

Lampiran Peer Review Korespondensi Proses Submit Publikasi Internasional

Judul Makalah: The Politics of Law in Prohibiting Physical Violence for Domestic Workers in the Largest Economy in Southeast Asia

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Paper submission to AJIS

Dari: Lita Tyesta (litatyesta.undip@yahoo.com)

Kepada: ajis@richtmann.org

Tanggal: Rabu, 26 Februari 2020 19.03 WIB

Dear Editor,

We would like to submit article entitled,"The Politics of Law in Prohibiting Physical Violence for Domestic Workers (Eka Febriyanti's Case)," for consideration for publication on Academic Journal of Interdisciplinary Studies.

This paper will focus on the formulation of the political problems of the law banning physical violence against domestic workers and the extent to which access to justice can be obtained by victims amid the structure, substance and culture of law that is based on Lawrence Friedman's Theory.

We hope this paper will be accepted for publication in your journal.

We are looking forward to hearing from you as soon as possible.

Best regards,

Lita Tyesta



manuscript-Lita Tyesta-AJIS.docx

49.7kB

Re: Paper submission to AJIS

Dari: Academic Journal of Interdisciplinary Studies (ajis@richtmann.org)

Kepada: litatyesta.undip@yahoo.com

Tanggal: Minggu, 1 Maret 2020 00.15 WIB

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Thank you very much for your interest in our journal, I confirm that your paper is received correctly. We will inform you with the results of review within 3-7 weeks.

If you have any question please do not hesitate to contact us.

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The Politics of Law in Prohibiting Physical Violence for Domestic Workers (Eka Febriyanti's Case)

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Abstract

Physical violence from employers is a common thing for domestic helpers, even though the right to work and decent livelihood is the right of every human being. The politics of law of prohibiting physical violence for domestic workers in Indonesia is still very weak even though it has strong correlation to access to justice. The results show that physical violence against domestic workers had not yet obtained a strict, consistent and coherent arrangement in terms of the politics of law of conventions, constitutions and regulations so that access to justice for domestic workers who experienced physical violence is difficult to obtain.

Keywords: *the politics of law; physical abuse; domestic helpers;*

I. INTRODUCTION

The International Labor Organization survey, ILO-IPEC shows that the total number of domestic workers in Indonesia in 2016 was 2,593,399 people¹ and in 2018 reaches 2,6 million people². This amount is the largest in the world. The International Labor Organization Director for Indonesia and Timor Leste, Michiko Miyamoto, stated that employment as domestic workers is one of the worst working conditions groups in the world³. Domestic workers have not received a decent work situation as a manifestation of human rights until now. Positive law still overlaps and biased makes conditions of security in working for domestic workers continue to decline coupled with the fact that there is no legal basis that specifically guarantees welfare and protection of the domestic workers. Coordinator of Jala Domestic Worker Lita Anggraini stated that there is no state responsibility to provide protection to its citizens who work as domestic workers in the form of recognition and redistribution of their welfare who work to contribute nation's economy.

One of the rights inherent in every human being is the right for decent work and livelihood. Eligible according to the Indonesia Dictionary is reasonable, appropriate, proper, noble and honorable. The 1945 Constitution of the Republic of Indonesia Article 27 paragraph (2) states that each citizen has the right to work and a decent living for humanity. Article 5 of the International Labor Organization (ILO) Convention No. 189 of 2011 concerning Decent Work for Domestic Workers ensures that every Member must take steps to ensure that domestic workers enjoy effective protection against all types of abuse, harassment and violence. However, Indonesia is one of the countries that has not ratified the ILO Conventions so that in Law Number 13 Year 2003 concerning Manpower only stated that every worker/laborer has the right to obtain protection.

¹ Ranny Intan Rafli, et al. Legal Protection for Women Domestic Workers Victims of Violence. *Journal of Legal Issues*, Vol. 5, No. 3, 2016, 1-26, p. 2.

² Rika Putri Subekti. The Urgency of Ratification of the International Labor Organization Convention: Perspectives on the Protection of Child Labor in the Household Sector, *Journal of Udayana Masters of Law*, Vol. 7, 2018, No. 1, 24-36, p. 25.

³ <https://kumparan.com/@kumparannews/mugat-negara-as-paku-kend-Violence-for-prt> accessed on July, 7 2019

The stereotype of domestic workers is as lowly work that can be done without the need for education, special skills, and can be done by everyone, so that even commercially is valued low⁴. Domestic workers are also still close to the image of servants who must obey the employer and there are no specific devices or rules to protect domestic workers in Indonesia so that they are very vulnerable to violations of workers' rights. Violence in the broadest sense is said by Galtung, as a barrier that should be avoided which causes someone to not be able to actualize themselves properly. The barrier can actually be avoided, so in fact the violence can also be avoided if the barrier is removed. Direct violence can take many forms. In its classical form, it involves the use of physical force, such as murder or torture, rape and sexual violence, as well as beatings. Verbal violence, like insults, is also widely recognized as violence.

The increase in violence occurs in line with the needs of society, technological development and intense interaction accompanied by individualistic human nature. Humans as social beings always interact and need fellow humans and other creatures in their lives. Humans work, get married, visit each other, eat and drink and do social activities and other activities. Humans as individuals have different personalities, both different goals and outlook on life, character, region of origin, ethnicity, religion, culture, habits, and so on⁵. These differences can affect the process of interaction and can trigger conflicts that are dilator behind by different interests (conflict of interest) and cause a reaction either in the form of a conflict of ideas or roughly in the form of violence. Acts of violence to other parties are forms of human activity which have indications against the law or contrary to applicable laws, which can be in the form of physical acts that are real to the death of the victim⁶. Physical violence against domestic workers falls into the category of domestic violence with characteristics including being carried out in the house, behind closed doors, with physical and/or psychological violence/torture, carried out by people who have closer relations with victims and repeatedly⁷.

II. Consistency and Coherence of the Prohibition of Physical Violence Against Domestic Workers in the Eka Febriyanti Case

Discussions related to domestic workers became one of the topics that received attention from the ILO. In 2011, the ILO issued Convention No. 189 on Decent Work for Domestic Workers. At present there are 25 countries that have ratified it. This convention as proof that domestic workers need to get legal protection as human beings who have human rights. This Convention mandates the existence of standards for domestic workers, such as basic rights for workers, promotion and protection of the human rights of all workers, respecting and protecting basic principles and rights

⁴ Linda Dwi Eriyanti. Empowering Women Domestic Workers: Violence Analysis and Prevention Strategies. *Proceedings of the University of Jember Faculty of Social and Political Science Colloquium*, 2016, 67-79, 2017, p. 68

⁵ Johan Galtung. Violence, Peace and Peace Research. *Journal of Peace Research*, Vol. 6, No. 3, 1969, 167-191, p. 171.

⁶ Warih Anjari. The phenomenon of violence as a form of crime (Violence). *Journal of WIDYA Yustisia*, Vol. 1, No. 1, 2014, 42-51, p. 42

⁷ Edi Setiadi. Legal Protection for Women from Violence. *Pulpit: Journal of Social and Development*, Vol. 17, No. 3, 2001, 338-354, p. 346.

at work such as freedom of association and the elimination of all forms of work forced or compulsory labor, elimination of child labor, elimination of discrimination in terms of work and position. Effective protection from all forms of abuse, harassment and violence. Fair work conditions and decent living conditions. In addition, before domestic workers work, information must be given about the terms and conditions of work that they will live in an easily understood way. ILO Convention No. 189 of 2011 concerning Decent Work for Domestic Workers is a legal protection for domestic workers worldwide and provides a basis for providing recognition and guarantees for domestic workers to obtain decent working conditions as workers in the formal sector.

The contents of this ILO Convention are the basic rights and minimum standards that must be met in the prohibition of the treatment of violence against domestic workers, especially in Article 5 which reads Each Member must take steps to ensure that domestic workers enjoy effective protection against all types of abuse, harassment and violence. Each Member referred to in this Convention are countries which have ratified it. This process has not been carried out by Indonesia so that these values, basic rights and minimum standards cannot be incorporated into national legislation with Pancasila as a filter. At this stage, it can be seen that there is an inconsistency of the Indonesian state in realizing one of the national goals which is to protect the entire nation and the whole of Indonesian blood.

The national goals of the Indonesian people as stipulated in the fourth paragraph of the opening of the National Constitution of the Republic of Indonesia concerning the protection of the whole nation and the whole of Indonesian blood as spelled out one of them in Article 27 paragraph (2) which states that each citizen has the right to work and a decent living for humanity. Then every citizen has the right and guaranteed by the state in working for a life without physical pressure or violence. In this stage it can be seen that the founders of the nation actually have included human values for every citizen who works including domestic workers. However, the increase in the number of violence against domestic workers in Indonesia which reached September 2016 has reached 217 cases⁸ should encourage the government to immediately ratify ILO Convention Number 189 Year 2011 concerning to strengthen the consistency and coherence of the implementation of national goals and Article 27 paragraph (2) in The 1945 Constitution of the Republic of Indonesia.

Law Number 13 Year 2003 concerning Manpower also does not clearly and strongly regulate the prohibition of physical violence for workers, in this case domestic workers. Article 86 paragraph (1) letter c only states that every worker/ laborer has the right to obtain protection for treatment in accordance with human dignity and values and religious values. No further information can be found regarding this article in the Explanation although it is implied that this article is intended to provide equal treatment to workers without differentiating their status and employment relationship⁹. Law Number 13 Year 2003 regarding Manpower is more about accommodating workers/laborers in the formal sector who have work safety standards while domestic workers as informal sector workers are full of it. Article 2 of Law Number 23 Year 2004 concerning Domestic Violence states that

⁸<https://nasional.kompas.com/read/2016/09/15/16403781/hingga.september.2016.kekerasan.terhadap.prt.capai.217.kasus> accessed on July 7, 2019

⁹ Abdul Khakim. *Fundamentals of Indonesian Labor Law*, (Bandung: Citra Aditya Bakti, 2014), p. 102

domestic workers are also included in the household. But with the rampant physical violence experienced by domestic workers and related to the fact that occurred in Indonesia the protection of domestic workers' rights as victims has not been realized as the focus of accommodation rights should fall on non-domestic workers.

The lack of consistency and coherence of the constitution, the ratification of conventions and regulations is what causes the emergence of gaps in the the politics of law of prohibiting physical violence for domestic workers, namely in their implementation and implementation. The Eka Febriyanti case is only a small example of the inconsistency and incoherence of the political law prohibiting physical violence for domestic workers from so many cases that are not raised to the public.

Eka Febriyanti is a Jember resident who met her employer, Desak Made Wiratningsih through the Facebook in October 2018. Eka was promised work with a salary of one million rupiah per month in Bali. Eka also invited her sister, Santi Yuni Astuti, to work at the same employer. The beginning of the direct meeting of Eka and her employer went well with the pickup for Eka and Santi in Nusa Dua, Bali by the security guard of the employer, the name Kadek Erik Diantara. But the more days the employer and security guard more often physical abuse against Eka and Santi to its peak on Tuesday, May 7, 2019. The employer told Eka to look for the scissors that were missing but Eka could not immediately find them. The employer and the security guard reprimanded Eka loudly and threatened Santi to take part in doing the same to Eka. Eka again tried to look for scissors but still could not find it. So the employer, the security guard and Santi who are under threat of pouring hot water from a dispenser with plastic cups to Eka's entire body many times and ignored Eka who asked for help. The incident took place from 22.00 to 02.00 WITA. The frightened Eka managed to escape and with the help of several people arrived at the police station¹⁰.

From the Eka case it can be seen that the employer did not treat Eka and Santi properly and humanely for the physical violence they experienced. Implementation at the lowest level between employers and domestic workers will be very vulnerable to physical violence if the legal basis above is not strong, consistent and coherent. Strong the politics of law will also strengthen socialization to everyone who uses the services of domestic workers as a preventive measure and reinforces sanctions imposed on anyone who commits physical violence against domestic workers as a repressive effort rather than just moral sanctions.

III. Access to Justice Eka Febriyani Receives Through This Case

Access to justice has several aspects. The first aspect of access to justice is fair and pro-people law. The law in this case is manifested in legislation in writing. The absence of laws and regulations specifically regarding the prohibition of violence for domestic workers has prevented access to justice for Eka. According to the police statement, the employer can only be prosecuted by Law Number 23 Year 2004 concerning Domestic Violence. This is clearly unfair because Eka's and employer's relationship is an employer and domestic work relationship not a familial relationship. Although living in the same house, Eka is a worker who works for an

¹⁰ https://news.detik.com/berita/d-4562399/kondisi-eka-prt-yang-disiram-air-mendidih-by-mend-sudah-make?_ga=2.39582435.197780256.1561814773-1480219792.1558003139 accessed on July 7, 2019

employer and the employer is a party who uses Eka's services as a domestic worker. So the positive law used for perpetrators of physical violence against domestic workers is not yet pro domestic workers as a weak party.

The second aspect is legal literacy. Legal literacy is closely related to all forms of socialization and legal education, both directly and indirectly, for example by creating legal slogans inherent in the hearts of the people. Legal socialization and counseling is specifically intended to convey or inform the law to people who do not know the law. Because ideally every citizen must know and be aware of the law early on¹¹. Eka who is under employer pressure is very difficult to get legal literacy on what she is going through. At the same time the employer is also not legal literate because it treats domestic workers who are required to service improperly and inhumanely. So that in the prohibition of physical violence against domestic workers who must get legal literacy are both parties both employers and domestic workers. The third aspect is legal identity. Legal identity in this case is identification such as ID card, Driving License and Passport. In this case there was no explanation as to whether the employer detained the identity of the domestic worker so as not to escape.

The fourth aspect is legal assistance. Legal assistance in this case was obtained by Eka through the protection of the Witness and Victim Protection Agency in a safehouse. The state is responsible for the protection of human rights as clearly stated in Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia which states that the protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government. Law Number 13 Year 2006 concerning the Protection of Witnesses and Victims regulates an institution that is responsible for handling the protection and assistance of witnesses and victims, which is called the Witness and Victim Protection Agency that has the duty and authority to provide protection and assistance to witnesses and victims. The scope of protection is at all stages of the criminal justice process, so that witnesses and/or victims feel safe when providing information¹². Until this article was written, Eka was still under the assistance in a safe house because she was still experiencing trauma and the examination process was still ongoing. They reach Eka as a victim of physical violence is a responsive matter as a form of legal aid.

IV. Conclusion

The politics of law of prohibiting physical violence against domestic workers in the Eka Febriyanti case experienced inconsistencies and incoherence because even though it has been stated in the constitution as a national goal and the rights of all citizens, Indonesia has not ratified ILO Convention Number 189 Year 2011 which is very important in protecting the rights of domestic workers due to violence more and more physical things happen.

¹¹ Jawardi. Legal Culture Development Strategy. *De Jure's Legal Research Journal*, Vol. 16, No. 1, 2016, 1-29, p. 14.

¹² Saristha Natalia Tuage. Legal Protection of Witnesses and Victims By the Witness and Victim Protection Agency (LPSK). *Lex Crimen Journal*, Vol. 2, No. 2, 2013, 56-64, p. 57.

REFERENCES

Book

- Ali, Achmad. *Legal Deterioration in Indonesia*, Jakarta: Ghalia Indonesia, 2002.
- Khakim, Abdul. *Fundamentals of Indonesian Labor Law*, Bandung: Citra Aditya Bakti, 2014.
- Saifullah. *Reflection of Legal Sociology*, Bandung: Refika Aditama, 2007.

Journals

- Anjari, W. "The Phenomenon of Violence as a Form of Crime (Violence)". *Journal of WIDYA Yustisia*, Vol. 1, No. 1, 2014, 42-51: 42.
- Anugrah, D. P., & Jamaan, A. "Indonesian Interest in International Labor Organization (ILO) Convention No.189". *Online Journal of Social and Political Science Students in Riau University*, Vol. 1, No. 2, 2014, 1-15: 13.
- Eriyanti, L. D. "Empowering Women Domestic Workers: Violence Analysis and Prevention Strategies". *Proceedings of the Faculty of Social Sciences, University of Jember*, 2016, 2017, 67-79: 68.
- Galtung, J. "Violence, Peace and Peace Research". *Journal of Peace Research*, Vol. 6, No. 3, 1969, 167-191: 171.
- Jawardi. "Legal Culture Development Strategy". *De Jure's Legal Research Journal*, Vol, 16, No. 1, 2016, 1-29: 14.
- Mulyanto. "The Urgency of the Ratification of the Decent Work Convention for Domestic Workers: Efforts to Increase Protection". *Law: Journal of Law*, Vol. 1, No. 1, 2018, 109-133: 129.
- Pangestuti, E. "Victims of Psychological Violence Against Psychic Domestic Helper". *Yustitiabelen Journal*, Vol. 4, No. 1, 2018, 27-49: 30.
- Raflis, R. I, et al. "Legal Protection for Domestic Workers. Women Victims of Violence ". *Journal of Legal Issues*, Vol. 5, No. 3, 2016, 1-26: 2.
- Setiadi, E. "Legal Protection for Women from Violence". *Mimbar: Journal of Social and Development*, Vol. 17, No. 3, 2001, 338-354: 346.
- Silitonga, N. "The effectiveness of ILO Convention No. 189 Against Filipino Domestic Workers ". *Online Journal of Social and Political Science Students in Riau University*, Vol. 2, No. 1, 2014, 1-10: 6.
- Subekti, R. P. "The Urgency of Ratification of the International Labor Organization Convention: Perspectives on the Protection of Child Labor in the Household Sector", *Journal of Udayana's Masters of Law*, Vol. 7, No. 1, 2018, 24-36: 25.
- Tuage, S. N. "Legal Protection of Witnesses and Victims by the Witness and Victim Protection Agency (LPSK)". *Lex Crimen Journal*, Vol. 2, No. 2, 2013, 56-64: 57.
- Wati, B. E. "Dimensions of Legal Protection for Domestic Workers in the Era of Industrialization". *Palastren Journal*, Vol. 7, No. 1, 2014, 153-168: 155.

Internet

- <https://kumparan.com/@kumparannews/mugat-negara-as-paku-kendViolence-for-prt> accessed on July 7, 2019
- <https://nasional.kompas.com/read/2016/09/15/16403781/fin.september.2016.kek.violence.adapt.prt.capai.217.cases> accessed on July 7, 2019
- https://news.detik.com/berita/d-4562399/kondisi-eka-prt-yang-disiram-air-mendidih-by-mend-sudah-make?_ga=2.39582435.197780256.1561814773-1480219792.1558003139 accessed on July 7, 2019

Initial evaluation before review

Dari: Academic Journal of Interdisciplinary Studies
(ajis@richtmann.org) Kepada: litatyesta.undip@yahoo.com

Tanggal: Minggu, 20 Maret 2020 00.15 WIB

Dear Lita Tyesta,

We are very interested in your manuscript.

