

Reconstruction of legal protection of household workers in Indonesia based on justice value

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Abstract

The domestic workers' rights in Indonesia have not been accommodated in the Labor Laws unlike other Workers in general, this makes the legal relationship between Domestic Workers and Their Employers are based on good intention only and without any legal standing. this situation created a gap between expectations of fulfilling legal protection for domestic workers and a suitable working condition for workers in Indonesian society. This phenomenon is examined by the author with the main issue of What are the Weaknesses of the Legal Protection of Domestic Workers in Indonesia Today and How is the Reconstruction of Legal Protection of Domestic Workers in Indonesia Based on Justice Values. The research method uses the normative juridical approach, where the research data is used is from literature review stems from the existing regulation, credible news and data obtained from interested parties, supported with interviews and observation as secondary data.

The results shows that the weakness of legal protection for domestic workers is the absence of legal certainty through legislation, so that it has implications for the realization of substantive justice for the existence of domestic workers. This is also caused by the views on the profession of domestic workers who are positioned as informal workers so that it has implications for the protection of basic rights, natural rights and social security of domestic workers. Therefore, it is necessary to Reconstruct Legal Protection Regulations between Domestic Workers and Equitable Employers in Law No. 13 of 2003 so that there is clarity in legal protection for Domestic Workers.

Keywords: reconstruction, law protection, domestic worker, justice value

Introduction

The practice of Domestic Workers' employment relationships with employers is different from work relationships in general. The difference is that the employer and the domestic workers work relationships are semi-formal^[1], meaning that in addition to being oriented to the task, it is also a kinship, so that in determining the scope of work, the implementation of orders and determination of Wages are rarely set forth in the Work Agreement (written) like a legal relationship characterized by work relations. In law, such a relationship is referred to as a hybrid relationship. Because this relationship is not solely meant as a legal relationship, which has legal consequences but rather puts forward a familial/kinship relationship. The prominent control mechanism in such a relationship is that social norms and legal norms are not prioritized by the parties, because for both parties the most important thing is that the working relationship is working properly^[2].

The principle of no work no pay in this connection, is not strictly enforced where domestic workers do not do work for various reasons such as leaving home after the agreed time and often without being told. Conversely, Domestic Workers must also work without recognizing the time limit of work for which the benefits are not commensurate. Both

parties also bear a variety of possible risks that often do not have legal provisions, such as when domestic workers damage an employer's property, legal liability is often not requested or often the employer relinquishes his right to claim responsibility. Conversely, when domestic workers receive inhuman treatment^[3] such as violence, injustice and exploitation, they can not take any action except to be quiet, sincere, and telling their friends, family in the village or most of them just leave their jobs and go home^[4]. Although the pattern of domestic worker-employer employment relationships in reality is like this, theoretically it can be explained that the domestic worker-employer relationship can essentially be qualified as a general working relationship^[5].

The ideal legal relationship in a work relationship between Domestic Workers and Employers should be a model of partnership relations, so that the relationship is a non-discrimination, non-exploitation and non-violent relationship. The rights as mentioned above, will run in a balanced manner (fair and equal), if accompanied by obligations that must be carried out by domestic workers in work relationships.

¹ Naibaho, Rorotskie. (2010). "Pembantu Rumah Tangga (Studi Antropologi Perkotaan Tentang Pembantu dan Majikan)". Essay, Universitas Sumatera Utara, Medan.

² Triana Sofiani, Rita Rahmawati and Shinta Dewi Rismawati. (2012). "Membangun Konsep Ideal Hubungan Kerja Antara Pekerja Rumah Tangga Dan Majikan Berbasis Hak-Hak Buruh Dalam Islam", Conference Proceedings, Annual International Conference Islamic Studies (AICISXII)

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⁴ Syamsidah, Syamsidah. (2012). "Interaksi Sosial Pengguna Jasa Pembantu Rumah Tangga di Kota Makassar". MIMBAR, Jurnal Sosial dan Pembangunan. 28. 173. 10.29313/mimbar.v28i2.352.

⁵ R. Herlambang Perdana Wiratraman. (2005). "Konstitusionalisme & Hak-Hak Asasi Manusia Konsepsi Tanggung Jawab Negara dalam Sistem Ketatanegaraan Indonesia", Jurnal Ilmu Hukum YURIDIKA Vol. 20, No. 1 January 2005.

