

Legal Arrangement for Household Workers: A Case Study of Plasma Fake Eyelashes Industry in Labor Law Perspective

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ABSTRACT

Keywords:
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This study analyzes legal protection for domestic workers in the plasma fake eyelashes industry in Kabupaten Purbalingga from a labor law perspective. The method used in this study is juridical empirical. The data used in this study consisted of primary data, secondary data. Primary data were obtained from a field study conducted in Bojongsari District and the plasma fake eyelashes industry in Purbalingga Regency. Secondary data is obtained from primary legal materials in the form of laws and regulations relevant to the topic under study. According to the employment law, the research result shows that the legal protection of homeworkers in the Plasma hair industry in Purbalingga faced a significant challenge. Although it is covered in law 13 of 2003, it does not accept the right and protection as stipulated in the law on wages, employment contracts, freedom of Union and assembly, working hours, occupational safety and health, and social security. With these issues, home workers are very vulnerable and hold poor positions; therefore, particular actions are needed to encourage the protection and fulfillment of their fundamental rights. Strategic policies need to be carried out that recognizes the existence of home workers. These policies need to be incorporated into national statistical data and legislation as an affirmative step taken by the Indonesian Government. Furthermore, the Government needs to develop home worker protection policies that include their fundamental rights. The Government needs to establish a mandatory minimum health and worker protection scheme not to be a burden.

1. INTRODUCTION

The word "homeworkers" is often referred to as "sub-contracted workers," and it is not new in Indonesia. According to the International Labor Organization (ILO) in convention No. 177/1996, a homemaker works from home or some other place sides from the employer's environment. This category of people is paid to produce a product or service as determined by the employer, regardless of the provider of the equipment, materials, or other inputs used.

There are many foreign capital companies in the District of Purbalingga from Korea in the form of false eyelash factories produced by plasma workers. The labor homemaker income is not calculated from the number of attendances, such as factory employees, instead of from the number of false eyelashes embroidered daily. However, the Manpower Act does not explicitly regulate homeworkers because it effectively protects formal sector employment, not the informal sector, such as female plasma workers. This condition does not guarantee legal and economic protection on wages, social security, working hours, health, and safety.

The results obtained from analyzing the existing plasma model in the Purbalingga district showed that the work performed is homework practice, which takes place in the putting-out system. In this process, workers carry out work, produce goods or services without the employer's supervision. Therefore, the quality of work is based on the agreement of the employer and worker.¹

False eyelash plasma homeworkers work with many costs and production risks, including buying, renting, and maintaining equipment and paying for electricity and transportation. Significant resources are also absorbed in work and utilized adequately by employers without being realized by plasma workers. Therefore, homeworkers significantly utilize domestic resources (households) without receiving compensation, and the working relationship is limited to the output. Based on the description above, the Purbalingga Regional Government needs to make arrangements and policies in labor law to protect female plasma workers who have made significant contributions to the industry and economic growth in Purbalingga.

2. RESEARCH METHOD

This research uses the juridical empirical method or the normative and empirical approach, namely legal research, which is conducted by prioritizing researching literature or documents and field reviews. The data used in this study consisted of primary data and secondary data. Primary data were obtained from field studies conducted in Bojongsari District and the plasma false eyelashes industry in Purbalingga District. Meanwhile, secondary data is obtained from primary legal materials in the form of laws and regulations relevant to the topic to be studied.

¹ Bekyashev D.K. and Mikrina V.G, "Comparative Legal Analysis of Domestic Worker's Legal Status under International and Russian Law," *International Journal of Economics and Business Administration* 7, no. 1 (2019): 150–62.

3. RESULTS AND DISCUSSION

3.1. Legal arrangements according to the Manpower Act against Homeworkers in the False Eyelash Industry Plasma in Purbalingga

The wig industry in Purbalingga Regency is the second-largest in the world after the city of Guangzhou in China. The presence of this industry has provided quite a large number of jobs due to its labor-intensive industrial nature. Data obtained showed that the majority of plasma workers in this region are women.

