



Digital Receipt

This receipt acknowledges that **Turnitin** received your paper. Below you will find the receipt information regarding your submission.

The first page of your submissions is displayed below.

Submission author: Nirwan Junus Dan Mutia Ch. Talib
Assignment title: For Writer
Submission title: Developing Protection Law Based o...
File name: Mutia_Ch_Full-Paper-Format-for-TR...
File size: 115.54K
Page count: 10
Word count: 5,702
Character count: 31,645
Submission date: 08-Jul-2020 02:12AM (UTC-0700)
Submission ID: 1354934238

Proceeding of 3rd International Conference of Transdisciplinary Research on
Environmental Problems in Southeast Asia (TREPSEA2018)

Developing Protection Law Based on Gorontalo Local Culture for Domestic Workers at Gorontalo City

Mutia Cherawaty Thalib and Nirwan Junus¹.

¹Faculty of Law, Universitas Negeri Gorontalo, Indonesia.

^{*} Corresponding Author: mutiachthalib@gmail.com (Mutia Cherawaty Thalib)

Abstract: This research explores the issue regarding the response of several stakeholders towards the establishment of domestic worker's protection law. These stakeholders involve some communities (referring to people who hire domestic workers, domestic workers agency (including the domestic workers itself), government, and Family Welfare Movement (*Penberdayaan dan Kesejahteraan Keluarga or PKK*) of Gorontalo City. The protection law is established based on the Academic Draft and Policy Briefs. Furthermore, these drafts are the results of the previous Applied Product Research. This empirical legal research is aimed at identifying and examining the participation of the abovementioned stakeholders in developing domestic worker's law based on Gorontalo local culture. This research was conducted by identifying, systemizing, and synchronizing norms and the law of society and related policies regarding the protection of domestic workers which have been established in Academic Draft and Policy Briefs. The data were collected by gathering the responses from all stakeholders, particularly the Family Welfare Movement of Gorontalo City as the partner of the research. These responses were from survey, interview, and focus group discussion. The results reveal that the implementation of Ministry of Manpower No. 2 of 2015 considering Protection of Domestic Workers is prevention and repressive programs. The prevention consists of developing a partnership with Family Welfare Movement of Gorontalo City as the mediator between the family as the one who hires domestic workers and the agency. Other programs included are counseling, empowerment, and workshops. It is expected that the repressive programs will be implemented immediately after the prevention; government and non-government organizations are responsible for the conduct of the programs. The programs include the establishment of working groups on women and children's protection and other domestic workers communities. This is because women, children, and domestic workers dominate the number of the casualties of violation, discrimination, and exploitation.

Keywords: Protection Law; Domestic Workers; Local Culture.

1. Introduction

Indonesia as one of the most populous countries in the world and this should make the population as one of the most potential human resources in terms of development, including the economic growth of the country. Macroeconomic growth in Indonesia has increased in recent years. Slowly, macroeconomic growth has been able to reduce unemployment in Indonesia. However, with the number of annual workforces (approximately 2

million people²), it becomes a challenge for the Indonesian government. Although as a country with large populations, economic development problems are often faced with high unemployment at productive ages. Besides causing economic problems, this issue also affects other problems, such as socio-cultural, political and security complications. Unemployment in Indonesia is *unbalanced*. Women, in general, work in the informal sector and is often referred to as unemployment. On the other hand, there are many

¹ GunawanSumodiningradan Ari Wulandari, 2016,
² *Membangun Indonesia dari Desa*, Media Pressindo, Yogyakarta, hal. 56

Developing Protection Law Based on Gorontalo Local Culture for Domestic Workers at Gorontalo City

by Nirwan Junus Dan Mutia Ch. Talib

Submission date: 08-Jul-2020 02:12AM (UTC-0700)

Submission ID: 1354934238

File name: Mutia_Ch_Full-Paper-Format-for-TREPSEA2018_2.docx (115.54K)

Word count: 5702

Character count: 31645

4
**Developing Protection Law Based on Gorontalo Local Culture
for Domestic Workers at Gorontalo City**

Mutia Cherawaty Thalib and Nirwan Junus ¹.

¹Faculty of Law, Universitas Negeri Gorontalo, Indonesia.

