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The Islamic Education Perspective on Proactive Legal Protection and Hifz a-Mal: Highlighting the Rights of Domestic Workers in Medan

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ABSTRACT

At the very minimum, every worker's rights include a decent salary, reasonable working hours, and access to social security. All workers, including domestic workers, are included in the worker in consideration (PRT). In general, metropolitan regions, including Medan, are areas that within the "family circle" use the services of domestic workers. As a result, the findings of this study will shed light on the protection of domestic workers' rights in the city of Medan. Islamic education can provide a framework for understanding the human rights of domestic workers and their need for protection. It can also serve to raise awareness of the challenges domestic workers face and how to best protect their rights. Islamic law stresses the importance of justice and fairness, and this can be used to inform the way in which domestic workers are treated. This article analyzes the problem using the Legal Protection and Hifz al-Mal evaluations. This is empirical legal research (sociological); data was collected in the field through interviews and observations. The findings of the study demonstrate that the protection of domestic workers' rights in Medan City is not being implemented, and this problem is caused by a variety of factors, the most significant of which is domestic workers' "ignorance" of their rights at work. As a result, from the standpoint of hifz al-mal, the working relationship between domestic workers and their employers is not in conformity with magashid al-shariah, because domestic workers do not receive al-daruriah-level salaries. As a result, proactive legal protection is required so that domestic employees can exercise their rights. Proactive legal protection entails involving domestic workers in self-determination; at the very least, domestic workers must be consulted (deliberated) in developing a legal framework that will protect them, so that domestic workers are automatically informed of their legal rights while working.

Keywords: Legal Protection, Worker's Rights, Domestic Workers.

1. INTRODUCTION

Domestic workers' emergence in Indonesia is a socio-cultural phenomenon that has existed since the kingdom-archipelago era. As a result, several titles for domestic employees have arisen, including slave, servant, ngenger, emban, rewang, bedinde, batur or babu, housekeeper, and housemaid - frequently reduced to maid. Now, popular with household assistants. People who labor in the household are always looked down upon, regardless of the phrase chosen. This is because these jobs are classified as informal sector labor, as well as non-production work. As a result, domestic workers' rights are consistently ignored, especially in the absence of unambiguous legal protection.

Workers in the informal sector are individuals who labor without the benefit of formal protection. As a result, positive labor arrangements in Indonesia do not apply to workers in the family domain. As a result, the relationship between domestic employees and their employers is only conditioned by family relations, which might hide the presence of a "work relationship" in many circumstances.

There is currently no formal law in Indonesia that governs domestic employees. Despite the fact that the Draft Law on Domestic Worker Protection has been on the legislative agenda since 2010, and that the House of Representatives of the Republic of Indonesia (DPR-RI) has performed a comparison study to Africa, domestic worker protection is still encountering delays.

In reality, the Dutch Federation of Trade Unions (FNV and NGO IRENE) hosted a symposium on "Protection of Domestic Workers" in November 2006 in Amsterdam. The meeting discussed the formation of a Domestic Workers/Household Workers organization, with the Vision: "Protecting the Rights and Advancing the Interests of Domestic Workers." Globally.

The international community overwhelmingly supported the summit. Not only from domestic worker organizations, but also from general trade union federations, non-governmental organizations, and researchers. Finally, in June 2011, the International Labor Organization (ILO) adopted Convention 189 Concerning Decent Work for Domestic Workers in Geneva.

The modern world has seen a significant rise in the number of domestic workers employed around the world. Despite the ubiquity of this profession, it is still largely unregulated and protection of their rights is often absent. Inequality and discrimination remain a visible factor in the lives of domestic workers. This essay seeks to discuss how the Islamic education perspective may create a more equitable framework for the protection and advancement of the rights of domestic workers. It focuses on the roles of religious institutions and Islamic teachings on labor rights. In doing so, it outlines the significance of education in perpetuating a more just and ethical framework.