However, we need to ask you to organize your manuscript according to our style. You can learn about it on our website.

We are waiting for your reply before March 25, 2020.

Best Regards,

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Dari: litatyesta.undip@yahoo.com

Kepada: Academic Journal of Interdisciplinary Studies (ajis@richtmann.org)

Tanggal: Minggu, 20 Maret 2020 08.15 WIB

Dear Editor,

Thank you for your kind feedback.

We will revise and send it back to you soon.

Best Regards, Lita

Dari: litatyesta.undip@yahoo.com

Kepada: Academic Journal of Interdisciplinary Studies (ajis@richtmann.org)

Tanggal: Minggu, 22 Maret 2020 09.20 WIB

Dear Editor,

We have organized our manuscripts according to the style of your journal. Please check and confirm.

We are looking forward to hearing from you. Sincerely yours,

Lita



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Kepada: litatyesta.undip@yahoo.com

Tanggal: Minggu, 23 Maret 2020 01.20 WIB

Dear Lita,

Thank you very much for submitting revisions earlier.

We will send it to the reviewers. Your manuscript will be reviewed on a double-blind basis where the reviewers and author do not know the identity of each. We will send the results to you as soon as the reviewers are finished.

This process may not run only once. We hope you remain patient with all the processes with us.

Best Regards,

Editorial Office

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Dari: litatyesta.undip@yahoo.com

Kepada: Academic Journal of Interdisciplinary Studies (ajis@richtmann.org)

Tanggal: Minggu, 23 Maret 2020 10.18 WIB

Dear Editor,

Thank you for your information.

Regards,

Lita

The Politics of Law in Prohibiting Physical Violence for Domestic Workers (Eka Febriyanti's Case)

Lita Tyesta ALW*, Adissya Mega Christia

Universitas Diponegoro, Semarang, Indonesia

Abstract

Physical violence from employers is a common thing for domestic helpers, even though the right to work and decent livelihood is the right of every human being. The politics of law of prohibiting physical violence for domestic workers in Indonesia is still very weak even though it has strong correlation to access to justice. The results show that physical violence against domestic workers had not yet obtained a strict, consistent and coherent arrangement in terms of the politics of law of conventions, constitutions and regulations so that access to justice for domestic workers who experienced physical violence is difficult to obtain.

Keywords: politics of law, physical abuse, domestic helpers,

1. Introduction

The International Labor Organization survey, ILO-IPEC shows that the total number of domestic workers in Indonesia in 2016 was 2,593,399 people (Rafli, et al., 2016) and in 2018 reaches 2,6 million people (Subekti, 2018). This amount is one of the largest in the world. The International Labor Organization Director for Indonesia and Timor Leste, Michiko Miyamoto, stated that employment as domestic workers is one of the worst working conditions groups in the world (Kumparannews, 2018). Domestic workers have not received a decent work situation as a manifestation of human rights until now. Positive law still overlaps and biased makes conditions of security in working for domestic workers continue to decline coupled with the fact that there is no legal basis that specifically guarantees welfare and protection of the domestic workers (Waridin et al., 2020). Coordinator of Jala Domestic Worker, Lita Anggraini stated that there is no state responsibility to provide protection to its citizens who work as domestic workers in the form of recognition and redistribution of their welfare who work to contribute nation's economy (Astria, 2018).

One of the rights inherent in every human being is the right for decent work and livelihood. Eligible refers to be reasonable, appropriate, proper, noble and honorable. The 1945 Constitution of the Republic of Indonesia Article 27 paragraph (2) states that each citizen has the right to work and a decent living for humanity. Article 5 of the International Labor Organization (ILO) Convention No. 189 of 2011 concerning Decent Work for Domestic Workers ensures that every Member must take steps to ensure that domestic workers enjoy effective protection against all types of abuse, harassment and violence. However, Indonesia is one of the countries that has not ratified the ILO Conventions so that in Law No. 13 of 2003 concerning Manpower only stated that every worker/laborer has the right to obtain protection.

The stereotype of domestic workers is as lowly work that can be done without the need for education, special skills, and can be done by everyone, and commercially low valued (Eriyanti, 2017). Domestic workers are also still close to the image of servants who must obey the employer and there are no specific devices or rules to protect domestic workers in Indonesia so that they are very vulnerable to violations of workers' rights. Violence in the broadest sense is said by Galtung, as a barrier that should be avoided which causes someone to not be able to actualize themselves properly. The barrier can actually be avoided, so in fact the violence can also be avoided if the barrier is removed. Direct violence can take many forms. In its classical form, it involves the use of physical force, such as murder or torture, rape and sexual violence, as well as beatings. Verbal violence, like insults, is also widely recognized as violence.

The increase in violence occurs in line with the needs of society, technological development and intense interaction accompanied by individualistic human nature. Humans as social beings always interact and need fellow humans and other creatures in their lives. Humans work, get married, visit each other, eat and drink and do social activities and other activities. Humans as individuals have different personalities, both different goals and outlook on life, character, region of origin, ethnicity, religion, culture, habits, and so on (Galtung, 1969). These differences can affect the process of interaction and can trigger conflicts that are dilator behind

by conflict of interest and cause a reaction either in the form of a conflict of ideas or roughly in the form of violence. Acts of violence to other parties are forms of human activity which have indications against the law or contrary to applicable laws, which can be in the form of physical acts that are real to the death of the victim (Anjari, 2014). Physical violence against domestic workers falls into the category of domestic violence with characteristics including being carried out in the house, behind closed doors, with physical and/or psychological violence/torture, carried out by people who have close relations with victims and repeatedly (Setiadi, 2001).

2. Consistency and Coherence of the Prohibition of Physical Violence Against Domestic Workers

Discussions related to domestic workers became one of the topics that received attention from the ILO. In 2011, the ILO issued Convention No. 189 on Decent Work for Domestic Workers. At present there are 25 countries that have ratified it. This convention as proof that domestic workers need to get legal protection as human beings who have human rights. This Convention mandates the existence of standards for domestic workers, such as basic rights for workers, promotion and protection of the human rights of all workers, respecting and protecting basic principles and rights at work such as freedom of association and the elimination of all forms of work forced or compulsory labor, elimination of child labor, elimination of discrimination in terms of work and position. Effective protection from all forms of abuse, harassment and violence. Fair work conditions and decent living conditions. In addition, before domestic workers work, information must be given about the terms and conditions of work that they will live in an easily understood way. ILO Convention No. 189 of 2011 concerning Decent Work for Domestic Workers is a legal protection for domestic workers worldwide and provides a basis for providing recognition and guarantees for domestic workers to obtain decent working conditions as workers in the formal sector.

The contents of this ILO Convention are the basic rights and minimum standards that must be met in the prohibition of the treatment of violence against domestic workers, especially in Article 5 which reads Each Member must take steps to ensure that domestic workers enjoy effective protection against all types of abuse, harassment and violence. Each Member referred to in this Convention are countries which have ratified it. This process has not been carried out by Indonesia so that these values, basic rights and minimum standards cannot be incorporated into national legislation with Pancasila as a filter. At this stage, it can be seen that there is an inconsistency of the Indonesian state in realizing one of the national goals which is to protect the entire nation and the whole of Indonesian blood.

The national goals of the Indonesian people as stipulated in the fourth paragraph of the opening of the National Constitution of the Republic of Indonesia concerning the protection of the whole nation and the whole of Indonesian blood are spelled out one of them in Article 27 paragraph (2) which states that each citizen has the right to work and a decent living for humanity. Then every citizen has the right and guaranteed by the state in working for a life without physical pressure or violence. In this stage it can be seen that the founders of the nation actually have included human values for every citizen who works including domestic workers. However, the increase in the number of violence against domestic workers in Indonesia which reached September 2016 has reached 217 cases (Bayu, 2016), should encourage the government to immediately ratify ILO Convention No. 189 of 2011 concerning to strengthen the consistency and coherence of the implementation of national goals and Article 27 paragraph (2) in The 1945 Constitution of the Republic of Indonesia.

Law No. 13 of 2003 concerning Manpower also does not clearly and strongly regulate the prohibition of physical violence for workers, in this case domestic workers. Article 86 paragraph (1) letter c only states that every worker/ laborer has the right to obtain protection for treatment in accordance with human dignity and values and religious values. No further information can be found regarding this article in the Explanation although it is implied that this article is intended to provide equal treatment to workers without differentiating their status and employment relationship (Khakim, 2014). Law No. 13 of 2003 regarding Manpower is more about accommodating workers/laborers in the formal sector who have work safety standards while domestic workers as informal sector workers are full of it. Article 2 of Law No. 23 of 2004 concerning Domestic Violence states that domestic workers are also included in the household.

Nonetheless, with the rampant physical violence experienced by domestic workers, the protection of domestic workers' rights as victims has not been realized as the focus of accommodation rights should fall on non-domestic workers.

The lack of consistency and coherence of the constitution, the ratification of conventions and regulations is what causes the emergence of gaps in the the politics of law of prohibiting physical violence for domestic workers, namely in their implementation and implementation. There are so many cases that are not raised to the public caused by the inconsistency and incoherence of the political law prohibiting physical violence for domestic workers from. Implementation at the lowest level between employers and domestic workers will be very vulnerable to physical violence if the legal basis above is not strong, consistent and coherent. Strong the politics of law will also strengthen socialization to everyone who uses the services of domestic workers as a preventive measure and reinforces sanctions imposed on anyone who commits physical violence against domestic workers as a repressive effort rather than just moral sanctions.

3. Access to Justice as Crucial Issue for Domestic Worker Legal Protection

Access to justice has several aspects. The first aspect of access to justice is fair and pro-people law. The law in this case is manifested in legislation in writing. The absence of laws and regulations specifically regarding the prohibition of violence for domestic workers has prevented access to justice. The employer in some cases can only be prosecuted by Law No. 23 of 2004 concerning Domestic Violence. This is clearly unfair because employee's and employer's relationship is an employer and domestic work relationship not a familial relationship, although they are living in the same house. Thus, the positive law used for perpetrators of physical violence against domestic workers is not yet pro domestic workers as a weak party.

The second aspect is legal literacy. Legal literacy is closely related to all forms of socialization and legal education, both directly and indirectly, for example by creating legal slogans inherent in the hearts of the people. Legal socialization and counseling is specifically intended to convey or inform the law to people who do not know the law. Because ideally every citizen must know and be aware of the law early on (Jawardi, 2016). Domestic helper who is under employer pressure is very difficult to get legal literacy on what she is going through. At the same time the employer is also not legal literate because it treats domestic workers who are required to service improperly and inhumanely. Therefore, that in the prohibition of physical violence against domestic workers who must get legal literacy are both parties both employers and domestic workers. The third aspect is legal identity. Legal identity in this case is identification such as ID card, Driving Lisence and Passport. In this case there was no explanation as to whether the employer detained the identity of the domestic worker so as not to escape.

The fourth aspect is legal assistance. Legal assistance in this case can be obtained through the protection of the Witness and Victim Protection Agency. The state is responsible for the protection of human rights as clearly stated in Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia which states that the protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government. Law No. 13 Year 2006 concerning the Protection of Witnesses and Victims regulates an institution that is responsible for handling the protection and assistance of witnesses and victims, which is called the Witness and Victim Protection Agency that has the duty and authority to provide protection and assistance to witnesses and victims. The scope of protection is at all stages of the criminal justice process, so that witnesses and/or victims feel safe when providing information (Tuage, 2013).

4. Conclusion

The the politics of law of prohibiting physical violence against domestic workers experienced inconsistencies and incoherence because even though it has been stated in the constitution as a national goal and the rights of all citizens, Indonesia has not ratified ILO Convention No. 189 of 2011 which is very important in protecting the rights of domestic workers due to violence more and more physical things happen.

References

- Anjari, W. (2014). The Phenomenon of Violence as a Form of Crime (Violence) [Indonesian]. *Journal of Widya Yustisia* 1(1), 42-51.
- Astria, D. (2018, 10 March). *Jala PRT: Negara Abaikan Kesejahteraan PRT*. Retrieved Feb 26, 2020 from <https://www.industry.co.id/read/27884/jala-prt-negara-abaikan-kesejahteraan-prt>
- Bayu, D.J. (2016, Sept. 9). *Hingga September 2016, Kekerasan terhadap PRT Capai 217 Kasus*. Retrieved July 7, 2019 from <https://nasional.kompas.com/read/2016/09/15/16403781/hingga-september.2016.kekerasan.terhadap.prt.capai.217.kasus>
- Eriyanti, L. D. (2016). Empowering Women Domestic Workers: Violence Analysis and Prevention Strategies. *Proceedings of the Faculty of Social Sciences, University of Jember, 2016, 2017*, 67-79.
- Friedman, L. M. (1975). *The legal system: A social science perspective*. Russell Sage Foundation.
- Galtung, J. (1969). Violence, Peace and Peace Research. *Journal of Peace Research*, 6(3), 167-191.
- Jawardi. (2016). Legal Culture Development Strategy [Indonesian]. *De Jure's Legal Research Journal*, 16(1), 1-29.
- Khakim, A. (2014). *Fundamentals of Indonesian Labor Law [Indonesian]*. Bandung: Citra Aditya Bakti.
- Kumparannews. (2018, 9 March). *Mempertanyakan Peran Negara atas Nasib PRT*. Retrieved July 7, 2019 from <https://kumparan.com/kumparannews/menggugat-negara-sebagai-pelaku-kekerasan-terhadap-prt>
- Raflis, R. I., Rochaeti, N., & Wijaningsih, D. (2016). Perlindungan Hukum Bagi Pekerja Rumah Tangga Perempuan Korban Tindak Kekerasan. *Diponegoro Law Journal*, 5(3), 1-26.
- Setiadi, E. (2001). Legal Protection for Women from Violence [Indonesian]. *Mimbar: Journal of Social and Development*, 17(3), 338-354.
- Subekti, R. P. (2018). The Urgency of Ratification of the International Labor Organization Convention: Perspectives on the Protection of Child Labor in the Household Sector [Indonesian]. *Journal of Udayana's Masters of Law*, 7(1), 24-36.
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Paper Review Results #1

Dari: Academic Journal of Interdisciplinary Studies (ajis@richtmann.org)
Kepada: litatyesta.undip@yahoo.com
Tanggal: Minggu, 28 Maret 2020 00.25 WIB

Dear Lita Tyesta,

Kindly find the Result of Review for your paper entitled:

The Politics of Law in Prohibiting Physical Violence for Domestic Workers(Eka Febriyanti's Case) submitted to the **Academic Journal of Interdisciplinary Studies**.

You are required to revise your manuscript according to the referees' comments below and highlight the changes, in addition to these comments also please have a look at Editorial Requirements at 'Authors Guidelines' particularly in term of reference section when revising your manuscript. We greatly, anticipate submission of your revised manuscript (in MS-Word or LaTeX) in a week.

You are requested to kindly confirm a safe receipt of the message and don't hesitate to contact us if you have any additional query/concern.

We are waiting for your reply before March 25, 2020. Looking forward to

hear from you at your earliest possible.

Best Regards, Editorial

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Lita Tyesta ajis 2020 - REVIEW1.pdf110.3kB

Dari: litatyesta.undip@yahoo.com

Kepada: Academic Journal of Interdisciplinary Studies (ajis@richtmann.org)

Tanggal: Minggu, 28 Maret 2020 08.30 WIB

Dear editor,

Thank you for your email.

We will answer the comments of reviewers and revise our manuscript. We will send it back to you as soon as possible.

Best Regards,Lita

Dari: Academic Journal of Interdisciplinary Studies (ajis@richtmann.org)

Kepada: litatyesta.undip@yahoo.com

Tanggal: Minggu, 28 Maret 2020 23.15 WIB

Dear Lita Tyesta, Thank

you very much.

We are waiting for your reply.

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1. Abstract

Abstract is a source of information independent from the article. It is written after the main text of the article is finished. It includes description of the main subject, problems, object, work purpose and its results. It indicates what is new in this document compared to others related to the subject and purpose.

The abstract should be prepared according to international standards and include the following points:

- Introduction to the research topic.
- Purpose of the scientific research.
- Description of scientific and practical significance of the work.
- Description of the research methodology.
- Main results, conclusions of the research work.
- The value of the conducted research (what contribution this work has made to the relevant field of knowledge).
- Practical value of the work results.

The author should specify the last three points.

Where are the results and conclusions of the research? What is the value of this research and what is its practical relevance?

2. Introduction

The introduction is intended to provide an introduction to the topic of the article and explain the purpose of the study. When writing the introduction, the author should first state the general topic of the research. Next, it is necessary to reveal the theoretical and practical significance of the work and describe the most authoritative and accessible to the reader publications on the topic under consideration. In the introduction, the author also identifies the problems that have not been solved in previous studies, which this article is intended to solve.

The introduction is necessarily clear:

- the purpose and object of the research undertaken by the author. The work should contain a certain idea, a key idea to which it is devoted. To articulate the purpose, you must answer the question: "What do you want to create as a result of the research? This result may be a new methodology, classification, algorithm, structure, a new version of a known technology, methodical development, etc. The formulation of the purpose of any work usually starts with verbs: find out, identify, form, justify, check, define, etc. The object is the material of study.

- relevance and novelty. Relevance of a topic is the degree of its importance at the moment and in the given situation. It is the ability of the results of the work to be applicable to fairly significant scientific and practical problems. Novelty is what distinguishes the result of this work from the results obtained by other authors.

It is not clear what the research was conducted for and what this article shows. What did the author want to show with his research?

3. Literature review

The literature review is the theoretical core of the research. Its purpose is to study and evaluate existing works on this topic. It is preferable not only to list previous studies, but also to critically review them and generalize the main points of view.

4. Methodology

This section describes the research sequence and substantiates the choice of methods used. It should allow the reader to evaluate the correctness of this choice, reliability and argumentativeness of the obtained results. The point of the information presented in this section is to allow another scientist of sufficient skill to reproduce the study based on the methods given. Reference to literary sources without describing the essence of the method is only possible if it is standard.

5. Results

In this part of the article author's analytical, systematized material should be presented. The results of the research should be described in sufficient detail to allow the reader to follow its stages and assess the validity of the conclusions made by the author. In terms of volume, this part is central to the scientific article. This is the main section, the purpose of which is to

prove a working hypothesis (hypothesis) by analyzing, summarizing and explaining the data. The results are supported, if necessary, by illustrations - tables, graphs, drawings - which present the source material or evidence in a curtailed form.