* Corresponding Author: mutiachthalib@gmail.com (Mutia Cherawaty Thalib)

Abstract: This research explores the issue regarding the response of several stakeholders towards the establishment of domestic worker's protection law. These stakeholders involve some communities (referring to people who hire domestic workers, domestic workers agency (including the domestic workers itself), government, and Family Welfare Movement (*Pemberdayaan dan Kesejahteraan Keluarga or PKK*) of Gorontalo City. The protection law is established based on the Academic Draft and Policy Briefs. Furthermore, these drafts are the results of the previous Applied Product Research. This empirical legal research is aimed at identifying and examining the participation of the abovementioned stakeholders in developing domestic worker's law based on Gorontalo local culture. This research was conducted by identifying, systemizing, and synchronizing norms and the law of society and related policies regarding the protection of domestic workers which have been established in Academic Draft and Policy Briefs. The data were collected by gathering the responses from all stakeholders, particularly the Family Welfare Movement of Gorontalo City as the partner of the research. These responses were from survey, interview, and focus group discussion. The results reveal that the implementation of Ministry of Manpower No. 2 of 2015 considering Protection of Domestic Workers is prevention and repressive programs. The prevention consists of developing a partnership with Family Welfare Movement of Gorontalo City as the mediator between the family as the one who hires domestic workers and the agency. Other programs included are counseling, empowerment, and workshops. It is expected that the repressive programs will be implemented immediately after the prevention; government and non-government organizations are responsible for the conduct of the programs. The programs include the establishment of working groups on women and children's protection and other domestic workers communities. This is because women, children, and domestic workers dominate the number of the casualties of violation, discrimination, and exploitation.

Keywords: Protection Law; Domestic Workers; Local Culture.

1. Introduction

Indonesia as one of the most populous countries in the world and this should make the population as one of the most potential human resources in terms of development, including the economic growth of the country. Macroeconomic growth in Indonesia has increased in recent years. Slowly, macroeconomic growth has been able to reduce unemployment in Indonesia. However, with the number of annual workforces (approximately 2

million people)¹, it becomes a challenge for the Indonesian government. Although as a country with large populations, economic development problems are often faced with high unemployment at productive ages. Besides causing economic problems, this issue also affects other problems, such as socio-cultural, political and security complications. Unemployment in Indonesia is [unbalanced](#). Women, in general, work in the informal sector and is often referred to as unemployment. On the other hand, there are many

¹ GunawanSumodiningratdan Ari Wulandari, 2016, "Membangun Indonesia dari Desa", Media Pressindo, Yogyakarta, hal. 56

women who opt not to work in the formal field because the formal job is more likely to accept male workers. Other than that of formal employment, women are demanded to leave home and children because they have to go to the office or where they work.

It is different from the conditions of employment in Gorontalo City. The potential of human resources as a public worker in this city has increased in line with the development of all life sectors, affecting the lives of households, especially small families that are still productive. In performing activities, as out-of-home workers, civil servants, public and private employees, entrepreneurs, etc., are also getting higher. Whereas with the productive age, they have child or toddler even aging and ill parents. This state of need involves the help of others for household chores, call domestic workers.

In general, the existence of domestic workers is still a polemic because there is no clear and concrete arrangement of domestic workers as other occupation. Labor regulation has already been stipulated through Act No. 13 of 2003 on Labor. However, as a precautionary measure, the Minister of Manpower of the Republic of Indonesia has issued Decree of the Minister of Manpower of the Republic of Indonesia No. 2 of 2015 on the Protection of Domestic Workers. The Bill on the Protection of Labor is discussed and passed by the House of Representatives into Law.

Based on the findings of previous research, it can be argued that, customarily, the fulfillment of the rights of domestic workers, in reality, has not been met well, and even causes many problems. Similarly, the fulfillment of the obligations of domestic workers, caused by the quality of domestic workers individually and the ability to process and the results of work is still minimal, also resulted in many problems.² In particular, the existence of domestic workers in the local work market, there appears a downward trend in the last 3-6 years which means unbalanced by the need for higher domestic workers services, whereas the local domestic worker's employment or labor agencies that are officially operated in Gorontalo City has not provided yet. The Regional Regulations have not regulated rights and oversight protection for domestic workers because the

law on domestic workers is yet to be stipulated. Nevertheless, the Minister of Manpower Regulation No. 2 of 2015 concerning the Protection of Domestic Workers as a Guideline for the Protection of Minimum for Domestic Workers, which among others regulates the working relationship between individual Service Users and Domestic Workers as Providers through Work Agreement both in verbal and writing by involving local government such as the Chairman of the Rukun Tetangga (Neighborhood Association) in the area of service user's residence. Another reason that causes the non-fulfillment of rights and obligations in the domestic work relationship is the Domestic Workers' low quality becoming one of the aspects of the work ethos³.

The solution offered through previous research is applied product research which is the embody of minimal protection to the Domestic Worker in Gorontalo City, with Domestic Worker service agencies, starting from Gorontalo culture-based learning partnered with Gorontalo Family Welfare Counseling (PKK) institute.

