

DOMESTIC WORKERS STRUGGLE FOR RECOGNITION AND REDISTRIBUTION IN THE AGE OF CANNIBAL CAPITALISM

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Abstract

This study stems from the phenomenon of social movements advocating for the legitimacy of the Domestic Workers Protection Bill. It questions the state's ability to fulfill the demands of such social movements. Employing a socio-legal approach, this study utilizes the concept of cannibalistic capitalism and Nancy Fraser's dualism perspective. This study reveals that the domestic workers' social movement demands both recognition and redistribution through the enactment of the proposed bill. However, Indonesia's legislative paradigm does not allow the state to provide both recognition and redistribution to domestic workers through the law. At best, the state might offer recognition, however redistribution remains unlikely.

Keywords: *Social Movements; Nancy Fraser; Recognition, Redistribution*

PERJUANGAN PEKERJA RUMAH TANGGA UNTUK PENGAKUAN DAN REDISTRIBUSI DI ERA KAPITALISME KANIBAL DI INDONESIA

Intisari

Studi ini berangkat dari fenomena gerakan sosial yang mendorong legitimasi Rancangan Undang-Undang Perlindungan Pekerja Rumah Tangga. Studi ini mempertanyakan kemungkinan negara untuk memenuhi tuntutan gerakan sosial tersebut. Digalang secara sosio-legal, studi ini mendayagunakan formulasi kapitalisme kanibal dan perspektif dualisme dari Nancy Fraser. Studi ini mengungkap bahwa gerakan sosial pekerja rumah tangga menuntut adanya rekognisi dan redistribusi melalui pengesahan rancangan undang-undang yang dimaksud. Akan tetapi, paradigma pembentukan hukum di Indonesia tidak memungkinkan negara untuk memberi rekognisi dan redistribusi kepada pekerja rumah tangga melalui hukum. Paling mungkin, negara hanya akan memberikan rekognisi, tetapi tidak dalam memberikan redistribusi.

Kata Kunci: Gerakan Sosial; Nancy Fraser; Rekognisi, Redistribusi

A. Introduction

Capitalism today has evolved beyond an economic system into a social order that consumes non-economic values, a transformation Nancy Fraser calls “cannibal capitalism.” This shift emphasizes social reproduction alongside commodity production, as capital accumulation increasingly relies on both.¹ Cannibal capitalism marginalizes women by framing them primarily as responsible for social reproduction work, which is undervalued compared to commodity production dominated by men. This creates a dual burden for women, especially domestic workers, who face intersectional disadvantages as women and as workers. Most domestic workers, being women, remain in vulnerable positions due to inadequate legal protections. The law often ignores their specific needs, reflecting the state’s failure to address the realities of the employer-employee relationship meaningfully.

Efforts to legislate protections for domestic workers have faced significant hurdles since 2004. The National Commission on Violence Against Women (Komnas Perempuan) describes this as “a wall of reluctance or outright rejection” from policymakers, reflecting a socio-political landscape shaped by cannibal capitalism, where women’s social reproduction labor is undervalued and overlooked.² As a response to this, the Domestic Workers Movement emerged to pressure the state to formalize the draft law. This study examines whether the state can fulfill the movement’s demands, challenging its ability to prioritize human rights over capital interests in pursuing meaningful reform.³

1 See in: Nancy Fraser, *Cannibal Capitalism: How Our System is Devouring Democracy, Care, and the Planet—and What We Can do About it* (London: Verso, 2022); Nancy Fraser and Rahel Jaeggi, *Capitalism: A Conversation in Critical Theory* (Cambridge: Polity Press, 2019); This is the starting point of Fraser’s critique of contemporary capitalism: that the economic aspects—as in the traditional Marxist—are only the ‘front story’ of capitalism, while capitalism in fact embraces and covers up the ‘back story’ such as social reproduction and so on, which become a condition of possibility for the ‘front story’. See: Nancy Fraser, “Behind Marx Abode: For an Expanded Conception of Capitalism,” *New Left Review* 86, Maret-April 2014, <https://newleftreview.org/issues/ii86/articles/nancy-fraser_-behind-marx-s-hidden-abode>, accessed March 12, 2024.

2 Komisi Nasional Anti Kekerasan Terhadap Perempuan, *Kertas Posisi Rancangan Undang-Undang Perlindungan Pekerja Rumah Tangga* (Jakarta: Komnas Perempuan, 2021).

3 This question arises from the close connection between human rights studies and social movements, including in Indonesia. A prominent example is the “Aksi Kamisan,” which has been held since 2007, with participants wearing black shirts and carrying black umbrellas in front of the Merdeka Palace. See: Sri Lestari Wahyuningroem, “Towards Post-Transitional Justice,” 146; Sri Lestari Wahyuningroem, “‘Mencicil Keadilan’ (Installing Justice): Civil Society and Transitional Justice in Indonesia,” in *Civil Society in the Global South*, ed. Palash Kamruzzaman (London: Routledge, 2019).

