

# Legal Protection of Household Assistants Under Labor Law in Indonesia

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**Abstract**—Household assistant No have umbrella law For get rights as worker. Everyone needs it work for fulfil need for more life prosperity, work is mandatory demands filled with everyone inside maintain his life. Protection law for assistant House ladder only can accomplished If There is base clear law for can applies for workers House stairs and make they as worker in a juridical sense. Problem in study This is form protection law to assistant House ladder in materialized welfare and rights as assistant House ladder. In research This use method study normative law with approach normative juridical. Deep data collection study This done with Study librarianship (library research) towards regulation related laws and regulations and analyze the data qualitative. Research result This can the conclusion that assistant House ladder get protection law based on Constitution Number 13 of 2003 concerning Employment and earning rights for materialized a more prosperous life.

**Keywords:** Legal Protection, Domestic Assistant, Employment Law.

## I. INTRODUCTION

Household Assistant is a term used in existing regulations. However, until now the existence of household assistants as workers has not been accepted by all parties. Household assistants are not recognized as the same workforce as 4 other workers such as civil servants, factory workers, companies, etc. In general, people are more accepting of calling household assistants "helpers". In the legal context, there are still inconsistencies in the interpretation of the term "worker". In Law Number 13 of 2003 concerning Employment in conjunction with Law Number 11 of 2020 concerning Job Creation, it is stated that a worker is anyone who works and receives wages or other forms of compensation. If you refer to the definition as normative in Law Number 13 of 2003 in conjunction with Law Number 11 of 2020 concerning Job Creation, Household Assistants should be included in it. This is because household assistants are people who work by receiving wages or other forms of inequality. However, this law does not substantively regulate household assistants.

The phenomenon of Domestic Workers (PRT) has existed since the kingdom era, the colonial period until after

Indonesia's independence. The two main factors behind the presence of domestic workers are poverty and the need for labor in the domestic sector which has so far been borne by women. <sup>1</sup>Over time, <sup>2</sup>employment issues have become broader and more complex <sup>3</sup>, with all the problems and implications very interesting to discuss. Post-reform requires many significant changes and improvements so that a study and understanding is needed because it is not only related to the interests of workers during, before and after the work period but is also related to employers, government and society.

Legal protection for Domestic Workers is very important to ensure legal certainty, not only for Domestic Workers, but also for employers and distribution agents. <sup>4</sup>Legal protection will also provide a clear position for the legal status of Domestic Workers in employment relationships in accordance with their constitutional rights as contained in Article 27 Paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

Socially, household members are not considered a profession, so providing their rights is often only based on the mercy or generosity of employers, and normatively, household members are also not considered a profession because household members' activities are considered far from production activities. In carrying out their work, household members find themselves in a work situation that does not have legal norms like formal workers, supervision from authorized agencies or the absence of a work agreement. With these conditions, several problems usually befall household members and require protection, including problems with low or unpaid wages, working hours that have no limits, inadequate facilities that support household members for security, health and safety, holiday or leave rights, workload. who are unrestrained and vulnerable to physical violence and human rights violations. This unequal position results in workers only relying on their inherent energy to do their work. In fact, employers often consider workers to be mere objects in the employment relationship. This situation gives rise to a tendency for employers to commit arbitrary acts against domestic workers.

<sup>1</sup>Saparinah Sadli, Domestic Workers and the Importance of Education, Fairness, Gender, (1999). p. 5.

<sup>2</sup>Complex can be defined as: First, containing several elements that are complicated, complicated, difficult, and interconnected: the problem it faces is very difficult to solve. Second, a system of ideas that is emphasized or dominated by emotions so that it can give rise to unnatural behavior. Department of National Education, Big Indonesian Dictionary, Third Edition,

(Jakarta: Balai Pustaka, 2005). p. 84.

<sup>3</sup>Article 1 number 1 of Law Number 13 of 2003 concerning Employment (UUK) defines employment as all matters relating to labor before, during and after the employment relationship.

<sup>4</sup>Putri, CP (2020). Legal Protection for the Rights of Women Workers During the Covid-19 Pandemic. Legality: A Law Journal, 12(2), 226-230.



<sup>5</sup>The relationship between domestic workers and service users is largely conditioned on familial relationships, which in many cases emphasize the work relationship, which has an immeasurable impact on workers' rights.

Based on description above, researcher submit formulation problem that is How how protection law to assistant House ladder in materialized welfare and rights as assistant House ladder?

## II. METHODOLOGY

Research methods used in study This is method juridical normative, as consequence logistics from characteristic law, with using secondary data that is material primary law and materials law secondary. Primary legal materials are material binding law, then in study This material primary law consists from Constitution Number 13 of 2003 concerning Employment. Legal materials secondary namely the data obtained from study literature and documentation, ie results research and processing of others, who have available in form literature or documentation.

## III. RESEARCH RESULT

### A. Legal Protection for Household Assistants in Realizing Welfare

Indonesia is a country with a concept law, for example Article 1 paragraph 3 of the 1945 Constitution stipulates that Indonesia is a constitutional state. One of the principle is protection Correct basic Man.<sup>6</sup> Domestic Workers own protection law will but regulation the clear in a way separately For protect it, namely the 1945 Constitution, the Criminal Code, Law no. 23 of 2004 concerning Removal violence in the Household, Law no. 23 of 2002 concerning Child protection, Law no. 20 of 2002 concerning system National education and Law No.39 of 1999 concerning Correct basic man. Nevertheless many regulation that, not yet arrange in a way direct Domestic Workers. Therefore That government emit Minister of Manpower Regulation No.2 of 2015 concerning ARTS Protection. But regulation the Still own lack.