A. Problem Statement

What is the development of a protection model for domestic workers based on local culture in Gorontalo City?

B. Theoretical and Empirical Studies of the Model

1. Theoretical Studies

a. The scope of Domestic Workers (PRT) and its Arrangement

Domestic Workers are the persons who work for an individual in a household to carry out domestic work by receiving wages and / or other forms of remuneration including those who stay or do not stay overnight.

The scope of domestic work includes work inside and outside the home as referred to in article 1 covering:

- a) domestic worker;
- b) housekeeper;
- c) caretaker;
- d) babysitter;
- e) nanny;
- f) governess;
- g) caregiver.

² Mutia Cherawaty Thalib dan Saiful Ibrahim, 2012, Penelitian Fundamental, "Perlindungan Hak Pekerja Rumah Tangga dalam Pemenuhan Hak dan Kewajiban Bekerja", Lemlit UNG

³ Mutia Cherawaty Thalib dan Nirwan Junus, 2015, "Kajian Sosio Yuridis Terhadap Eksistensi PRT di Kota Gorontalo", Lembaga Penelitian, UNG

The work outside the household as referred to in paragraph (1) includes the gardener, personal driver, private security guard, and private teacher (teacher of the lesson). Meanwhile, according to the Regulation of The Minister of Manpower No. 2 of 2015: Domestic Worker is a person who works for an individual in the household to carry out housekeeping work by receiving wages and/or other forms of remuneration. Meanwhile, the specific arrangements regulate the existence of domestic workers; so far not exist because the work of domestic workers has its own characteristics, which have not been accommodated in Law no. 13 of 2003 on employment. During this practice that occurs in big cities, the arrangement in the form of Work Agreement / Contract Work, and even then only be done between Users Service PRT with PRT Distributor Institution. The draft Law on the Protection of Domestic Workers is included in the 2015 National Legislative Programs plan. Therefore, to fill the existing legal gap, the Minister of Manpower has issued Regulation No. 2 of 2015 on the Protection of Domestic Workers as a minimum protection guideline for domestic workers. In the event of cases related to Domestic Workers within the scope of their work, they are settled under the Domestic Violence Ordinance, the criminal law, or the Civil Code of Agreement.

b. Local Culture and Value Transformation of Law Development in Domestic Employment

Culture has values that are always inherited, interpreted, and implemented in line with the process of social change. The nation of Indonesia owns the existence and diversity of noble values of culture as a means of building the character of the nation, both related to the personal and public character.

It is a system that has a relationship between one with another. Symbolic form of language, things, music, beliefs and community activities that contain the meaning of togetherness is a cultural coverage. Kluchohn and Kelly argue that culture is a pattern for life created in the explicit, implicit, rational, irrational and non-rational history that is present at all times as a potential guide to human behavior. This concept shows that the importance of culture and values conceived as the foundation for the character formation of the nation. In the current era of globalization, all aspects of life are uncontrolled and lack of filtering and the condition of the people who are not ready to engage Indonesian

society is brought to a more oriented stream of individualism and asterism and began to abandon the community's mutual cooperation activities, such as in Gorontalo known as *Huyula*⁴.

Table. Data Number of Population Aged 15 Years and Over by the Type of Activities and Sex during the Past Week in Gorontalo City, 2015

Core Activities	Sex		
	Male	Female	Total
(1)	(2)	(3)	(4)
Workforce	56 551	41 644	98 195
Working	52 656	39 508	92 164
Open Unemployment	3 895	2 136	6 031
Non-workforce	16 560	36 701	53 261
Studying	8 552	12 274	20 826
Taking Care of Household	4 540	23 589	28 129
Others	3 468	838	4 306
Total	73 111	78 345	151 456
Participation Rate of Workforce	77,35	53,15	64,83
Unemployment Rate	6,89	5,13	6,14

Source: Central Bureau of Statistics of Gorontalo City⁵

Empirically, the higher the level of family needs for a career outside the home for the services of domestic workers, rather the interest of workers working in the service sectors as Domestic Workers, declining and even its existence tends to disappear from the labor market. The cause factor is the non-fulfillment of the rights of domestic workers, among others, in the case of wages is still below the standard minimum wage Gorontalo Province Rp. 2.030.000, - unlike the wages of workers in companies, some of which have already applied the Provincial Minimum Wage. The other reason is the uncertain work time accompanied by a workload that is less balanced with the wages earned.