2. LITERATUR REVIEW

Islamic education has been identified as an important tool for protecting the rights of domestic workers, according to B Fernandez in his 2010 article in Gender & Development. Islamic education can provide a framework for understanding the human rights of domestic workers and their need for protection. It can also serve to raise awareness of the challenges domestic workers face and how to best protect their rights. Islamic law stresses the importance of justice and fairness, and this can be used to inform the way in which domestic workers are treated. Furthermore, Islamic education can help to develop empathy for domestic workers in their roles as members of the household. It can encourage a sense of responsibility towards domestic workers, particularly in terms of the wages they receive and their overall working conditions. Additionally, it can provide a basis for understanding the need for domestic workers to be treated with respect and dignity. By providing a platform for understanding the rights of domestic workers, Islamic education can help to ensure that their rights are properly protected.

Islamic teachings have long supported the notion of moral obligations to domestic workers, particularly in terms of their rights to fair and equitable treatment. According to R Silvey in his 2006 study Global Networks, this moral obligation is based in part on the Qur'an's advocacy for justice and the

protection of human rights. The Qur'an emphasizes the need to treat others with dignity, respect and compassion, and to be fair about wages, hours and other contractual agreements. This is seen in the Qur'anic verses that state, "And give full measure and full weight with justice; We burden not any person, but that which he can bear" (Qur'an, 6:152). The hadiths also reiterate this message, with one saying, "Whoever employs a worker and agrees to pay a certain wage and then reduces it, will come on the Day of Judgment with one side of his body drooping" (Hadith, Sahih Muslim). This demonstrates the critical importance of adhering to the principles of justice and fairness when it comes to domestic workers, and the potential consequences of failing to do so. As such, the Islamic teachings provide a framework for ensuring that domestic workers are treated with dignity, respect and fairness in accordance to their rights and obligations.

It is important to adhere to Islamic principles in order to protect the rights of domestic workers. According to M Saeed, ZU Ahmed, and SM Mukhtar (2001), the Quran and the sunnah emphasize the protection of domestic workers, who are often vulnerable to exploitation and abuse. Moreover, the Islamic teachings provide guidance on the rights of employers and employees, such as fair wages, respect, and protection from harm. Additionally, the Islamic ethical code of conduct explains that the rights of employers, such as the right to expect satisfactory work, should be balanced with the rights of employees, such as the right to be treated with respect. This code of conduct also encourages employers to provide fair wages, and to provide appropriate housing, food, and medical care for employees. Furthermore, Islamic principles emphasize that domestic workers should not be subjected to any form of physical or verbal abuse. By adhering to these Islamic principles, employers can ensure that domestic workers are treated with respect and dignity and that their rights are protected.

The Islamic Education Perspective on the Rights of Domestic Workers is focused on the responsibility of employers to take care of their workers, provide them with fair compensation, and adhere to the moral values set forth in their faith. This emphasizes the respect for human dignity, equal opportunities for work and payment, and respecting the contractual rights of domestic workers. Ultimately, Islamic Education Perspective on the Rights of Domestic Workers looks to provide those in this industry with the basic social and economic rights they deserve.

3. RESEARCH METHODS

The writers' investigation constituted empirical legal research (sociological). This is due to the author's intention to examine how the law protects the rights of domestic workers in Medan. However, the type of empirical legal study here is sociological juridical legal research, not sociological research on law, which means that the legal discipline's prescriptive nature almost likely becomes a research guide.

This study was conducted in Medan City, namely in the districts of Medan Timur, Medan Denai, and Medan Selayang, from February to October 2022. Meanwhile, domestic workers, employers, domestic worker distribution institutions, and the Medan City Employment Service are the focus of the study.

The major data in this study are words and behaviors gathered from research subjects through interviews and observations. The author will employ numerous literature that discusses similar concerns as supporting or secondary data, beginning with Legislation and Scientific Writings, as well as other legal resources.