It is desirable to compare the results presented in the article with previous works in this field by both the author and other researchers. Such comparison will additionally reveal the novelty of the work performed and give it objectivity.

6. Conclusion

The conclusion contains a brief formulation of the study results. It repeats the main ideas of the main part of the work in a concise form. It is better to formulate any repetitions of the material presented with new phrases, new formulations that differ from those expressed in the main part of the article. In this section, the results should be compared with the goal stated at the beginning of the work. In conclusion, the results of comprehension of the topic are summarized, conclusions, generalizations, and recommendations are made, which follow from the work, their practical significance is emphasized, and the main directions for further research in this area are defined. In the final part of the article, it is desirable to include attempts to forecast the development of the discussed issues.

Dari: litatyesta.undip@yahoo.com

Kepada: Academic Journal of Interdisciplinary Studies (ajis@richtmann.org)

Tanggal: Minggu, 30 Maret 2020 10.20 WIB

Dear Editor,

We have completed the revision according to the comments of the reviewers (highlighted in yellow). We also changed the title to "The Politics of Law in Prohibiting Physical Violence for Domestic Workers in the Largest Economy in Southeast Asia".

We are looking forward to hearing from you.

Sincerely yours,
Lita

 Rev1-reponse-Lita Tyesta-AJIS.docx
49.7kB

 Lita Tyesta ajis 2020 - Response1.pdf
110.3kB

Dari: Academic Journal of Interdisciplinary Studies (ajis@richtmann.org)

Kepada: litatyesta.undip@yahoo.com

Tanggal: Minggu, 31 Maret 2020 01.20 WIB

Dear Lita Tyesta,

Thank you for submitting a revision.

We will send your revisions to reviewers. We will notify you of any further revisions.

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Dari: litatyesta.undip@yahoo.com

Kepada: Academic Journal of Interdisciplinary Studies (ajis@richtmann.org)

Tanggal: Minggu, 31 Maret 2020 09.18 WIB

Dear editor,

Thank you very much.

We hope our article will go into the process further.

Regard,

Lita

Dear Editor,

Here are some responses to the notes submitted by reviewers on our articles:

Reviewer comments

1. Abstract

Abstract is a source of information independent from the article. It is written after the main text of the article is finished. It includes description of the main subject, problems, object, work purpose and its results. It indicates what is new in this document compared to others related to the subject and purpose.

The abstract should be prepared according to international standards and include the following points:

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- Description of scientific and practical significance of the work.
- Description of the research methodology.
- Main results, conclusions of the research work.
- The value of the conducted research (what contribution this work has made to the relevant field of knowledge).
- Practical value of the work results.

The author should specify the last three points.

Where are the results and conclusions of the research? What is the value of this research and what is its practical relevance?

Done. We have re-structured the abstract.

Physical violence from employers is a common thing for domestic helpers, even though the right to work and decent livelihood is the right of every human being. The politics of law of prohibiting physical violence for domestic workers in Indonesia is still very weak even though it has strong correlation to access to justice. **This study uses a normative juridical method with an analytical descriptive approach and a case through secondary data.** The results show that physical violence against domestic workers had not yet obtained a strict, consistent and coherent arrangement in terms of the politics of law of conventions, constitutions and regulations so that access to justice for domestic workers who experienced physical violence is difficult to obtain.

2. Introduction

The introduction is intended to provide an introduction to the topic of the article and explain the purpose of the study. When writing the introduction, the author should first state the general topic of the research. Next, it is necessary to reveal the theoretical and practical significance of the work and describe the most authoritative and accessible to the reader publications on the topic under consideration. In the introduction, the author also identifies the problems that have not been solved in previous studies, which this article is intended to solve.

The introduction is necessarily clear:

- the purpose and object of the research undertaken by the author. The work should contain a certain idea, a key idea to which it is devoted. To articulate the purpose, you must answer the question: "What do you want to create as a result of the research? This result may be a new methodology, classification, algorithm, structure, a new version of a known technology, methodical development, etc. The formulation of the purpose of any work usually starts with verbs: find out, identify, form, justify, check, define, etc. The object is the material of study.

- relevance and novelty. Relevance of a topic is the degree of its importance at the moment and in the given situation. It is the ability of the results of the work to be applicable to fairly significant scientific and practical problems. Novelty is what distinguishes the result of this work from the results obtained by other authors.

It is not clear what the research was conducted for and what this article shows. What did the author want to show with his research?

Done. We have structured the abstract and added research problems. We also add references.

The problem of differences in social status also often makes employers act arbitrarily in treating domestic workers. Abominable and very rude treatment as an expression of employers when breaking the law but only as an act to make a servant deterrent and not repeat his mistakes again. The weakness of the position of aides makes cases of violence against them untouched by the law (Pangestuti, 2018). The domestic worker and migrant worker have lost autonomy and ownership and can even be said to be trapped in the status of a slave (Fadilla, 2016; Wati, 2014; Nuraeny, 2015). Previous research by Erly Pangestuti (2018) focused more on psychological violence against domestic workers. Thus, based on the background above, this paper will focus on the formulation of the political problems of the law banning physical violence against domestic workers and the extent to which access to justice can be obtained by victims amid the structure, substance and culture of law that is based on Lawrence Friedman's Theory.

Pangestuti, E. (2018). Victims of Psychological Violence Against Psychic Domestic Helper [Indonesian]. *Yustitiabelen Journal*, 4(1), 27-49.

Fadilla, N. (2016). Upaya Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Perdagangan Orang. *Jurnal Hukum dan Peradilan*, 5(2), 181-194.

Wati, B. E. (2014). Dimensions of Legal Protection for Domestic Workers in the Era of Industrialization [Indonesian]. *Palastren Journal*, 7(1), 153-168.

Nuraeny, H. (2015). Pengiriman Tenaga Kerja Migran Sebagai Salah Satu Bentuk Perbudakan Modern dari Tindak Pidana Perdagangan Orang. *Jurnal Hukum dan Peradilan*, 4(3), 501-518.

3. Literature review

The literature review is the theoretical core of the research. Its purpose is to study and evaluate existing works on this topic. It is preferable not only to list previous studies, but

also to critically review them and generalize the main points of view.

Done

As a form of law reform, the ratification of ILO Convention No. 189 of 2011 and the establishment of legislation that specifically regulates the prohibition of violence for domestic workers is very necessary because Indonesia already has a strong basis inherited by the founders of the nation contained in national goals. In addition, the ratification of ILO Convention No. 189 of 2011 concerning Decent Work for Domestic Workers needs to be carried out by the Indonesian government, with the reason, first, the conditions of domestic workers who are still in the informal sector are considered unproductive and have no social and political value; second, there is no specific law governing the problems of domestic workers; third, the existence of a neighboring country which is also one of the largest labor exporters in Southeast Asia which has ratified the convention and provided protection for domestic workers. For the Indonesian government, ratifying this convention will both show and reflect the government's commitment to guarantee the recognition and legal protection of its citizens (Mulyanto, 2018). The existence of Indonesian domestic workers is very close to the issue of violence, both physical violence and sexual harassment to rape. ILO Convention No. 189 of 2011 provides regulations and protections for domestic workers. This convention is very important for Indonesia in accordance with the government's commitment to the international community to protect migrant workers, the majority of whom work as domestic workers. However, Indonesia does not explicitly support the need for the protection of domestic workers (Farida et al., 2019).

Access to justice can also be reviewed from the legal system theory by Lawrence M. Friedman (1975) which states that the legal system consists of a set of legal structures, legal substance in form of legislation and legal culture. In Indonesia speaking of the legal structure, it refers to the structure of law enforcement institutions, such as the police, prosecutors and courts. In this case the legal structure is seen from the police and Witness and Victim Protection Agency. Another aspect of the legal system is its substance (Ali, 2002; Diamantina & Lita Tyesta, 2019). Substance is the rules, norms, and patterns of real human behavior that are in the system. The substance of the law concerns the applicable laws and regulations which have binding power and become guidelines for law enforcement officers. The statutory regulations used in this case are Law No. 23 of 2004 concerning Domestic Violence.

Ali, A. (2002). *Legal Deterioration in Indonesia [Indonesian]*. Jakarta: Ghalia Indonesia.

Diamantina, A., & Lita Tyesta, A.L.W. (2019). Responding to beginner voters in general elections: Between situational aspects and political actualization. *International Journal of Scientific and Technology Research* 8(11), 2005-2007

Farida, E., Rahayu, & Wijaningsih, D. (2019). Politics and legal philosophy of Indonesian migrant worker protection: Case study in Malaysia. *International Journal of Scientific and Technology Research* 8(11), 2002-2004

Friedman, L. M. (1975). *The legal system: A social science perspective*. Russell Sage Foundation.

Mulyanto. (2018). The Urgency of the Ratification of the Decent Work Convention for Domestic Workers: Efforts to Increase Protection [Indonesian]. *Law: Journal of Law*, 1(1), 109-133.

4. Methodology

This section describes the research sequence and substantiates the choice of methods used. It should allow the reader to evaluate the correctness of this choice, reliability and argumentativeness of the obtained results. The point of the information presented in this section is to allow another scientist of sufficient skill to reproduce the study based on the methods given. Reference to literary sources without describing the essence of the method is only possible if it is standard.

Done.

5. Results

In this part of the article author's analytical, systematized material should be presented. The results of the research should be described in sufficient detail to allow the reader to follow its stages and assess the validity of the conclusions made by the author. In terms of volume, this part is central to the scientific article. This is the main section, the purpose of which is to prove a working hypothesis (hypothesis) by analyzing, summarizing and explaining the data. The results are supported, if necessary, by illustrations - tables, graphs, drawings - which present the source material or evidence in a curtailed form.

It is desirable to compare the results presented in the article with previous works in this field by both the author and other researchers. Such comparison will additionally reveal the novelty of the work performed and give it objectivity.

Done. in the attached file (highlighted in yellow)

6. Conclusion

The conclusion contains a brief formulation of the study results. It repeats the main ideas of the main part of the work in a concise form. It is better to formulate any repetitions of the material presented with new phrases, new formulations that differ from those expressed in the main part of the article. In this section, the results should be compared with the goal stated at the beginning of the work. In conclusion, the results of comprehension of the topic are summarized, conclusions, generalizations, and recommendations are made, which follow from the work, their practical significance is emphasized, and the main directions for further research in this area are defined. In the final part of the article, it is desirable to include attempts to forecast the development of the discussed issues.

Done.

The the politics of law of prohibiting physical violence against domestic workers experienced inconsistencies and incoherence because even though it has been stated in the constitution as a national goal and the rights of all citizens, Indonesia has not ratified ILO Convention No. 189 of 2011 which is very important in protecting the rights of domestic workers due to violence more and more physical things happen. As a result, there are no laws and regulations which specifically regulate the prohibition of violence against domestic workers. Law No. 13 of 2003 concerning Labor does not protect informal sector workers and does not regulate strict sanctions and so far cases of physical violence against domestic workers still use Law No. 23 of 2004 concerning Domestic Violence which emphasizes domestic workers not as

workers but as a household member. In this case, law reform supported by related stakeholders is needed.

6. Reference

Use APA style reference

Done.

Ali, A. (2002). *Legal Deterioration in Indonesia [Indonesian]*. Jakarta: Ghalia Indonesia. Anjari,

W. (2014). The Phenomenon of Violence as a Form of Crime (Violence) [Indonesian]. *Journal of Widya Yustisia* 1(1), 42-51.

Astria, D. (2018, 10 March). *Jala PRT: Negara Abaikan Kesejahteraan PRT*. Retrieved Feb 26, 2020 from <https://www.industry.co.id/read/27884/jala-prt-negara-abaikan-kesejahteraan-prt>

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Rafli, R. I., Rochaeti, N., & Wijaningsih, D. (2016). Perlindungan Hukum Bagi Pekerja Rumah Tangga Perempuan Korban Tindak Kekerasan. *Diponegoro Law Journal*, 5(3), 1-26.

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Subekti, R. P. (2018). The Urgency of Ratification of the International Labor Organization Convention: Perspectives on the Protection of Child Labor in the Household Sector [Indonesian]. *Journal of Udayana's Masters of Law*, 7(1), 24-36.

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Waridin, W., Dwiyanto, B.M., Saraswati, R., Mafruhah, I. (2020). Formulation of problem-solving design for Indonesian informal sector migrant workers towards post-placement independence: Case study in Malaysia. *Research in World Economy* 11(1), 115-122.

Wati, B. E. (2014). Dimensions of Legal Protection for Domestic Workers in the Era of Industrialization [Indonesian]. *Palastren Journal*, 7(1), 153-168.

The Politics of Law in Prohibiting Physical Violence for Domestic Workers in the Largest Economy in Southeast Asia

Lita Tyesta ALW, Adissya Mega Christia

Universitas Diponegoro, Semarang, Indonesia

Abstract

Physical violence from employers is a common thing for domestic helpers, even though the right to work and decent livelihood is the right of every human being. The politics of law of prohibiting physical violence for domestic workers in Indonesia is still very weak even though it has strong correlation to access to justice. This study uses a normative juridical method with an analytical descriptive approach and a case through secondary data. The results show that physical violence against domestic workers had not yet obtained a strict, consistent and coherent arrangement in terms of the politics of law of conventions, constitutions and regulations so that access to justice for domestic workers who experienced physical violence is difficult to obtain.

Keywords: politics of law, physical abuse, domestic helpers, legal protection.

1. Introduction

The International Labor Organization survey, ILO-IPEC shows that the total number of domestic workers in Indonesia in 2016 was 2,593,399 people (Raflis, et al., 2016) and in 2018 reaches 2,6 million people (Subekti, 2018). This amount is one of the largest in the world. The International Labor Organization Director for Indonesia and Timor Leste, Michiko Miyamoto, stated that employment as domestic workers is one of the worst working conditions groups in the world (Kumparanews, 2018). Domestic workers have not received a decent work situation as a manifestation of human rights until now. Positive law still overlaps and biased makes conditions of security in working for domestic workers continue to decline coupled with the fact that there is no legal basis that specifically guarantees welfare and protection of the domestic workers (Waridin et al., 2020). Coordinator of Jala Domestic Worker, Lita Anggraini stated that there is no state responsibility to provide protection to its citizens who work as domestic workers in the form of recognition and redistribution of their welfare who work to contribute nation's economy (Astria, 2018).

One of the rights inherent in every human being is the right for decent work and livelihood. Eligible refers to be reasonable, appropriate, proper, noble and honorable. The 1945 Constitution of the Republic of Indonesia Article 27 paragraph (2) states that each citizen has the right to work and a decent living for humanity. Article 5 of the International Labor Organization (ILO) Convention No. 189 of 2011 concerning Decent Work for Domestic Workers ensures that every Member must take steps to ensure that domestic workers enjoy effective protection against all types of abuse, harassment and violence. However, Indonesia is one of the countries that has not ratified the ILO Conventions so that in Law No. 13 of 2003 concerning Manpower only stated that every worker/laborer has the right to obtain protection.

The stereotype of domestic workers is as lowly work that can be done without the need for education, special skills, and can be done by everyone, and commercially low valued (Eriyanti, 2017). Domestic workers are also still close to the image of servants who must obey the employer and there are no specific devices or rules to protect domestic workers in Indonesia so that they are very vulnerable to violations of workers' rights. Violence in the broadest sense is said by Galtung, as a barrier that should be avoided which causes someone to not be able to actualize themselves properly. The barrier can actually be avoided, so in fact the violence can also be avoided if the barrier is removed. Direct violence can take many forms. In its classical form, it involves the use of physical force, such as murder or torture, rape and sexual violence, as well as beatings. Verbal violence, like insults, is also widely recognized as violence.

The increase in violence occurs in line with the needs of society, technological development and intense interaction accompanied by individualistic human nature. Humans as social beings always interact and need fellow humans and other creatures in their lives. Humans work, get married, visit each other, eat and drink and do social activities and other activities. Humans as individuals have different personalities, both different goals and outlook on life, character, region of origin, ethnicity, religion, culture, habits, and so on (Galtung, 1969). These

differences can affect the process of interaction and can trigger conflicts that are dilator behind by conflict of interest and cause a reaction either in the form of a conflict of ideas or roughly in the form of violence. Acts of violence to other parties are forms of human activity which have indications against the law or contrary to applicable laws, which can be in the form of physical acts that are real to the death of the victim (Anjari, 2014). Physical violence against domestic workers falls into the category of domestic violence with characteristics including being carried out in the house, behind closed doors, with physical and/or psychological violence/torture, carried out by people who have close relations with victims and repeatedly (Setiadi, 2001).

The problem of differences in social status also often makes employers act arbitrarily in treating domestic workers. Abominable and very rude treatment as an expression of employers when breaking the law but only as an act to make a servant deterrent and not repeat his mistakes again. The weakness of the position of aides makes cases of violence against them untouched by the law (Pangestuti, 2018). The domestic worker and migrant worker have lost their autonomy and ownership and can even be said to be trapped in the status of a slave (Fadilla, 2016; Wati, 2014; Nuraeny, 2015). Previous research by Erly Pangestuti (2018) focused more on psychological violence against domestic workers. Thus, based on the background above, this paper will focus on the formulation of the political problems of the law banning physical violence against domestic workers and the extent to which access to justice can be obtained by victims amid the structure, substance and culture of law that is based on Lawrence Friedman's Theory.

2. Consistency and Coherence of the Prohibition of Physical Violence Against Domestic Workers

Discussions related to domestic workers became one of the topics that received attention from the ILO. In 2011, the ILO issued Convention No. 189 on Decent Work for Domestic Workers. At present there are 25 countries that have ratified it. This convention as proof that domestic workers need to get legal protection as human beings who have human rights. This Convention mandates the existence of standards for domestic workers, such as basic rights for workers, promotion and protection of the human rights of all workers, respecting and protecting basic principles and rights at work such as freedom of association and the elimination of all forms of work forced or compulsory labor, elimination of child labor, elimination of discrimination in terms of work and position. Effective protection from all forms of abuse, harassment and violence. Fair work conditions and decent living conditions. In addition, before domestic workers work, information must be given about the terms and conditions of work that they will live in an easily understood way. ILO Convention No. 189 of 2011 concerning Decent Work for Domestic Workers is a legal protection for domestic workers worldwide and provides a basis for providing recognition and guarantees for domestic workers to obtain decent working conditions as workers in the formal sector.

The contents of this ILO Convention are the basic rights and minimum standards that must be met in the prohibition of the treatment of violence against domestic workers, especially in Article 5 which reads Each Member must take steps to ensure that domestic workers enjoy effective protection against all types of abuse, harassment and violence. Each Member referred to in this Convention are countries which have ratified it. This process has not been carried out by Indonesia so that these values, basic rights and minimum standards cannot be incorporated into national legislation with Pancasila as a filter. At this stage, it can be seen that there is an inconsistency of the Indonesian state in realizing one of the national goals which is to protect the entire nation and the whole of Indonesian blood.