This shows that there is a development in our society understands the application of rights and obligations in life. There is time to earn a living, and there is time to be set aside for his family. In other cases, health and safety insurance in work has not been met as workers in the company. Sick domestic workers are given medical expenses, but if it is a serious illness, they will be discharged until cured,

⁴ RasidYunus, 2014, "Nilai-Nilai Kearifan Lokal (*Local Genius*) sebagai Penguat Karakter Bangsa, Studi Empiris tentang *Huyula*", Deepublish, Yogyakarta

⁵ Badan Pusat Statistik Kota Gorontalo, 2016, "Kota Gorontalo dalam Angka", Gorontalo

although there is no guarantee to get back to work. The majority of service users fulfills the right of domestic workers in the form of holiday allowance however it is still adjusted to the ability of Service User. Commonly, the fulfillment of rights and obligations between Service Users and Domestic Workers stated in Regulation of the Minister of Manpower No. 2 of 2015 on protection for Domestic Workers has not been fulfilled. The work agreement intended in that case can only be done through an employment contract between the Service User and the Domestic Worker through the mediation of the organizations / agencies of the Domestic Worker Distributors. Unfortunately, in Gorontalo City, there is still no local Employment Agency because the domestic worker is not in service employment market yet.

Some interesting indicators to explore are those related to work culture, which cannot be viewed from only one aspect but must be viewed systematically with other elements. Such as Service User Behavior, recruitment, the influence of cultural background and influenced internal culture, understanding, and meaning of work, knowledge, and skills, as well as work motivation.

In the domestic employment relation in the city of Gorontalo illustrates the mutual influence of congenial culture with the external culture that affects the low quality of domestic work. Whereas, discussing the work culture is the way of living and how one works, based on the values that apply in the society, which has been the nature, habits and the driving force that delivers a positive impact on individuals to always be responsible toward the job. The Work culture is also the embodiment of the value of each individual who needs to constantly work, be successful and be commendable. Psychologically, the application of a good work ethic, can improve cooperation, togetherness, be open to each other, increase the kinship, can build good communication, increase work productivity, responsive to the development of the world, and be able to create a comfortable atmosphere, cohesiveness in work⁶.

1) Philosophical Ground, Juridical and Sociological Existence Protection of domestic workers

⁶ Tubagus Achmad Darodjat, 2015, "Pentingnya Budaya Kerja Tinggi dan Kuat", PT. Refika Aditama, Bandung.

1. Philosophical Ground

Every aspect and sector of life requires moral studies in the form of philosophy, ethics and/or local wisdom. The diverse moral studies are actually owned by the society, either through sources of cultural traditions and religions. Recent economic, political, religious and cultural crises increasingly become multi-dimensional as a result of the neglect of some of the basic moral principles.

The basic concept of Indonesian philosophy, including reflection in all aspects of family life, community, nation, and state. Moreover, it is a part of the life of each individual in building a connection with one another. The employment relationship between domestic workers and employers can be observed from aspects of ethical philosophy and local wisdom as it concerns the cultural factors of work and views on the position of domestic workers in general as is on the research conducted before⁷.

1) Defining Ethical Philosophy

Philosophy is derived from the Greek *Philo* (*Philein*) means love, and *Sophia* means wisdom. Thus, *Philo Sophia* means love of wisdom. If one loves wisdom, then all thoughts, words, and deeds will always be oriented to the wisdom of truth and justice.⁸

Philosophy is to think deeply about the nature of something. Hence, Philosophy means an activity of thinking and feeling. Thinking is a logical activity, and a feeling is a part of the moral philosophy of aesthetics and ethics.

1) Ethical Philosophy perspective of the Fulfillment of Rights and Obligations of Domestic Workers

Based on the results of the study (Thalib, Ibrahim 2012: 67), the fulfillment of the rights and obligations of Domestic Workers does not work as desired, one of the factors causing it is a poor work culture, caused by undisciplined domestic workers in fulfilling the agreement, as there is a habit of domestic workers visiting their hometown on some occasions such as both family and village gathering and celebrations.

According to K Bertens⁹ it is concluded that Ethic has 3 positions, they are: (1) the value system is

⁷ Op.Cit

⁸ Rato, Domikus, 2011, "Filsafat Hukum, Mencari, Menemukan, dan Memahami Hukum", LaksBang Justitia Surabaya

⁹ www.globethics.net, accessed on 6th of April, 2017

values and norms that become the guidelines for a person or a group in managing his/her behavior, (2) code of ethics is a set of principles or moral values, and (3) moral philosophy, knowledge about good or bad. At this point, there will be a connection between ethics as a system of philosophy as well as cultural articulation.