Domestic workers and employers in conducting legal relations must have clarity and regularity as well as good relations if regulated in a clear legal rule. If the binding relationship between the parties can be carried out properly, the parties will feel gaining peace and justice in the relationship.

The working relationship between Domestic Workers and Employers is formed by an agreement between the two directly or indirectly (through a Domestic Workers Service Provider), regarding the type of work, orders and wages to be received by the Domestic Workers, as outlined in a written contract signed by both parties. Three main elements in the employment relationship, namely, work, wages and orders, must be formulated clearly and decisively in the contract, so that it can be a legal basis for claiming rights that are harmed in the future should a dispute occurs.

The domestic workers' rights have not been accommodated in the Labor Regulations like other Workers in general, as well as the legal relationship between Domestic Workers and Employers which are generally family-friendly, so there is a gap between expectations of fulfilling legal protection for domestic workers and conditions decent work for workers in Indonesian society.

Observing the above phenomenon, the author is interested in examining the problem of the absence of specific legal provisions in a unification governing legal protection for domestic workers discussed in this study with the following issues

1. What Are the Weaknesses of the Current Domestic Workers Legal Protection Regulations in Indonesia?
2. How to Reconstruct the Domestic Workers Legal Protection in Indonesia Based on Justice Value?

Method of Research

The paradigm that is used in the research this is the paradigm of constructivism which is the antithesis of the understanding that lay observation and objectivity in finding a reality or science knowledge^[6]. Paradigm also looked at the science of social as an analysis of systematic against *Socially Meaningful Action* through observation directly and in detail to the problem analyzed.

The research type used in writing this paper is a qualitative research. Writing aims to provide a description of a society or a certain group of people or a description of a symptom or between two or more symptoms.

Approach (approach) the research is to use the approach of *Normative-Juridical*^[7], which is based on the norms of law and the theory of the existing legal enforceability of a law viewpoint as interpretation.

As for the source of research used in this study are

1. Primary Data, is data obtained from information obtained from literature review derived from the existing regulation, credible news and data obtained from interted parties.
2. Secondary Data, is an indirect source that is able to provide additional and reinforcement of research data. Sources of secondary data in the form of: Primary Legal Material and Secondary Legal Materials and Tertiary Legal Material.

In this study, researchers uses data collection techniques, namely literature study, interviews and documentation. In this study, the researcher is a key instrument that is the researcher himself who plans, collects, and interprets the data^[8].

Research Result and Discussion

1. Weaknesses of the Current Domestic Workers Legal Protection Regulations in Indonesia

In principle, the worker or labor is a very valuable asset as a major factor in improving the productivity and performance of a business unit / company / agency workplace, including influencing the level of welfare of a household where the worker works. Therefore Workers are required to get protection, both male and female workers. However, in reality many workers' protections have not been carried out adequately, especially in non-formal or informal sector.

Workers are generic words that apply to various work statuses that they do as a consequence of one's position in carrying out work in a business unit / activity that takes place both routine and temporary. It is this status as a worker that needs to be protected by the State in the current legislation system regardless of the type and status of work. However, legal protection is inherent in his profession as a worker.

The aspect of protection of workers in general has been guaranteed basic rights and natural rights by applicable laws and regulations. However, substantial legal protection is not directly proportional to empirical protection, especially for domestic workers who are still classified as informal professions. Even some parties and even the government itself still sees domestic work not as a profession as outlined in the eight myths of domestic workers above.

To find out the weaknesses in the legal protection for domestic workers in Indonesia at this time can be seen in the regulations on social security, which can be traced in the applicable legal provisions including: Article 28 H of the 1945 Constitution (second amendment) that states that: "Everyone has the right for social security that enables development as a whole as dignified human beings ", then Article 34 paragraph (2) of the 1945 Constitution (fourth amendment), that states that : " The state develops a social security system for all people and empowers weak and incapable people in accordance with human dignity ".

In addition to, MPR Decree No. X / MPR / 2001 concerning the Report on the Implementation of the Decree of the Indonesian People's Consultative Assembly by the High State Institution at the Annual Session of the Republic of Indonesia Republic of Indonesia 2001 also commissioned the President to establish a national social security system in order to provide a more comprehensive and integrated social protection.

