

THE DYNAMICS OF VIOLENCE AGAINST DOMESTIC WORKERS: A REVIEW OF POSITIVE LAW AND FIQH JINAYAH

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Abstrak

Penelitian ini bertujuan untuk menganalisis dinamika tindak pidana kekerasan terhadap pekerja rumah tangga (PRT) berdasarkan tinjauan hukum positif Indonesia dan perspektif yurisprudensi pidana. Pekerja rumah tangga merupakan kelompok rentan yang sering mengalami berbagai bentuk kekerasan, baik kekerasan fisik, psikis, seksual, maupun ekonomi. Penelitian ini mengidentifikasi kelemahan regulasi ketenagakerjaan yang ada, seperti ambiguitas terkait jam kerja, upah, hak-hak pekerja rumah tangga. Selain itu, regulasi yang ada belum memberikan perlindungan yang memadai bagi pekerja rumah tangga, mengingat ambiguitas dalam implementasinya. Perspektif yurisprudensi pidana memandang tindak pidana kekerasan terhadap pekerja rumah tangga (PRT) merupakan pelanggaran nilai-nilai kemanusiaan dan menyelesaikannya dengan jarimah ta'zir. Penelitian ini menekankan pentingnya pengesahan Rancangan Undang-Undang tentang Perlindungan Pekerja Rumah Tangga (RUU PRT) sebagai langkah strategis untuk memberikan perlindungan hukum yang lebih komprehensif bagi PRT. Metode yang digunakan adalah pendekatan kualitatif dengan kajian pustaka, yaitu mengkaji literatur hukum positif, regulasi, dan sumber hukum Islam yang terkait dengan perlindungan pekerja rumah tangga. Hasil penelitian menunjukkan bahwa meskipun telah dilakukan upaya berupa regulasi seperti Peraturan Menteri Ketenagakerjaan, namun perlindungan terhadap pekerja rumah tangga masih terbatas.

Kata Kunci: Kekerasan, Pekerja Rumah Tangga, Hukum Positif, Fikih Jinayah

Abstract

This study aims to analyse the dynamics of violence against domestic workers (PRT) using a review of Indonesian positive law and the perspective of criminal jurisprudence. Domestic workers are a vulnerable group who often experience various forms of violence, including physical, psychological, sexual, and economic abuse. This study identifies weaknesses in existing labour regulations, such as ambiguity regarding working hours, wages, and leave entitlements. Additionally, existing laws do not provide adequate protection for domestic workers, given the ambiguity in their implementation. The perspective of criminal jurisprudence considers violence against domestic workers (PRT) to be a violation of human values and resolves the issue with jarimah ta'zir. This study emphasises the importance of passing the Draft Law on the Protection of Domestic Workers (RUU PRT) as a strategic step to provide more comprehensive legal protection for PRT. The method used is a qualitative approach with a literature review, examining positive law literature, regulations, and Islamic legal sources related to the protection of domestic workers. The results of the study indicate that despite efforts in the form of regulations such as the Minister of Manpower Regulation, protection for domestic workers remains limited.

Keywords: Violence, Domestic Workers, Positive Law, Fikih Jinayah

A. Introduction

Indonesia is one of the countries with a large number of domestic workers. ¹This phenomenon reflects that the domestic worker profession has become an important part of the social and economic structure of society, especially in fulfilling domestic needs. There are two main factors behind the high number of domestic workers in Indonesia: poverty, which pushes people to fulfil their needs, and the need for domestic labour, which increases along with the busy life of the community.²

The existence of domestic workers in Indonesia is not new; domestic workers in Indonesia have existed since the Dutch East Indies colonial period.³ During the Dutch East Indies colonial period, this work was already known, although at that time it was better known as "babu" for women and "jongos" for

¹Sakka Pati, "Legal Protection for Domestic Workers: The Experience of Indonesia," *Hasanuddin Law Review* 5 (2019): 311–20, <https://doi.org/10.20956/HALREV.V5I3.2218>.

²Y Kamo, "Determinants of Household Division of Labor," *Journal of Family Issues* 9 (1988): 177–200, <https://doi.org/10.1177/019251388009002002>.

³Andri Setyo Nugroho and Dita Reista Nurfaizah, "Kehidupan Pembantu Rumah Tangga Di Hindia Belanda Pada Pertengahan Abad Ke-19 Sampai Abad Ke-20," *Mukadimah Jurnal Pendidikan, Sejarah, Dan Ilmu-Ilmu Sosial* 4, no. 2 (2020): 136–45.

men.⁴ These terms reflected the feudal order of colonial society, where domestic workers were seen as a lower class completely subservient to the employer.

After independence, the term "domestic helper" became commonly used, especially during the New Order.⁵ The term also represents unequal power relations and has not brought significant changes to the legal status or social protection of domestic workers who are still in the informal sector.