The national goals of the Indonesian people as stipulated in the fourth paragraph of the opening of the National Constitution of the Republic of Indonesia concerning the protection of the whole nation and the whole of Indonesian blood are spelled out one of them in Article 27 paragraph (2) which states that each citizen has the right to work and a decent living for humanity. Then every citizen has the right and guaranteed by the state in working for a life without physical pressure or violence. In this stage it can be seen that the founders of the nation actually have included human values for every citizen who works including domestic workers. However, the increase in the number of violence against domestic workers in Indonesia which reached September 2016 has reached 217 cases (Bayu, 2016), should encourage the government to immediately ratify ILO Convention No. 189 of 2011 concerning to strengthen the consistency

and coherence of the implementation of national goals and Article 27 paragraph (2) in The 1945 Constitution of the Republic of Indonesia.

Law No. 13 of 2003 concerning Manpower also does not clearly and strongly regulate the prohibition of physical violence for workers, in this case domestic workers. Article 86 paragraph (1) letter c only states that every worker/ laborer has the right to obtain protection for treatment in accordance with human dignity and values and religious values. No further information can be found regarding this article in the Explanation although it is implied that this article is intended to provide equal treatment to workers without differentiating their status and employment relationship (Khakim, 2014). Law No. 13 of 2003 regarding Manpower is more about accommodating workers/laborers in the formal sector who have work safety standards while domestic workers as informal sector workers are full of it. Article 2 of Law No. 23 of 2004 concerning Domestic Violence states that domestic workers are also included in the household. Nonetheless, with the rampant physical violence experienced by domestic workers, the protection of domestic workers' rights as victims has not been realized as the focus of accommodation rights should fall on non-domestic workers.

The lack of consistency and coherence of the constitution, the ratification of conventions and regulations is what causes the emergence of gaps in the the politics of law of prohibiting physical violence for domestic workers, namely in their implementation and implementation. There are so many cases that are not raised to the public caused by the inconsistency and incoherence of the political law prohibiting physical violence for domestic workers from. Implementation at the lowest level between employers and domestic workers will be very vulnerable to physical violence if the legal basis above is not strong, consistent and coherent. Strong the politics of law will also strengthen socialization to everyone who uses the services of domestic workers as a preventive measure and reinforces sanctions imposed on anyone who commits physical violence against domestic workers as a repressive effort rather than just moral sanctions.

As a form of law reform, the ratification of ILO Convention No. 189 of 2011 and the establishment of legislation that specifically regulates the prohibition of violence for domestic workers is very necessary because Indonesia already has a strong basis inherited by the founders of the nation contained in national goals. In addition, the ratification of ILO Convention No. 189 of 2011 concerning Decent Work for Domestic Workers needs to be carried out by the Indonesian government, with the reason, first, the conditions of domestic workers who are still in the informal sector are considered unproductive and have no social and political value; second, there is no specific law governing the problems of domestic workers; third, the existence of a neighboring country which is also one of the largest labor exporters in Southeast Asia which has ratified the convention and provided protection for domestic workers. For the Indonesian government, ratifying this convention will both show and reflect the government's commitment to guarantee the recognition and legal protection of its citizens (Mulyanto, 2018). The existence of Indonesian domestic workers is very close to the issue of violence, both physical violence and sexual harassment to rape. ILO Convention No. 189 of 2011 provides regulations and protections for domestic workers. This convention is very important for Indonesia in accordance with the government's commitment to the international community to protect migrant workers, the majority of whom work as domestic workers. However, Indonesia does not explicitly support the need for the protection of domestic workers (Farida et al., 2019).

3. Access to Justice as Crucial Issue for Domestic Worker Legal Protection

Access to justice is one of the crucial issues for Indonesia as a state of law. Access to justice is open to all migrant workers and domestic, formal and informal. Workers in general experience problems in accessing justice so Indonesia, which holds constitutional principles, is committed that all people have equal rights before the law as a form of justice for all. However, in reality, not everyone can access justice. The weak, vulnerable, financial and marginalized are the most often experiencing difficulties in accessing justice, one of which is the domestic workers. One example of victims is Eka Febriyanti, a domestic helper who get violence from her employer in Bali, Indonesia. Eka has so far been able to sue her employer based on Law No. 23 of 2004 concerning Domestic Violence because there are no instruments that lex specifically and people are protecting domestic workers from violence. However, she has difficulty accessing

justice because they are under a state of inconsistency and incoherence in the prohibition of physical violence against employer pressure by employers.

Access to justice has several aspects. The first aspect of access to justice is fair and pro-people law. The law in this case is manifested in legislation in writing. The absence of laws and regulations specifically regarding the prohibition of violence for domestic workers has prevented access to justice. The employer in some cases can only be prosecuted by Law No. 23 of 2004 concerning Domestic Violence. This is clearly unfair because employee's and employer's relationship is an employer and domestic work relationship not a familial relationship, although they are living in the same house. Thus, the positive law used for perpetrators of physical violence against domestic workers is not yet pro domestic workers as a weak party.

The second aspect is legal literacy. Legal literacy is closely related to all forms of socialization and legal education, both directly and indirectly, for example by creating legal slogans inherent in the hearts of the people. Legal socialization and counseling is specifically intended to convey or inform the law to people who do not know the law. Because ideally every citizen must know and be aware of the law early on (Jawardi, 2016). Domestic helper who is under employer pressure is very difficult to get legal literacy on what she is going through. At the same time the employer is also not legal literate because it treats domestic workers who are required to service improperly and inhumanely. Therefore, that in the prohibition of physical violence against domestic workers who must get legal literacy are both parties both employers and domestic workers. The third aspect is legal identity. Legal identity in this case is identification such as ID card, Driving Lisence and Passport. In this case there was no explanation as to whether the employer detained the identity of the domestic worker so as not toescape.

The fourth aspect is legal assistance. Legal assistance in this case can be obtained through the protection of the Witness and Victim Protection Agency. The state is responsible for the protection of human rights as clearly stated in Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia which states that the protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government. Law No. 13 Year 2006 concerning the Protection of Witnesses and Victims regulates an institution that is responsible for handling the protection and assistance of witnesses and victims, which is called the Witness and Victim Protection Agency that has the duty and authority to provide protection and assistance to witnesses and victims. The scope of protection is at all stages of the criminal justice process, so that witnesses and/or victims feel safe when providing information (Tuage, 2013).

Access to justice can also be reviewed from the legal system theory by Lawrence M. Friedman (1975) which states that the legal system consists of a set of legal structures, legal substance in form of legislation and legal culture. In Indonesia speaking of the legal structure, it refers to the structure of law enforcement institutions, such as the police, prosecutors and courts. In this case the legal structure is seen from the police and Witness and Victim Protection Agency. Another aspect of the legal system is its substance (Ali, 2002; Diamantina & Lita Tyesta, 2019). Substance is the rules, norms, and patterns of real human behavior that are in the system. The substance of the law concerns the applicable laws and regulations which have binding power and become guidelines for law enforcement officers. The statutory regulations used in this case are Law No. 23 of 2004 concerning Domestic Violence.

4. Conclusion

The the politics of law of prohibiting physical violence against domestic workers experienced inconsistencies and incoherence because even though it has been stated in the constitution as a national goal and the rights of all citizens, Indonesia has not ratified ILO Convention No. 189 of 2011 which is very important in protecting the rights of domestic workers due to violence more and more physical things happen. As a result, there are no laws and regulations which specifically regulate the prohibition of violence against domestic workers. Law No. 13 of 2003 concerning Labor does not protect informal sector workers and does not regulate strict sanctions and so far cases of physical violence against domestic workers still use Law No. 23 of 2004 concerning Domestic Violence which emphasizes domestic workers not as

workers but as a household member. In this case, law reform supported by related stake holders is needed.

References

- Ali, A. (2002). *Legal Deterioration in Indonesia [Indonesian]*. Jakarta: Ghalia Indonesia.
- Anjari, W. (2014). The Phenomenon of Violence as a Form of Crime (Violence) [Indonesian]. *Journal of Widya Yustisia* 1(1), 42-51.
- Astria, D. (2018, 10 March). *Jala PRT: Negara Abaikan Kesejahteraan PRT*. Retrieved Feb 26, 2020 from <https://www.industry.co.id/read/27884/jala-prt-negara-abaikan-kesejahteraan-prt>
- Bayu, D.J. (2016, Sept. 9). *Hingga September 2016, Kekerasan terhadap PRT Capai 217 Kasus*. Retrieved July 7, 2019 from <https://nasional.kompas.com/read/2016/09/15/16403781/hingga-september.2016.kekerasan.terhadap.prt.capai.217.kasus>
- Diamantina, A., & Lita Tyesta, A.L.W. (2019). Responding to beginner voters in general elections: Between situational aspects and political actualization. *International Journal of Scientific and Technology Research* 8(11), 2005-2007
- Eriyanti, L. D. (2016). Empowering Women Domestic Workers: Violence Analysis and Prevention Strategies. *Proceedings of the Faculty of Social Sciences, University of Jember, 2016, 2017*, 67-79.
- Fadilla, N. (2016). Upaya Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Perdagangan Orang. *Jurnal Hukum dan Peradilan*, 5(2), 181-194.
- Farida, E., Rahayu, & Wijaningsih, D. (2019). Politics and legal philosophy of Indonesian migrant worker protection: Case study in Malaysia. *International Journal of Scientific and Technology Research* 8(11), 2002-2004
- Friedman, L. M. (1975). *The legal system: A social science perspective*. Russell Sage Foundation.
- Galtung, J. (1969). Violence, Peace and Peace Research. *Journal of Peace Research*, 6(3), 167-191.
- Jawardi. (2016). Legal Culture Development Strategy [Indonesian]. *De Jure's Legal Research Journal*, 16(1), 1-29.
- Khakim, A. (2014). *Fundamentals of Indonesian Labor Law [Indonesian]*. Bandung: Citra Aditya Bakti.
- Kumparanews. (2018, 9 March). *Mempertanyakan Peran Negara atas Nasib PRT*. Retrieved July 7, 2019 from <https://kumparan.com/kumparanews/menggugat-negara-sebagai-pelaku-kekerasan-terhadap-prt>
- Mulyanto. (2018). The Urgency of the Ratification of the Decent Work Convention for Domestic Workers: Efforts to Increase Protection [Indonesian]. *Law: Journal of Law*, 1(1), 109-133.
- Nuraeny, H. (2015). Pengiriman Tenaga Kerja Migran Sebagai Salah Satu Bentuk Perbudakan Modern dari Tindak Pidana Perdagangan Orang. *Jurnal Hukum dan Peradilan*, 4(3), 501-518.
- Pangestuti, E. (2018). Victims of Psychological Violence Against Psychic Domestic Helper [Indonesian]. *Yustitiabelen Journal*, 4(1), 27-49.
- Raflis, R. I., Rochaeti, N., & Wijaningsih, D. (2016). Perlindungan Hukum Bagi Pekerja Rumah Tangga Perempuan Korban Tindak Kekerasan. *Diponegoro Law Journal*, 5(3), 1-26.
- Setiadi, E. (2001). Legal Protection for Women from Violence [Indonesian]. *Mimbar: Journal of Social and Development*, 17(3), 338-354.

- Subekti, R. P. (2018). The Urgency of Ratification of the International Labor Organization Convention: Perspectives on the Protection of Child Labor in the Household Sector [Indonesian]. *Journal of Udayana's Masters of Law*, 7(1), 24-36.
- Tuage, S. N. (2013). Legal Protection of Witnesses and Victims by the Witness and Victim Protection Agency (LPSK) [Indonesian]. *Lex Crimen Journal*, 2(2), 56-64.
- Waridin, W., Dwiyanto, B.M., Saraswati, R., Mafruhah, I. (2020). Formulation of problem-solving design for indonesian informal sector migrant workers towards post-placement independence: Case study in Malaysia. *Research in World Economy* 11(1), 115-122.
- Wati, B. E. (2014). Dimensions of Legal Protection for Domestic Workers in the Era of Industrialization [Indonesian]. *Palastren Journal*, 7(1), 153-168.

Paper Review Results #2

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Tanggal: Minggu, 12 April 2020 22.09 WIB

Dear Lita Tyesta,

Kindly find attached the Result of Review for your paper entitled:

"The Politics of Law in Prohibiting Physical Violence for Domestic Workers in the Largest Economy in Southeast Asia"

submitted to the **Academic Journal of Interdisciplinary Studies**.

Your paper is accepted for publication in AJIS Vol. 9 No. 4 July 2020 edition **with minor revision required**.

We would kindly like to remind you to respect the deadline set in the review for the revision of your paper.

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Tanggal: Minggu, 22 Maret 2020 09.20 WIB

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Thank you very much for your decision.

We will revise it immediately and send it back to you.

Sincerely yours,
Lita

PAPER REVIEW FORM

Referee : -

First author : Lita Tyesta

Title : **The Politics of Law in Prohibiting Physical Violence for Domestic Workers in the Largest Economy in Southeast Asia**

Note: The name of referee will be deleted when this report is sent back to the

Comments About Paper:

Aspects of the paper	Questions	YES or No
Abstract	<ul style="list-style-type: none"> Is the nature and scope of the paper clearly stated in the abstract? 	Yes
Introduction	<ul style="list-style-type: none"> Does introduction provide relevant background information? 	Yes
	<ul style="list-style-type: none"> Does Introduction indicate the scope and direction of the paper? 	Yes
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	<ul style="list-style-type: none"> Does Introduction indicate the focus of the paper? 	Yes
	<ul style="list-style-type: none"> Are the objectives mentioned clearly along with significance of the study for the relevant audiences? 	Yes
Review of literature and Theoretical framework	<ul style="list-style-type: none"> Review of the existing literature covers all relevant aspects of the study? 	Yes
	<ul style="list-style-type: none"> Is the context of the topic or problem established clearly in the literature review or historical background? 	Yes
Research design and methods	<ul style="list-style-type: none"> Is the methodology clear and supported by literature? 	Yes
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	<ul style="list-style-type: none"> Is the methodology reliable for the interpretation of findings? 	Yes
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Data collection	<ul style="list-style-type: none"> Are the data collected with the proper instrument? 	Yes
Discusion, Findings And interpretation	<ul style="list-style-type: none"> Are findings interpreted in the light of the literature, and terms are clear for the general audience and reader? 	Yes

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References	<ul style="list-style-type: none"> Is the literature based on various studies? 	Yes
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Paper Guidelines	<ul style="list-style-type: none"> Is the paper written according to the journal guideline? 	Yes
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The topic of the paper is in line with the journal focus. The title of the paper correctly states the subject of the paper.

The sequence of statements in introduction lead coherently to the purpose of the study. Methods used are valid and all information is available to further studies.

Findings are interpreted in the light of the literature, and terms are clear for the general audience and reader.

The study reveals what the researcher intend and the discussion do not merely repeat the results.

However please take into consideration the following:

There are some typeset and punctuation errors throughout the paper. Some of the sentences need to be revised. Please check the paper for grammatical or typeset errors and send it for publication.

Based on the above comments I recommend this paper for publication **after corrections**.

RECOMMENDATION

Publish as it is.	
Publish with the minor revision noted above.	√
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Reject (*)	

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Tanggal: Rabu, 29 April 2020 11.45 WIB

Dear Editor,

Hopefully this article is planned to be published in

July 2020.We will send the revised version soon.
We are looking forward to hearing from you soon.
Corresponding author: Lita Tyesta

Title : The Politics of Law in Prohibiting Physical Violence for Domestic Workers in the
Largest Economy in Southeast Asia

Best regards,

Lita Tyesta

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Subject: Confirm Revised Paper

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Best regards,

Lita



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The Politics of Law in Prohibiting Physical Violence for Domestic Workers in the Largest Economy in Southeast Asia

Lita Tyesta ALW*, Adissya Mega Christia
Universitas Diponegoro, Semarang, Indonesia

Abstract

Physical violence from employers is a common thing for domestic helpers, even though the right to work and decent livelihood is the right of every human being. The politics of law of prohibiting physical violence for domestic workers in Indonesia is still very weak even though it has strong correlation to access to justice. This study uses a normative juridical method with an analytical descriptive approach and a case through secondary data. The results show that physical violence against domestic workers had not yet obtained a strict, consistent and coherent arrangement in terms of the politics of law of conventions, constitutions and regulations so that access to justice for domestic workers who experienced physical violence is difficult to obtain.

Keywords: politics of law, physical abuse, domestic helpers, legal protection.

1. Introduction

The International Labor Organization survey, ILO-IPEC shows that the total number of domestic workers in Indonesia in 2016 was 2,593,399 people (Raflis, et al., 2016) and in 2018 reaches 2,6 million people (Subekti, 2018). This amount is one of the largest in the world. The International Labor Organization Director for Indonesia and Timor Leste, Michiko Miyamoto, stated that employment as domestic workers is one of the worst working conditions groups in the world (Kumparannews, 2018). Domestic workers have not received a decent work situation as a manifestation of human rights until now. Positive law still overlaps and biased makes conditions of security in working for domestic workers continue to decline coupled with the fact that there is no legal basis that specifically guarantees welfare and protection of the domestic workers (Waridin et al., 2020). Coordinator of Jala Domestic Worker, Lita Anggraini stated that there is no state responsibility to provide protection to its citizens who work as domestic workers in the form of recognition and redistribution of their welfare who work to contribute nation's economy (Astria, 2018).

One of the rights inherent in every human being is the right for decent work and livelihood. Eligible refers to be reasonable, appropriate, proper, noble and honorable. The 1945 Constitution of the Republic of Indonesia Article 27 paragraph (2) states that each citizen has the right to work and a decent living for humanity. Article 5 of the International Labor Organization (ILO) Convention No. 189 of 2011 concerning Decent Work for Domestic Workers ensures that every Member must take steps to ensure that domestic workers enjoy effective protection against all types of abuse, harassment and violence. However, Indonesia is one of the countries that has not ratified the ILO Conventions so that in Law No. 13 of 2003 concerning Manpower only stated that every worker/laborer has the right to obtain protection.