The involvement of homeworkers leads to various implications, such as flexible working hours, cheap wages, and household resource utilization to achieve targets and significant income, which in most cases are ignored. In addition, another impact is the health problem of workers. Those in Purbalingga Regency are usually affected because the embroidery eyelash crafters require carefulness and adequate visual contact of the eyes. In most cases, these workers tend to experience various eye problems, and unfortunately, these companies do not provide health insurance for their workers' eyes.

In the concept of employment, women who carry out this type of work are included as informal workers. Unfortunately, the informal sector is full of problems mainly related to its workers, such as a dominant patriarchal culture, which meets the interests of the owners of capital. At this point, women, especially that are poor, are seen as potential resources because while working from home, they can carry out their homework and at the same time increase family income.²

In principle, labor law is a civil relationship between workers and employers. However, both parties lack relational equality. Naturally, the employer's position is more powerful than workers who depend on their jobs to take care of their family welfare. Therefore, the state is present through legislation and law enforcement to prevent exploitation from occurring by providing guaranteed protection and enforcement of labor rights somewhat.

Due to the government and law enforcement officials' inattentiveness to homeworkers, many companies are unaware that employing them is regulated in the Manpower Act. The working relationship between homeworkers and employers, such as traders/producers in the false eyelash industry in Purbalingga, is sometimes seen as a commercial relationship. Meanwhile, when their arrangements were analyzed in the hair industry in Purbalingga, it was found that unit wages were needed to provide their equipment, materials, and supervision systems according to their schedule and to obtain the quality output.

Inputting out systems, employers place risks and responsibilities for the quality of production on homeworkers. Therefore, the employment relationship between employers

² M. S. ulistianingsih, D., Prabowo and M Martitah, "How Legal Protection of Women in Home Workers Improving Family Welfare?," *Ndonesian Journal of Advocacy and Legal Services* 3, no. 1 (2021), <https://doi.org/https://doi.org/10.15294/ijals.v3i1.40721>.

and homeworkers is often complicated by subcontracting arrangements and the use of intermediaries. In Indonesia, this kind of working relationship is an acceptable way to meet both supply and demand. Regulations regarding the legal relationship of intermediaries with employers and the legal responsibilities of employers regarding the working conditions of homeworkers are spelled out in the Manpower Act. However, presently, the use of intermediaries to employ homeworkers in Indonesia does not comply with regulations on subcontracting and outsourcing intermediaries to fulfill their responsibilities to workers.³

Based on a survey in Bojongsari Subdistrict, Purbalingga district, homeworkers do not have an idea of their primary employer because they only deal directly with collectors/intermediaries. Therefore, their inability to determine employers makes it difficult for them to demand work conditions and workers' rights and file complaints against employers. According to the Manpower Act, employers are only permitted to involve third parties that are legal entities through written agreement to carry out subcontracting and outsourcing arrangements. The nature of work subcontracted or outsourced needs secondary or complementary activities, known as "non-core business activities," to the company's main activities.⁴

These third-party responsibilities are reaffirmed by the Constitutional Court of the Republic of Indonesia in Decision N0 27 / PUU-IX / 2011. Employers are interested in using intermediaries because it is an effective way to avoid dealing with labor regulations related to homeworkers and avoid employer responsibilities. Although the Manpower Act provides a clear framework for assuming responsibility associated with the working conditions of workers in subcontracting arrangements, it is a challenging area to supervise.⁵ It is also associated with the case of subcontracting and outsourcing work through intermediaries to homeworkers.

Therefore, it can be concluded that Indonesia Law No. 13 of 2003 does not recognize homeworkers as workers because there is no consensus on their legal status. However, the law generally applies to only workers in the formal sector.

In every work relationship, workers are usually guaranteed rights and benefits according to the Manpower Act. That means that homeworkers also have the same rights in terms of wages and conditions of work. However, the law also provides a "certain time," which allows employers to employ workers seasonally or for a short term. Therefore, the Manpower Act does not explicitly cover homework. Instead of principle,

³ ulistianingsih, D., Prabowo and Martitah.

⁴ "Law No. 13 of 2003 on Manpower Articles 63-66" (n.d.).

⁵ "Regulation of the Minister of Manpower and Transmigration Concerning Transfer Requirements No 19 of 2012, Which Supersedes the Previous Ministerial Decrees, KEP11 / MEN / VI / 2004 and KEP220 / MEN / 2004," n.d.

homeworkers are considered ordinary workers who work in an industrial employment relationship according to the law.