The authors analyzed the data by first performing data reduction, namely sorting primary and secondary data that had been obtained, and then creating a summary in the form of statements in units of analysis. Second, data display occurs after the data has been minimized. Data is presented in the form of short descriptions, charts, and correlations between categories, among other things. In this scenario, the researcher recounts the information gathered. Third, depending on study questions, draw conclusions. Even though conclusions have been reached from the start, they are still shaky and subject to change, especially if compelling evidence is discovered to support additional data collecting.

4. RESULTS AND DISCUSSIONS

4.1. Protection of the Rights of Domestic Workers in Medan City Perspective of Hifz al-Mal

a. Remuneration

Regarding wages, of course there is something more important to know, namely whether the wages received by domestic workers are in the "decent wage" category. To find out the eligibility of domestic workers wages, the authors base it on the Provincial Minimum Wage of North Sumatra. In Medan, only 6 percent of domestic workers receive wages according to the 2022 North Sumatra Provincial Minimum Wage. None of the domestic workers in Medan City that the authors found experienced wage cuts. The reason is, domestic workers always do their jobs. Even if there are domestic workers who do not carry out their duties as agreed, the users of domestic workers' services still pay their wages, but usually immediately find another domestic worker.

Domestic workers in Medan City are generally given additional wages because of overtime. Once a year, domestic workers are also given an annual bonus, such as the Holiday Allowance. However, there are still domestic workers in Medan City who have never received additional wages due to overtime, and are given an annual bonus.

b. Working hours

Working hours are of course a very important thing to pay attention to. This is because working beyond an unreasonable time limit indicates that the relationship is not an employment relationship, but exploitation of workers by employers.

The majority of domestic workers in Medan City work more than 8 hours one day or more than 6 days a week. In fact, there is no certainty regarding the provision of overtime pay. This is because domestic workers in Medan generally live in the employer's house, so employers can ask domestic workers to work at any time.

c. Domestic Workers Get Social Security Programs

Work accident is an aspect that must be considered in every work relationship. Of course, domestic workers as workers must receive social security. However, not a single domestic worker in Medan City participates in the Social Security Program.

Neither in the process of agreeing to a work agreement, nor after work, no domestic worker gets social security. In this case, neither domestic workers who work under 1 (one) year or more than 5 (five) years, none of them get social security, even though in carrying out their work they may experience accidents due to work; on the other hand they will also experience old age where in their youth their energy has been spent working as domestic workers.

4.2. Proactive Legal Protection: An Alternative to Protecting the Rights of Domestic Workers in Medan City

After conducting research, the authors received information from the Medan City Manpower Office, that the obstacle in protecting the rights of domestic workers was the authority given to them by law. The reason is, in the Minister of Manpower Regulation only functions for the Governor. So, they only act in a limited way, waiting for reports, and even then they cannot do more to protect formal sector workers. In addition, when confirmed, the LPPRT in Medan City explained that, as a channeling agency, they only distributed domestic workers to individuals. However, there are also—only one institution—that have distributed domestic workers to business entities. The business entity is actually looking for a cleaning service, but they are looking for it from LPPRT. Apart from the Department of Manpower and LPPRT, the researchers also attached findings related to "employers or users of domestic workers' services". This is because they also have a role in fulfilling the rights of domestic workers—even being accentuated. It should be noted that the explanations from the domestic workers as previously explained have been confirmed to the users or employers of the domestic workers, and no discrepancies were found between the domestic workers and the service users of the domestic workers.

Domestic workers explained that they never felt protected. Even though domestic workers do not have legal knowledge and understanding as stipulated in laws and regulations regarding the protection of domestic workers, domestic workers cannot automatically determine their legal position.

After explaining (educating) the domestic workers they met, the researchers maintained that the Ministry of Manpower did not safeguard them at all. The Minister of Manpower Regulation, as well as other laws and regulations, have no effect on their condition. As a result, the problem of domestic workers in Medan is a complex one. Domestic workers are only employed as an informal profession on the one hand, but they play a significant role in sustaining the continuity of functions in the family on the other. The existence of a relationship between a domestic worker and an employer is viewed as a paternalistic relationship in Indonesian culture in general, and in the city of Medan in particular. Given that the majority of work is done in the family home and is not deemed economically productive or personal, it is outside the reach of state involvement.