Generally, ethics originally derived from philosophy related to the ideal situation/conditions that must be possessed and achieved by human beings. Hence, the control of human life can be collectively owned without having to interfere with each other individual. In addition, there are ethical theory perspective or point of view about how the people should behave. Although it will ultimately refer to a single

point of happiness, prosperity, and harmonization regardless of which point of view will perceive, both from goal /, teleological, or liability (*deontological*).

2. Sociological Basis

Sociological Basis (*sociologich e gelding*) can be interpreted as a reflection of people who live in the community, with the hope that the regulations will be issued by the general public spontaneously. Equitable accepted legislation will be effective and not necessarily require institutional deployment to implement it.

The problem of domestic workers is one of the complex problems, seeing the position of domestic workers not only as an informal profession but also a job that plays an important role to maintain the continuity of function in the family. The existence of domestic workers is socially influenced by the development of globalization. Indonesia, which the majority of the population is still from economically disadvantaged family, demands them to work in the informal sector, one of them is as domestic workers. Besides, the demands of economic needs for the domestic worker and the demands of the quality of work and hedonization of the employer is a direct interest that can create a benefit to each other. The demand for benefit can be stated as a consumption-oriented relationship. This is because the domestic work is an employment product which the existence is not the subsystems of the market economy like other professions such as office worker and others. Most of the distribution of domestic workers involve third parties such as foundations or specialized

agencies of domestic workers. However, most of the agencies are still owned by private businesses or corporations without supervision from the government or the ministry of manpower. In addition to paternalistic employment factors, other factors such the increasing of community consumption, lack of knowledge and education regarding employment, and insufficient supervision from the government to domestic workers demand the government, especially local governments, to be able to draft new regulations to discipline the distribution of domestic workers and avoid discrimination or violation of fundamental rights by employers and labor suppliers. The sociological basis demonstrates their contribution or impact of protection against domestic workers to be held in an orderly manner and done according to its function. Thus, it is needed not only from the governments but also the role of the community.

1 Unlike some other big cities, the existence of domestic workers in Gorontalo is not high, as some factors influence it, they are:

- Social change; Gorontalo city is one of the developing regions of many regions in Indonesia; its development is quite massive transitioned the life of its society from the traditional society to hedonism society;
- Still influenced by local culture; since before Gorontalo developed as it is today, society has negative views on the profession of domestic workers. The people of Gorontalo still think that domestic work is a job that can reduce one's dignity. That kind of a principle is called the *dila biasa* principle, *Moomu* (reluctant), *Moolito* / *Moqolito* (shame/embarrassment), meaning the society is reluctant to work as a domestic worker as they consider it as a shameful job.
- The lack of understanding of the society regarding the dissimilarity scope of the work (formal and informal) specifically the understanding of domestic worker; it is important for the society to understand as many of them still think that the domestic worker is a voluntary work or enslavement.
- Lack of socialization regarding the formal mechanism in the recruitment of domestic workers. In Gorontalo, if a person wants to be a domestic worker, it can be done informally by simply stating it to the employer or

through an intermediary. Usually, there is no formal agreement between the domestic worker and employee as well as official job of the domestic worker. The employer will simply say when it is the time to work; then the domestic worker starts to work.

This is caused by the habit of Gorontalo concerning the employment relationship between the employee and the domestic worker which is often done without an official contract or labor agreement but only through a statement orally. Many cases happen in households associated with domestic workers as domestic workers usually terminate the work agreement unilaterally or they work unprofessionally, there are even domestic workers who take action against the law.

- The absence of special supervision from the local government relating to domestic workers; Local governments still consider the issue of domestic workers as a private or familial issue, since the type of paternalistic employment places the issue of domestic workers after public issues;
- There is no institution or foundation for labor suppliers in Gorontalo.

The above factors play an important role in the formation of protection models for domestic workers to be pursued by researcher and local governments. The scope of the overall factor regarding the local culture is still very strong, thus affecting the point of view of both society and government about the existence of domestic workers which is not so important.

3. Juridical Ground

Employment is a basic need of citizens as mandated in Article 27 (2) of the 1945 Constitution which states that: "Every citizen has the right to work and to live in human dignity."

This implicates the state's obligation to regulate issues of employment and labor requirements that need to be planned well, especially labor issues which are broad and very complex. Either it is viewed from the aspect of economic, social welfare, social politics and legal issues, which have not been specifically regulated in positive law. Therefore, a problem between Domestic workers and employers often emerges.

Hierarchically, the position of the ² Regulation of the Minister of Manpower of the Republic of Indonesia No. 2, 2015 is infirm. However, if it is analyzed in the Article 10 section (1) point e of Act Number 12 the Year 2011 on the Establishment of Laws and Regulations, in the explanation states that: "The content material that must be regulated by law contains: (e) the fulfillment of legal needs in the community."