In 2015, the Ministry of Manpower issued Minister of Manpower Regulation (PERMENAKER) No. 2 Year 2015 which officially uses the term "Domestic Worker" and seeks to provide a basic legal framework for this profession.⁶ In addition to PERMENAKER No. 2 Year 2015, another regulation that protects domestic workers who are victims of violence is Law No. 23 Year 2004 on the Elimination of Domestic Violence (UU PKDRT).⁷ However, PERMENAKER No. 2 Year 2015 and the PKDRT Law in reality have not been able to provide a legal umbrella for domestic workers.

Domestic workers are often subjected to economic exploitation, physical, verbal, and sexual violence, as well as exhausting working conditions with excessive working hours, inappropriate or even unpaid wages, and inhumane treatment.⁸ Violence against domestic workers is a clear form of human rights violation that continues to recur.⁹

⁴Titas Chakraborty, "The Household Workers of the East India Company Ports of Pre-Colonial Bengal," *International Review of Social History* 64 (2019): 71-93, <https://doi.org/10.1017/S0020859019000038>.

⁵D Irawaty, "Domestic Workers amongst Paradoxes of the Politics of Gender and the Politics of Developmentalism: A Case Study from Indonesia in New Order Era" 22 (2017): 215-26, <https://doi.org/10.34309/JP.V22I3.193>.

⁶S Ningsih, Erna Herlinda, and Agusmidah Agusmidah, "Government Policy on Legal Protection of Household Workers," *Proceedings of the 1st International Conference on Education, Humanities, Health and Agriculture, ICEHHA 2021, 3-4 June 2021, Ruteng, Flores, Indonesia, 2021*, <https://doi.org/10.4108/eai.3-6-2021.2310826>.

⁷Nur Hidayati, "Perlindungan Terhadap Pembantu Rumah Tangga (PRT) Menurut Permenaker No. 2 Tahun 2015," *Jurnal Pengembangan Humaniora* 14, no. 3 (2014): 213-17.

⁸Rizky Meitha Kumala and Vinsya Murtiningsih, "Tinjauan Perlindungan Hukum Pekerja Rumah Tangga (PRT) Dalam Kasus Kekerasan Dalam Rumah Tangga (KDRT)," *Recidive: Jurnal Hukum Pidana Dan Penanggulangan Kejahatan* 2, no. 3 (2013).

⁹Itok Dwi Kurniawan, Ismawati Septiningsih, and Samuel Bintang Robby, "Undang-Undang Perlindungan Terhadap Pekerja Rumah Tangga (UU PPRT) Dalam Mewujudkan Economic Democracy Di Ranah Domestik," *JPK (Jurnal Pancasila Dan Kewarganegaraan)* 9, no. 1 (2024): 1-11.

One such case of abuse was experienced by RN, an 18-year-old woman from Cianjur, West Java. RN was recruited by a neighbour through a foundation with unclear legality to work in Jakarta. However, since May 2022 RN has experienced a series of violence from her employer, a couple AA and RK who live in Kelapa Dua, East Jakarta. RN became a victim of physical, psychological, economic and sexual abuse. She was tortured, doused with chilli, and stripped naked by her employers.¹⁰ Based on JALA PRT data, from 2018 to 2023, there were 2,641 cases of violence against domestic workers in Indonesia.¹¹ This number is believed to be only a fraction of the actual number of unreported cases.

YEAR					
2018	2019	2020	2021	2022	2023
320	390	460	510	470	491

This problem needs to be addressed comprehensively, considering that domestic workers are a group of workers who often experience discrimination. This study aims to explore the dynamics of violence against domestic workers as well as existing regulations and formulate solutions that can improve conditions for domestic workers. By doing so, it is expected to provide a better understanding of the importance of legal status for domestic workers and suggest policy measures that are more inclusive and fair for all parties involved.

Positive legal literature in Indonesia shows that domestic workers (DWs) still do not receive adequate protection within a formal regulatory framework. To date, there is no specific law that explicitly regulates the overall

¹⁰esti utami, "Disiksa, Disiram Cabe Dan Ditelanjangi: Kekerasan Pada PRT Terjadi Lagi," conde.co, 2022.

¹¹Komnas perempuan, "'Situasi Kritis, Pemerintah Harus Sahkan RUU PPRT,'" KOMNAS PEREMPUAN, 2024.

rights and obligations of domestic workers, so their position in the employment relationship is often in a legal grey area.

Violence against domestic workers in the perspective of Islamic law can be studied through the approach of Jurisprudence, particularly through the concept of *ta'zir*, which is a type of sanction that is left entirely to the discretion of the judge.¹² Jinayah jurisprudence pays great attention to the protection of the honour, soul and property of each individual as part of *maqasid al-syari'ah* (the main objective of sharia).¹³ However, in-depth studies on the relevance and application of the concept of *ta'zir* in dealing with violence against domestic workers are still very limited. This shows the need for a more systematic scientific exploration to explore how Jurisprudence, especially the concept of *ta'zir*, can be an alternative solution in providing legal protection and justice for domestic workers who are victims of violence.

