Together, they can create a supportive environment that prioritizes the welfare and rights of domestic workers, ultimately leading to a broader cultural shift in the way domestic work is perceived and valued in Indonesia.²⁵

4. Legal Protection Bill for Housemaids

As the state ideology, Pancasila should be a catalyst in aspects of state life²⁶. As the state's ideology and basis, Pancasila should guide citizens in carrying out the government system²⁷. In Pancasila in the 2nd Precept, there are and civilized human values. It means that everyone has the same degree before the law. Then in the 1945 Constitution, Article 27 paragraph (2) and Article 28D paragraph (2) recognize the right

²⁴ Yunitasari and Yuvitasari.

²⁵ Yunitasari and Yuvitasari.

²⁶ Achmad Hariri, "Rekonstruksi Ideologi Pancasila Sebagai Sistem Ekonomi Dalam Perspektif Welfare State," *Jurnal Hukum Replik* 7, no. 1 (March 31, 2020): 19–37, <https://doi.org/10.31000/jhr.v7i1.2447>.

²⁷ Achmad Hariri, "Dekonstruksi Ideologi Pancasila Sebagai Bentuk Sistem Hukum Di Indonesia," *Ajudikasi : Jurnal Ilmu Hukum* 3, no. 1 (July 2, 2019): 1–14, <https://doi.org/10.30656/ajudikasi.v3i1.1055>.

of everyone to work, receive fair and proper remuneration and treatment in an employment relationship. Article 28H paragraph (1) outlines that everyone has the right to live in physical and spiritual prosperity, have a place to live, have a good and healthy living environment, and have the right to obtain health services²⁸.

Law no. 39 of 1999 concerning Human Rights in Article 3 paragraph (3) states that: "Everyone has the right to the protection of human rights and basic human freedoms, without discrimination." As for the definition of Discrimination in Article 1 point 3, which states: "Discrimination is any restriction, harassment, or exclusion which is directly or indirectly based on human differences based on religion, ethnicity, race, ethnicity, group, class, social status, economic status, , gender, language, belief.

As for Law no. 13 of 2003 concerning Manpower does not reach Housemaids into its regulations. The word "worker" in Article 1 is interpreted as "a person who works for wages or other forms of compensation." The government states that Housemaids can be classified as "employers" are not business entities and thus are not "entrepreneurs" within the meaning of Law No. 13 of 2003. The definition of Housemaids who are considered not to be employed by "entrepreneurs" means that Housemaids are not given the protection provided by Law no. 13 of 2003²⁹.

The labor law distinguishes between workers employed by "companies" or "social enterprise or other with a supervisory body" and other workers. Housemaids fall into this last category, even though the law only guarantees extensive protection of workers' rights for workers who fall into the first category mentioned³⁰.

These aspects distinguish legal protection between Housemaids and workers who work in companies or employers. Even though Housemaids and workers in companies or employers are called workers, Law Number 13 of 2003 concerning Manpower and other labor laws and regulations do not protect Housemaids³¹. In this Law 13, Housemaids include different categories of workers. This rule only guarantees protection for workers employed in social enterprise companies and other jobs that have problems. In contrast,

²⁸ Sri Istiawati, "Hukum Perlindungan Terhadap Hak-Hak Pekerja Rumah Tangga," *Juripol* 4, no. 2 (August 31, 2021): 104–9, <https://doi.org/10.33395/juripol.v4i2.11111>.

²⁹ Yulianti Dwi Astuti, "Keseharian Dan Ide Bunuh Diri Di Kalangan Tenaga Kerja Indonesia," *Psikologika: Jurnal Pemikiran Dan Penelitian Psikologi* 24, no. 1 (2019): 35–58, <https://journal.uin.ac.id/Psikologika/article/view/14083>.

³⁰ Erita Rosa Larasati Daud, "Pekerja Rumah Tangga Sebagai Korban Kekerasan Dalam Rumah Tangga," *Jurist-Diction* 3, no. 5 (September 11, 2020): 1681–96, <https://doi.org/10.20473/jd.v3i5.21973>.

³¹ Makmur and Mohamad, "Tinjauan Hukum Perlindungan Terhadap Pekerja Rumah Tangga."

these Housemaids are not recognized for their supervision and social security. will also not exist

So if in terms of the legal subject that is the case, he can enter another business category, not a company business or not a social enterprise. But it can include in another business category but with a supervisor. Unfortunately, this domestic worker does not have a supervisor³². Then this domestic worker is not recognized for his protection guarantee in this law, now that means.

