



Legal Protection of Domestic Workers Who Victims of Domestic Violence in Banyumas Regency

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Abstract

Protection of domestic workers who are victims of domestic violence is essential, considering victims' physical and psychological suffering due to the perpetrator's actions. Law No. 23 of 2004 concerning the Elimination of Domestic Violence and Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia Number 2 of 2015 concerning the Protection of Domestic Workers become judges' legitimacy in enforcing the law against perpetrators of violence against household workers. This study aimed to 1) Knowing and analyzing legal protection against domestic workers who experience domestic violence in Banyumas Regency; 2) Knowing the obstacles in the implementation of legal protection against domestic workers in Banyumas Regency. The method used is juridical normative, namely through a literature study that examines secondary data in-laws and regulations and other legal documents and research results, assessment results, and other references complemented by interview results. The results of this study indicate that 1) Protection of household workers who experience household violence in Banyumas Regency is carried out through assistance by the Integrated Service Center- Handling and Protection of Victims of Gender-Based Violence and Children (PPT-PKBGA) where the Heads of (PPT-PKBGA) facilitates the settlement. Through mediation between employers and domestic workers as well as strive to fulfill their rights for household workers. 2) the obstacles in implementing legal protection for household workers in Banyumas Regency are the lack of public knowledge about the law; lack of courage for domestic workers to report cases of violence they have experienced; as well as the people's view that the problem of domestic violence is personal so that it does not need to be taken out of the household. The advice given is to carry out the law's socialization on the Elimination of Household Violence (UU-PKDRT) No. 23 of 20014 and Regulation of the Minister of Manpower and Transmigration No. 2 of 2015 concerning Protection of Household Workers.

Keywords: Protection, Household Workers, Violence.

Abstrak

Perlindungan terhadap Pekerja Rumah Tangga yang menjadi korban kekerasan dalam rumah tangga sangat penting dilakukan mengingat penderitaan fisik dan psikis yang dialami oleh korban akibat perbuatan pelaku. Undang-Undang No. 23 Tahun 2004 tentang Penghapusan Kekerasan Dalam Rumah Tangga dan Permen Ketenagakerjaan RI Nomor 2 Tahun 2015 tentang Perlindungan Pekerja Rumah Tangga menjadi legitimasi hakim dalam melakukan penegakan hukum terhadap pelaku tindak kekerasan pada Pekerja Rumah Tangga. Tujuan Penelitian ini adalah 1) Mengetahui dan menganalisis perlindungan hukum terhadap PRT yang mengalami kekerasan dalam rumah tangga di Kabupaten Banyumas; 2) Mengetahui kendala-kendala dalam pelaksanaan perlindungan hukum terhadap PRT di Kabupaten Banyumas. Metode yang digunakan adalah yuridis normatif, yaitu melalui studi pustaka yang menelaah data sekunder yang berupa Peraturan Perundang-Undangan dan dokumen hukum lainnya, serta hasil penelitian, hasil pengkajian, serta referensi lainnya dilengkapi dengan wawancara. Hasil penelitian ini adalah 1) Perlindungan terhadap PRT yang mengalami kekerasan dalam rumah tangga di Kabupaten Banyumas dilaksanakan melalui pendampingan oleh PPT-PKBGA dimana ketua PPT-PKBGA memfasilitasi penyelesaian secara mediasi antara majikan dengan PRT serta mengupayakan agar PRT tersebut terpenuhi hak-haknya. 2) kendala-kendala dalam pelaksanaan perlindungan hukum terhadap PRT di Kabupaten Banyumas adalah kurangnya pengetahuan masyarakat tentang hukum; tidak adanya keberanian PRT untuk melaporkan kasus kekerasan yang dialaminya; serta pandangan masyarakat yang menganggap bahwa masalah KDRT adalah masalah pribadi sehingga tidak perlu dibawa keluar rumah tangga. Saran yang diberikan yaitu melaksanakan sosialisasi UU-PKDRT No. 23 Tahun 20014 dan Permenaker No. 2 Tahun 2015 tentang Perlindungan Pekerja Rumah Tangga.