An ILO review of the Labor Law shows that Labor Law implicitly covers homeworkers No. 13 of 2003 concerning workforce based on the provisions in Article 1 (2), paragraph (3). This study further stipulates that homeworkers are in employment relations and employers are obliged to comply with various provisions of Labor Law No. 13 of 2003. One of the rules governing homeworkers is the ILO Convention on Home Work No. 177 of 1996. However, it has not yet been ratified by Indonesia. Therefore it is not binding. Hence, the Government needs to make policies in labor law to protect homeworkers that have made significant contributions to the development of industry and economic growth in Indonesia

3.2. Legal Protection of Home Workers in the Hair Industry Plasma in Purbalingga According to the Manpower Act

Based on a survey, Plasma workers are like top celebrities loved by Purbalingga women, with hundreds scattered all over the country. Some of them are still students below working age. The majority of homeworkers do not know the companies they render their services to, and the companies, in turn, have no idea about this category of people. It is because a liaison supplies raw materials to companies such as the eyelashes and wigs industry. Therefore the rights and obligations of workers and companies are not like those working in factories.⁶

The hair plasma and false eyelashes in Purbalingga Regency are divided into two, namely branches and collectors. In practice, there is no difference between the two types of work. However, the difference is the rules set. The following is a table on Branch and Collector differences.

Table 1. Difference between Branch and Collector

No	Branch	Collector
1	Working hours for Labor Day workers is 7 hours, usually from 08.00 to 15.00 with a 30 minutes break from 12.00-12.3	No working hours provided the production target is achieved and submitted within a specified time.
2	Labor status is a wholesale process where the wages are <i>borongan</i> according to the production amount.	Labor Status is a wholesale process where the wages are according to the amount of production.

⁶ Tri Rahayu Utami² and Maimunah Naila Amrina, "Perlindungan Hukum Bagi Pekerja Rumahan Yang Bekerja Secara Putting Out System Melalui Optimalisasi Peran Badan Usaha Milik Desa," *Administrative Law & Governance Journal* 2, no. 1 (2019): 365–79.

3	Coordinator Status is a factory officer with the same rights as workers, such as getting a salary according to UMR and health insurance (Jamkesmas)	The exact status with the branch workers as a wholesale worker and earn money from the profit of each labor.
4	\Each branch worker is given a uniform to be worn during working hours there is also a Haris where batik clothes are used.	There is no uniform as long as the finished product is obtained.
5	The minimum amount of labor must be 50 persons per branch.	The number of workers is usually not more than 20.
6	Branches are strongly tied to the factory, with all regulations enforced in the branches. Only different branches are located near the place of residence, thereby making work economical in transportation costs.	There is no strong bonding with the factory. Therefore the contract is limited to become a piper capable of carrying out the craft results daily.
7	Workers need to ensure they complete tasks at the branch, and when they are unable to achieve this, it can be completed at home before the time expires.	It is produced at home long as the requested target is fulfilled. Therefore, homeworkers only visit the place to deposit the product.

Homeworkers that work outside companies, such as in the hair industry plasma managed by collectors, only use a piece-rate system. Capitalists carry out this innovation from working relations to maintain the production system and ensure its continuous existence. Plasma is also used as a mediator for enhancing community welfare and stimulating the growth of other businesses.

Based on the described above, the plasma company in Purbalingga makes use of homeworkers.⁷ From the characteristics of the actual plasma worker in Purbalingga, a home Based worker entrusted individual entrepreneurs or companies often contract part manufacture (called home worker) through intermediaries.

The percentage of women to men is higher due to the flexibility is given to women in organizing and fulfilling household duties while working. Despite the dem fish, this flexibility is one of the few benefits of work carried out at home. Homework is usually characterized by an exploitative working relationship where those involved receive standard wages, work in a long and immeasurably time, respond to serious occupational

⁷ "ILO Home Work Convention, 1996, (No 177) Article 1," n.d.

health and safety risks without having a work contract and no job or social security. For example, Kuswati is one of the worker's Plasma tuna from the village Panusupan Rembang Purbalingga District, which can only work on 70 percent of eyelashes. According to Kuswati some works cannot be carried out with both legs. Kuswati's mother, Ruswati, and a plasma worker sometimes help to complete the work when the craft of Kus is deposited. The wages received from every pair of eyelashes that are successfully created is Rp200, and they are only able to produce 20 pairs of eyelashes.⁸