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2. Consistency and Coherence of the Prohibition of Physical Violence Against Domestic Workers

Discussions related to domestic workers became one of the topics that received attention from the ILO. In 2011, the ILO issued Convention No. 189 on Decent Work for Domestic Workers. At present there are 25 countries that have ratified it. This convention as proof that domestic workers need to get legal protection as human beings who have human rights. This Convention mandates the existence of standards for domestic workers, such as basic rights for workers, promotion and protection of the human rights of all workers, respecting and protecting basic principles and rights at work such as freedom of association and the elimination of all forms of work forced or compulsory labor, elimination of child labor, elimination of discrimination in terms of work and position. Effective protection from all forms of abuse, harassment and violence. Fair work conditions and decent living conditions. In addition, before domestic workers work, information must be given about the terms and conditions of work that they will live in an easily understood way. ILO Convention No. 189 of 2011 concerning Decent Work for Domestic Workers is a legal protection for domestic workers worldwide and provides a basis for providing recognition and guarantees for domestic workers to obtain decent working conditions as workers in the formal sector.

The contents of this ILO Convention are the basic rights and minimum standards that must be met in the prohibition of the treatment of violence against domestic workers, especially in Article 5 which reads Each Member must take steps to ensure that domestic workers enjoy effective protection against all types of abuse, harassment and violence. Each Member referred to in this Convention are countries which have ratified it. This process has not been carried out by Indonesia so that these values, basic rights and minimum standards cannot be incorporated into national legislation with Pancasila as a filter. At this stage, it can be seen that there is an inconsistency of the Indonesian state in realizing one of the national goals which is to protect the entire nation and the whole of Indonesian blood.

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and coherence of the implementation of national goals and Article 27 paragraph (2) in The 1945 Constitution of the Republic of Indonesia.

Law No. 13 of 2003 concerning Manpower also does not clearly and strongly regulate the prohibition of physical violence for workers, in this case domestic workers. Article 86 paragraph (1) letter c only states that every worker/ laborer has the right to obtain protection for treatment in accordance with human dignity and values and religious values. No further information can be found regarding this article in the Explanation although it is implied that this article is intended to provide equal treatment to workers without differentiating their status and employment relationship (Khakim, 2014). Law No. 13 of 2003 regarding Manpower is more about accommodating workers/laborers in the formal sector who have work safety standards while domestic workers as informal sector workers are full of it. Article 2 of Law No. 23 of 2004 concerning Domestic Violence states that domestic workers are also included in the household. Nonetheless, with the rampant physical violence experienced by domestic workers, the protection of domestic workers' rights as victims has not been realized as the focus of accommodation rights should fall on non-domestic workers.

The lack of consistency and coherence of the constitution, the ratification of conventions and regulations is what causes the emergence of gaps in the the politics of law of prohibiting physical violence for domestic workers, namely in their implementation and implementation. There are so many cases that are not raised to the public caused by the inconsistency and incoherence of the political law prohibiting physical violence for domestic workers from. Implementation at the lowest level between employers and domestic workers will be very vulnerable to physical violence if the legal basis above is not strong, consistent and coherent. Strong the politics of law will also strengthen socialization to everyone who uses the services of domestic workers as a preventive measure and reinforces sanctions imposed on anyone who commits physical violence against domestic workers as a repressive effort rather than just moral sanctions.

As a form of law reform, the ratification of ILO Convention No. 189 of 2011 and the establishment of legislation that specifically regulates the prohibition of violence for domestic workers is very necessary because Indonesia already has a strong basis inherited by the founders of the nation contained in national goals. In addition, the ratification of ILO Convention No. 189 of 2011 concerning Decent Work for Domestic Workers needs to be carried out by the Indonesian government, with the reason, first, the conditions of domestic workers who are still in the informal sector are considered unproductive and have no social and political value; second, there is no specific law governing the problems of domestic workers; third, the existence of a neighboring country which is also one of the largest labor exporters in Southeast Asia which has ratified the convention and provided protection for domestic workers. For the Indonesian government, ratifying this convention will both show and reflect the government's commitment to guarantee the recognition and legal protection of its citizens (Mulyanto, 2018). The existence of Indonesian domestic workers is very close to the issue of violence, both physical violence and sexual harassment to rape. ILO Convention No. 189 of 2011 provides regulations and protections for domestic workers. This convention is very important for Indonesia in accordance with the government's commitment to the international community to protect migrant workers, the majority of whom work as domestic workers. However, Indonesia does not explicitly support the need for the protection of domestic workers (Farida et al., 2019).

In the concept of national interest, it is explained that for the survival of one country, the state must meet the needs of its country in other words achieving its national interests. With the achievement of national interests, the country will run stably, both in terms of political, economic, social, as well as defense and security. The role of domestic workers is very helpful for public life even though the role played by domestic workers is often not noticed by the public. In addition to contributing to public life, domestic workers are jobs that provide a greater economic contribution, not only to domestic workers' families and service users, but also to employers who do not have to take care of domestic work and continue to work in the public sector, then work matters the household is left to the domestic worker. Indonesia's interest in the ratification of ILO Convention No. 189 of 2011 is because Indonesia has a large number of domestic workers, this is one of the reasons for Indonesia to take part in the convention. In

addition, Indonesia must continue to maintain its existence as a country that protects domestic workers (Anugrah & Jamaan, 2014). The ratification of ILO Convention Number 189 of 2011 also requires the role of domestic workers in order to improve the the politics of law of prohibiting physical violence against domestic workers to create guarantees of decent work and living conditions (Silitonga, 2014). Domestic workers can proactively urge the government to immediately ratify.

3. Access to Justice as Crucial Issue for Domestic Worker Legal Protection

Access to justice is one of the crucial issues for Indonesia as a state of law. Access to justice is open to all migrant workers and domestic, formal and informal. Workers in general experience problems in accessing justice so Indonesia, which holds constitutional principles, is committed that all people have equal rights before the law as a form of justice for all. However, in reality, not everyone can access justice. The weak, vulnerable, financial and marginalized are the most often experiencing difficulties in accessing justice, one of which is the domestic workers. One example of victims is Eka Febriyanti, a domestic helper who get violence from her employer in Bali, Indonesia. Eka has so far been able to sue her employer based on Law No. 23 of 2004 concerning Domestic Violence because there are no instruments that specifically and pro-people are protecting domestic workers from violence. However, she has difficulty accessing justice because they are under a state of inconsistency and incoherence in the prohibition of physical violence against employer pressure by employers.

Access to justice has several aspects. The first aspect of access to justice is fair and pro-people law. The law in this case is manifested in legislation in writing. The absence of laws and regulations specifically regarding the prohibition of violence for domestic workers has prevented access to justice. The employer in some cases can only be prosecuted by Law No. 23 of 2004 concerning Domestic Violence. This is clearly unfair because employee's and employer's relationship is an employer and domestic work relationship not a familial relationship, although they are living in the same house. Thus, the positive law used for perpetrators of physical violence against domestic workers is not yet pro domestic workers as a weak party.

The second aspect is legal literacy. Legal literacy is closely related to all forms of socialization and legal education, both directly and indirectly, for example by creating legal slogans inherent in the hearts of the people. Legal socialization and counseling is specifically intended to convey or inform the law to people who do not know the law. Because ideally every citizen must know and be aware of the law early on (Jawardi, 2016). Domestic helper who is under employer pressure is very difficult to get legal literacy on what she is going through. At the same time the employer is also not legal literate because it treats domestic workers who are required to service improperly and inhumanely. Therefore, that in the prohibition of physical violence against domestic workers who must get legal literacy are both parties both employers and domestic workers. The third aspect is legal identity. Legal identity in this case is identification such as ID card, Driving License and Passport. In this case there was no explanation as to whether the employer detained the identity of the domestic worker so as not to escape.

The fourth aspect is legal assistance. Legal assistance in this case can be obtained through the protection of the Witness and Victim Protection Agency. The state is responsible for the protection of human rights as clearly stated in Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia which states that the protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government. Law No. 13 Year 2006 concerning the Protection of Witnesses and Victims regulates an institution that is responsible for handling the protection and assistance of witnesses and victims, which is called the Witness and Victim Protection Agency that has the duty and authority to provide protection and assistance to witnesses and victims. The scope of protection is at all stages of the criminal justice process, so that witnesses and/or victims feel safe when providing information (Tuage, 2013).

Access to justice can also be reviewed from the legal system theory by Lawrence M. Friedman (1975) which states that the legal system consists of a set of legal structures, legal substance in form of legislation and legal culture. In Indonesia speaking of the legal structure, it refers to the structure of law enforcement institutions, such as the police, prosecutors and courts.

In this case the legal structure is seen from the police and Witness and Victim Protection Agency. Another aspect of the legal system is its substance (Ali, 2002; Diamantina & Lita Tyesta, 2019). Substance is the rules, norms, and patterns of real human behavior that are in the system. The substance of the law concerns the applicable laws and regulations which have binding power and become guidelines for law enforcement officers. The statutory regulations used in this case are Law No. 23 of 2004 concerning Domestic Violence.

Law No. 13 of 2003 concerning Manpower in article 1 paragraph (5) concerning employment relations is the relationship between employers and workers/laborers based on work agreements that have elements of work, wages and orders. This is precisely where the problem lies whether the employer's position can be compared to an entrepreneur who is clearly a legal entity. Besides the dispute settlement mechanism because the institution authorized to settle disputes or who have absolute competence in the Manpower Act is an industrial relations court. This institution cannot accept disputes between domestic workers and employers, because of different legal interpretations. With these problems, the Manpower Act does not reach out to domestic workers so that the provisions contained therein cannot regulate the problems of domestic workers (Wati, 2014).

Legal culture concerns legal culture which is the attitude of humans, including the legal culture of law enforcement officials, towards the law and legal system. A poor legal culture is seen in this case, namely the physical abuse of employers against weak domestic workers. No matter how well the legal structure is structured to carry out the established legal rules and as well as any quality of legal substance created without the support of a legal culture by people involved in the system and society, law enforcement will not run effectively.

These three aspects according to Lawrence Friedman are a unity in supporting the system to build good law in a country (Saifullah, 2007). All three must work together because they are interrelated. In this case there are still inaccuracies in the use of Law No. 23 of 2004 concerning Domestic Violence as a legal substance and bad legal culture of employers who apply arbitrarily to subordinates in this case domestic workers. Aspects of this theory together with aspects of access to justice can be used to create law reforms prohibiting physical violence against domestic workers.

4. Conclusion

The politics of law of prohibiting physical violence against domestic workers experienced inconsistencies and incoherence because even though it has been stated in the constitution as a national goal and the rights of all citizens, Indonesia has not ratified ILO Convention No. 189 of 2011 which is very important in protecting the rights of domestic workers due to violence more and more physical things happen. As a result, there are no laws and regulations which specifically regulate the prohibition of violence against domestic workers. Law No. 13 of 2003 concerning Labor does not protect informal sector workers and does not regulate strict sanctions and so far cases of physical violence against domestic workers still use Law No. 23 of 2004 concerning Domestic Violence which emphasizes domestic workers not as workers but as a household member. In this case, law reform supported by related stake holders is needed.

References

Ali, A. (2002). *Legal Deterioration in Indonesia [Indonesian]*. Jakarta: Ghalia Indonesia, Anjari, W. (2014). *The Phenomenon of Violence as a Form of Crime (Violence) [Indonesian]*.

Journal of Widya Yustisia 1(1), 42-51.

Anugrah, D. P., & Jamaan, A. (2014). Indonesian Interest in International Labor Organization (ILO) Convention No.189 [Indonesian]. *Online Journal of Social and Political Science Students in Riau University*, 1(2), 1-15.

Astria, D. (2018, 10 March). *Jala PRT: Negara Abaikan Kesejahteraan PRT*. Retrieved Feb 26, 2020 from <https://www.industry.co.id/read/27884/jala-prt-negara-abaikan-kesejahteraan-prt>

Bayu, D.J. (2016, Sept. 9). *Hingga September 2016, Kekerasan terhadap PRT Capai 217 Kasus*. Retrieved July 7, 2019 from <https://nasional.kompas.com/read/2016/09/15/16403781/hingga>

- .september.2016.kekerasan.terhadap.prt.capai.217.kasus
- Diamantina, A., & Lita Tyesta, A.L.W. (2019). Responding to beginner voters in general elections: Between situational aspects and political actualization. *International Journal of Scientific and Technology Research* 8(11), 2005-2007
- Eriyanti, L. D. (2016). Empowering Women Domestic Workers: Violence Analysis and Prevention Strategies. *Proceedings of the Faculty of Social Sciences, University of Jember, 2016, 2017, 67-79.*
- Fadilla, N. (2016). Upaya Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Perdagangan Orang. *Jurnal Hukum dan Peradilan*, 5(2), 181-194.
- Farida, E., Rahayu, & Wijaningsih, D. (2019). Politics and legal philosophy of Indonesian migrant worker protection: Case study in Malaysia. *International Journal of Scientific and Technology Research* 8(11), 2002-2004
- Friedman, L. M. (1975). *The legal system: A social science perspective*. Russell Sage Foundation.
- Galtung, J. (1969). Violence, Peace and Peace Research. *Journal of Peace Research*, 6(3), 167-191.
- Jawardi. (2016). Legal Culture Development Strategy [Indonesian]. *De Jure's Legal Research Journal*, 16(1), 1-29.
- Khakim, A. (2014). *Fundamentals of Indonesian Labor Law [Indonesian]*. Bandung: Citra Aditya Bakti.
- Kumparannews. (2018, 9 March). *Mempertanyakan Peran Negara atas Nasib PRT*. Retrieved July 7, 2019 from <https://kumparan.com/kumparannews/menggugat-negara-sebagai-pelaku-kekerasan-terhadap-prt>
- Mulyanto. (2018). The Urgency of the Ratification of the Decent Work Convention for Domestic Workers: Efforts to Increase Protection [Indonesian]. *Law: Journal of Law*, 1(1), 109-133.
- Nuraeny, H. (2015). Pengiriman Tenaga Kerja Migran Sebagai Salah Satu Bentuk Perbudakan Modern dari Tindak Pidana Perdagangan Orang. *Jurnal Hukum dan Peradilan*, 4(3), 501-518.
- Pangestuti, E. (2018). Victims of Psychological Violence Against Psychic Domestic Helper [Indonesian]. *Yustitiabelen Journal*, 4(1), 27-49.
- Raflis, R. I., Rochaeti, N., & Wijaningsih, D. (2016). Perlindungan Hukum Bagi Pekerja Rumah Tangga Perempuan Korban Tindak Kekerasan. *Diponegoro Law Journal*, 5(3), 1-26.
- Saifullah. (2007). *Reflection of Legal Sociology [Indonesian]*. Bandung: Refika Aditama.
- Setiadi, E. (2001). Legal Protection for Women from Violence [Indonesian]. *Mimbar: Journal of Social and Development*, 17(3), 338-354.
- Silitonga, N. (2014). The effectiveness of ILO Convention No. 189 Against Filipino Domestic Workers [Indonesian]. *Online Journal of Social and Political Science Students in Riau University*, 2(1), 1-10.
- Subekti, R. P. (2018). The Urgency of Ratification of the International Labor Organization Convention: Perspectives on the Protection of Child Labor in the Household Sector [Indonesian]. *Journal of Udayana's Masters of Law*, 7(1), 24-36.
- Tuage, S. N. (2013). Legal Protection of Witnesses and Victims by the Witness and Victim Protection Agency (LPSK) [Indonesian]. *Lex Crimen Journal*, 2(2), 56-64.
- Waridin, W., Dwiyanto, B.M., Saraswati, R., Mafruhah, I. (2020). Formulation of problem-solving design for Indonesian informal sector migrant workers towards post-placement independence: Case study in Malaysia. *Research in World Economy* 11(1), 115-122.
- Wati, B. E. (2014). Dimensions of Legal Protection for Domestic Workers in the Era of Industrialization [Indonesian]. *Palastren Journal*, 7(1), 153-168.

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The Politics of Law in Prohibiting Physical Violence for Domestic Workers in the Largest Economy in Southeast Asia

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Abstract

Physical violence from employers is a common thing for domestic helpers, even though the right to work and decent livelihood is the right of every human being. The politics of law of prohibiting physical violence for domestic workers in Indonesia is still very weak even though it has strong correlation to access to justice. This study uses a normative juridical method with an analytical descriptive approach and a case through secondary data. The results show that physical violence against domestic workers had not yet obtained a strict, consistent and coherent arrangement in terms of the politics of law of conventions, constitutions and regulations so that access to justice for domestic workers who experienced physical violence is difficult to obtain.

Keywords: politics of law, physical abuse, domestic helpers, legal protection.

1. Introduction

The International Labor Organization survey, ILO-IPEC shows that the total number of domestic workers in Indonesia in 2016 was 2,593,399 people (Raflis, et al., 2016) and in 2018 reaches 2,6 million people (Subekti, 2018). This amount is one of the largest in the world. The International Labor Organization Director for Indonesia and Timor Leste, Michiko Miyamoto, stated that employment as domestic workers is one of the worst working conditions groups in the world (Kumparanews, 2018). Domestic workers have not received a decent work situation as a manifestation of human rights until now. Positive law still overlaps and biased makes conditions of security in working for domestic workers continue to decline coupled with the fact that there is no legal basis that specifically guarantees welfare and protection of the domestic workers (Waridin et al., 2020). Coordinator of Jala Domestic Worker, Lita Anggraini stated that there is no state responsibility to provide protection to its citizens who work as domestic workers in the form of recognition and redistribution of their welfare who work to contribute nation's economy (Austria, 2018).

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The national goals of the Indonesian people as stipulated in the fourth paragraph of the opening of the National Constitution of the Republic of Indonesia concerning the protection of the whole nation and the whole of Indonesian blood are spelled out one of them in Article 27 paragraph (2) which states that each citizen has the right to work and a decent living for humanity. Then every citizen has the right and guaranteed by the state in working for a life without physical pressure or violence. In this stage it can be seen that the founders of the nation actually have included human values for every citizen who works including domestic workers. However, the increase in the number of violence against domestic workers in Indonesia which reached September 2016 has reached 217 cases (Bayu, 2016), should encourage the government to immediately ratify ILO Convention No. 189 of 2011 concerning to strengthen the consistency

and coherence of the implementation of national goals and Article 27 paragraph (2) in The 1945 Constitution of the Republic of Indonesia.

Law No. 13 of 2003 concerning Manpower also does not clearly and strongly regulate the prohibition of physical violence for workers, in this case domestic workers. Article 86 paragraph (1) letter c only states that every worker/ laborer has the right to obtain protection for treatment in accordance with human dignity and values and religious values. No further information can be found regarding this article in the Explanation although it is implied that this article is intended to provide equal treatment to workers without differentiating their status and employment relationship (Khakim, 2014). Law No. 13 of 2003 regarding Manpower is more about accommodating workers/laborers in the formal sector who have work safety standards while domestic workers as informal sector workers are full of it. Article 2 of Law No. 23 of 2004 concerning Domestic Violence states that domestic workers are also included in the household. Nonetheless, with the rampant physical violence experienced by domestic workers, the protection of domestic workers' rights as victims has not been realized as the focus of accommodation rights should fall on non-domestic workers.