Examined from the aspect of human rights, domestic workers, are part of the workforce. Labor is a legal subject whose rights, and responsibilities must be protected. The legal aspects of employment should be aligned with the current rapid development of employment, thus the substance of labor laws not only covers the employment relationship but also shifted into legal relations during- employment and after post-employment.

One area of work that has been ratified as the type of work to be protected is domestic work. It is based on the agreement of the delegates at the International Labor Conference 99th which the protection of domestic workers should be appreciated. All this time, domestic workers who do almost all household work still has not got proper protection which is in contrast with high demands of the society for domestic workers.

3. Result and Discussion

Development of Domestic Workers Protection Model Through Integration of Community Empowerment Program Based on Local Culture

Within the National scope, at this time ³ the starting point for the Indonesian government on the protection of domestic workers ³ the establishment of an inter-ministerial task force for the protection of domestic workers, comprising representatives from the Coordinating Minister for People Welfare, Manpower and Transmigration, Ministry of Women Empowerment, Law and Human Rights, Ministry of National Education, National Development Agency, Ministry of Social Affairs, and other relevant agencies. The task force should have built close relations with the representatives of Commission III of House of Representative (Law and Human Rights), Commission VIII (Women, Child, and Social) and Commission IX (Population, Health, and Labor). It is essential that government action encompasses the civil society. As is seen in some other countries such as North Africa and the Philippines, the construction

relationship between the government and civil society could be directed at advancing the protection of domestic workers. The Government of Indonesia, both national and local, can support the civil society by conducting public consultations and taking technical input on the Bill conscientiously, Regional Regulations, and other regulatory forms¹⁰. Another important area for involving government and civil society is the provision of legal information. The government agencies could collaborate with non-governmental organizations (NGOs), broad-based civil society organizations and some other elements of society to establish a legal hotline in order to disseminate information regarding the rights and obligations of the domestic workers and the employers as well as to prepare National Action Plans in which domestic workers can develop skills and competence acknowledgment. The mapping pattern of the recruitment aims to minimize inappropriate treatment that usually experienced by the domestic workers and to run a public awareness campaign on the value of domestic work. Constituting regulation in Gorontalo City is without question time consuming since the society are involved in such a process. The regulation serves as the public policy in which its conceptualization requires sustainable process starting from the public agenda-this agenda originates from the government where an immediate follow-up is required.

The proposed policy concerning the protection of domestic workers is designed to protect all natural rights of the workers-it refers to protecting the workers from issues that impact their sustainability. In other words, the designed policy follows a *downtop* model. This protection law is also designed based on the local wisdom in Gorontalo City by implementing social engineering to the society in terms of the existence of domestic workers. This can be done through two methods as explained as follows:

- a) Preventive protection, this refers to social control serving as prevention which is implemented before a phenomenon occurs. Furthermore, this method involves empowerment starting from the sub-district units. It targets the society as the user of

domestic workers as well as the workers themselves, seminars regarding the law, and workshop on improving domestic workers' skills.

- b) Repressive protection, this refers to social control implemented after a violation. Methods involved in this protection are establishing non-government organization for workers from informal sectors and legal counseling for domestic workers by legal aid services. Furthermore, persuasive supervision for informal workers (including domestic workers) by the government is crucial to regulating the society according to the norms and values.

The above protection law models consider the domestic workers as informal sector workers, yet some of their responsibilities are somewhat those of formal workers. In addition, these models are able to produce quality workers with an adequate understanding of the law. However, cooperation between all stakeholders is required in implementing the law.

Roles and Classification of Protection Law of Domestic Workers in Gorontalo City contribute significantly to the society especially a family since domestic workers usually responsible for assisting household duties, such as babysitting. This is because the parents, or those who hire domestic workers, have many responsibilities dealing with family economics. Hiring domestic workers allow the family to deal with their business effectively. Some responsibilities of domestic workers are as follows:

- Domestic workers help the family who works in a public sector dealing with household chores;
- Domestic workers sometimes play the same role as a housewife;
- Domestic workers contribute to the economics of a country; for example, migrant domestic workers help the country's foreign exchange while those who work in a local sector support the country's income;
- Domestic workers ensure the safety of children-they can prevent child abuse which sometimes occurs in daycare center or other places, such as school while no one monitors the children;

¹⁰ Kantor Perburuhan Internasional – Organisasi Perburuhan Indonesia atau ILO (*International Labour Organization*), 2006, "Peraturan tentang Pekerja Rumah Tangga di Indonesia", www.ilo.org/, accessed tanggal 29 September 2017.