According to the head of Industrial relations and labor training Disnakertrans Purbalingga Tukimin, plasma Labour also has no bargaining position on its job because of the absence of an adequate legal umbrella. That is because homeworkers are considered to work without a target time and as labor/ordinary workers. The statuses of industrial relations are considered unclear as stipulated in the workforce LAW. It is because hired plasma workers as employees of the company get their orders from mediators/intermediaries.⁹

Based on the research analysis, it is known that plasma workers in Purbalingga are vulnerable to exploitation, such as lack of regulation, recognition, votes and representation, isolation from other workers, and the absence of written contracts. Furthermore, due to the absence of formal contractual agreements, the employment contract does not have a definite term and lacks social security. Homeworkers are relatively isolated and often undereducated, with inadequate lack knowledge of the rights and mechanisms used to support the fulfillment of their rights and interests.¹⁰

In Indonesia, labor law consists of employment and subordination of work. These elements determine a working relationship between the company and home workers with their employers under the Indonesian Labour Act. Although these elements are dependent on each situation, home workers usually meet all their needs. Therefore, home workers are in a working relationship and are entitled to the rights of the workforce.

Although home workers were formally tagged as workers with working relationships by LAW No. 13 of 2003 on the workforce, they are employed through

⁸ Khoirul Muzaki, "KISAH Derita Buruh Plasma Di Balik Kejayaan Industri Bulu Mata Purbalingga," *Tribun Jateng*, 2017, <https://jateng.tribunnews.com/2017/05/08/kisah-derita-buruh-plasma-di-balik-kejayaan-industri-bulu-mata-purbalingga?page=all>; A. Matsuura and N. Haspels, *Home-Based Workers: Decent Work and Social Protection through Organization and Empowerment. Experiences, Good Practices and Lessons from Home-Based Workers and Their Organizations* (Jakarta: ILO, 2015).

⁹ Khoirul Muzaki, "Duuuh, Disnakertrans Purbalingga Tahu Upah Buruh Plasma Tak Layak Tapi Tak Bisa Berbuat Banyak," *Tribun Jateng*, 2017, <https://jateng.tribunnews.com/2017/05/08/duuuh-disnakertrans-purbalingga-tahu-upah-buruh-plasma-tak-layak-tapi-tak-bisa-berbuat-banyak>; Abdul Khakim, *Pengantar Hukum Perburuhan Indonesia; Berdasarkan Undang-Undang Nomor 13 Tahun 2013* (Bandung: PTCitra Aditnya Bakti, 2007).

¹⁰ Mitra Wanita Pekerja Rumahan Indonesia (MWPRI), "Laporan Penelitian Dan Focus Group Discussions Dengan Pekerja Rumahan Di Jawa Timur, Jawa Barat, Jawa Tengah, Yogyakarta, Bali Dan Sumatera Selatan, 2005-2012," n.d.; Mertokusumo and Sudikno, *Mengenal Hukum Suatu Pengantar* (Yogyakarta: Liberty, 2007).

informal mechanisms beyond the scope of the current Ministry of Manpower policies and programs.¹¹ Presently there is no regulation governing home-based work in Indonesia because the country has not ratified ILO Convention No. 177. Homeworkers tend to challenge labor law dualism because they are unsupervised employees tied through entrusted part manufacture to formal companies. Furthermore, employers or intermediaries are not charged with the obligation to meet workers' wage standards and provide occupational health and safety protection.

In many cases, workers have to bear on their various risks for their homework involvement. However, to encourage viable work, legal protection is required for this category of workers, including plasma workers in Purbalingga, to enable them to access labor rights and be recognized as workers. The special regulation governing home workers is necessary to recognize the status and protect their rights. It is also indicated that the country is presently protecting its citizens without any discrimination.

The scope of protection against workers under Law No. 13 of 2003 includes:¹²

1. Protection of fundamental rights of workers to negotiate with entrepreneurs,
2. Occupational safety and health protection,
3. Special protection for workers of women, children, and disabled people,
4. Protection of wages, welfare, and social Security of Labour.