The lack of consistency and coherence of the constitution, the ratification of conventions and regulations is what causes the emergence of gaps in the the politics of law of prohibiting physical violence for domestic workers, namely in their implementation and implementation. There are so many cases that are not raised to the public caused by the inconsistency and incoherence of the political law prohibiting physical violence for domestic workers from. Implementation at the lowest level between employers and domestic workers will be very vulnerable to physical violence if the legal basis above is not strong, consistent and coherent. Strong the politics of law will also strengthen socialization to everyone who uses the services of domestic workers as a preventive measure and reinforces sanctions imposed on anyone who commits physical violence against domestic workers as a repressive effort rather than just moral sanctions.

As a form of law reform, the ratification of ILO Convention No. 189 of 2011 and the establishment of legislation that specifically regulates the prohibition of violence for domestic workers is very necessary because Indonesia already has a strong basis inherited by the founders of the nation contained in national goals. In addition, the ratification of ILO Convention No. 189 of 2011 concerning Decent Work for Domestic Workers needs to be carried out by the Indonesian government, with the reason, first, the conditions of domestic workers who are still in the informal sector are considered unproductive and have no social and political value; second, there is no specific law governing the problems of domestic workers; third, the existence of a neighboring country which is also one of the largest labor exporters in Southeast Asia which has ratified the convention and provided protection for domestic workers. For the Indonesian government, ratifying this convention will both show and reflect the government's commitment to guarantee the recognition and legal protection of its citizens (Mulyanto, 2018). The existence of Indonesian domestic workers is very close to the issue of violence, both physical violence and sexual harassment to rape. ILO Convention No. 189 of 2011 provides regulations and protections for domestic workers. This convention is very important for Indonesia in accordance with the government's commitment to the international community to protect migrant workers, the majority of whom work as domestic workers. However, Indonesia does not explicitly support the need for the protection of domestic workers (Farida et al., 2019).

In the concept of national interest, it is explained that for the survival of one country, the state must meet the needs of its country in other words achieving its national interests. With the achievement of national interests, the country will run stably, both in terms of political, economic, social, as well as defense and security. The role of domestic workers is very helpful for public life even though the role played by domestic workers is often not noticed by the public. In addition to contributing to public life, domestic workers are jobs that provide a greater economic contribution, not only to domestic workers' families and service users, but also to employers who do not have to take care of domestic work and continue to work in the public sector, then work matters the household is left to the domestic worker. Indonesia's interest in the ratification of ILO Convention No. 189 of 2011 is because Indonesia has a large number of domestic workers, this is one of the reasons for Indonesia to take part in the convention. In

addition, Indonesia must continue to maintain its existence as a country that protects domestic workers (Anugrah & Jamaan, 2014). The ratification of ILO Convention Number 189 of 2011 also requires the role of domestic workers in order to improve the the politics of law of prohibiting physical violence against domestic workers to create guarantees of decent work and living conditions (Silitonga, 2014). Domestic workers can proactively urge the government to immediately ratify.

3. Access to Justice as Crucial Issue for Domestic Worker Legal Protection

Access to justice is one of the crucial issues for Indonesia as a state of law. Access to justice is open to all migrant workers and domestic, formal and informal. Workers in general experience problems in accessing justice so Indonesia, which holds constitutional principles, is committed that all people have equal rights before the law as a form of justice for all. However, in reality, not everyone can access justice. The weak, vulnerable, financial and marginalized are the most often experiencing difficulties in accessing justice, one of which is the domestic workers. One example of victims is Eka Febriyanti, a domestic helper who get violence from her employer in Bali, Indonesia. Eka has so far been able to sue her employer based on Law No. 23 of 2004 concerning Domestic Violence because there are no instruments that specifically and pro-people are protecting domestic workers from violence. However, she has difficulty accessing justice because they are under a state of inconsistency and incoherence in the prohibition of physical violence against employer pressure by employers.

Access to justice has several aspects. The first aspect of access to justice is fair and pro-people law. The law in this case is manifested in legislation in writing. The absence of laws and regulations specifically regarding the prohibition of violence for domestic workers has prevented access to justice. The employer in some cases can only be prosecuted by Law No. 23 of 2004 concerning Domestic Violence. This is clearly unfair because employee's and employer's relationship is an employer and domestic work relationship not a familial relationship, although they are living in the same house. Thus, the positive law used for perpetrators of physical violence against domestic workers is not yet pro domestic workers as a weak party.

The second aspect is legal literacy. Legal literacy is closely related to all forms of socialization and legal education, both directly and indirectly, for example by creating legal slogans inherent in the hearts of the people. Legal socialization and counseling is specifically intended to convey or inform the law to people who do not know the law. Because ideally every citizen must know and be aware of the law early on (Jawardi, 2016). Domestic helper who is under employer pressure is very difficult to get legal literacy on what she is going through. At the same time the employer is also not legal literate because it treats domestic workers who are required to service improperly and inhumanely. Therefore, that in the prohibition of physical violence against domestic workers who must get legal literacy are both parties both employers and domestic workers. The third aspect is legal identity. Legal identity in this case is identification such as ID card, Driving License and Passport. In this case there was no explanation as to whether the employer detained the identity of the domestic worker so as not to escape.

The fourth aspect is legal assistance. Legal assistance in this case can be obtained through the protection of the Witness and Victim Protection Agency. The state is responsible for the protection of human rights as clearly stated in Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia which states that the protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government. Law No. 13 Year 2006 concerning the Protection of Witnesses and Victims regulates an institution that is responsible for handling the protection and assistance of witnesses and victims, which is called the Witness and Victim Protection Agency that has the duty and authority to provide protection and assistance to witnesses and victims. The scope of protection is at all stages of the criminal justice process, so that witnesses and/or victims feel safe when providing information (Tuage, 2013).

Access to justice can also be reviewed from the legal system theory by Lawrence M. Friedman (1975) which states that the legal system consists of a set of legal structures, legal substance in form of legislation and legal culture. In Indonesia speaking of the legal structure, it refers to the structure of law enforcement institutions, such as the police, prosecutors and courts.

In this case the legal structure is seen from the police and Witness and Victim Protection Agency. Another aspect of the legal system is its substance (Ali, 2002; Diamantina & Lita Tyesta, 2019). Substance is the rules, norms, and patterns of real human behavior that are in the system. The substance of the law concerns the applicable laws and regulations which have binding power and become guidelines for law enforcement officers. The statutory regulations used in this case are Law No. 23 of 2004 concerning Domestic Violence.

Law No. 13 of 2003 concerning Manpower in article 1 paragraph (5) concerning employment relations is the relationship between employers and workers/laborers based on work agreements that have elements of work, wages and orders. This is precisely where the problem lies whether the employer's position can be compared to an entrepreneur who is clearly a legal entity. Besides the dispute settlement mechanism because the institution authorized to settle disputes or who have absolute competence in the Manpower Act is an industrial relations court. This institution cannot accept disputes between domestic workers and employers, because of different legal interpretations. With these problems, the Manpower Act does not reach out to domestic workers so that the provisions contained therein cannot regulate the problems of domestic workers (Wati, 2014).

Legal culture concerns legal culture which is the attitude of humans, including the legal culture of law enforcement officials, towards the law and legal system. A poor legal culture is seen in this case, namely the physical abuse of employers against weak domestic workers. No matter how well the legal structure is structured to carry out the established legal rules and as well as any quality of legal substance created without the support of a legal culture by people involved in the system and society, law enforcement will not run effectively.

These three aspects according to Lawrence Friedman are a unity in supporting the system to build good law in a country (Saifullah, 2007). All three must work together because they are interrelated. In this case there are still inaccuracies in the use of Law No. 23 of 2004 concerning Domestic Violence as a legal substance and bad legal culture of employers who apply arbitrarily to subordinates in this case domestic workers. Aspects of this theory together with aspects of access to justice can be used to create law reforms prohibiting physical violence against domestic workers.

4. Conclusion

The politics of law of prohibiting physical violence against domestic workers experienced inconsistencies and incoherence because even though it has been stated in the constitution as a national goal and the rights of all citizens, Indonesia has not ratified ILO Convention No. 189 of 2011 which is very important in protecting the rights of domestic workers due to violence more and more physical things happen. As a result, there are no laws and regulations which specifically regulate the prohibition of violence against domestic workers. Law No. 13 of 2003 concerning Labor does not protect informal sector workers and does not regulate strict sanctions and so far cases of physical violence against domestic workers still use Law No. 23 of 2004 concerning Domestic Violence which emphasizes domestic workers not as workers but as a household member. In this case, law reform supported by related stake holders is needed.

References

Ali, A. (2002). *Legal Deterioration in Indonesia [Indonesian]*. Jakarta: Ghalia Indonesia, Anjari, W. (2014). *The Phenomenon of Violence as a Form of Crime (Violence) [Indonesian]*.

Journal of Widya Yustisia 1(1), 42-51.

Anugrah, D. P., & Jamaan, A. (2014). Indonesian Interest in International Labor Organization (ILO) Convention No.189 [Indonesian]. *Online Journal of Social and Political Science Students in Riau University*, 1(2), 1-15.

Astria, D. (2018, 10 March). *Jala PRT: Negara Abaikan Kesejahteraan PRT*. Retrieved Feb 26, 2020 from <https://www.industry.co.id/read/27884/jala-prt-negara-abaikan-kesejahteraan-prt>

Bayu, D.J. (2016, Sept. 9). *Hingga September 2016, Kekerasan terhadap PRT Capai 217 Kasus*. Retrieved July 7, 2019 from <https://nasional.kompas.com/read/2016/09/15/16403781/hingga>

- .september.2016.kekerasan.terhadap.prt.capai.217.kasus
- Diamantina, A., & Lita Tyesta, A.L.W. (2019). Responding to beginner voters in general elections: Between situational aspects and political actualization. *International Journal of Scientific and Technology Research* 8(11), 2005-2007
- Eriyanti, L. D. (2016). Empowering Women Domestic Workers: Violence Analysis and Prevention Strategies. *Proceedings of the Faculty of Social Sciences, University of Jember, 2016, 2017, 67-79.*
- Fadilla, N. (2016). Upaya Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Perdagangan Orang. *Jurnal Hukum dan Peradilan*, 5(2), 181-194.
- Farida, E., Rahayu, & Wijaningsih, D. (2019). Politics and legal philosophy of Indonesian migrant worker protection: Case study in Malaysia. *International Journal of Scientific and Technology Research* 8(11), 2002-2004
- Friedman, L. M. (1975). *The legal system: A social science perspective*. Russell Sage Foundation.
- Galtung, J. (1969). Violence, Peace and Peace Research. *Journal of Peace Research*, 6(3), 167-191.
- Jawardi. (2016). Legal Culture Development Strategy [Indonesian]. *De Jure's Legal Research Journal*, 16(1), 1-29.
- Khakim, A. (2014). *Fundamentals of Indonesian Labor Law [Indonesian]*. Bandung: Citra Aditya Bakti.
- Kumparannews. (2018, 9 March). *Mempertanyakan Peran Negara atas Nasib PRT*. Retrieved July 7, 2019 from <https://kumparan.com/kumparannews/menggugat-negara-sebagai-pelaku-kekerasan-terhadap-prt>
- Mulyanto. (2018). The Urgency of the Ratification of the Decent Work Convention for Domestic Workers: Efforts to Increase Protection [Indonesian]. *Law: Journal of Law*, 1(1), 109-133.
- Nuraeny, H. (2015). Pengiriman Tenaga Kerja Migran Sebagai Salah Satu Bentuk Perbudakan Modern dari Tindak Pidana Perdagangan Orang. *Jurnal Hukum dan Peradilan*, 4(3), 501-518.
- Pangestuti, E. (2018). Victims of Psychological Violence Against Psychic Domestic Helper [Indonesian]. *Yustitiabelen Journal*, 4(1), 27-49.
- Raflis, R. I., Rochaeti, N., & Wijaningsih, D. (2016). Perlindungan Hukum Bagi Pekerja Rumah Tangga Perempuan Korban Tindak Kekerasan. *Diponegoro Law Journal*, 5(3), 1-26.
- Saifullah. (2007). *Reflection of Legal Sociology [Indonesian]*. Bandung: Refika Aditama.
- Setiadi, E. (2001). Legal Protection for Women from Violence [Indonesian]. *Mimbar: Journal of Social and Development*, 17(3), 338-354.
- Silitonga, N. (2014). The effectiveness of ILO Convention No. 189 Against Filipino Domestic Workers [Indonesian]. *Online Journal of Social and Political Science Students in Riau University*, 2(1), 1-10.
- Subekti, R. P. (2018). The Urgency of Ratification of the International Labor Organization Convention: Perspectives on the Protection of Child Labor in the Household Sector [Indonesian]. *Journal of Udayana's Masters of Law*, 7(1), 24-36.
- Tuage, S. N. (2013). Legal Protection of Witnesses and Victims by the Witness and Victim Protection Agency (LPSK) [Indonesian]. *Lex Crimen Journal*, 2(2), 56-64.
- Waridin, W., Dwiyanto, B.M., Saraswati, R., Mafruhah, I. (2020). Formulation of problem-solving design for Indonesian informal sector migrant workers towards post-placement independence: Case study in Malaysia. *Research in World Economy* 11(1), 115-122.
- Wati, B. E. (2014). Dimensions of Legal Protection for Domestic Workers in the Era of Industrialization [Indonesian]. *Palastren Journal*, 7(1), 153-168.

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Research Article



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Abstract

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Physical violence from employers is a common thing for domestic helpers, even though the right to work and decent livelihood is the right of every human being. The politics of law of prohibiting physical violence for domestic workers in Indonesia is still very weak eventhough it has strong correlation to acces to justice. This study uses a normative juridical method with an analytical descriptive approach and a case through secondary data. The results show that physical violence against domestic workers had not yet obtained a strict, consistent and coherent arrangement in terms of the the politics of law of conventions, constitutions and regulations so that access to justice for domestic workers who experienced physical violence is difficult to obtain.

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Keywords: politics of law, physical abuse, domestic helpers, legal protection

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1. Introduction

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The International Labor Organization survey, ILO-IPEC shows that the total number of domestic workers in Indonesia in 2016 was 2,593,399 people (Rafllis, et al., 2016) and in 2018 reaches 2,6 million

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34 people (Subekti. 2018). This amount is one of the largest in the world. The International Labor
35 Organization Director for Indonesia and Timor Leste, Michiko Miyamoto, stated that employment as
36 domestic workers is one of the worst working conditions groups in the world (Kumparannews, 2018).
37 Domestic workers have not received a decent work situation as a manifestation of human rights until
38 now. Positive law still overlaps and biased makes conditions of security in working for domestic
39 workers continue to decline coupled with the fact that there is no legal basis that specifically
40 guarantees welfare and protection of the domestic workers (Waridin et al., 2020). Coordinator of Jala
41 Domestic Worker, Lita Anggraini stated that there is no state responsibility to provide protection to
42 its citizens who work as domestic workers in the form of recognition and redistribution of their
43 welfare who work to contribute nation's economy (Astria, 2018).

44 One of the rights inherent in every human being is the right for decent work and livelihood.
45 Eligible refers to be reasonable, appropriate, proper, noble and honorable. The 1945 Constitution of
46 the Republic of Indonesia Article 27 paragraph (2) states that each citizen has the right to work and a
47 decent living for humanity. Article 5 of the International Labor Organization (ILO) Convention No.
48 189 of 2011 concerning Decent Work for Domestic Workers ensures that every Member must take

49 steps to ensure that domestic workers enjoy effective protection against all types of abuse,
50 harassment and violence. However, Indonesia is one of the countries that has not ratified the ILO
51 Conventions so that in Law No. 13 of 2003 concerning Manpower only stated that every
52 worker/laborer has the right to obtain protection.

53 The stereotype of domestic workers is as lowly work that can be done without the need for
54 education, special skills, and can be done by everyone, and commercially low valued (Eriyanti, 2017).
55 Domestic workers are also still close to the image of servants who must obey the employer and there
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59 The barrier can actually be avoided, so in fact the violence can also be avoided if the barrier is
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62 insults, is also widely recognized as violence.

63 The increase in violence occurs in line with the needs of society, technological development and
64 intense interaction accompanied by individualistic human nature. Humans as social beings always
65 interact and need fellow humans and other creatures in their lives. Humans work, get married, visit
66 each other, eat and drink and do social activities and other activities. Humans as individuals have
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70 reaction either in the form of a conflict of ideas or roughly in the form of violence. Acts of violence to
71 other parties are forms of human activity which have indications against the law or contrary to
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73 (Anjari, 2014). Physical violence against domestic workers falls into the category of domestic violence
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77 The problem of differences in social status also often makes employers act arbitrarily in treating
78 domestic workers. Abominable and very rude treatment as an expression of employers when breaking
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81 (Pangestuti, 2018). The domestic worker and migrant worker have lost their autonomy and ownership
82 and can even be said to be trapped in the status of a slave (Fadilla, 2016; Wati, 2014; Nuraeny, 2015).
83 Previous research by Erly Pangestuti (2018) focused more on psychological violence against domestic
84 workers. Thus, based on the background above, this paper will focus on the formulation of the
85 political problems of the law banning physical violence against domestic workers and the extent to
86 which access to justice can be obtained by victims amid the structure, substance and culture of law
87 that is based on Lawrence Friedman's Theory.

89 2. Consistency and Coherence of the Prohibition of Physical Violence Against Domestic 90 Workers

91
92 Discussions related to domestic workers became one of the topics that received attention from the
93 ILO. In 2011, the ILO issued Convention No. 189 on Decent Work for Domestic Workers. At present
94 there are 25 countries that have ratified it. This convention as proof that domestic workers need to
95 get legal protection as human beings who have human rights. This Convention mandates the
96 existence of standards for domestic workers, such as basic rights for workers, promotion and
97 protection of the human rights of all workers, respecting and protecting basic principles and rights at

98 work such as freedom of association and the elimination of all forms of work forces or compulsory
99 labor, elimination of child labor, elimination of discrimination in term of work and position

100 Effective protection from all forms of abuse, harassment and violence. Fair work conditions and
101 decent living conditions. In addition, before domestic workers work, information must be given
102 about the terms and conditions of work that they will live in an easily understood way. ILO
103 Convention No. 189 of 2011 concerning Decent Work for Domestic Workers is a legal protection for
104 domestic workers worldwide and provides a basis for providing recognition and guarantees for
105 domestic workers to obtain decent working conditions as workers in the formal sector.