- Domestic workers increase the economics of middle-to-lower society;
- Domestic workers as *social engineering* of the society help the parents socialize with the neighbor. In addition to taking care of their children, domestic workers also enable the family to communicate their problems with the workers.

The user of domestic workers must provide and ensure the safety and the rights of the workers considering the contribution of such workers for family, society, and government. The following is the classification of protection law based on Gorontalo local culture for domestic workers at Gorontalo City.

- a) Preventive model classification:
 - Counseling;
 - Workshop;
 - Empowerment; involving the domestic workers, specifically women, in workshops or other programs by the local government;
 - Establishing "Sahabat Pramuwisma," a community for domestic workers by cooperating with local official and government.
 - Constituting government regulation concerning the establishment of domestic worker providers;
 - Assigning professionals as a supervisor who monitors the provider, the user of domestic workers intensively, this include the workers as well;
 - Formulating draft or design of local regulation concerning the recruitment of domestic workers and problem-solving procedures for the workers;
- b) Repressive model:
 - Establishing advocacy institutions for informal sector workers;
 - Establishing non-governmental organizations that deal with social and legal issues for domestic workers;
 - Organizing seminar or legal counseling on violations of rights (both direct and structural violence) and its reporting mechanisms.

The basic principle of the protection law of domestic workers in Indonesia does not cover all of the rights of the workers generally. In fact, many provinces in Indonesia, such as Jakarta and

Yogyakarta, has its own regulation concerning the problem of domestic workers. These two provinces constitute the protection law of domestic workers in which its regulation is not contained in the Regulation of Ministry of Manpower No. 2 of 2015. On top of that, these provinces strengthen the protection law for domestic workers by cooperating with several non-government organizations and advocacy institutes dealing with the issues of such workers. On the contrary, Gorontalo government has yet constitute the regulation concerning the protection of domestic workers. The regulation is influenced by the local culture in Gorontalo that embraces the paternalistic system of domestic workers. In other words, the arrangement is more familial by which it does not involve the public interest. This issue serves as the rationale of the necessity of constituting policy which considers the public interest. Therefore, this research proposes the policy regarding the protection of domestic workers in Gorontalo City.

1: Maximizing Working Contract

The purpose of this policy is to prevent any violation of the rights by the user and the domestic worker agencies. This is done by organizing recruitment procedures by the agencies prior to placement of the workers to the service users. The organizing procedures refer to the working contract and agreement between the domestic workers, their agencies, and the users. Such contract or agreement shall not be impartial to one party and shall not prejudice domestic workers in the future as informal workers.

Maximizing contracts or work contracts of domestic workers with channeling agencies and users involves the authorities, such as the head of neighborhood association. For example, the head of neighborhood association is involved during the process of signing contract between the workers and the users. The involvement of such a stakeholder emphasize the reliability of the contract and confirm that the workers are under the legal protection.

Other advantages of the involvement of local stakeholders are listed as follows:

- The employment agreement is recorded by the village;
- Allowing the local official to organize empowerment program in terms of developing knowledge, skills, and behavior;

- Enables effective monitoring and supervision of the domestic workers.

2:

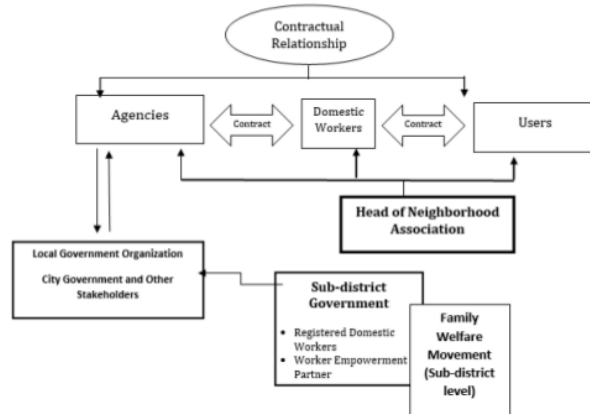


Figure 1. Contractual Relationship within the Scope of Domestic Workers
(Before Employment, Coaching, Supervision)

3: Establishing “Sahabat Pramuwisma”

Housekeeper (one of the responsibilities of domestic worker) is defined as a person who is responsible for handling household chores. “Sahabat Pramuwisma” is an organization where the domestic workers can share their experience, knowledge, and solutions regarding their work. The organization also functions as a partner for the government, police officers, and the society in monitoring the domestic workers.

The city government cooperates with regional work unit in the establishment of “Sahabat Pramuwisma.” Prior to cooperating with the government, the regional work unit establishes working groups of the domestic workers. If collaborating with the government is not possible, “Sahabat Pramuwisma” can function with the aid of other non-government organizations; government supervision is still required nonetheless.