The National Social Security System Team (SJSN) are then formed based on Presidential Decree No. 20 of 2002 which aims to draft an SJSN Law. The SJSN team compiled an academic paper and submitted it to the DPR for the submission of the SJSN Bill. The scope of the academic paper covers social security with an insurance scheme approach that requires formal workers to follow social security in aspects of health insurance, work accident insurance, termination of employment, old age insurance,

⁶ Faisal, (2010), "Menerobos Positivisme Hukum", Rangkang Education, Yogyakarta.

⁷ Johnny Ibrahim, (2005), "Teori dan Metodologi Penelitian Hukum Normatif", Bayumedia, Surabaya.

⁸ L. Moleong, (2002), "Metode Penelitian Kualitatif", PT Remaja Rosdakarya, Bandung.

pensions and death. Whereas informal workers and the poor are not yet listed.

If domestic workers are categorized as part of informal workers, then it is clear that domestic workers are not yet required to follow social security in the aspects of health insurance, work accident insurance, termination of employment, pension, retirement and death as required for these formal workers.

Since 2002 the Ministry of National Development Planning of the Republic of Indonesia has conducted a preliminary study of the system of protection and social security which in essence strives towards the establishment of a Social Protection and Security System (SPJS) aimed at all Indonesians. Bappenas has also conducted a more in-depth study with the output of a recommendation "Integrated Social Protection System (SPS) Design". In the implementation of the SPS, the working people, the business community and the government are expected to jointly bear the funding of the system. One study recommendation states the need for an SPS that is linked to the population administration system (unique number system). Thus, identification of people who deserve social protection will be more precise and efficient.

Forming an SPS requires a really long time. Therefore, the implementation of SPS is done in stages.

The initial stage is to form an SPS policy along with supporting tools from both legal and institutional aspects. The SPS should be comprehensive for all Indonesians and integrated.

However, at a later stage, SPS implementation strategies (including a master plan) in several regions are needed that are adapted to the capabilities of the government, the business community, the community and the specific targets of the poor.

Based on the description above, domestic workers are guaranteed social protection in their capacity as citizens or residents in general, but not in their capacity as workers. Therefore, the protection of social security is certainly not optimal and does not guarantee their rights in legal relations with their employers.

2. Reconstruction of the Domestic Workers Legal Protection in Indonesia Based on Justice Value

The definition of workers is contained in Article 1 item 3 of Law No. 13 of 2003 concerning employment which states that worker is: "Every person who works for a wage or other forms of remuneration". From this explanation, Domestic Workers can be classified as worker because all elements in the Article are fulfilled. However, it is important to mention that this article did not mention specifically what worker are and not specifically including those who work in the formal, informal or household sectors. Furthermore, in the same article, which relates to the mention of compensation in other forms, it needs to be eliminated because it gives rise to a biased interpretation.

In carrying out its work, every worker and employer has a relationship that is work relations. Regarding employment relations regulated in Article 1 Item 15 of Law No. 13 of 2003 is "Relations between employers and workers based on work agreements that have elements of work, wages and orders". Work relationship is a legal relationship between two legal subjects regarding a job. The legal subjects conducting employment are employers or laborers with workers, and this employment relationship is the core of

industrial relations^[9]. Here a problem arises regarding the position of the employer which cannot be compared to an entrepreneur who is clearly a legal body. Entrepreneurs are individuals who, partnerships or legal entities that carry out their business activities continuously with the aim of obtaining profits or profits. Whereas the employer is a person who gives work to other people and the employer does not get profits like entrepreneur. So it needs to be clarified about the position of the employer as the employer in that article or specifically regulated in the legislation.

This employment relationship exists because of an employment agreement between the worker and the employer. Work agreement based on Article 1 Item 14 of Law No. 13 of 2003 is "Agreement between the worker / laborer and the Employer or employer which contains the terms of work, rights and obligations of the parties". A Domestic Worker is usually not bound by a work agreement in writing, but only through verbal agreement with the employer. The employment agreement itself can be made in writing or verbally in accordance with the provisions in Article 51 paragraph 1 of Law No. 13 of 2003. This means that the employment agreement between the employer and the worker fulfills the legal requirements of the agreement. In order to provide guarantees for the protection of legal certainty for workers, it is necessary to reinforce the regulation in the form of agreements made in writing.