106 The contents of this ILO Convention are the basic rights and minimum standards that must be
107 met in the prohibition of the treatment of violence against domestic workers, especially in Article 5
108 which reads Each Member must take steps to ensure that domestic workers enjoy effective protection
109 against all types of abuse, harassment and violence. Each Member referred to in this Convention are
110 countries which have ratified it. This process has not been carried out by Indonesia so that these
111 values, basic rights and minimum standards cannot be incorporated into national legislation with
112 Pancasila as a filter. At this stage, it can be seen that there is an inconsistency of the Indonesian state
113 in realizing one of the national goals which is to protect the entire nation and the whole of
114 Indonesian blood.

115 The national goals of the Indonesian people as stipulated in the fourth paragraph of the opening
116 of the National Constitution of the Republic of Indonesia concerning the protection of the whole
117 nation and the whole of Indonesian blood are spelled out one of them in Article 27 paragraph (2)
118 which states that each citizen has the right to work and a decent living for humanity. Then every
119 citizen has the right and guaranteed by the state in working for a life without physical pressure or
120 violence. In this stage it can be seen that the founders of the nation actually have included human
121 values for every citizen who works including domestic workers. However, the increase in the number
122 of violence against domestic workers in Indonesia which reached September 2016 has reached 217
123 cases (Bayu, 2016), should encourage the government to immediately ratify ILO Convention No. 189
124 of 2011 concerning to strengthen the consistency and coherence of the implementation of national
125 goals and Article 27 paragraph (2) in The 1945 Constitution of the Republic of Indonesia.

126 Law No. 13 of 2003 concerning Manpower also does not clearly and strongly regulate the
127 prohibition of physical violence for workers, in this case domestic workers. Article 86 paragraph (1)
128 letter c only states that every worker/ laborer has the right to obtain protection for treatment in
129 accordance with human dignity and values and religious values. No further information can be found
130 regarding this article in the Explanation although it is implied that this article is intended to provide
131 equal treatment to workers without differentiating their status and employment relationship
132 (Khakim, 2014). Law No. 13 of 2003 regarding Manpower is more about accommodating
133 workers/laborers in the formal sector who have work safety standards while domestic workers as
134 informal sector workers are full of it. Article 2 of Law No. 23 of 2004 concerning Domestic Violence
135 states that domestic workers are also included in the household. Nonetheless, with the rampant
136 physical violence experienced by domestic workers, the protection of domestic workers' rights as
137 victims has not been realized as the focus of accommodation rights should fall on non-domestic
138 workers.

139 The lack of consistency and coherence of the constitution, the ratification of conventions and
140 regulations is what causes the emergence of gaps in the the politics of law of prohibiting physical
141 violence for domestic workers, namely in their implementation and implementation. There are so
142 many cases that are not raised to the public caused by the inconsistency and incoherence of the
143 political law prohibiting physical violence for domestic workers from. Implementation at the lowest
144 level between employers and domestic workers will be very vulnerable to physical violence if the legal

145 basis above is not strong, consistent and coherent. Strong the politics of law will also strengthen
 146 socialization to everyone who uses the services of domestic workers as a preventive measure and
 147 reinforces sanctions imposed on anyone who commits physical violence against domestic workers as
 148 a repressive effort rather than just moral sanctions.

149 As a form of law reform, the ratification of ILO Convention No. 189 of 2011 and the
 150 establishment of legislation that specifically regulates the prohibition of violence for domestic
 151 workers is very necessary because Indonesia already has a strong basis inherited by the founders of
 152 the nation contained in national goals. In addition, the ratification of ILO Convention No. 189 of 2011
 153 concerning Decent Work for Domestic Workers needs to be carried out by the Indonesian
 154 government, with the reason, first, the conditions of domestic workers who are still in the informal
 155 sector are considered unproductive and have no social and political value; second, there is no specific
 156 law governing the problems of domestic workers; third, the existence of a neighboring country which
 157 is also one of the largest labor exporters in Southeast Asia which has ratified the convention and
 158 provided protection for domestic workers. For the Indonesian government, ratifying this convention
 159 will both show and reflect the government's commitment to guarantee the recognition and legal
 160 protection of its citizens (Mulyanto, 2018). The existence of Indonesian domestic workers is very close
 161 to the issue of violence, both physical violence and sexual harassment to rape. ILO Convention No.
 162 189 of 2011 provides regulations and protections for domestic workers. This convention is very
 163 important for Indonesia in accordance with the government's commitment to the international
 164 community to protect migrant workers, the majority of whom work as domestic workers. However,
 165 Indonesia does not explicitly support the need for the protection of domestic workers (Farida et al.,
 166 2019).

167 In the concept of national interest, it is explained that for the survival of one country, the state
 168 must meet the needs of its country in other words achieving its national interests. With the
 169 achievement of national interests, the country will run stably, both in terms of political, economic,
 170 social, as well as defense and security. The role of domestic workers is very helpful for public life even
 171 though the role played by domestic workers is often not noticed by the public. In addition to
 172 contributing to public life, domestic workers are jobs that provide a greater economic contribution,
 173 not only to domestic workers' families and service users, but also to employers who do not have to
 174 take care of domestic work and continue to work in the public sector, then work matters the
 175 household is left to the domestic worker. Indonesia's interest in the ratification of ILO Convention
 176 No. 189 of 2011 is because Indonesia has a large number of domestic workers, this is one of the reasons
 177 for Indonesia to take part in the convention. In addition, Indonesia must continue to maintain its
 178 existence as a country that protects domestic workers (Anugrah & Jamaan, 2014). The ratification of
 179 ILO Convention Number 189 of 2011 also requires the role of domestic workers in order to improve
 180 the the politics of law of prohibiting physical violence against domestic workers to create guarantees
 181 of decent work and living conditions (Silitonga, 2014). Domestic workers can proactively urge the
 182 government to immediately ratify.

184 **3. Access to Justice as Crucial Issue for Domestic Worker Legal Protection**

185
 186 Access to justice is one of the crucial issues for Indonesia as a state of law. Access to justice is open to
 187 all migrant workers and domestic, formal and informal. Workers in general experience problems in
 188 accessing justice so Indonesia, which holds constitutional principles, is committed that all people
 189 have equal rights before the law as a form of justice for all. However, in reality, not everyone can
 190 access justice. The weak, vulnerable, financial and marginalized are the most often experiencing
 191 difficulties in accessing justice, one of which is the domestic workers. One example of victims is Ek

192 Febriyanti, a domestic helper who get violence from her employer in Bali, Indonesia. Eka has so far
193 been able to sue her employer based on Law No. 23 of 2004 concerning Domestic Violence because
194 there are no instruments that lex specifically and pro-people are protecting domestic workers from
195 violence. However, she has difficulty accessing justice because they are under a state of
inconsistency

196 and incoherence in the prohibition of physical violence against employer pressure by employers.
197 Access to justice has several aspects. The first aspect of access to justice is fair and pro-people
198 law. The law in this case is manifested in legislation in writing. The absence of laws and regulations
199 specifically regarding the prohibition of violence for domestic workers has prevented access to
200 justice. The employer in some cases can only be prosecuted by Law No. 23 of 2004 concerning
201 Domestic Violence. This is clearly unfair because employee's and employer's relationship is an
202 employer and domestic work relationship not a familial relationship, although they are living in the
203 same house. Thus, the positive law used for perpetrators of physical violence against domestic
204 workers is not yet pro domestic workers as a weak party.

205 The second aspect is legal literacy. Legal literacy is closely related to all forms of socialization
206 and legal education, both directly and indirectly, for example by creating legal slogans inherent in the
207 hearts of the people. Legal socialization and counseling is specifically intended to convey or inform
208 the law to people who do not know the law. Because ideally every citizen must know and be aware of
209 the law early on (Jawardi, 2016). Domestic helper who is under employer pressure is very difficult to
210 get legal literacy on what she is going through. At the same time the employer is also not legal literate
211 because it treats domestic workers who are required to service improperly and inhumanely.
212 Therefore, that in the prohibition of physical violence against domestic workers who must get legal
213 literacy are both parties both employers and domestic workers. The third aspect is legal identity.
214 Legal identity in this case is identification such as ID card, Driving Lisence and Passport. In this case
215 there was no explanation as to whether the employer detained the identity of the domestic worker so
216 as not to escape.

217 The fourth aspect is legal assistance. Legal assistance in this case can be obtained through the
218 protection of the Witness and Victim Protection Agency. The state is responsible for the protection of
219 human rights as clearly stated in Article 28I paragraph (4) of the 1945 Constitution of the Republic of
220 Indonesia which states that the protection, promotion, enforcement and fulfillment of human rights
221 are the responsibility of the state, especially the government. Law No. 13 Year 2006 concerning the
222 Protection of Witnesses and Victims regulates an institution that is responsible for handling the
223 protection and assistance of witnesses and victims, which is called the Witness and Victim Protection
224 Agency that has the duty and authority to provide protection and assistance to witnesses and victims.
225 The scope of protection is at all stages of the criminal justice process, so that witnesses and/or victims
226 feel safe when providing information (Tuage, 2013).

227 Access to justice can also be reviewed from the legal system theory by Lawrence M. Friedman
228 (1975) which states that the legal system consists of a set of legal structures, legal substance in form of
229 legislation and legal culture. In Indonesia speaking of the legal structure, it refers to the structure of
230 law enforcement institutions, such as the police, prosecutors and courts. In this case the legal
231 structure is seen from the police and Witness and Victim Protection Agency. Another aspect of the
232 legal system is its substance (Ali, 2002; Diamantina & Lita Tyesta, 2019). Substance is the rules,
233 norms, and patterns of real human behavior that are in the system. The substance of the law
234 concerns the applicable laws and regulations which have binding power and become guidelines for
235 law enforcement officers. The statutory regulations used in this case are Law No. 23 of 2004
236 concerning Domestic Violence.

237 Law No. 13 of 2003 concerning Manpower in article 1 paragraph (5) concerning employment
238 relations is the relationship between employers and workers/laborers based on work agreements that

have elements of work, wages and orders. This is precisely where the problem lies whether the employer's position can be compared to an entrepreneur who is clearly a legal entity. Besides the dispute settlement mechanism because the institution authorized to settle disputes or who have absolute competence in the Manpower Act is an industrial relations court. This institution cannot accept disputes between domestic workers and employers, because of different legal interpretations. With these problems, the Manpower Act does not reach out to domestic workers so that the provisions contained therein cannot regulate the problems of domestic workers (Wati, 2014). Legal culture concerns legal culture which is the attitude of humans, including the legal culture of law enforcement officials, towards the law and legal system. A poor legal culture is seen in this case, namely the physical abuse of employers against weak domestic workers. No matter how well the legal structure is structured to carry out the established legal rules and as well as any quality of legal substance created without the support of a legal culture by people involved in the system and society, law enforcement will not run effectively.

These three aspects according to Lawrence Friedman are a unity in supporting the system to build good law in a country (Saifullah, 2007). All three must work together because they are interrelated. In this case there are still inaccuracies in the use of Law No. 23 of 2004 concerning Domestic Violence as a legal substance and bad legal culture of employers who apply arbitrarily to subordinates in this case domestic workers. Aspects of this theory together with aspects of access to justice can be used to create law reforms prohibiting physical violence against domestic workers.

4. Conclusion

The the politics of law of prohibiting physical violence against domestic workers experienced inconsistencies and incoherence because even though it has been stated in the constitution as a national goal and the rights of all citizens, Indonesia has not ratified ILO Convention No. 189 of 2011 which is very important in protecting the rights of domestic workers due to violence more and more physical things happen. As a result there are no laws and regulations which specifically regulate the prohibition of violence against domestic workers. Law No. 13 of 2003 concerning Labor does not protect informal sector workers and does not regulate strict sanctions and so far cases of physical violence against domestic workers still use Law No. 23 of 2004 concerning Domestic Violence which emphasizes domestic workers not as workers but as a household member. In this case, law reform supported by related stake holders is needed.

References

- Ali, A. (2002). *Legal Deterioration in Indonesia [Indonesian]*. Jakarta: Ghalia Indonesia.
- Anjari, W. (2014). The Phenomenon of Violence as a Form of Crime (Violence) [Indonesian]. *Journal of Widya Yustisia* 1(1), 42-51.
- Anugrah, D. P., & Jamaan, A. (2014). Indonesian Interest in International Labor Organization (ILO) Convention No.189 [Indonesian]. *Online Journal of Social and Political Science Students in Riau University*, 1(2), 1-15.
- Astria, D. (2018, 10 March). *Jala PRT: Negara Abaikan Kesejahteraan PRT*. Retrieved Feb 26, 2020 from <https://www.industry.co.id/read/27884/jala-prt-negara-abaikan-kesejahteraan-prt>
- Bayu, D.J. (2016, Sept. 9). *Hingga September 2016, Kekerasan terhadap PRT Capai 217 Kasus*. Retrieved July 7, 2019 from <https://nasional.kompas.com/read/2016/09/15/16403781/hingga.september.2016.kekerasan.terhadap.prt.capai.217.kasus>
- Diamantina, A., & Lita Tyesta, A.L.W. (2019). Responding to beginner voters in general elections: Between situational aspects and political actualization. *International Journal of Scientific and Technology Research* 8(11), 2005-2007
- Eriyanti, L. D. (2016). Empowering Women Domestic Workers: Violence Analysis and Prevention Strategies. *Proceedings of the Faculty of Social Sciences, University of Jember, 2016, 2017, 67-79*.

- 289 Fadilla, N. (2016). Upaya Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Perdagangan
290 Orang. *Jurnal Hukum dan Peradilan*, 5(2), 181-194.
- 291 Farida, E., Rahayu, & Wijaningsih, D. (2019). Politics and legal philosophy of Indonesian migrant worker
292 protection: Case study in Malaysia. *International Journal of Scientific and Technology Research* 8(11), 2002-
293 2004
- 294 Friedman, Lawrence M. *The legal system: A social science perspective*. Russell Sage Foundation, 1975.
- 295 Galtung, J. (1969). Violence, Peace and Peace Research. *Journal of Peace Research*, 6(3), 167-191.
- 296 Jawardi. (2016). Legal Culture Development Strategy [Indonesian]. *De Jure's Legal Research Journal*, 16(1), 1-29.
- 297 Khakim, A. (2014). *Fundamentals of Indonesian Labor Law [Indonesian]*. Bandung: Citra Aditya Bakti.
- 298 Kumparannews. (2018, 9 March). *Mempertanyakan Peran Negara atas Nasib PRT*. Retrieved July 7, 2019 from
299 <https://kumparan.com/kumparannews/menggugat-negara-sebagai-pelaku-kekerasan-terhadap-prt>
- 300 Mulyanto. (2018). The Urgency of the Ratification of the Decent Work Convention for Domestic Workers: Efforts
301 to Increase Protection [Indonesian]. *Law: Journal of Law*, 1(1), 109-133.
- 302 Nuraeny, H. (2015). Pengiriman Tenaga Kerja Migran Sebagai Salah Satu Bentuk Perbudakan Modern dari Tindak
303 Pidana Perdagangan Orang. *Jurnal Hukum dan Peradilan*, 4(3), 501-518..

- 304 Pangestuti, E. (2018). Victims of Psychological Violence Against Psychic Domestic Helper [Indonesian].
305 Yustitiabelen Journal, 4(1), 27-49.
- 306 Rafilis, R. I., Rochaeti, N., & Wijaningsih, D. (2016). Perlindungan Hukum Bagi Pekerja Rumah Tangga Perempuan
307 Korban Tindak Kekerasan. *Diponegoro Law Journal*, 5(3), 1-26.
- 308 Saifullah. (2007). *Reflection of Legal Sociology [Indonesian]*. Bandung: Refika Aditama.
- 309 Setiadi, E. (2001). Legal Protection for Women from Violence [Indonesian]. *Mimbar: Journal of Social and*
311 *Development*, 17(3), 338-354.
- 312 Silitonga, N. (2014). The effectiveness of ILO Convention No. 189 Against Filipino Domestic Workers [Indonesian].
313 *Online Journal of Social and Political Science Students in Riau University*, 2(1), 1-10.
- 314 Subekti, R. P. (2018). The Urgency of Ratification of the International Labor Organization Convention:
315 Perspectives on the Protection of Child Labor in the Household Sector [Indonesian]. *Journal of Udayana's*
316 *Masters of Law*, 7(1), 24-36.
- 317 Tuage, S. N. (2013). Legal Protection of Witnesses and Victims by the Witness and Victim Protection Agency
318 (LPSK) [Indonesian]. *Lex Crimen Journal*, 2(2), 56-64.
- 319 Waridin, W., Dwiyanto, B.M., Saraswati, R., Mafruhah, I. (2020). Formulation of problem-solving design for
320 indonesian informal sector migrant workers towards post-placement independence: Case study in Malaysia.
321 *Research in World Economy* 11(1), 115-122.
- 322 Wati, B. E. (2014). Dimensions of Legal Protection for Domestic Workers in the Era of Industrialization
323 [Indonesian]. *Palastren Journal*, 7(1), 153-168.

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The Politics of Law in Prohibiting Physical Violence for Domestic Workers in the Largest Economy in Southeast Asia

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Abstract

Physical violence from employers is a common thing for domestic helpers, even though the right to work and decent livelihood is the right of every human being. The politics of law of prohibiting physical violence for domestic workers in Indonesia is still very weak even though it has strong correlation to access to justice. This study uses a normative juridical method with an analytical descriptive approach and a case through secondary data. The results show that physical violence against domestic workers had not yet obtained a strict, consistent and coherent arrangement in terms of the politics of law of conventions, constitutions and regulations so that access to justice for domestic workers who experienced physical violence is difficult to obtain.

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1. Introduction

The International Labor Organization survey, ILO-IPEC shows that the total number of domestic workers in Indonesia in 2016 was 2,593,399 people (Rafli, et al., 2016) and in 2018 reaches 2,6 million people (Subekti, 2018). This amount is one of the largest in the world. The International Labor Organization Director for Indonesia and Timor Leste, Michiko Miyamoto, stated that employment as domestic workers is one of the worst working conditions groups in the world (Kumparannews, 2018). Domestic workers have not received a decent work situation as a manifestation of human rights until now. Positive law still overlaps and biased makes conditions of security in working for domestic workers continue to decline coupled with the fact that there is no legal basis that specifically guarantees welfare and protection of the domestic workers (Waridin et al., 2020). Coordinator of Jala

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One of the rights inherent in every human being is the right for decent work and livelihood. Eligible refers to be reasonable, appropriate, proper, noble and honorable. The 1945 Constitution of the Republic of Indonesia Article 27 paragraph (2) states that each citizen has the right to work and a decent living for humanity. Article 5 of the International Labor Organization (ILO) Convention No. 189 of 2011 concerning Decent Work for Domestic Workers ensures that every Member must take

steps to ensure that domestic workers enjoy effective protection against all types of abuse, harassment and violence. However, Indonesia is one of the countries that has not ratified the ILO Conventions so that in Law No. 13 of 2003 concerning Manpower only stated that every worker/laborer has the right to obtain protection.