Research on violence against domestic workers has been conducted with various legal approaches. Some relevant studies include "Protection of Domestic Workers According to PERMENAKER No. 2 Year 2015", which examines labour regulations and the effectiveness of their implementation in providing protection for domestic workers. In addition, the study "Crimes Against Domestic Assistants in the Perspective of Islamic Law and Positive Law in Indonesia (Study of Judge's Decision Number 157/Pid.sus/2016/PN Kds)" examines cases of violence against domestic workers by comparing the perspectives of Islamic law and positive law, especially in the judge's consideration in handing down the verdict. Meanwhile, the research "Legal Protection of Domestic Workers" focuses more on aspects of legal protection in general and various obstacles in law enforcement for domestic workers who are victims of violence.

¹²Yasirwan Yasirwan, M Ikhsan, and Nikmah Dalimunthe, "PERLINDUNGAN PEKERJA RUMAH TANGGA (PRT) MELALUI KEPASTIAN HUKUM DI INDONESIA DAN HUKUM ISLAM," *Jurnal EL-QANUNIY: Jurnal Ilmu-Ilmu Kesyarahan Dan Pranata Sosial*, 2023, <https://doi.org/10.24952/el-qanuniy.v9i1.7715>.

¹³M Afridi, "Maqasid Al-Shari'ah and Preservation of Basic Rights under the Theme 'Islam and Its Perspectives on Global & Local Contemporary Challenges,'" 2016.

Although these studies have made meaningful contributions, there are still some gaps that need to be explored further. One of the main gaps is the lack of studies on the fiqh jinayah approach in dealing with violence against domestic workers. Most of the existing studies still focus on positive law, without exploring how fikih jinayah regulates this violence, especially regarding sanction mechanisms and the principle of justice for victims. In addition, the dynamics of violence against domestic workers have not been comprehensively studied, especially regarding the causal factors, patterns of violence, and the impact on victims. Existing studies tend to focus on the legal protection aspect without delving deeper into the social, cultural, and economic factors that contribute to the high rate of violence against domestic workers. In addition, the effectiveness of regulations that have been implemented, such as PERMENAKER No. 2 2015, has not been empirically evaluated, so there are still gaps in understanding the extent to which existing policies are able to provide real protection for domestic workers.

The research "Exploring the Dynamics of Violence Against Domestic Workers: A Review of Positive Law and Jinayah Jurisprudence", offers significant novelty. This study adopts a multidisciplinary approach by combining the perspectives of positive law and jinayah jurisprudence to provide a more in-depth analysis of violence against domestic workers. In addition, this study examines the social, cultural and economic factors that contribute to the occurrence of violence, as well as revealing the obstacles faced by victims in obtaining justice. Another novel aspect is the evaluation of the implementation of existing laws that address cases of violence against domestic workers. Thus, this research is expected to serve as a foundation for more inclusive and adaptive policy reforms to strengthen the protection of domestic workers, both within the framework of national law and in the perspective of Islamic law.

This research combines positive law and fiqh jinayah approaches. Such a combined approach is still relatively rare in studies on violence against domestic workers. Therefore, this study not only offers an intellectual

contribution to the academic world, but also has important practical value for policy makers and law enforcement in dealing with the issue.

B. Review of Positive Law on Domestic Worker Violence

Domestic workers (DWs) are individuals who work in the domestic sphere of a household, such as cleaning, cooking, caring for children, and helping to fulfil other daily needs.¹⁴ The recruitment process for domestic workers is usually done through the Domestic Worker Recruitment Agency (LPPRT) and through friends or brokers.¹⁵ Meanwhile, recruitment through Lembaga Penyalur Pekerja Rumah Tangga (LPPRT) is the only legally recognised route in the Minister of Manpower Regulation (PERMENAKER) No.2 of 2015.¹⁶

There are several factors that influence the occurrence of violence against domestic workers, such as the social aspect where the power relations between employers and domestic workers are very unequal.¹⁷ Domestic workers are often considered a lower social group with no bargaining power.

The culture of feudalism also contributes to unequal power relations. Employers often feel they have full control over domestic workers' lives, including time, space, and even emotional aspects.¹⁸ In addition, economic pressure is the main factor that pushes women from the poor, with low education, and lack of access to information to work as domestic workers.

¹⁴Anita Dhewy, "Discrimination, Violence and Disregard of Right: Status of Domestic Workers in the Absence of Legal Protection for Domestic Workers" 22 (2017): 261-71, <https://doi.org/10.34309/jp.v22i3.197>.

¹⁵Maslihati Hidayati, "Upaya Perlindungan Pekerja Rumah Tangga Sebagai Kelompok Masyarakat Yang Termarginalkan Di Indonesia," *Jurnal Al-Azhar Indonesia Seri Pranata Sosial* Vol 1 No.1, no. 1 (2011): 8.