The civil law relationship between Domestic Workers and Employers is an engagement relationship in which both are bound both in a written contract and an oral contract that is mutually agreed upon. Employment contracts between Domestic Workers and Employers can be categorized in terms of a Specific Time Work Agreement (PKWT) Employment Contracts / Employment Agreements according to Article 1 Item 14 of Law No. 13 of 2003 concerning Labor which states that "Employment agreements are agreements between workers / laborers and employers or employers that contain conditions of employment, rights and obligations of the parties".

According to Decree of the Minister of Manpower and Transmigration No.100 / MEN / IV / 2004 concerning the Implementation of Specific Time Work Agreements, a Specified Time Work Agreement (PKWT) is a work agreement between workers and employers to enter a work relationship within a certain time or for certain workers Work Agreement Specified Time (PKWT) whose workers are often referred to as contract employees is a work agreement between the worker and the employer to establish a working relationship within a certain time or for certain workers. Under a Specific Time Work Agreement the parties to the agreement are the workers personally and directly with the employer.

The contents of PKWT are regulating individual relations between workers and companies / employers, for example: position or position, salary / wages of workers, benefits and what facilities workers get and other things that are regulating personal work relationships. PKWT cannot be made verbally. PKWT must be made in writing and registered at the relevant employment agency. If made verbally, the legal consequence is that the employment contract becomes PKWTT.

⁹ Yulia Hafizah. (2005). "Kebijakan Ekonomi Indonesia Ditinjau dari Konsep Dasar Ekonomi Islam", Jurnal Millah Vol. IV, No. 2 January 2005.

PKWT can be held for a maximum of 2 (two) years. If the employer wishes to extend the contract, the employer must notify the intent of the extension in writing to the worker no later than 7 (seven) days before the contract expires.

According to the provisions of Article 59 paragraph (4) of Act No. 13 of 2003 concerning Manpower, the Specific Time Work Agreement (PKWT) may only be made for a maximum of 2 (two) years and may only be extended 1 (one) time for a maximum period of 1 (one) year.

Employers / companies that are intending to extend the PKWT must inform their intention to extend the PKWT in writing to the worker concerned, no later than 7 (seven) days before the PKWT ends. If the employer does not notify the extension of this PKWT within 7 (seven) days then the work agreement is null and void and becomes an Indefinite Time Work Agreement (PKWTT), as stipulated in the provisions of Article 59 paragraph (5) of Law No.13 of 2003.

This is also confirmed in the provisions of Article 3 paragraph (2) of the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number KEP.100 / MEN / VI / 2004 concerning Provisions for Implementing Specific Time Work Agreements, that PKWT is only made for a maximum of 3 (three) years.

PKWT that is carried out exceeds 3 (three) years, then the work agreement is null and void and becomes an Unspecified Time Work Agreement (PKWTT) in other words the employee becomes a permanent employee (Article 59 paragraph (7) of Law No.13 of 2003).

Related to the renewal of the employment agreement in PKWT according to Article 59 paragraph (6) of Act No. 13 of 2003 concerning Manpower that the renewal of the employment agreement can be done 1 (one) time and at the latest 2 (two) years. This renewal can be held after more than 30 days since the end of PKWT. For example, if the work cannot be completed, an agreement can be renewed. If PKWT does not go through a grace period of 30 days since the end of PKWT, then PKWT can change to PKWTT.

This PKWT renewal is carried out in the event that PKWT is made based on the completion of certain jobs, but due to certain conditions, the work cannot be completed yet (Article 3 paragraph (5) Kepmenakertrans No. Kep. 100 / MEN / VI / 2004).

A Specific Time Work Agreement is different from outsourcing. Outsourcing is a Job Contracting Agreement. The employer employs part of the work to a contracting company or labor provider company through an employment contract or the provision of workers' services. The employment relationship between outsourced workers and job-buying companies or the provision of workers' services can be with the status of a Specific Time Work Agreement or an Unspecified Time Work Agreement however, the law does not regulate this yet.

Both workers employed directly by the company as well as workers from outsourced contracting companies will work at the company's work location. The status of employment relationship Specific Time Work Agreements whether workers who are directly employed or workers who go through outsourcing may be done as long as in accordance with the provisions of Article 59 of Law No. 13 of 2003.

What is meant by work that is permanent, there are 2 (two) categories, namely :

a. Work that is continuous, uninterrupted, not limited by time and is part of a production process within a company,

or

b. Jobs that are not seasonal (as stated in the Explanation of Article 59 paragraph (2) of Law No. 13 of 2003).