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The increase in violence occurs in line with the needs of society, technological development and intense interaction accompanied by individualistic human nature. Humans as social beings always interact and need fellow humans and other creatures in their lives. Humans work, get married, visit each other, eat and drink and do social activities and other activities. Humans as individuals have different personalities, both different goals and outlook on life, character, region of origin, ethnicity, religion, culture, habits, and so on (Galtung. 1969). These differences can affect the process of interaction and can trigger conflicts that are dilator behind by conflict of interest and cause a reaction either in the form of a conflict of ideas or roughly in the form of violence. Acts of violence to other parties are forms of human activity which have indications against the law or contrary to applicable laws, which can be in the form of physical acts that are real to the death of the victim (Anjari. 2014). Physical violence against domestic workers falls into the category of domestic violence with characteristics including being carried out in the house, behind closed doors, with physical and/or psychological violence/torture, carried out by people who have close relations with victims and repeatedly (Setiadi, 2001).

The problem of differences in social status also often makes employers act arbitrarily in treating domestic workers. Abominable and very rude treatment as an expression of employers when breaking the law but only as an act to make a servant deterrent and not repeat his mistakes again. The weakness of the position of aides makes cases of violence against them untouched by the law (Pangestuti, 2018). The domestic worker and migrant worker have lost their autonomy and ownership and can even be said to be trapped in the status of a slave (Fadilla, 2016; Wati, 2014; Nuraeny, 2015). Previous research by Erly Pangestuti (2018) focused more on psychological violence against domestic workers. Thus, based on the background above, this paper will focus on the formulation of the political problems of the law banning physical violence against domestic workers and the extent to which access to justice can be obtained by victims amid the structure, substance and culture of law that is based on Lawrence Friedman's Theory.

2. Consistency and Coherence of the Prohibition of Physical Violence Against Domestic Workers

Discussions related to domestic workers became one of the topics that received attention from the ILO. In 2011, the ILO issued Convention No. 189 on Decent Work for Domestic Workers. At present there are 25 countries that have ratified it. This convention is proof that domestic workers need to get legal protection as human beings who have human rights. This Convention mandates the existence of standards for domestic workers, such as basic rights for workers, promotion and protection of the human rights of all workers, respecting and protecting basic principles and rights at work such as freedom of association and the elimination of all forms of work forced or compulsory labor, elimination of child labor, elimination of discrimination in terms of work and position.

Effective protection from all forms of abuse, harassment and violence. Fair work conditions and decent living conditions. In addition, before domestic workers work, information must be given about the terms and conditions of work that they will live in an easily understood way. ILO Convention No. 189 of 2011 concerning Decent Work for Domestic Workers is a legal protection for domestic workers worldwide and provides a basis for providing recognition and guarantees for domestic workers to obtain decent working conditions as workers in the formal sector.

The contents of this ILO Convention are the basic rights and minimum standards that must be met in the prohibition of the treatment of violence against domestic workers, especially in Article 5 which reads Each Member must take steps to ensure that domestic workers enjoy effective protection against all types of abuse, harassment and violence. Each Member referred to in this Convention are countries which have ratified it. This process has not been carried out by Indonesia so that these values, basic rights and minimum standards cannot be incorporated into national legislation with Pancasila as a filter. At this stage, it can be seen that there is an inconsistency of the Indonesian state in realizing one of the national goals which is to protect the entire nation and the whole of Indonesian blood.

The national goals of the Indonesian people as stipulated in the fourth paragraph of the opening of the National Constitution of the Republic of Indonesia concerning the protection of the whole nation and the whole of Indonesian blood are spelled out one of them in Article 27 paragraph (2) which states that each citizen has the right to work and a decent living for humanity. Then every citizen has the right and guaranteed by the state in working for a life without physical pressure or violence. In this stage it can be seen that the founders of the nation actually have included human values for every citizen who works including domestic workers. However, the increase in the number of violence against domestic workers in Indonesia which reached September 2016 has reached 217 cases (Bayu, 2016), should encourage the government to immediately ratify ILO Convention No. 189 of 2011 concerning to strengthen the consistency and coherence of the implementation of national goals and Article 27 paragraph (2) in The 1945 Constitution of the Republic of Indonesia.

Law No. 13 of 2003 concerning Manpower also does not clearly and strongly regulate the prohibition of physical violence for workers, in this case domestic workers. Article 86 paragraph (1) letter c only states that every worker/ laborer has the right to obtain protection for treatment in accordance with human dignity and values and religious values. No further information can be found regarding this article in the Explanation although it is implied that this article is intended to provide equal treatment to workers without differentiating their status and employment relationship (Khakim, 2014). Law No. 13 of 2003 regarding Manpower is more about accommodating workers/laborers in the formal sector who have work safety standards while domestic workers as informal sector workers are full of it. Article 2 of Law No. 23 of 2004 concerning Domestic Violence states that domestic workers are also included in the household. Nonetheless, with the rampant physical violence experienced by domestic workers, the protection of domestic workers' rights as victims has not been realized as the focus of accommodation rights should fall on non-domestic workers.

The lack of consistency and coherence of the constitution, the ratification of conventions and regulations is what causes the emergence of gaps in the the politics of law of prohibiting physical violence for domestic workers, namely in their implementation and implementation. There are so many cases that are not raised to the public caused by the inconsistency and incoherence of the political law prohibiting physical violence for domestic workers from. Implementation at the lowest

level between employers and domestic workers will be very vulnerable to physical violence if the legal basis above is not strong, consistent and coherent. Strong the politics of law will also strengthen socialization to everyone who uses the services of domestic workers as a preventive measure and reinforces sanctions imposed on anyone who commits physical violence against domestic workers as a repressive effort rather than just moral sanctions.

As a form of law reform, the ratification of ILO Convention No. 189 of 2011 and the establishment of legislation that specifically regulates the prohibition of violence for domestic

workers is very necessary because Indonesia already has a strong basis inherited by the founders of the nation contained in national goals. In addition, the ratification of ILO Convention No. 189 of 2011 concerning Decent Work for Domestic Workers needs to be carried out by the Indonesian government, with the reason, first, the conditions of domestic workers who are still in the informal sector are considered unproductive and have no social and political value; second, there is no specific law governing the problems of domestic workers; third, the existence of a neighboring country which is also one of the largest labor exporters in Southeast Asia which has ratified the convention and provided protection for domestic workers. For the Indonesian government, ratifying this convention will both show and reflect the government's commitment to guarantee the recognition and legal protection of its citizens (Mulyanto, 2018). The existence of Indonesian domestic workers is very close to the issue of violence, both physical violence and sexual harassment to rape. ILO Convention No.

189 of 2011 provides regulations and protections for domestic workers. This convention is very important for Indonesia in accordance with the government's commitment to the international community to protect migrant workers, the majority of whom work as domestic workers. However, Indonesia does not explicitly support the need for the protection of domestic workers (Farida et al., 2019).

In the concept of national interest, it is explained that for the survival of one country, the state must meet the needs of its country in other words achieving its national interests. With the achievement of national interests, the country will run stably, both in terms of political, economic, social, as well as defense and security. The role of domestic workers is very helpful for public life even though the role played by domestic workers is often not noticed by the public. In addition to contributing to public life, domestic workers are jobs that provide a greater economic contribution, not only to domestic workers' families and service users, but also to employers who do not have to take care of domestic work and continue to work in the public sector, then work matters the household is left to the domestic worker. Indonesia's interest in the ratification of ILO Convention No. 189 of 2011 is because Indonesia has a large number of domestic workers, this is one of the reasons for Indonesia to take part in the convention. In addition, Indonesia must continue to maintain its existence as a country that protects domestic workers (Anugrah & Jamaan, 2014). The ratification of ILO Convention Number 189 of 2011 also requires the role of domestic workers in order to improve the politics of law of prohibiting physical violence against domestic workers to create guarantees of decent work and living conditions (Silitonga, 2014). Domestic workers can proactively urge the government to immediately ratify.

3. Access to Justice as Crucial Issue for Domestic Worker Legal Protection

Access to justice is one of the crucial issues for Indonesia as a state of law. Access to justice is open to all migrant workers and domestic, formal and informal. Workers in general experience problems in accessing justice so Indonesia, which holds constitutional principles, is committed that all people have equal rights before the law as a form of justice for all. However, in reality, not everyone can access justice. The weak, vulnerable, financial and marginalized are the most often experiencing difficulties in accessing justice, one of which is the domestic workers. One example of victims is Eka Febriyanti, a domestic helper who get violence from her employer in Bali, Indonesia. Eka has so far been able to sue her employer based on Law No. 23 of 2004 concerning Domestic Violence because there are no instruments that lex specifically and pro-people are protecting domestic workers from

violence. However, she has difficulty accessing justice because they are under a state of inconsistency and incoherence in the prohibition of physical violence against employer pressure by employers.

Access to justice has several aspects. The first aspect of access to justice is fair and pro-people law. The law in this case is manifested in legislation in writing. The absence of laws and regulations specifically regarding the prohibition of violence for domestic workers has prevented access to justice. The employer in some cases can only be prosecuted by Law No. 23 of 2004 concerning Domestic Violence. This is clearly unfair because employee's and employer's relationship is an

employer and domestic work relationship not a familial relationship, although they are living in the same house. Thus, the positive law used for perpetrators of physical violence against domestic workers is not yet pro domestic workers as a weak party.

The second aspect is legal literacy. Legal literacy is closely related to all forms of socialization and legal education, both directly and indirectly, for example by creating legal slogans inherent in the hearts of the people. Legal socialization and counseling is specifically intended to convey or inform the law to people who do not know the law. Because ideally every citizen must know and be aware of the law early on (Jawardi, 2016). Domestic helper who is under employer pressure is very difficult to get legal literacy on what she is going through. At the same time the employer is also not legal literate because it treats domestic workers who are required to service improperly and inhumanely. Therefore, that in the prohibition of physical violence against domestic workers who must get legal literacy are both parties both employers and domestic workers. The third aspect is legal identity. Legal identity in this case is identification such as ID card, Driving License and Passport. In this case there was no explanation as to whether the employer detained the identity of the domestic worker so as not to escape.

The fourth aspect is legal assistance. Legal assistance in this case can be obtained through the protection of the Witness and Victim Protection Agency. The state is responsible for the protection of human rights as clearly stated in Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia which states that the protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government. Law No. 13 Year 2006 concerning the Protection of Witnesses and Victims regulates an institution that is responsible for handling the protection and assistance of witnesses and victims, which is called the Witness and Victim Protection Agency that has the duty and authority to provide protection and assistance to witnesses and victims. The scope of protection is at all stages of the criminal justice process, so that witnesses and/or victims feel safe when providing information (Tuage, 2013).

Access to justice can also be reviewed from the legal system theory by Lawrence M. Friedman (1975) which states that the legal system consists of a set of legal structures, legal substance in form of legislation and legal culture. In Indonesia speaking of the legal structure, it refers to the structure of law enforcement institutions, such as the police, prosecutors and courts. In this case the legal structure is seen from the police and Witness and Victim Protection Agency. Another aspect of the legal system is its substance (Ali, 2002; Diamantina & Lita Tyesta, 2019). Substance is the rules, norms, and patterns of real human behavior that are in the system. The substance of the law concerns the applicable laws and regulations which have binding power and become guidelines for law enforcement officers. The statutory regulations used in this case are Law No. 23 of 2004 concerning Domestic Violence.

Law No. 13 of 2003 concerning Manpower in article 1 paragraph (5) concerning employment relations is the relationship between employers and workers/laborers based on work agreements that have elements of work, wages and orders. This is precisely where the problem lies whether the employer's position can be compared to an entrepreneur who is clearly a legal entity. Besides the dispute settlement mechanism because the institution authorized to settle disputes or who have absolute competence in the Manpower Act is an industrial relations court. This institution cannot accept disputes between domestic workers and employers, because of different legal interpretations. With these problems, the Manpower Act does not reach out to domestic workers so that the provisions contained therein cannot regulate the problems of domestic workers (Wati, 2014).

Legal culture concerns legal culture which is the attitude of humans, including the legal culture of law enforcement officials, towards the law and legal system. A poor legal culture is seen in this case, namely the physical abuse of employers against weak domestic workers. No matter how well the legal structure is structured to carry out the established legal rules and as well as any quality of legal substance created without the support of a legal culture by people involved in the system and society, law enforcement will not run effectively.

These three aspects according to Lawrence Friedman are a unity in supporting the system to

build good law in a country (Saifullah, 2007). All three must work together because they are interrelated. In this case there are still inaccuracies in the use of Law No. 23 of 2004 concerning Domestic Violence as a legal substance and bad legal culture of employers who apply arbitrarily to subordinates in this case domestic workers. Aspects of this theory together with aspects of access to justice can be used to create law reforms prohibiting physical violence against domestic workers.

4. Conclusion

The the politics of law of prohibiting physical violence against domestic workers experienced inconsistencies and incoherence because even though it has been stated in the constitution as a national goal and the rights of all citizens, Indonesia has not ratified ILO Convention No. 189 of 2011 which is very important in protecting the rights of domestic workers due to violence more and more physical things happen. As a result there are no laws and regulations which specifically regulate the prohibition of violence against domestic workers. Law No. 13 of 2003 concerning Labor does not protect informal sector workers and does not regulate strict sanctions and so far cases of physical violence against domestic workers still use Law No. 23 of 2004 concerning Domestic Violence which emphasizes domestic workers not as workers but as a household member. In this case, law reform supported by related stake holders is needed.

References

- Ali, A. (2002). *Legal Deterioration in Indonesia [Indonesian]*. Jakarta: Ghalia Indonesia.
- Anjari, W. (2014). The Phenomenon of Violence as a Form of Crime (Violence) [Indonesian]. *Journal of Widya Yustisia* 1(1), 42-51.
- Anugrah, D. P., & Jamaan, A. (2014). Indonesian Interest in International Labor Organization (ILO) Convention No.189 [Indonesian]. *Online Journal of Social and Political Science Students in Riau University*, 1(2), 1-15.
- Astria, D. (2018, 10 March). *Jala PRT: Negara Abaikan Kesejahteraan PRT*. Retrieved Feb 26, 2020 from <https://www.industry.co.id/read/27884/jala-prt-negara-abaikan-kesejahteraan-prt>
- Bayu, D.J. (2016, Sept. 9). *Hingga September 2016, Kekerasan terhadap PRT Capai 217 Kasus*. Retrieved July 7, 2019 from <https://nasional.kompas.com/read/2016/09/15/16403781/hingga.september.2016.kekerasan.terhadap.prt.capai.217.kasus>
- Diamantina, A., & Lita Tyesta, A.L.W. (2019). Responding to beginner voters in general elections: Between situational aspects and political actualization. *International Journal of Scientific and Technology Research* 8(11), 2005-2007
- Eriyanti, L. D. (2016). Empowering Women Domestic Workers: Violence Analysis and Prevention Strategies. *Proceedings of the Faculty of Social Sciences, University of Jember*, 2016, 2017, 67-79.
- Fadilla, N. (2016). Upaya Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Perdagangan Orang. *Jurnal Hukum dan Peradilan*, 5(2), 181-194.
- Farida, E., Rahayu, & Wijaningsih, D. (2019). Politics and legal philosophy of Indonesian migrant worker protection: Case study in Malaysia. *International Journal of Scientific and Technology Research* 8(11), 2002- 2004

- Friedman, Lawrence M. *The legal system: A social science perspective*. Russell Sage Foundation, 1975. Galtung, J. (1969). Violence, Peace and Peace Research. *Journal of Peace Research*, 6(3), 167-191.
- Jawardi. (2016). Legal Culture Development Strategy [Indonesian]. *De Jure's Legal Research Journal*, 16(1), 1-29. Khakim, A. (2014). *Fundamentals of Indonesian Labor Law [Indonesian]*. Bandung: Citra Aditya Bakti.
- Kumparannews. (2018, 9 March). *Mempertanyakan Peran Negara atas Nasib PRT*. Retrieved July 7, 2019 from <https://kumparan.com/kumparannews/menggugat-negara-sebagai-pelaku-kekerasan-terhadap-prt>
- Mulyanto. (2018). The Urgency of the Ratification of the Decent Work Convention for Domestic Workers: Efforts to Increase Protection [Indonesian]. *Law: Journal of Law*, 1(1), 109-133.
- Nuraeny, H. (2015). Pengiriman Tenaga Kerja Migran Sebagai Salah Satu Bentuk Perbudakan Modern dari Tindak Pidana Perdagangan Orang. *Jurnal Hukum dan Peradilan*, 4(3), 501-518.
- Pangestuti, E. (2018). Victims of Psychological Violence Against Psychic Domestic Helper [Indonesian]. *Yustitiabelen Journal*, 4(1), 27-49.
- Rafli, R. I., Rochaei, N., & Wijaningsih, D. (2016). Perlindungan Hukum Bagi Pekerja Rumah Tangga Perempuan Korban Tindak Kekerasan. *Diponegoro Law Journal*, 5(3), 1-26.
- Saifullah. (2007). *Reflection of Legal Sociology [Indonesian]*. Bandung: Refika Aditama.
- Setiadi, E. (2001). Legal Protection for Women from Violence [Indonesian]. *Mimbar: Journal of Social and Development*, 17(3), 338-354.
- Silitonga, N. (2014). The effectiveness of ILO Convention No. 189 Against Filipino Domestic Workers [Indonesian]. *Online Journal of Social and Political Science Students in Riau University*, 2(1), 1-10.
- Subekti, R. P. (2018). The Urgency of Ratification of the International Labor Organization Convention: Perspectives on the Protection of Child Labor in the Household Sector [Indonesian]. *Journal of Udayana's Masters of Law*, 7(1), 24-36.
- Tuage, S. N. (2013). Legal Protection of Witnesses and Victims by the Witness and Victim Protection Agency (LPSK) [Indonesian]. *Lex Crimen Journal*, 2(2), 56-64.
- Waridin, W., Dwiyanto, B.M., Saraswati, R., Mafruhah, I. (2020). Formulation of problem-solving design for Indonesian informal sector migrant workers towards post-placement independence: Case study in Malaysia. *Research in World Economy* 11(1), 115-122.
- Wati, B. E. (2014). Dimensions of Legal Protection for Domestic Workers in the Era of Industrialization [Indonesian]. *Palastren Journal*, 7(1), 153-168.