¹⁶Ismiatun Ismiatun and Bunyamin Alamsyah, "Perlindungan Hukum Terhadap Pekerja Rumah Tangga Menurut Peraturan Menteri Ketenagakerjaan Nomor 2 Tahun 2015 Dalam Perspektif Hukum Positif Hukum Indonesia," *Legalitas: Jurnal Hukum* 9, no. 1 (2019): 113-42.

¹⁷Rizky Ihsan Fadila and Nelvitia Purba, "Perlindungan Hukum Bagi Asisten Rumah Tangga Menurut Undang Undang No. 23 Tahun 2004," *Citra Justicia: Majalah Hukum Dan Dinamika Masyarakat* 22, no. 1 (2021): 94-102.

¹⁸Ledyawati Djakfar⁴ Eni Khairani¹, Jabal Tarik Ibrahim², Rachmad Kristiono³, "Power Relations in the Social Interaction of Employers and Domestic Workers of Different Ethnicities in Bengkulu City," *International Journal of Humanities and Social Science Invention (IJHSSI)*, 2024, 44.

Economic dependence and reluctance to report even if they experience violence.¹⁹

This reality shows that the protection of domestic workers (DWs) cannot be left entirely to structural approaches alone, but requires comprehensive protection²⁰ This includes raising public awareness about equality, legal reforms that are responsive to social justice issues, and strengthening social security systems for vulnerable groups.

Currently, the regulation that covers domestic workers is the Minister of Manpower Regulation (PERMENAKER) No. 2 Year 2015.²¹ This regulation contains provisions on domestic workers' rights (Article 7) and obligations (Article 8), and requires a work agreement between domestic workers and employers (Article 5).²² However, the use of the term "mandatory" in the context of a work agreement is ambiguous, especially if the agreement is only verbal. The absence of written evidence in labour contracts leads to weak legal protection and opens up opportunities for rights violations without a clear resolution mechanism.

Minister of Manpower Regulation (PERMENKAER) No. 2 Year 2015 has substantial weaknesses:

1. Working hours and rest periods

Article 7(e) states that domestic workers are entitled to adequate rest time. However, this regulation does not provide a clear definition of 'adequate rest time,' either in terms of duration or expected standards. In this context, this ambiguity can lead to differing interpretations between employers and workers. In practice, many domestic workers work long hours with minimal rest periods, and in some cases, they do not receive adequate rest periods at all. At the same time, informal employment relationships, where there are no clear

¹⁹D Karunagaran et al., "Understanding the Lives of Domestic Workers," *FMDB Transactions on Sustainable Management Letters*, 2024, <https://doi.org/10.69888/ftsml.2024.000236>.

²⁰NUR REGITA SAPUTRI MUHAMMAD, "RUU PERLINDUNGAN PEKERJA RUMAH TANGGA : KETIDAKPEDULIAN NEGARA DALAM MELINDUNGI HAK-HAK PRT DI INDONESIA," *Jurnal Ganec Swara* 18, no. 1 (2025): 67.

²¹Muhammad Yafi Azhari and Abdul Halim, "Hak-Hak Pekerja Rumah Tangga Dan Perlindungan Hukum Di Indonesia," *Media Iuris* 4, no. 2 (2021): 173.

²²Ida Hanifah, "Kebijakan Perlindungan Hukum Bagi Pekerja Rumah Tangga Melalui Kepastian Hukum," *Jurnal Legislasi Indonesia* 17, no. 2 (2020): 193-208.

employment contracts, increase their vulnerability..²³Without clear provisions on rest periods, employers can exploit this legal loophole to unilaterally extend the working hours of domestic workers without any legal consequences.

2. Wage provisions

Article 7(c) stipulates that domestic workers are entitled to receive wages in return for the work they do. However, this regulation does not set clear minimum wage standards, either nationally or regionally. This ambiguity opens up the potential for exploitation, whereby employers can pay very low wages, even below the minimum wage. In many cases, the wages paid are not commensurate with the amount of work performed by domestic workers, who often work longer hours and harder than workers in other sectors with stricter regulations. The absence of clear limits on minimum wages leads to injustice, especially for domestic workers who generally work in situations that are not officially registered or recorded in the national labour system.²⁴ As a corrective measure, there needs to be a clear minimum wage standard for domestic workers, which can be calculated based on the standard of living in each region or at least in line with the minimum wage applicable in other sectors. Such regulations are important to protect the economic rights of domestic workers and combat widespread exploitation in the informal sector.

3. Work leave

Article 7(g) regulates leave entitlements for domestic workers, but only states that leave is granted 'as agreed'. This provision is very ambiguous and does not provide clear protection for domestic workers, as there are no provisions regarding the types of leave that can be taken (e.g. annual leave, sick leave, or maternity leave) or the number of days of leave granted. Without clearer and more detailed provisions, domestic workers may not receive the leave they are entitled to, or the leave granted may not cover the types of leave that meet their needs. This can be detrimental to domestic workers, as they may be forced to continue working without time to rest or attend to other personal

²³Emmilia Rusdiana, "Perlindungan Hukum Tentang Pekerja Rumah Tangga (PRT) Mengenai Jam Kerja," *Novum: Jurnal Hukum*, 2022, 98-105.