Law number 13 of 2003 does not guarantee Housemaids' position and legal protection in the wage system, work safety, occupational health, and social security programs. The legal protection of Housemaids as regulated in the Regulation of the Minister of Manpower Number 2 of 2015 does not have a clear legal basis, and the substance is discriminatory when compared to the sense in the labor legislation³³. However, the regulation regulates the obligation to make a written or oral Work Agreement that contains the rights and responsibilities that the Head knows of the Neighborhood Association-and also, in the work agreement, it explains the rights and obligations of each party which aims to provide certainty and protection for both parties³⁴.

The work agreement holds in chapter 7 of the Criminal Code one and several engagements. One of which fits in article 1601 of the employment agreement. A contract where the 1st (one) party/labor or worker binds himself under the orders of another party and the employer for a specific time does the work by receiving wages³⁵. Then this wants to compare it when it was regulated in Law 13 of 2003 concerning employment, so the legal nature has changed from private law to a public law because here it is possible to have sanctions. The nature of the rules is coercive or is a form of protection that provides minimum standards.

Article 1 number 14 of law number 13 of 2003 concerning "Work agreement is an agreement between a worker/laborer and an employer or employer that contains the terms of work, rights, and obligations of the parties." So in the criminal code, it is said to be a labor agreement. Still, in law number 13 of 2003, a work agreement is an agreement

³² Muhammad Yafi Azhari and Abdul Halim, "Hak-Hak Pekerja Rumah Tangga Dan Perlindungan Hukum Di Indonesia," *Media Iuris* 4, no. 2 (June 1, 2021): 173–88, <https://doi.org/10.20473/mi.v4i2.25492>.

³³ Makmur and Mohamad, "Tinjauan Hukum Perlindungan Terhadap Pekerja Rumah Tangga."

³⁴ Istiawati, "Hukum Perlindungan Terhadap Hak-Hak Pekerja Rumah Tangga."

³⁵ Agusmidah, "Membangun Aturan Bagi Pekerja Rumah Tangga, Mewujudkan Hak Asasi Manusia," *Jurnal Hukum Samudra Keadilan* 12, no. 1 (2017): 18–25, <https://ejurnalunsam.id/index.php/jhsk/article/view/89>.

between a worker and an entrepreneur or employer that contains the terms of work and the parties' rights and obligations. that the employer is the employer. Whoever the employer wants the employer or an entrepreneur or company with a legal entity or not, a legal entity is said to be an employer³⁶.

The term 'employer' can refer to various types of entities or individuals who hire others. An employer is not limited to just one type of entity, such as a legally incorporated company, but also includes individuals who may operate without legal incorporation or as entrepreneurs. This statement emphasizes the inclusiveness of the definition of 'employer,' so anyone who has the responsibility of hiring workers can be classified as an employer, regardless of their legal form or corporate status."

Law 13 of 2003 explains that the context of understanding the employment agreement has dualism, namely the entrepreneurs and the employer. Between them have different meanings. Article 1 paragraph 15 of Law 13 of 2003 states that an employment relationship between employers and a worker/laborer is based on a work agreement, which has elements of work, wages, and orders. The employment relationship is between the entrepreneur and the worker or laborer. The term work agreement above can be an entrepreneur or an employer. Still, in a working relationship, there is only one party, namely the entrepreneur, meaning that there is a narrowing of the scope of one of the parties, especially the party we call in the civil code, as an employer. There is no narrowing of scope.

The question is whether Housemaids can be said anyone who receives wages or benefits is a worker or laborer; it is possible that an independent worker is a worker without him having an employer. In article 1 point 4, the definition of employer, article 1 point 4, employment is an individual entrepreneur who is a legal entity and employs workers by paying wages or other forms of compensation. So if the employer is an individual, he can be an entrepreneur and be a legal entity.

Homeworkers Can this work from home fit into the context of the employment relationship if we see that the employer is an individual. In contrast, if we look at article 1 point 5, the entrepreneur is the subject. Hence, a partnership person or legal entity is an alternative. From a theoretical perspective that Housemaids perform achievements

³⁶ Wiwik Afifah and Deasy N Paruntu, "Perlindungan Hukum Hak Kesehatan Warga Negara Berdasarkan Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial," *Mimbar Keadilan*, July 1, 2015, 150–69, <https://doi.org/10.30996/mk.v0i0.2117>.

because they do something with an order, it is clear that if we talk about the employment relationship or activity agreement, there is an appropriate agreement that is supportive with one of the parties always under unity³⁷ and so on. Then from what he did earlier, he got a salary, which is in law 13, as a worker, whoever receives wages or compensation. I said that actually, he is the worker I said earlier in the law UU 13 consciously when I say the law.