Kata kunci: kata kunci pertama, kata kunci kedua, kata kunci ketiga

I. Introduction

Violence against domestic workers is still common in Indonesia. National Coordinator of the National Network for Domestic Workers Advocacy (*Koordinator Nasional Jaringan Nasional Advokasi Pekerja Rumah Tangga, JALA PRT*) Lita Anggraini explained that until September 2016, there were 217 cases of violence against domestic workers in Indonesia. Lita explained, based on data from the National Coordinator for the Domestic Workers Advocacy Network (*Koordinator Nasional Jaringan Nasional Advokasi Pekerja Rumah Tangga, JALA PRT*), violence against domestic workers covers multi-types of violence, physical violence, and economic violence. The number of multi-type violence reached 41 cases. Multi-type violence is psychological, physical, economic, and sexual violence that is given to domestic workers. Physical violence reached 102 cases, which included beatings, isolation, and economic trafficking of domestic workers. Meanwhile, economic violence due to unpaid wages of domestic workers reached 74 cases. For the last type of cases mostly committed by foreign expatriates, the number reached 70%.¹

Violence against women, especially against domestic workers, generally occurs due to the vulnerable position of women due to the still strong "patriarchal culture," which is subordinate and discriminatory and in the relationship between men and women, husbands and wives, children and parents, workers and employers, the people and the state, teachers, and students, and between subordinates and superiors. Based on the data that the author got from an interview with Tri Wuryaningsih as the head of the Integrated Service Center for the Handling and Protection of Victims of Gender and Child-Based Violence (*Kantor Pusat Pelayanan Terpadu Penanganan dan Perlindungan Korban Kekerasan Berbasis Gender dan Anak, PPT-PKBGA*), it was revealed that the women who were targeted were:

- 1) Young women from low-income families,
- 2) Women whose parents have passed away,
- 3) Widows or divorced women,
- 4) Women with limited education and skills,
- 5) Women who are in economic crisis.

One of the cases of violence against domestic workers occurred in Tipar Village, Rawalo Subdistrict, wherein this case the domestic worker had worked for 22 months but did not get a salary, and the domestic worker received violence from her employer, including cutting her hair until part of her hair was bald, slapping, and pelted with spoons and forks. Receiving this treatment, the domestic worker runs away when her employer leaves. The domestic worker's departure makes the employer try to find her whereabouts, and if she does not return within one week, she will be picked up by the police, but the domestic worker still does not want to return.²

II. Research Problems

1. How is the legal protection for domestic workers who experience violence in Banyumas Regency?
2. What are the obstacles in providing legal protection for domestic workers who experience violence in Banyumas Regency?

III. Research Methods

This type of research is normative research, where this research is a study that examines the study of documents, namely using various secondary data such as statutory regulations, court decisions, legal theory, and can be the opinion of scholars.

¹ Dimas Jarot Bayu, "Hingga September 2016, Kekerasan Terhadap PRT Capai 217 Kasus." Accessed from <https://amp/s/amp.kompas.com/nasional/read/2016/hingga.septemper.2016.kekerasan.terhadap.prt.capai.217.kasus>. On May 07, 2020 at 8:02 p.m.

² Radar Banyumas, "PRT Dianiaya dan Tidak Digaji". Accessed from: radarbanyumas.co.id/prt-dianiaya-dan-tidak-digaji. On April 1, 2020.

This study aims to determine domestic workers' acts of violence (PRT) experienced by one of Banyumas Regency residents who work in Jakarta.

The normative approach is carried out by examining regulations, standard provisions, and library materials related to the study problem. Meanwhile, a qualitative research approach is a research and understanding process based on methods investigating social phenomena and human problems. In this study, the researcher draws a complex picture, examines words, reports detailed views of the respondents, and conducts studies on realistic situations.

This qualitative method is used for several considerations; namely, the qualitative method is more comfortable to adjust when faced with multiple realities, this method presents the essence of the relationship between the researcher and the respondent directly, and this method is more sensitive so that it can adapt and much mutual sharpening of value patterns faced by researchers.³

IV. Result And Discussion

1. Research Results

a. Legislation Related to the Protection of Domestic Workers Who Become Victims of Domestic Violence.