²⁴Wiwik Afifah, "Eksistensi Perlindungan Hukum Terhadap Pekerja Rumah Tangga Di Indonesia," *DiH: Jurnal Ilmu Hukum*, 2018.

needs, such as maintaining their health or caring for their families..²⁵ Therefore, there needs to be clearer regulations regarding domestic workers' leave entitlements, including the types of leave that can be taken, the reasonable number of leave days, and the procedures for applying for and granting leave. The provision of clear and guaranteed leave entitlements is very important for maintaining the physical and psychological well-being of domestic workers and ensuring that they are not trapped in inhumane working conditions.

Another weakness of Minister of Manpower Regulation (PERMENAKER) No. 2 of 2015 is the absence of concrete sanctions for violations of domestic workers' rights. Although this regulation provides some provisions governing the basic rights of domestic workers, such as rest periods, wages, and leave entitlements, there are no provisions that detail the sanctions or legal consequences for employers who violate these provisions. The lack of clarity regarding the sanctions that can be imposed creates a legal vacuum in terms of enforcement.

Without clear sanctions, domestic workers tend to lack sufficient mechanisms to effectively seek legal protection. This is particularly risky in informal and unregistered work environments. Domestic workers often rely on verbal agreements or poorly documented contracts, making them vulnerable to exploitation. Without clear law enforcement, employers may violate the rights of domestic workers without fear of serious legal consequences.

The absence of strict sanctions in these regulations reduces their effectiveness as a basis for legal protection, as there is insufficient incentive for employers to comply with the established provisions. This also has the potential to reduce the sense of justice and legal awareness in society, especially in terms of protecting domestic workers who are in a vulnerable position.

In an effort to improve protection for domestic workers, it is important for the government to revise these regulations by including clearer and more

²⁵TITIK SRI HAYATI, "JAMINAN SOSIAL BAGI PEKERJA RUMAH TANGGA" (Untag Surabaya, 2016).

concrete provisions on sanctions. Clear sanctions, whether in the form of fines or other legal actions, can serve as an important tool in ensuring that employers comply with domestic workers' rights and deter violators. With stringent sanctions in place, protection for domestic workers will become more effective and provide a sense of security for domestic workers in performing their duties.²⁶

Violence against domestic workers (DWs) is also categorised as a criminal offence of domestic violence (KDRT), including in domestic work relationships that involve power relations between employers and workers. This is in accordance with Law No. 23/2004 on the elimination of domestic violence, which covers all people within the scope of the household, including domestic workers. The PKDRT Law has actually recognised the existence of domestic workers as part of the protected legal subjects, but its effectiveness in practice is still limited because this law does not specifically regulate the working relationship between domestic workers and employers.

Considering the above dynamics, the government should immediately pass the Domestic Workers Bill (RUU PPRT). This bill is a form of real recognition and protection for domestic workers as a profession that is dignified and protected by law, containing 4 main pillars, namely:

1. Legal identity

One of the main pillars contained in the PPRT Bill is Legal Identity for domestic workers (PRT). Legal recognition of the PRT profession is an important step in providing these workers with legal status within the national labour system. Previously, PRTs often found themselves in a legally ambiguous position, as this profession was not officially recognised in many labour regulations, leaving them vulnerable to exploitation and discrimination.

With this legal recognition, domestic workers will be acknowledged as a legitimate part of Indonesia's labour structure. This will enable them to obtain

²⁶Tata Sudrajat et al., "Controversy of Paying Old Age Benefits in Social Guarantee Systems: Public Policy Perspective," *Advances in Social Science, Education and Humanities Research*, 2022, https://doi.org/10.2991/978-2-494069-07-7_58.

the same rights as other workers registered in the formal labour system, such as the right to fair wages, rest periods, leave, and protection from violence or harassment in the workplace. This recognition opens the door to the implementation of a more systematic monitoring system, where any violations of domestic workers' rights can be monitored, followed up on, and adjudicated with a clear legal basis.

The existence of this legal identity also serves to strengthen the bargaining position of domestic workers in their employment relationships. Domestic workers, who were previously often trapped in informal employment relationships and did not have clear contracts, will now receive legal recognition for their work. This provides them with a sense of security in carrying out their duties, as there is legal protection that regulates the rights and obligations of both parties, both workers and employers. With legal identity, domestic workers are also entitled to fair and equal treatment in terms of wages, welfare, and protection against violence or discrimination.

2. Legal protection

The Domestic Workers Protection Bill (RUU PPRT) is a crucial instrument in providing real protection for domestic workers (PRT), who are often victims of violence and exploitation. Domestic workers are often in a vulnerable position, both economically and socially, and frequently do not receive adequate legal protection. This makes them susceptible to exploitation, whether physical, psychological, sexual, or economic, by their employers.