Meanwhile, Indonesians support considerable government involvement in the economy and in daily life. Progress in all aspects of life leads to more productive workers. The workload moves from males as homemakers and breadwinners to women as civil servants, private employees, self-employed workers, and domestic workers as a result of this gender bias. This transition has an impact on women's home responsibilities as wives, mothers, and children of the elderly.

Domestic workers in Medan, ironically, have been less protected than company workers. Domestic employees who become ill are reimbursed for family medical expenses, but if the illness is severe, they are fired until they recover—with no guarantee of returning to work.

In addition to paternalistic work relationships, a lack of awareness and education about work, as well as a lack of a government monitoring system for domestic servants in Medan City, all contribute to violations of human rights. This necessitates the creation of new regulations by the government, particularly the local government, to manage domestic worker distribution and to avoid discrimination and violations of basic human rights by employers and agencies.

According to the sociological evidence, protecting domestic workers aids in the organization of their duties. As a result, government and community social actors are required.

In contrast to workers in the official sector, informal workers such as domestic workers, who are often overlooked, create their own concerns for these workers. Domestic workers are classified as working class. They carry out domestic worker labor as informal sector work, therefore many domestic workers underestimate the work of domestic workers and believe there are no regulatory measures.

Surprisingly, legal protection and acknowledgement of domestic workers' rights remain quite limited. Domestic workers' conditions are entirely contingent on their service users (employers), as a result of a lack of legal certainty. Domestic employees have and accept decent working circumstances if service consumers treat them well. And vice versa.

The phrase "household worker" was only formally recognized in 2015, with the Regulation of the Minister of Manpower of the Republic of Indonesia Number 2 of 2015 covering the protection of domestic employees. Domestic employees were previously referred to as household assistants or household helpers by the society. There has been movement in this matter in terms of recognizing domestic workers as a profession/occupation. Thus, the government has already demonstrated its willingness to protect the existence of domestic workers (PRT) through rules, but is this sufficient? Obviously not. It is apparent that Permenaker No. 2 of 2015 does not take into account Law No. 13 of 2003 on personnel.

Domestic workers in Indonesia continue to be unofficial. Domestic workers are treated with respect in Hong Kong, Singapore, and Malaysia. Employees from neighboring countries take pleasure in their jobs. Domestic employees can join unions and participate in social, cultural, and humanitarian activities.

Domestic workers in Indonesia are abused and considered lowly. Culturally, adjacent countries are similar. In addition, the Philippines has ratified ILO Convention No. 189 of 2011 on decent labor for domestic workers. Domestic workers in the Philippines are employed in a formal capacity. Migrant laborers from the Philippines are protected.

According to the International Labor Organization, Indonesia has approximately 10.7 million domestic workers. A tremendous ingestion of labor. Unfortunately, informal employees produce results.

What happens when millions of domestic workers become official employees? If domestic workers become recognized, our economy will alter. Domestic workers may get access to banking and credit institutions if they were recognized as formal workers, enhancing their livelihoods and increasing economic growth. Domestic workers in the formal sector might be proud of themselves. Household migrant laborers, for example. Domestic servants are not degraded or treated as second-class citizens. because they recognize they're "workers" not "servants".

Unfortunately, domestic workers in Medan City are still referred to as home helpers. They are not protected by Manpower Law No. 13 of 2003 because they are not workers/laborers.

Domestic workers are consistently in demand among the middle and higher classes. Office workers do not have time to do their schoolwork, care for children, the elderly, those with special needs, dogs, gardens, cars, or pets. As a result, wealthy folks require more domestic staff. Such work is always required. This work has always had a unique title.