Law Number 23 of 2004 Concerning Domestic Violence. The law is found in Article 22 and Article 23, wherein protecting victims, social workers provide information about victims' rights to receive protection from the police, companion volunteers can also assist victims objectively and thoroughly in exposing domestic violence. Experienced and listened to all the victim's narrative emphatically so that the victim felt safe being accompanied by a companion.

Ministerial Regulation Number 2 of 2015 concerning Protection of Domestic Workers. This regulation aims to protect domestic workers while respecting local customs, culture, and customs. Efforts to protect domestic workers cannot be separated from domestic workers' participation to provide domestic workers' rights as agreed by the parties. Users and Domestic Workers are obliged to make a written or oral work agreement that contains rights and obligations and can be understood by both parties and known by the RT's Head.

b. Interview with the Head of the Integrated Service Center for the Handling and Protection of Victims of Gender and Child-Based Violence (*Kantor Pusat Pelayanan Terpadu Penanganan dan Perlindungan Korban Kekerasan Berbasis Gender dan Anak, PPT-PKBGA*)

Based on the interviews conducted with Triwuryaningsih as the head of the Integrated Service for Handling and Protection of Victims of Gender and Child-Based Violence (PPT-PKBGA) in Banyumas Regency, there is data on violence experienced by Domestic Workers (PRT) from 2018 to 2020. Evidenced by data from 2018, which includes: Migrant Workers: 0 cases, then in 2020, includes Labor: 1 case. Domestic workers work in inappropriate situations, long working hours, workload, there is no straightforward rest, weekly rest and leave, social security, and even prohibitions from socializing in organizations. They also experience various forms of violence. In handling the cases that occurred in Tipar Village, this was carried out through coordination with the local police and assistance from Tri Wuryaningsih as the head of the PPT-PKBGA (Integrated Service Center for the Handling and Protection of Victims of Gender and Child-Based Violence) so that the household assistant can get the rights he should. Get. After assistance, the worker receives compensation from her employer to pay wages on hold for 22 months and peace efforts between the two.

2. Discussion

a. Legal Protection for Domestic Workers Experiencing Domestic Violence in Banyumas Regency.

³ Ahmad Tanzeh and Suyitno, *Dasar-Dasar Penelitian*, (Surabaya: Elkaf, 2016), 116

According to Satjipto Rahardjo, legal protection is the protection of human rights that others have harmed, and this protection is given to the community so that they can enjoy all the rights provided by law. Legal protection is a universal concept of the rule of law. Legal protection consists of preventive legal protection and repressive legal protection, namely: Preventive Legal Protection, which is preventive and defined as prevention. Preventive legal protection means a lot to government actions based on freedom of action because of preventive legal protection. The government is motivated to be careful in making decisions. The form of preventive legal protection is contained in statutory regulations to prevent the occurrence of a violation and to provide limitations in carrying out obligations, repressive legal protection functions to resolve disputes that have arisen due to violations. This protection is the absolute protection in the form of giving sanctions for violations that have been committed.⁴

Regulation of the Minister of Manpower of the Republic of Indonesia No. 2 of 2015 concerning the Protection of Domestic Workers prioritizes protection by using the scheme of implementing normative rights as workers but still respecting the customs, culture, and customs prevailing in the local community. Regarding the sanctions for LPPRT (Domestic Worker Distribution Institutions) who commit violations, regulation No. 2 of 2015 threatens to impose strict sanctions. Starting from the lightest sanctions in the form of a written warning, the temporary suspension of part or all of the LPPRT (Domestic Workers' Agency) business activities to revoke permits by the Governor. For guidance and supervision of the LPPRT (Domestic Workers Distribution Institution), it is carried out by the Governor or a designated official. Including the matter of granting permits, their extension and revocation, and the Governor's oversight.⁵