The establishment of “Sahabat Pramuwisma” is regarded as a preventive model of law protection of domestic workers. The procedures are explained as follows:

- “Sahabat Pramuwisma” implement *Plaint Mobile* by collaborating with sub-district government, regional work units, and Family

Welfare Movement. *Plaint Mobile* refers to complaint services related to problems of domestic workers. This program also covers empowerment and counseling at a particular area in a certain period;

- “Sahabat Pramuwisma” collaborate with the users and agencies of domestic workers in organizing local wisdom-based training for the workers as a part of professional development by referring to the culture and traditions of Gorontalo.
- Referring to the culture of Gorontalo broaden the insight of domestic workers by which the workers can refer to the more flexible concept during their work;
- “Sahabat Pramuwisma” allows all domestic workers to socialize with each other and develop their capacity, networking, and kinship;

Information obtained from the networking of “Sahabat Pramuwisma” allows the government to record the number of informal workers in developing the growth of the economic sector and the well-being of the society.

4. Conclusions

The study on the existence of domestic workers and its protection law in Gorontalo City is aimed at providing a strong grounding for designing local culture-based protection law. It is also necessary for the city government to construct a policy in addressing such an issue. A particular policy is expected to organize and manage the recruitment of domestic workers by which it emphasizes the existence of law protection for domestic workers and other related stakeholders.

References

- [1] Kharlie, A. T., 2013, *Hukum Keluarga Indonesia [Family Law in Indonesia]*, Sinar Grafika, Jakarta Timur
- [2] Niode, A. S., 2006, Gorontalo, *Perubahan Nilai-Nilai Budaya dan Pranata Sosial [Gorontalo, Changes in Culture and Social Order]*, PT. Pustaka Indonesia Press (PIP) Jakarta
- [3] Sulistiyani, A. T., 2017, *Kemitraan dan Model-Model Pemberdayaan [Partnership and*

- Empowerment Models] Penerbit Gava Media, Yogyakarta
- [4] Badan Pusat Statistik Kota Gorontalo, "Kota Gorontalo dalam Angka, 2016."
- [5] Thalib, M. C., Ibrahim, S., 2012, Penelitian Fundamental, Perlindungan Hak Pekerja Rumah Tangga dalam Pemenuhan Hak dan Kewajiban Bekerja [Protection of the Rights of Domestic Workers in the Fulfillment of Working Rights and Obligations], Lemlit UNG
- [6] Thalib, M. C., Junus, N., 2015, Penelitian Kolaborasi, Tinjauan Sosio Yuridis terhadap Eksistensi Pekerja Rumah Tangga di Kota Gorontalo [Socio-Juridical Review of the Existence of Domestic Workers in Gorontalo City], Lemlit, UNG
- [7] Partner For Law in Development United Nation Development Fund for Women, 2007, "CEDAW, Konvensi Penghapusan Segala Bentuk Diskriminasi terhadap Perempuan, Mengembalikan Hak-Hak Perempuan"
- [Convention on the Elimination of All Forms of Discrimination against Women, Restoring Women's Rights] SMK Grafika Desa Putra
- [8] Yunus, R., 2014, "Nilai-Nilai Kearifan Lokal (Local Genius) Sebagai Penguat Karakter Bangsa" Studi Empiris tentang Huyula [Local Wisdom as the Medium to Strengthen Nation Character "An Empirical Study of Huyula], Penerbit Deepublish, Yogyakarta

Laws and Regulations

- Act Number 13 of 2003 Considering Manpower
- Act Number 39 of 1999 Considering Human Rights
- Act Number 23 of 2004 Considering Elimination of Domestic Violence
- Act Number 2 of 2015 Considering the Protection of Domestic Worker
- Convention on International Labor Organization (ILO) No. 189 on Decent Work of Domestic Helper

Developing Protection Law Based on Gorontalo Local Culture for Domestic Workers at Gorontalo City

ORIGINALITY REPORT

8%

SIMILARITY INDEX

4%

INTERNET SOURCES

6%

PUBLICATIONS

2%

STUDENT PAPERS

PRIMARY SOURCES

1	Mutia Cherawaty Thalib. "Legal Design of Domestic Workers Protection Based on Gorontalo Community Local Culture", IOP Conference Series: Earth and Environmental Science, 2018 Publication	5%
2	ejournal.unkhair.ac.id Internet Source	1%
3	Submitted to University of Melbourne Student Paper	1%
4	trepsea.org Internet Source	1%

Exclude quotes On

Exclude bibliography On

Exclude matches < 1%