In other words, if a job, although it is continuous, is not interrupted, it is not limited by time but is not part of a production process in a company, in the sense that it is only a supporting service activity that is not directly related to the production process or core activities (core business) as stated in Article 66 paragraph (1) of Law no. 13 of 2003 concerning Manpower, it is considered not as permanent work, so that it can be the object of PKWT.

With regard to carrying out support service activities, although workers can be employed with employment through PKWT, for "outsourcing companies", there are additional requirements as mandated by MK Decision Register Number 27 / PUU-IX / 2011, that PKWT must contain the principle of transferring protective measures for workers or the mandated Transfer of Undertaking Protection Employment (TUPE) which gave the worker :

- a. Transfer of rights protection for workers / laborers (including continuing employment relations with a new outsourcing company) whose work object continues to exist despite the change of outsourcing company.
- b. The work period of the worker / laborer must be promised (in PKWT) to make an experience letter
- c. The experience letter determines the length of service and is one of the bases for determining wages for the next outsourcing company.

PKWT as mentioned above, must fulfill these following conditions

- a. The work contract are maximum three years or based on the completion of a particular job
- b. Made in writing in 3 copies: for laborers, employers and the Manpower Office (Permenaker No. Per-02 / Men / 1993), if made verbally then stated as a work agreement for an indefinite time,
- c. In Indonesian and Latin letters or in Indonesian and foreign languages with Indonesian as the main letter;
- d. There is no probation period (probation), if required then the employment agreement is null and void (Article 58 of Law No. 13 of 2003).

Based on Article 1 number 2 of the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number KEP. 100 / MEN / VI / 2004 Regarding the Provisions for the Implementation of Specific Time Work Agreements, the definition of Non-Specific Time Work Agreements is a work agreement between workers / laborers and employers to establish permanent employment relations. Workers are often called permanent employees.

In addition to being written, PKWTT can also be made verbally and is not required to be approved by relevant employment agencies. If PKWTT is made verbally then the company is required to make a letter of appointment for the employee concerned. PKWTT can require probation for a maximum period of 3 (three) months, if there are regulators more than 3 months, then by law since the fourth month, the worker has been declared a permanent worker (PKWTT). During the trial period, the company is obliged to pay the worker's wages and the wages must not be lower than the applicable minimum wage.

Now it is known the basics regarding the types of employment contracts. The most frequently asked questions

are regarding the Specific Time Work Agreement (PKWT) for contract workers. The substance contained in the Uncertain Work Agreement is based on the Constitutional Court Decision which is then set forth in Article 29 paragraph (2) and paragraph (3) Minister of Manpower and Transmigration Regulation No. 19 of 2012, specifically PKWT in workers' service provider companies, that the PKWT must contain at least

- a. Guaranteed continuity of work;
- b. Guaranteed fulfillment of workers / laborers' rights in accordance with statutory and promised agreements; and
- c. Guaranteed calculation of work period in the event of a change of service provider companies workers / laborers to set wages;

That and in addition to, are the following rights

- a. The right to leave (annual) if he or she has fulfilled the terms of service;
- b. The right to social security;
- c. Eid Al-Fitr Holiday Allowance (THR),
- d. Weekly rest;
- e. The right to compensation (compensation for terminating the employment relationship of PKWT);
- f. Wage adjustment based on -accumulation- work period; and
- g. Other rights regulated in the legislation and / or work agreement (PKWT) beforehand.

In the practice of Unspecified Time Work Agreements, usually the company or employer holds employee diplomas as collateral for the duration of the employment relationship between the employee and the employer. Legislation in the field of labor, including Law No. 13 of 2003 concerning Manpower does not regulate whether or not companies can hold securities belonging to the employees, such as diplomas.

Detention of a worker / employee diploma by the company is permissible, as long as it is an agreement between the two parties. Agreements between workers and employers are usually set out in work agreements that bind workers and employers in employment relations. That is, the detention of diplomas by employers is permitted as long as there is agreement between the two parties.