Domestic workers as victims can suffer physical and non-physical harm. Physical losses can be in the form of disability, injury, and even death. Non-physical harm can be a mental disturbance or constant fear. The effort to assist victims is not the sole obligation of the perpetrator but also the responsibility of citizens and the state. Protection of victims to provide fair treatment for victims, perpetrators, and the community is an aspired hope.⁶

Resolution of Domestic Violence carried out by the Integrated Service Center for the Handling and Protection of Victims of Gender, and Child-Based Violence (PPT-PKBGA) is adjusted to the objectives of the law on the Elimination of Domestic Violence Number 23 of 2004, namely harmonizing household life, so in case of violence within the scope of household, the initial step is to carry out a mediation process between the perpetrator and the victim. If a peace agreement has been reached in the mediation stage, the legal process is terminated, but if no mediation is found in the mediation stage, the case will be further processed through a legal process. In the case that occurred in Banyumas Regency, it was carried out through a mediation process accompanied by the Integrated Service Center for the Handling and Protection of Victims of Gender and Child-Based Violence (PPT-PKBGA) so that the case did not reach the legal process.⁷

Through the Integrated Service Center for the Handling and Protection of Victims of Violence based on Gender and Children (PPT-PKBGA), domestic violence victims that occur in Banyumas Regency get maximum, integrated, and comprehensive handling. Advocacy for victims of violence by the Integrated Service Center for the Handling and Protection of Victims of Violence based on Gender and Children (PPT-PKBGA) has been carried out since the complaint process, the provision of medical rehabilitation services, legal aid and law enforcement services, social rehabilitation, and social reintegration (Banyumas Regency Regional Regulation No. 3 of 2015 concerning the Implementation of Protection for Victims of Violence based on Gender and Children). Besides, the Integrated Service Center for the Handling and Protection of Victims of Gender and Child-Based Violence (PPT-PKBGA) in

⁴ Satjipto Rahardjo, *Ilmu Hukum*.: PT. Citra AdityaBakti. Bandung, (2010),54.

⁵ Nur Hidayati. "Perlindungan Terhadap Pembantu Rumah Tangga", *Jurnal Pengembangan Humaniora*. 2014

⁶ Dwiatmaja, Haryanto. *Perlindungan Hukum Terhadap Korban Kekerasan*, (Banyumas: Fakultas Hukum Unsoed), 2010

⁷ Ruby Hadiarti Johny. "Tindak Pidana Kekerasan Terhadap Perempuan (Studi Etiologi Kriminal di Wilayah Hukum Polres Banyumas)". *Jurnal Dinamika Hukum*. 2011, Vol. 11. No. 2.

implementing protection for Domestic Workers who experience domestic violence in the Banyumas Regency is carried out by giving rights that should be given to domestic workers. Such as the right to obtain information, the right to get wages under the agreement; the right to perform worship under the religion they profess; the right to get healthy food and drink; the right to adequate rest time; the right to health insurance. Domestic Workers who experience domestic violence acts must receive assistance at the court level so that domestic workers can describe the violence they have experienced entirely and clearly.⁸

b. Constraints in the Implementation of Legal Protection for Domestic Workers Who Become Victims of Domestic Violence in Banyumas Regency.

The phenomenon of violent cases, which is currently the concern of both activists and the government, clearly proves that family, on the one hand, leads to one's happiness towards life happiness. Meanwhile, on the other hand, the family as a space for interaction is also a place that is prone to violence such as Domestic Violence (*Kekerasan Dalam Rumah Tangga*, KDRT) or similar violence. This form of violence is under Article 5 of the Law on the Elimination of Domestic Violence (PKDRT Law), among others, in physical violence, psychological violence; economic violence; sexual violence; and household neglect. Besides the phenomenon of cases of domestic violence, it is also constrained legally and sociologically.⁹