With the enactment of the RUU PPRT, the profession of domestic workers will be legally recognised and receive stronger protection under the law. One of the main focuses of this bill is to prevent and address violence experienced by domestic workers, whether it occurs within the scope of their work or in their relationship with their employers. The bill specifically addresses the basic rights of domestic workers, including the right to protection from all forms of violence, the right to fair wages, reasonable working hours, and the right to adequate leave and rest.

In addition, the PPRT Bill also includes provisions on mechanisms for reporting and handling cases of violence or exploitation against domestic workers, so that they do not feel isolated or afraid to report actions that harm them. This provides a sense of security for domestic workers, as there is a clear legal channel to fight for their rights.

Through the PPRT Bill, the state demonstrates its commitment to reducing or even eliminating violence and exploitation against domestic workers, and ensuring that they are treated with dignity and respect for their human rights. With clearer and more systematic protection, this bill offers hope for domestic workers to work in fairer and safer conditions, and to receive the recognition and legal protection they have long been denied.

3. Access to *legal aid*

Through the networking efforts of organisations such as JALA PRT (Domestic Workers Advocacy Network), domestic workers (PRT) can receive important assistance and advocacy in fighting for their rights. JALA PRT, as one of the networks focused on protecting the rights of domestic workers, plays a key role in equipping domestic workers with the legal knowledge they need to face various challenges, especially in combating violence and exploitation.

The support provided by this network is not limited to direct legal assistance, but also includes training aimed at increasing domestic workers' legal awareness. Through these trainings, domestic workers are taught about their basic rights as workers, such as the right to fair wages, adequate rest time, leave entitlements, and the right to be free from violence and exploitation. With this knowledge, domestic workers not only become more aware of their rights but also gain the courage and skills to advocate for these rights independently.

The approach taken by JALA PRT is crucial because it provides domestic workers with the tools to act and speak within a legal framework. This leads to an increase in domestic workers' ability to advocate in a structured and organised manner, both individually and collectively. With a strong support network and better legal understanding, domestic workers can demand their

rights more effectively and have a greater impact in creating change at the policy and societal levels.

In addition, JALA PRT also plays an important role in fighting for policies that are more favourable to domestic workers, such as supporting the passing of the Domestic Workers Bill. With networks such as JALA PRT, domestic workers are not only fighting alone, but are part of a larger collective movement that can drive more equitable social change for domestic workers in Indonesia. Since 2004, the National Advocacy Network for Domestic Workers (JALA PRT) has proposed the PPRT Bill to the government. But until now, the regulation has not been passed.²⁷ This delay is evidence of the state's weak alignment with vulnerable work groups. Therefore, the ratification of the PPRT Bill is not only a legal necessity, but also a moral responsibility of the state in fulfilling social justice for all Indonesian people, including domestic workers.

Cases of violence against domestic workers have also become an international concern. The International Labour Organization (ILO) presents ILO Convention 189 which explicitly regulates their rights and ensures that they are treated equally with other sector workers. The convention covers protection of working hours, decent wages, social security rights, and protection from violence and harassment in the workplace. By ratifying this convention, Indonesia is not only demonstrating its commitment to worker protection, but also affirming that domestic work is legitimate, dignified, and deserves to be recognised by the state.

Ratification of the ILO Convention has strategic value in strengthening the position of the PPRT Bill both in terms of substance and political support. This convention can be a normative and moral reference that confirms the need for a national legal umbrella for domestic workers. In fact, several countries that have ratified this convention have also paralegally drafted or passed

²⁷Muhammad Darwis, Iswandy Rani Saputra, and Ali Ichsan Kiramang, "Kekerasan Dalam Rumah Tangga Dalam Perspektif Hukum Pidana," *Jurnal Litigasi Amsir* 10, no. 3 (2023): 275-91.

national legislation that is in line, showing that ratification and national legislation can go hand in hand.

Ratification of ILO Convention 189 will put positive pressure on policy makers to immediately complete the discussion and ratification of the PPRT Bill, as well as answer the legal vacuum that has been the culprit of rampant violence and rights violations against domestic workers. In the current situation, when the PPRT Bill is still on legislative hold, this ratification will accelerate the legislative process and provide a strong international framework for the protection of domestic workers.

In addition, the push to accelerate the passage of the PPRT Bill will be stronger and have international legitimacy if Indonesia also ratifies ILO Convention No. 189 on decent work for domestic workers. This convention affirms the basic principles of work protection for domestic workers, including decent working hours, the right to a minimum wage, protection against all forms of violence, and social security.

C. Review of Jurisprudence on Domestic Worker Violence

Jinayah Jurisprudence views violence as any form of action that results in physical, psychological, or property damage, which is strictly prohibited by Islamic law.²⁸ Violence can take the form of physical violence; such as beating, kicking, or other actions that injure a person's body. Verbal violence, such as swearing, insults, or words that demean a person, as well as psychological violence, such as intimidation, threats, or treatment that causes fear and mental distress.