The guarantee of protection given by Law No. 13 the year 2003 concerning employment is as follows.¹³

1. One of the objectives of labor development is to protect workers in realizing welfare (article 4 letter C),
2. Each working country has the same opportunity without discrimination to obtain employment (article 5),
3. Each worker is entitled to the same treatment without discrimination from employers (article 6),
4. Each worker is entitled to acquire and develop work competencies following their talents, interests, and abilities through work training, as stated in section 11,
5. Each worker has the same opportunity to participate in the training of workers following the field of duty (Article 12 paragraph (3)),
6. Each worker has the same right and opportunity to choose, acquire, or move jobs and earn a decent income within or outside the country (article 31),

¹¹ Kanyaka Prajnaparamita, "Perlindungan Hukum Terhadap Tenaga Kerja Perempuan Berdasarkan Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan," *Administrative Law & Governance Journal* 2, no. 1 (2019): 34–46.

¹² Kanyaka Prajnaparamita.

¹³ Junaidi Abdullah, "Bentuk-Bentuk Jaminan Sosial Dan Manfaatnya Bagi Tenaga Kerja Dalam Hukum Ketenagakerjaan Di Indonesia," *Jurnal Pemikiran Hukum Dan Hukum Islam* 9, no. 1 (2018): 122–35.

7. Each worker is entitled to the protection of occupational safety and health, morals and morality, and treatment following the dignity of man and the Values of religion (Section 86 paragraph (1)),
8. Each worker is entitled to an income that satisfies a viable livelihood for humanity (Section 88 paragraph (1));
9. Each worker and family have the right to obtain the Social Security of labor (article 99 paragraph (1)),
10. Each worker is entitled to form and become a trade union member (section 104 paragraph (1)).

Consequently, the protection and fulfillment of the rights of homeworkers are not assured. The rights of home workers are as follows.

1. Employment Contracts

Homeworkers tend to bind themselves to be oral or written employment contracts.

2. Equal treatment and non-discrimination

Home workers need to be treated just like ordinary workers, such as labor requirements and benefits gained.

3. Equal treatment and non-discrimination

Freedom of assembly and organization, such as make agreements and work together.

4. Freedom to organize and gather

An instance is the need to create a joint work agreement.

5. Wage

The homemaker is entitled to a decent wage under the minimum wage and is aware of the amount received.

6. Business Hours

Working hours are 40 hours per week; therefore, they can reject the work order when homeworkers exceed this timeframe.

7. Occupational Safety and Health

Employers/intermediaries are obliged to assess occupational safety and health to provide the facilities required by home workers.

8. Protection and Social Security

Regardless of their temporary or seasonal status, workers need to be included in the Social Security program regardless of the frequency of the order.

4. CONCLUSION

According to the Labor Law for homeworkers on The plasma of the false eyelashes industry in Purbalingga, legal arrangements have not been regulated in the Indonesian legislation because it has not ratified THE ILO Convention No. 177. In Indonesia, including those in Purbalingga Regency, homeworkers refer to THE Law No

13 the year 2003 on employment. They are included as workers who work and receive wages or other salary forms (article 1 paragraph 3). Therefore, a formal home worker is defined as someone with a working relationship following law No. 13 of 2003 on employment and employers responsibility to protect the welfare, safety, and health both mentally and physically. However, in practice, home workers are employed through informal mechanisms and are beyond the scope of the current Ministry of Employment policies and programs.

According to the employment law, the legal protection of homeworkers in the Plasma hair industry in Purbalingga faced a significant challenge. Although it is covered in law 13 of 2003, it does not accept the right and protection as stipulated in the law on wages, employment contracts, freedom of Union and assembly, working hours, occupational safety and health, and social security. With these issues, home workers are very vulnerable and hold poor positions. Therefore, particular actions are needed to encourage the protection and fulfillment of their fundamental rights.

Strategic policies need to be carried out that recognizes the existence of home workers. These policies need to be incorporated into national statistical data and legislation as an affirmative step taken by the Indonesian Government. Furthermore, the Government needs to develop home worker protection policies that include their fundamental rights. Governments need to establish a mandatory minimum health and labor protection scheme not to burden this sector.

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