Obstacles experienced in providing protection for Domestic Workers in Banyumas Regency are the lack of public knowledge about the dangers of domestic violence; The view of the community which considers that the problem of Domestic Violence is a personal problem in the family so that it does not need to be taken out of the household and there is an assumption that the position of the employer is higher than that of domestic workers so that domestic workers get less attention from the community, the factor of economic urgency due to the narrow fieldwork in the city so that conditions like this cause people to prefer to remain silent, this factor also causes violence in the household; low education factor; lack of control from the government; Domestic Workers' personal character factors tend to be closed; Legislation No. 23 of 2004 concerning the Elimination of Domestic Violence and Regulation of the Minister of Manpower of the Republic of Indonesia No. 2 of 2015 concerning Protection of Domestic Workers which is not widely known by parties so that the rights of domestic workers are not correctly given. Another thing that causes obstacles in solving Domestic Violence problems in Banyumas Regency is the neglect of the domestic workers' rights, such as the right to get healthy food and drink; the right to leave under the agreement between the employer and the domestic worker; the right to adequate rest time; and the right to communicate with their families and the domestic worker's lack of courage to report cases of violence they have experienced.¹⁰

In families that have a high economy, they prefer fines to imprisonment. This fact shows that the middle and upper economies tend to underestimate the problem of domestic violence. The factors that cause domestic workers cases are challenging to resolve up to the court level, among others: the existence of peaceful efforts by providing compensation in the form of giving an amount of money by perpetrators of Domestic Violence to victims of Domestic Violence even though domestic violence is a crime. Furthermore, they can be convicted and give wages that are not under what was initially promised.¹¹

⁸ Tri Wuryaningsih, Nalfaridas Baharudin, Arizal Mutahir. "Advokasi Korban Kekerasan Berbasis Gender dan Anak di Kabupaten Banyumas", Prosiding Seminar Nasional dan Call for Paper. 2017, Vol. 7.

⁹ Aulia, Sidiq. "Penanganan Kasus Kekerasan Dalam Rumah Tangga (KDRT) oleh Berencana Pemberdayaan Masyarakat dan Pemberdayaan Perempuan". *University of Bengkulu Law Journal*, (2019), Vol. 4. No. 2.

¹⁰ Muwahid. "Peraturan Hukum Terhadap Buruh Wanita Sektor Pekerja Rumah Tangga (PRT)," *Mimbar Yustisia*. 2017. Vol. 1 No. 2

¹¹ Sonhaji. "Perlindungan Pekerja Rumah Tangga Dalam Sistem Hukum Nasional". *Administrative Law & Governance Journal*. 2012, Vol. 3 No. 2

V. Conclusions

1. Protection of Domestic Workers who experience domestic violence in Banyumas Regency is carried out through assistance by the Chairperson of the Integrated Service Center for the Handling and Protection of Victims of Gender and Child-Based Violence (PPT-PKBGA), where the Chairperson of PPT-PKBGA facilitates problem-solving through mediation between employers and domestic workers. Furthermore, strive for the fulfillment of their rights, such as the right to obtain information, the right to perform worship under the religion they profess; the right to a fair wage; the right to eat and drink healthy; the right to adequate rest time; right to health insurance.
2. The obstacle in providing legal protection to domestic workers in Banyumas Regency is the lack of public knowledge about the law; the failure of the domestic worker to report cases of violence they have experienced; as well as the view of the community that considers that the problem of Domestic Violence is a personal problem so that it does not need to be taken out of the household and there is an assumption that the position of the employer is higher than that of domestic workers so that domestic workers get less attention from the community, the factor of economic urgency due to narrow employment opportunities in the city so that conditions like this cause people to prefer to remain silent, this factor is also the background of domestic violence; low education factor; lack of control from the government; the practice of domestic workers tends to be closed; Legislation No. 23 of 2004 concerning the Elimination of Domestic Violence and Regulation of the Minister of Manpower of Manpower and Transmigration of the Republic of Indonesia No. 2 of 2015 concerning Protection of Domestic Workers which is not widely known by parties so that the rights of domestic workers are not correctly given.

VI. Suggestion

Socializing Law No. 23 of 2004 concerning the Elimination of Domestic Violence and Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia No. 2 of 2015 concerning Protection of Domestic Workers to be guaranteed their rights.

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