Jurisprudence views all of these forms of violence as forms of injustice that contradict the principles of justice and protection of the soul (*hifz al-nafs*), which is one of the main objectives in *maqasid al syar'iah*.²⁹ Therefore,

²⁸Risdianto Risdianto, "Hukuman Terhadap Tindak Pidana Kekerasan Dalam Rumah Tangga Menurut Hukum Islam," *Information Retrieval* 10 (2021): 59–76, <https://doi.org/10.35878/ISLAMICREVIEW.V10I1.266>.

²⁹Fernenda Purdiantika, "Analisis Pengaturan Marital Rape Dalam Undang-Undang Di Indonesia Perspektif Fiqh Jinayah Tentang Keluarga" (IAIN Ponorogo, 2023).

perpetrators of violence in this context may be subject to criminal sanctions in accordance with the type and level of damage caused.

Before the advent of Islam, people who worked in the domestic sphere were often referred to and treated as "slaves".³⁰ Islam then came with a significant change in the way slaves were viewed and treated. Islam then laid down moral and legal foundations that aimed to gradually abolish slavery. One of the Islamic approaches is to advocate and honour the freeing of slaves as a form of worship and charity.³¹

Jurisprudence is a part of Islamic law that discusses various criminal offences and punishments in accordance with the principles of Sharia.³² In the context of violence against domestic workers, Jinayah Jurisprudence views that every form of action that harms or injures someone, whether physically, psychologically, or materially, is forbidden and requires accountability.³³ In this view, violence against domestic workers is an act of zalim (mistreatment) that contradicts Islamic values that emphasise justice, compassion, and respect for human dignity.³⁴

Islam pays great attention to the treatment of workers, including domestic workers, by clearly emphasising their rights. The Prophet Muhammad (PBUH) in his various traditions reminded Muslims to treat workers fairly, provide decent wages, and not burden them with work that is beyond their abilities. In a tradition narrated by Al-Bukhari.³⁵ This shows that

³⁰Karen Armstrong, *Muhammad Prophet for Our Time* (Mizan Pustaka, 2013).

³¹A Nasution, "Perbudakan Dalam Hukum Islam," *AHKAM : Jurnal Ilmu Syariah*, 2016, <https://doi.org/10.15408/AJIS.V15I1.2852>.

³²Dodi Irawan, "Jinayah Dan Siyasah Dalam Konsep Pendidikan Islam," *Pengertian: Jurnal Pendidikan Indonesia (PJI)* 3, no. 1 (2025): 1-14.

³³H Zainuddin Ali, *Hukum Pidana Islam* (Sinar Grafika, 2024).

³⁴Yasirwan, Ikhsan, and Dalimunthe, "PERLINDUNGAN PEKERJA RUMAH TANGGA (PRT) MELALUI KEPASTIAN HUKUM DI INDONESIA DAN HUKUM ISLAM."

³⁵MAHARANI DEWI, "PERLINDUNGAN HUKUM TERHADAP PENGUPAHAN PEKERJA ANAK DITINJAU HUKUM POSITIF DAN HUKUM ISLAM (Studi Pada Pabrik Bata Super Andalas Desa Nakau Kecamatan Talang Empat Kabupaten Bengkulu Tengah)" (IAIN Bengkulu, n.d.).

Islam not only prohibits exploitation, but also encourages respect for workers' rights including wages.

The Jurisprudence perspective argues that the root causes of violence against domestic workers often stem from employers' lack of understanding of their moral and religious responsibilities³⁶. Islam teaches that employers have a responsibility to protect their workers and ensure their welfare. Therefore, the solution to violence against domestic workers lies not only in law enforcement, but also in educating the public about Islamic values that emphasise justice, compassion and respect for fellow human beings.

Violence against domestic workers in Jinayah Jurisprudence falls under the category of *jarimah ta'zir* (the punishment is determined by the judge's decision), which is a criminal offence whose form and sanction are not explicitly determined in the Qur'an or Sunnah.³⁷ *Jarimah ta'zir* is flexible and the judge determines the form of sanctions.

Jinayah jurisprudence emphasises the need for fair law enforcement in cases of violence. In its application, there are several main principles, namely justice (*adl*), prevention (*ta'dib*), and redemption (*kifarat*).³⁸

D. Comparison of Positive Law and Jinayah Jurisprudence in the Context of Violence Against Domestic Workers

Positive law in Indonesia that aims to protect domestic workers is currently regulated through Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law) and Minister of Manpower Regulation (PERMENAKER) No. 2 2015 on the Protection of Domestic Workers.

³⁶Elfi Yuliani Rochmah, "Mengembangkan Karakter Tanggung Jawab Pada Pembelajaran (Perspektif Psikologi Barat Dan Psikologi Islam)," *AL-MURABBI: Jurnal Studi Kependidikan Dan Keislaman* 3, no. 1 (2016): 36–54.

³⁷Marisa Fitri, "Tindak Pidana Terhadap Asisten Rumah Tangga Dalam Perspektif Hukum Islam Dan Hukum Positif Di Indonesia (Studi Putusan Hakim Nomor 157/Pid. Sus/2016/PN Kds)." (Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta, n.d.).