On January 18, 2015, the Indonesian government issued Regulation of the Minister of Manpower Number 2 of 2015 concerning the Protection of Housemaids. However, the regulation has not provided maximum protection for Housemaids.⁸ The contents and arrangements regarding the protection of Housemaids are still far from the mandate of the ILO Convention No. 189 of 2011 concerning Decent Work for Housemaids. This Permenaker emphasizes regulating normative rights and the existence of foundations or institutions distributing Housemaids³⁸. However, it turns out that the above regulations have not been able to provide substantive protection for domestic help workers, even in the Minister of Manpower Regulation No. 2 of 2015 concerning the Protection of Housemaids has not regulated the power of coercion for all parties³⁹ so that a particular law is needed that guarantees the rights and elevates the status of Housemaids so that incidents of human rights violations do not occur and maids' household is no longer alienated.

This issue is caused by shortcomings in the regulation, which does not comprehensively address the enforcement power and legal mechanisms needed to protect all parties involved. The regulation does not cover all essential aspects to effectively safeguard domestic workers' rights, leaving gaps that allow for potential violations of their rights. Therefore, a specific law is needed, carefully designed to comprehensively guarantee domestic workers' rights, improve their status and working conditions, and address existing issues to minimize human rights violations. With such a law in place, it

³⁷ Ida Hanifah, "KEBIJAKAN PERLINDUNGAN HUKUM BAGI PEKERJA RUMAH TANGGA MELALUI KEPASTIAN HUKUM," *Jurnal Legislasi Indonesia* 17, no. 2 (June 30, 2020): 193–208, <https://doi.org/10.54629/jli.v17i2.669>.

³⁸ Kartika Dewi Mulyanto, "Urgensi Ratifikasi Konvensi Pekerjaan Yang Layak Bagi Pekerja Rumah Tangga Oleh Pemerintah Indonesia," *Undang: Jurnal Hukum* 1, no. 1 (June 1, 2018): 109–33, <https://doi.org/10.22437/ujh.1.1.109-133>.

³⁹ Gwendolyn Utama and Vienna Melinda, "Pengaturan Dan Perlindungan Hukum Bagi Pekerja Rumah Tangga Di Indonesia," *Arena Hukum* 11, no. 1 (April 17, 2018): 139–62, <https://doi.org/10.21776/ub.arenahukum.2018.01001.8>.

is hoped that domestic workers will no longer be marginalized, and the households where they work can become more just and safe environments.

It is urgent to ratify the Domestic Worker Protection Bill from the description above. The main points regulated in the Draft Law on the Protection of Domestic Workers include; 1. Giving recognition that Housemaids are workers, 2. The welfare of Housemaids as workers and citizens, 3. Protection and balance of work relations between employers and job recipients. 4. There are strict norms regarding the category of Housemaids, working hours of Housemaids, rights and obligations, and the abolition of the presence of child Housemaids.

Despite the government's attempts to protect domestic workers through Minister of Manpower Regulation Number 2 of 2015, this regulation still lacks sufficient safeguards. Domestic workers are commonly referred to as "Domestic Helpers," a label that reinforces unequal power dynamics and undermines their rights to reasonable working hours, fair wages, and paid holidays. In contrast, the term "worker" conveys a balanced relationship that upholds the rights and responsibilities of both domestic workers and employers. Unfortunately, Law Number 13 of 2003, which outlines the rights of formal workers, does not include domestic workers. However, those who migrate abroad to countries like Malaysia, Saudi Arabia, and Singapore are often recognized as formal sector workers.⁴⁰

The Domestic Workers Protection Bill includes crucial provisions regarding recruitment and the rights of domestic workers, such as access to education from placement agencies and health and accident insurance. It also establishes legal protections against discrimination, exploitation, harassment, and violence from employers and recruitment agencies. Despite being proposed in 2004, the bill has yet to be passed after more than 19 years and has been added to and removed from the National Legislation Program (Prolegnas) at least three times. Although it was registered as a priority in 2020 and discussed by the Legislative Body (Baleg) for the 2020–2024 period, it was ultimately not approved as a House Initiative Bill, with the House Deliberative Body citing "administrative reasons."⁴¹

⁴⁰ Yunitasari and Yuvitasari, "A Long Road To Fulfilling The Rights Of Indonesian Domestic Workers: One Step Forward For Ratifying The Domestic Workers Protection Bill?"