Detention of a diploma as collateral in an employment relationship must be returned to the diploma owner or worker after the employment contract is completed. If the diploma is retained and not returned after stopping work, then the worker can work for family ways first. For example, by visiting the company to ask for a diploma again. However, if the company does not want to return the diploma, then the worker can sue the company on the basis of unlawful acts or report to the Police for allegations of embezzlement of important documents or an authentic deed. Embezzlement is regulated in Article 372 of the Criminal Code and included in the category of embezzlement is the act of taking part of someone's property in part or in full, and the item is in the hands of the perpetrators not because of a crime. The possession of the goods (diploma) is already in the hands of the owner.

Basically, an employment agreement does not have to be in writing. Based on Article 50 and Article 51 of Law No. 13 of 2003 concerning Manpower, employment relations occur because of an employment agreement between the employer

and the worker / laborer, the work agreement can be made in writing or verbally. However, there are exceptions to the work agreement for a certain time (PKWT). In Article 57 of Law No.13 of 2003 it was stated that PKWT must be made in writing and must use Indonesian and Latin letters. PKWT made in writing is stated as an employment agreement for an indefinite period of time (PKWTT). The article creates confusion, where unspecified non-permanent work (Permanent Work) agreements are declared as work contracts for indefinite periods (PKWTT). The article does not protect workers from the value of fairness, so that the work agreement both indefinite time and the work agreement for a certain time should be made in written form.

Verbal agreements can only be made in the PKWTT model. In the event that the company does not make a written work agreement with regard to the application of PKWTT with its workers, the employer is required to make a letter of appointment for the worker / laborer concerned (Article 63 of Law No. 13 of 2003).

A work agreement for an indefinite period of time (PKWTT) does not have to be done with a written work agreement, but the company is required to make a letter of appointment for its workers. The appointment letter must at least contain the statement

- a. Name and address of the worker / laborer;
- b. Date he or she started work;
- c. Type of work; and
- d. The amount of wages.

According to the provisions of Article 2 paragraph (1) of Law No. 21 of 1954, labor agreements must be made with an official letter signed by the labor union with the employer. Meaning that indirectly, the Government also encourages employers to allow each worker / laborer to form a labor union, because if there is no labor union, then the employer cannot make labor agreements required by the Government.

The birth of Law No. 13 of 2003 concerning Manpower as a substitute for Law No. 21 of 1954, regulates 2 (two) types of work agreements, that can be made individually or with labor unions. Law no. 13 of 2003, also provides an opportunity for employers to be obliged to make individual work agreements in writing, citing the diverse conditions of the community that allow verbal agreements. This provision actually contradicts the principle of an agreement that must be made in writing.

Justification by Law No. 13 of 2003 concerning verbal agreements, will make laborers unaware of their rights and obligations in undergoing work relations with employers, in the form of work conditions. Thus, workers / laborers cannot avoid a prohibition / code of conduct imposed by employers, which in turn can result in termination of employment. Even the legal consequences arising from the termination of employment can not be known by the worker / laborer.

Even agreements made verbally can make it difficult for workers / laborers to prove their truth as workers / laborers working for employers, in the process of resolving disputes over termination of employment at the Industrial Relations Court.

Provisions in Article 63 paragraph (1) of Law no. 13 of 2003, which requires employers to make an appointment letter for workers / laborers whose work agreements are

made verbally, are not effective and many employers do not carry them out, not only because there are no sanctions governing them, but also because no employment agreements have been made. In writing and a letter of appointment, will benefit the employer, including unclear when the employment relationship between the two parties will begin, when the job will be completed, the period of work and wages as a result of the absence of an employment agreement^[10].

An individual work agreement clearly will not benefit the worker / laborer, but can instead benefit the employer. Because the bargaining power of a worker / laborer is higher the bargaining power of an employers. This is caused, the number of unemployment continues to rise sharply, so that the number of jobs and labor is not balanced, which then results in bargaining power on the conditions of work such as wages more determined by employers / employers^[11].

The role of government which is very important in making policy, is important for workers / laborers to get protection. However, the present Government is increasingly giving up its role in creating harmonious industrial relations between workers / laborers and employers. The government is increasingly releasing its interference in protecting workers / laborers who do not or have low bargaining power with employers.

So that the oral employment agreement, will result in a conflict relationship between workers / laborers and employers / employers more wide open, and the beneficiaries of the result of oral employment agreements are employers. Therefore, oral employment agreements are not relevant to be applied in developing countries like Indonesia, because the conditions of Indonesian society have changed, and not every work agreement must be made in Indonesian.