³⁸DENNY TYAS SAPUTRA, "TINJAUAN YURIDIS PUTUSAN PN JAKARTA NO. 1357/Pid. B/2016. PN-JKT. UTR TENTANG PENISTAAN AGAMA YANG DILAKUKAN OLEH BASUKI TJAHJA PURNAMA (AHOK) DITINJAU DARI PERSPEKTIF HUKUM ISLAM" (Fakultas Hukum Universitas Pasundan, 2017).

Both regulations normatively provide a legal framework to regulate the rights and obligations between domestic workers and employers and affirm the prohibition against various forms of violence in domestic work relations. However, the implementation of these regulations is far from optimal.

This is due to a number of factors, including: the absence of explicit legal recognition of domestic workers as part of the formal labour sector, weak supervision and law enforcement systems, and the regulations have not been able to regulate in detail the standards of wages, working hours, social security, and leave rights for domestic workers.

Meanwhile, jinayah fiqh considers acts of violence against domestic workers as a serious violation of human values. Violence against domestic workers is classified as jarimah ta'zir, which is a punishment that is not explicitly determined in the Qur'an and Hadith, but is left to the ijihad and discretion of the judge.

The main difference between positive law in Indonesia and fikih jinayah in cases of violence against domestic workers is in the law enforcement process. The Indonesian positive legal system uses formal institutional mechanisms and the punishment is adjusted to the existing rules. Meanwhile, fiqh jinayah uses the principles of substantive justice by giving space to the judge to determine sanctions based on the judge's judgement.

D. Conclusion

Protection of domestic workers in Indonesia is still weak and partial. The Minister of Manpower Regulation (PERMENAKER) No. 2 of 2015 and Law No.23 of 2004 on the Elimination of Domestic Violence have not been effective enough to become a strong legal umbrella. Many domestic workers remain in a vulnerable position due to unrecognised formal employment status, unclear work contracts, inadequate wages, and weak law enforcement. The absence of strict sanctions and lack of oversight exacerbate the situation.

Violence against domestic workers (PRT) can be seen as a clear act of injustice that contradicts the principles of justice in Islam. In Islamic teachings, justice is a value of utmost importance, and violence against anyone, including domestic workers, cannot be justified as it has the potential to wrong the individual. Islam teaches the importance of treating everyone fairly, with respect for their rights and obligations, without any form of abuse or exploitation.

The comparison between positive law and jinayah jurisprudence in the context of violence against domestic workers is that in terms of legal basis, positive law in Indonesia refers to laws and regulations such as the Minister of Manpower Regulation (PERMENAKER) No.2 of 2015 and Law No.23 of 2004 on the Elimination of Domestic Violence (PKDRT Law). Meanwhile, jinayah fiqh uses a normative approach to Islamic law that refers to the concept of *jarimah ta'zir*, which is a form of offence whose types and sanctions are determined at the discretion of the judge by considering the principles of Islamic justice.

The status of domestic workers in positive law is still relatively weak because they are categorised as informal workers who do not yet receive full legal protection within the national labour structure. Meanwhile, in criminal jurisprudence, domestic workers are positioned as individuals who have human rights that must be upheld and protected in accordance with the principles of justice and social balance in Islam.

Given the frequent violence experienced by domestic workers, it is time for the government to take concrete and progressive steps to guarantee the protection of their rights. Domestic workers, who often work in unofficial conditions and lack adequate legal protection, are vulnerable to violence and exploitation. The lack of regulations governing this profession leaves many domestic workers trapped in unfair and inhumane working relationships. Therefore, clearer and more systematic protection is urgently needed to ensure their well-being and basic rights are upheld.

One strategic step that the government must take is to ratify ILO Convention 189 on decent work for domestic workers. This convention, which has been approved by the International Labour Organisation (ILO), clearly sets out standards for the protection of domestic workers, including the right to fair wages, rest periods, protection from violence and harassment, and the right to safe and healthy working conditions. By ratifying this convention, Indonesia will have an international commitment to improve protection for domestic workers and meet international standards in labour relations, while also providing a strong foundation for legal protection at the national level.

Additionally, the enactment of the Domestic Workers Bill (RUU PPRT) is crucial for domestic workers to gain legal recognition as a legitimate profession clearly regulated under national labour law. The enactment of the RUU PPRT will open the door to the establishment of more detailed regulations regarding the rights and obligations of domestic workers, including provisions on wages, working hours, leave, and protection from violence. This draft law also provides an opportunity to clarify stronger oversight and enforcement mechanisms, enabling domestic workers to work in a safer and fairer environment.

With these two strategic steps—ratifying ILO Convention 189 and enacting the PPRT Bill—Indonesia will demonstrate its commitment to protecting the rights of domestic workers and ensuring their profession is legally recognised. This step is not only important for social justice for domestic workers but will also strengthen the national labour system and create more decent and dignified working conditions for all workers in Indonesia.

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