⁴¹ Yunitasari and Yuvitasari.

Many policymakers perceive the Domestic Workers Protection Bill as unnecessary, believing that domestic workers represent a small and low-status population. This misconception, rooted in historical contexts of slavery that completely deprived individuals of their rights, has contributed to resistance against the bill. Some view the bill's provisions as disruptive to the existing social and cultural order, which further complicates the situation for domestic workers. Additionally, a lack of understanding of the bill's comprehensive contents, which aim to protect both domestic workers and their employers, has hindered its progress.⁴²

Following President Jokowi's endorsement, the bill was designated as a House Initiative Bill on March 23, 2023. The PDIP and Golkar, the two largest factions in the House that previously opposed it, have now approved the bill. Observers emphasize that the bill should not merely be a tool for boosting political popularity; after 20 years of stagnation, it must genuinely serve to protect domestic workers.

5. Legal Protection for Housemaids in Surabaya

Law No. 13 of 2003 concerning Manpower, has confirmed on the issue of minimum wages as Article 88 explains that 'every worker has the right to get a salary that can meet the decent needs of where the worker resides'. Then the derivative is made a policy, namely the Minimum Wage applicable in the city/district. The minimum wage (Upah Minimum Kota/UMK) for the City of Surabaya in 2021 is IDR 4,300,479. It refers to the Decree of the Governor of East Java number 188/538/KPTS/013/2020 regarding the 2021 UMK.⁴³

However, the reality on the ground, as compiled from several informants, is that the salary of domestic helpers is not up to the minimum wage, for example, informants who work as Housemaids in the Rungkut sub-district, Surabaya. According to them, their salary is only Rp. 2.850.000 – 3.500.000 per month. Housemaids obtain the same in several sub-districts in Surabaya, but in the Jambangan sub-district, it is relatively higher, between 2,000,000-4,000,000 per month. As stated by Informant 1 that '*The salary I get*

⁴² Yunitasari and Yuvitasari.

⁴³ Muwahid, "Perlindungan Hukum Terhadap Buruh Wanita Sektor Pekerja Rumah Tangga (PRT) Di Kota Surabaya," *Mimbar Yustitia : Jurnal Hukum Dan Hak Asasi Manusia* 1, no. 2 (2017): 123–46, <http://repository.uinsa.ac.id/id/eprint/541/>.

per month is Rp. 3,000,000 - that's all-inclusive; there is no term overtime pay, so every 26th, the employer gives that amount of salary'.

A domestic worker who provides services to the employer requires working hours to produce the service in question. Article 77 explains that workers can only work 7 hours a day for six working days and 8 hours for five working days in one week. Housemaids are the same as other workers or laborers. Housemaids also need time to rest by not working. Article 79 of Law No. 13 of 2003 explains that workers/laborers have the right to relax and leave. One of the forms of time off is weekly rest.

Data obtained from informants stated that they did not get rest time, even though there must be work on Sundays, cleaning the house, or preparing meals. It reveals by an informant who works in the Kenjeran sub-district, Surabaya. He works continuously, around 12-15 per day, from mopping the floor, sweeping the yard, cooking, washing clothes, cleaning the furniture, and doing many other incidental jobs. This situation also applies to informants who work in the Simokerto sub-district. The following is the confession of informant 2;

I start my work early in the morning, around 5 o'clock. My day begins with preparing food and cleaning the garden and yard, followed by mopping the floors. After that, I continue with cooking, washing dishes, and other household chores. If my employer has an event outside and returns home late, I stay awake to open the gate for them. This demanding schedule often leaves me feeling fatigued and unwell due to a lack of rest and sleep.

While the confession of informant 3;

I start work from 5 am to 10 pm, and even when there are certain situations, such as the employer coming home late, I have to wait for him to go home.

Most of the children forced to work as Housemaids work 10-14 hours a day with a 1-hour break and no weekly day off. Based on the working time provisions for children, the Manpower Act is a maximum of 3 hours a day. In addition to exceeding working hours, the issue of wages and leave rights are also neglected because there is no labor standard regulated in a statutory regulation for Housemaids⁴⁴. Child labor also occurs in

⁴⁴ Subekti, "Urgensi Ratifikasi Konvensi International Labor Organization: Perspektif Perlindungan Pekerja Anak Pada Sektor Rumah Tangga."

Surabaya; for example, violations of working hour limits not only reflect the exploitation of child labor but also indicate a disregard for their basic rights.