As a solution, employers with trade unions / labor unions, must make a joint work agreement / labor agreement, which regulates the terms of work. Then, each worker / labor is made an individual work agreement as a derivative of the collective labor agreement.

In this case, the Government's role as a policy maker is obliged to examine the contents of collective labor agreements made by labor unions with employers. The author's view is that with regard to the foregoing, the tendency of the Employer Population is more in agreement with the use of the Oral Agreement Model than the Domestic Workers Population. This is caused by considerations, among others:

- a. There is no basis for proof in the event of a dispute between the Employer and Domestic Workers.
- b. Determination of the amount of wages to be flexible relative to the development of work.
- c. Not specifying the start and end of work; certain types of work; wage amount; workload; and work time

The perspective of Domestic Workers are disagreeing more with the use of the Oral Agreement model for Domestic Workers than the Population of Domestic Workers, taking

into consideration of several things including :

- a. There is no legal certainty regarding working hours; wage; type and workload; holiday; Additional Income; as well as other rights that can be promised.
- b. There is no document that can be used as evidence if there is a dispute with the employer.
- c. Domestic workers are in a weak position in terms of bargaining with employers so that the agreements between domestic workers and employers must be made in written form.

In order for The Domestic Worker to not bound by Work at all times, but is clear about working hours, so that the Domestic Worker can do other activities outside of his permanent job at the Employer it can be concluded that the reconstruction in Law No. 13 of 2003 concerning Manpower is needed as it has not provided firmness regarding the position of Domestic Workers as workers as the legal protection of Domestic Workers is still Weak. The existence of a special regulation, as the Implementing Regulations of Law No. 13 of 2003 for Domestic Workers, is currently urgently needed in order to provide legal protection, as Article 28D Paragraph 2 of the 1945 Constitution confirms that everyone has the right to work and to receive fair and appropriate rewards and treatment. Thus, in employment relationships so the reconstruction needed to protect the rights of domestic workers are namely

- a. Article 1 Point 3 of Law No. 13 of 2003 which is amended to: "Workers are all people who work in the formal, informal and household sectors by receiving wages in the form of money".
- b. Article 1 Item 15 of Law No. 13 of 2003, which is amended to: "Employment relations are relations between employers / employers and workers based on work agreements that have elements of work, wages and orders".
- c. Article 51 paragraph 1 of Law No. 13 of 2003, which is amended to: "Work agreements are made in writing, both formal, informal workers and domestic workers".
- d. Article 57 paragraph 2 of Law No. 13 of 2003, which is amended to: "Work Agreement for Specified Time or Workers with Indefinite Time Work Agreement (PKWTT) made in writing".

Conclusion

1. The weakness of legal protection for domestic workers is the absence of legal legality through legislation that affect the realization of substantive justice for the existence of domestic workers. This is also caused by the views on the profession of domestic workers who are positioned as informal workers so that it has implications for the protection of basic rights, natural rights and social security of domestic workers.
2. Reconstruction of the Legal Protection Regulation between Domestic Workers and Equitable Employers in Law No. 13 of 2003 concerning Labor is Article 1 Point 3 of Law No. 13 of 2003 is amended to: "Workers are all people who work in the formal, informal and housing sectors Stairs by receiving wages in the form of money ". In Article 1 Item 15 of Law No. 13 of 2003, is amended to: "employment relations are relations between employers / employers and workers based on work agreements that have elements of work, wages and orders". In Article 51 paragraph 1 of Law No. 13 of

¹⁰ Muryanti, Muryanti. (2019). "Kendala Pelaksanaan Regulasi tentang Pembantu Rumah Tangga (PRT) di Yogyakarta". *Asy-Syir'ah Jurnal Ilmu Syari'ah dan Hukum*, Vol.49, No. 2, December 2015 10.31227/osf.io/zcu9y9.

¹¹ Mulyanto, Kartika. (2018). "Urgensi Ratifikasi Konvensi Pekerjaan yang Layak bagi Pekerja Rumah Tangga oleh Pemerintah Indonesia". *Undang: Jurnal Hukum*. 1. 109-133. 10.22437/ujh.1.1.109-133.

2003, is amended to: "Work agreements are made in writing, both formal, informal workers and domestic workers". And lastly in Article 57 paragraph 2 of Law No. 13 of 2003, is amended to: "Work Agreement for Specified Times or Workers with Indefinite Time Work Agreement (PKWTT) made in writing".

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