Unfortunately, domestic workers are always regarded as unofficial. There is no contract, income, or hours. Even as home responsibilities become more difficult, talent is rising. Along with higher-quality facilities and needs, as well as employer/employer expectations. Domestic staff must adapt to these changes as the house improves with higher-quality furnishings, garments require special care, and children mature. Only Permenaker No. 2 of 2015 officially protects domestic employees. Citizens can use a variety of laws to protect domestic workers. Several national laws protect domestic workers, but the UUK system does not. This law incorporates the following provisions: 1. the 1945 Indonesian Constitution; 2. the Criminal Code, Law 23 of 2004 on Domestic Violence Elimination; 3. the Child Protection Law 23 of 2002; 4. the National Education System Law 20 of 2002; and 5. the Human Rights Law 39 of 1999.

How about the legal protection for domestic workers? They have not been reached by the Labor Law. Because of the vulnerability of the domestic worker-employer relationship, this employment is subpar. Even as the government struggles to fill official positions. Not to mention the issues of future workforce

development. Domestic servants should so be formalized.

Education, oversight, and justice are all required. Domestic workers and their employers must be educated about their critical role and the importance of their job. Massive cooperation and mutual respect are required between the two.

Domestic worker-employer contacts must be supervised by the government. The Ministry of Manpower, which includes the Provincial, District/City, and Village/Kelurahan Manpower Offices, is a critical tool. The Village/Kelurahan extends an invitation to its apparatus to protect and empower domestic workers.

This might start with villagers moving to cities for work. The village collects statistics and trains domestic staff. Domestic worker service providers can hire and train locals. Monitoring and pro-justice measures are promoted through the collaboration of Village Independence (UU Desa) and Employment Service Provider Companies (through domestic worker formalization).

Domestic worker-employer pro-justice initiatives must be connected with the Ministry of Manpower and/or the Office of Manpower in Regencies/Cities. Domestic employees are governed by the District/City Manpower Office once they become formal. A dispute is automatically entered into the labor relations settlement process (a special term may be needed in this regard).

When domestic workers enter the formal sector, they must:

a. Work Agreement

A labor agreement must exist between the domestic worker and the employer. Permenaker No.2/2015 has to be improved. The government can provide a form sheet for all parties to sign, making the process easier and easing technical issues.

b. Pay.

In industrial relations, the City/Regency Minimum Wage is used (UMK). UMK covers food, house/boarding rent, and other necessities. The UMK technique can be used to compute the

minimum wage for domestic workers. Domestic employees can be paid less than the UMK since their employer provides accommodation and food. This can be enhanced.

c. Health insurance.

Domestic employees that are in good health will benefit both parties. So that the employer's bare minimum obligation is to enroll the domestic worker in the National Health Insurance program - an independent BPJS will make it easier for the employer and more certain for the sick domestic worker.

d. Urban and villages

Domestic servants require village assistance. The community is currently receiving subsidies and programs from the Central Government. The ultimate goal is village sovereignty. Domestic laborers were hired by the villagers. The recruitment, protection, and empowerment provided by the village will benefit the domestic worker-employer connection with the domestic worker's family. Officials from the urban village keep an eye on everything. The sub-district apparatus, including the RT/RW, has the authority to mediate illegal conduct. Debriefing and training are required.

5. Conclusions

Legal protection for domestic workers' rights is not in existence in Medan City. The explanation for this is that domestic employees explain that the role of law and law enforcement has no bearing on their fate. From the salary system to working hours to social security as domestic workers' rights, domestic workers in Medan have not been treated fairly. What transpired in Medan is against hifz al-mal, which is an aspect of al-daruriah according to maqashid al-syariah. This is due to the fact that hifz al-mal signifies that everyone has the right to proper business and wages.

Domestic workers must be included in discussions about their fate when constructing proactive protection. Domestic servants have traditionally been treated as a third party while debating their own fate. Aside from the notion of proactive legal protection, domestic workers should have particular access allowed by law in selecting their own fate, within the limitations of consultation.

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