Moreover, issues related to wages and leave rights for children working as domestic workers (PRT) are also serious concerns. In many cases, they do not receive fair wages, and their rightful leave is often ignored. This situation arises due to the lack of clear and strict labor standards governed by laws and regulations for domestic workers. The absence of such regulations makes child domestic workers vulnerable to various forms of abuse and injustice.

Overall, this situation illustrates inhumane working conditions for children forced to work as domestic workers, where they are not only compelled to work beyond the legally established time limits but also suffer violations of their basic rights, including the right to fair wages and the right to rest. This demands serious attention from the government and society to strengthen legal protections for working children, particularly those in the informal sector like domestic work, to ensure that their rights are not continuously violated.

With the condition that Housemaids live in with their employers, there is a high potential for alienation; Housemaids are vulnerable to covert exploitation, the potential for modern slavery. As several informants interviewed, they will not have the opportunity to develop themselves. Housemaids are entitled to social and labor security from the employer as workers. The regulation in articles 86 and 87 of Law No. 13 of 2003. Article 86 explains 1. Every worker/labor has the right to obtain protection for: a. . occupational safety and health; b—morals and decency; and c. treatment by human dignity and values and religious values.

Regarding social security, the informants who work in the Tambaksari sub-district, Surabaya, did not get this facility. Their employers never try and help Housemaids get health insurance rights. When the domestic worker gets sick, he will inevitably pay for it himself from the savings set aside from his salary. Informant 3 stated: *I don't have health insurance, and I don't have a Social Health Insurance Administration Body card*

In addition, workers/laborers are also entitled to good treatment from the employer. It reflects in Article 169 of Law No. 13 of 2003, which states that a worker/laborer can apply for an employment relationship if subjected to abusive or

abusive treatment. In addition, considering the majority, even tend to lead to the whole, the Housemaids are women. When he made a mistake caused by human nature, namely forgetting, his employer immediately scolded the informant by yelling and verbally abusing him. However, it did not involve physical activity, but the verbal violence was excruciating. As stated by informant 4, as follows;

I often get rough treatment; one example is when I forgot to turn off the water pump when watering plants in my garden and yard, causing water to pool and polluting the garden.

If there are acts of violence against Housemaids committed by employers, Law Number 23 of 2004 concerning the Elimination of Domestic Violence can be used. Legal protection for victims is regulated in the Law on the Elimination of Domestic Violence (PKDRT), which states in Article 17 reads "In providing temporary protection the police can cooperate with health workers, social workers, companion volunteers, and spiritual mentors to accompany victims." Domestic Violence legal efforts can be taken in 2 (two) ways: litigation and penal mediation.

However, with the lack of Housemaids' knowledge of legal remedies, they remain silent and do not take any legal action. Many housemaids do not report when an act of violence occurs due to several factors. Firstly, ignorance is accompanied by fear, causing Housemaids not to say the employer's behavior. Secondly, they think this is tantamount to exposing oneself to disgrace.⁴⁵

There are similarities and differences among these Indonesian workers about their understanding of decent working conditions, especially for those who are part of the union and those who are not. Nevertheless, they share one commonality: financial difficulties made them enter the domestic worker job sector. While many believe a standard salary can be considered a decent working environment, after a thorough exploration, these Indonesian domestic workers also have other needs, such as being able to work in a safe environment without any mental harassment and having time off and holidays.⁴⁶

⁴⁵ Daud, "Pekerja Rumah Tangga Sebagai Korban Kekerasan Dalam Rumah Tangga."

⁴⁶ Daud.

CONCLUSION

Housemaids in Indonesia are vital for managing domestic needs but often lack legal protections, making them vulnerable to exploitation and abuse. While the Indonesian Law Number 13 of 2003 offers some worker protections, it does not specifically cover domestic workers, leaving them open to unfair treatment. To improve their situation, targeted policies are needed, including, firstly, legal reform, i.e. updating laws to explicitly protect domestic workers; secondly, new legislation, i.e. enacting laws prioritizing their rights and well-being, and thirdly, service centers, i.e. Establishing platforms for support and resources. Many domestic workers are unaware of their legal rights, especially regarding violence, and often choose to remain silent. Hence stakeholders should urge the government to implement specific laws for domestic worker protection, enhance oversight of domestic workers' employment conditions, and create agencies for handling complaints and providing legal assistance. While many workers equate decent working conditions with meeting minimum wage, they also seek safe environments, time off, and recognition as legitimate workers. Trade unions can help raise awareness of rights and combat exploitation, fostering a sense of dignity and respect within their profession.

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