Protection law to worker House ladder Not yet in a way juridical recognized in this country. Likewise settings not yet regarding ART uniform For throughout Indonesia. Arrangement This Of course different in accordance with custom culture and customs of each region. Condition mentioned above describe Besides that No exists protection strong law, also illustrates No exists certainty law for worker House ladder That Alone. This matter has an impact on the weakness of workers' bargaining House ladder facing with the master is in front law. No No Possible influence its height cases express and violence to worker House ladder That Alone.

Household Assistant Neither own umbrella law For stage gathering or union as like workers generally have university worker or university laborer as set out inside Constitution Number 21 of 2000 Concerning America Workers / Unions laborer. Organization for example university workers / trade unions laborer actually very important for Domestic Workers To use protect everything interest in a way organized and become material input for taker policy.

In Article 9 paragraph (1) which regulates that "obligation give life care, or maintenance to that person as called in Article 2". Obligation the covers give primary needs to the people who become dependent, incl to worker House living stairs stay in family. Form penance to family including in category incident criminal negligence. Negligence is happen delicious

Because somebody neglect orders or No do , because give the lives of those at the bottom his control is is order from Law , so If He No give source life the to the people who become his dependents means He has neglect orders or No do.<sup>7</sup> Need confirmed that Constitution Number 13 of 2003 concerning Employment No reach protection law towards domestic workers, however a number regulation statutory regulations national has arrange and deliver protection in the fields Certain , though in a way separate and limited .

### B. Domestic Assistant Labor Rights Based on Law Employment

Worker is every resident in age work that does activity economics, all right in connection work at the company or outside connection Work for example worker independent, worker families and workers in other informal sectors. And in the article 1 number 3 of the Manpower Law state that "Workers is everyone who works with accept wages or imbalance in form others" and Article 1 point 4 of the Manpower Law states "Giver Work is an individual, entrepreneur, legal entity , or other entity that employs power Work with pay wages or imbalance in form other."However see fill from chapter the conditional and uncertain from worker Already fulfills the domestic worker, then the domestic worker is also a worker Because work by individuals but the Manpower Law Still No achieve it For protect ART.

Rights owned by Domestic Workers / assistants House ladder No arranged in a way explicit in Invite Invite Number 13 of 2003 Jo Law Number 11 of 2020 concerning Job Creation. This matter happen Because Lots presumption that Domestic Workers are in the informal sector. Rights worker as arranged in Invite Invite Number 13 of 2003 Jo Law Number 11 of 2020 concerning Job Creation as well as regulation invitation employment other includes:

1. Basic rights in employment relationships.
2. Basic rights to social security and occupational health.
3. Basic rights of workers to wage protection
4. The basic rights of workers to regulate working time, rest, leave and holidays
5. Basic rights to conclude a Collective Labor Agreement.
6. Basic dancing rights
7. Special basic rights for female workers.
8. Workers' basic rights are protected upon termination of employment.

Whereas rights Domestic Workers as arranged in Minister of Manpower Regulation Number 2 of 2015 includes :

1. Obtaining information about Users;
2. Get good treatment from Users and their family members;
3. Receive wages according to the Employment Agreement;
4. Get healthy food and drinks;
5. Get enough rest time;
6. Obtain cutting rights according to the agreement;
7. Get the opportunity to perform worship in accordance with the religion and beliefs they adhere to;
8. Get holiday benefits; And
9. Communicate with his family

In terms of negotiations truly No produce acceptance, businessman only can decide connection Work with workers /

<sup>5</sup>Asri Wijayanti, Post-Reformation Employment Law, (Jakarta: Sinar Graphics, 2009), p. 9.

<sup>6</sup>Andryan, 'Implications of the Decision on the Right to Judicial Review at the Supreme Court on the Legality of the Leadership of the Republican Regional Representative

Council' (2018) 18 Journal of De Jure Legal Research.[127].

<sup>7</sup>H. Muchsin. "Abandoning the Family is an Omissionist Offense." *Judiciary Varia Journal*. Vol. XXVI No. 303 of 2011. Jakarta: Human Rights Research and Development Agency of the Republic of Indonesia. Hm :18

laborers after that obtain determination from institution solution Problem industrial relations. Application determination termination connection Work like that in a way written to institution solution Problem industrial relations accompanied the reason being basically. Termination connection Work without determination institution solution Problem industrial relations are null and void. Forever decision institution solution Problem industrial relations yet set, OK businessman nor workers / laborers must still is implementing everything his obligations. Businessman can do deviation to provision the form action score a goal to moderate workers / laborers in the process of termination connection Work with still must pay wages And rights others are normal accepted workers / laborers. Pay close attention substance provision statutory regulations as explained above, then can understood that aspect protection to workers in general and employees House ladder specifically has guaranteed rights foundations and rights its nature by regulations applicable laws and regulations. However, protection law in a way substantial the No compare straight with protection in a way empirical, esp to worker House the stairs are still classified as informal profession. Even more part parties and precisely government Alone Still looking work House ladder No as profession as has explained in eight myth worker House stairs above.

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