From this reflection, the research was conducted using a socio-legal approach. This study draws on Fraser's conceptual framework: Cannibal capitalism and her perspectival dualism.⁴ However, as a legal study, this research cannot overlook the normative aspects of the issue under examination. Accordingly, a normative approach is applied by analyzing the Bill on the Protection of Domestic Workers to develop legal prescriptions concerning the determination of cannibal capitalism within the regulation.⁵

In relation to the theme and focus of this study, several previous studies have explored similar topics, particularly regarding the weak legal protection afforded to PRT.⁶ However, this study approaches the issue of weak legal protection not as a conclusion but as an initial proposition, seeking to critically assess the conditions that have led to such legal inadequacies and to explore the broader socio-political forces at play. Notably, studies by Austin,⁷ Jordhus-Lier,⁸ and Pelupessy,⁹ have examined the social movements organized

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- 4 Fraser developed critical feminism by merging feminism with third-wave Frankfurt School critical theory, which later shaped her concept of cannibalistic capitalism. Her politics of recognition stem from critiquing affirmative identity politics, which she argues oversimplifies structural societal issues, a critique she terms mainstream multiculturalism. Meanwhile, her politics of redistribution arose from the liberal welfare state's failure to eliminate economic injustice. See: Nancy Fraser dan Linda Nicholson, "Social Criticism without Philosophy: An Encounter between Feminism and Postmodernism," *Theory, Culture & Society* 5, no. 2-3 (1988): 373-394. doi: 10.1177/0263276488005002009; Nancy Fraser, "From Redistribution to Recognition? Dilemmas of Justice in a 'Post-Socialist' Age," *New Left Review* 212 (1995): 68-93, 69. <<https://newleftreview.org/issues/i212/articles/nancy-fraser-from-redistribution-to-recognition-dilemmas-of-justice-in-a-post-socialist-age>> accessed April 2, 2024; Nancy Fraser, *Justice Interruptus: Critical Reflections on the Postsocialist Condition* (London: Routledge, 1997), 25.
- 5 The Bill used in this study is sourced from the following document: <<https://berkas.dpr.go.id/setjen/dokumen/persipar-RUU-Usul-Inisiatif-DPR-RI-Draft-RUU-TENTANG-PELINDUNGAN-TENTANG-PEKERJA-RUMAH-TANGGA-1679384071.pdf>> accessed December 12, 2024.
- 6 See: Fithriatus Shalihah dan Retno Damarina, "Problem Hukum dalam Perlindungan Pekerja Rumah Tangga di Indonesia," *JURNAL SELAT* 10, no. 2 (2023): 131-143, doi: 10.31629/selat.v10i2.5645; Sri Turatmiah and Annalisa Y, "Pengakuan Hak-Hak Perempuan sebagai Pekerja Rumah Tangga (Domestic Workers) sebagai Bentuk Perlindungan Hukum Menurut Hukum Positif di Indonesia," *Jurnal Dinamika Hukum* 13, no. 1 (2013): 49-58, doi: 10.20884/1.jdh.2013.13.1.155; Kristianto Ratu Marius Nabon, "Paradoks Pekerja Rumah Tangga di Indonesia: Belum Tergolong Pekerja Yang Melakukan Pekerjaan Layak?," *SOSMANIORA: Jurnal Ilmu Sosial dan Humaniora* 2, no. 4 (2023): 487-494, doi: 10.55123/sosmaniora.v2i4.2717.
- 7 Mary Austin, "Activist Styling: Fashioning Domestic Worker Identities in Indonesia," *International Quarterly for Asian Studies* 53, no. 1 (2022): 25-51, doi: 10.11588/iqas.2022.1.18545.
- 8 David Jordhus-Lier, "Claiming Industrial Citizenship: The Struggle for Domestic Worker Rights in Indonesia," *Norsk Geografisk Tidsskrift - Norwegian Journal of Geography* 71, no. 4 (2017): 243-252, doi: 10.1080/00291951.2017.1369453.
- 9 Purnama Sari Pelupessy, "Effort of Domestic Workers to Realize Decent Work: Learning, Organizing and Fighting," *Jurnal Perempuan: untuk Pencerahan dan Kesetaraan* 22, no. 3

by domestic workers. Austin and Pelupessy's studies provide a detailed analysis of the agitation techniques used by domestic worker movements to achieve their demands, exploring their strategies for mobilizing, advocating, and gaining visibility in the public sphere. Jordhus-Lier, on the other hand, focuses on the failure of recognition for domestic workers in Indonesia, addressing the systemic barriers that prevent domestic workers from being formally acknowledged as workers with rights in the same way as those in other sectors.

In contrast to these studies, this research does not delve into the specific methods of agitation or organizational dynamics of the domestic workers' movement. Instead, this study centers on the core demands of the movement—namely, recognition and redistribution—and examines the feasibility of achieving these demands within Indonesia's current legal and political framework. While previous studies have provided important insights into the nature of social movements and the recognition struggles of domestic workers, this study shifts the focus to understanding the structural obstacles that hinder the fulfillment of these demands, particularly the state's role in either supporting or obstructing the realization of justice for domestic workers.

Based on this, the position of this study becomes clear within the broader discourse on domestic workers and their social movements in Indonesia. Rather than focusing on the actions and strategies of the movement itself, this study takes a critical approach to the state's response to the movement's demands, considering the possibility of legal reform and the larger socio-economic and political forces that shape the potential for change. By addressing the underlying challenges to recognition and redistribution, this research aims to offer a deeper understanding of the systemic barriers domestic workers face and the complexities involved in achieving social justice for this marginalized group.

B. What is Really at Stake? A Fraserian Analysis on the Domestic Workers Movement

Today, domestic workers do not have a legal framework that provides them with protection, including Law Number 13 of 2003 on Manpower. This

(2017): 227-237.

is largely due to the paradigm of protection offered by Indonesian labor law, which only applies to formal workers. As a result, informal workers, including domestic workers, do not receive protection under Indonesian labor law. Legally, this can be found in Article 1, Number 15 of the Labor Law, which limits the employment relationship to one created by an employment agreement between workers and employers. Meanwhile, Article 1, Number 14 of the Labor Law acknowledges that there are two types of employment agreements: one between workers and employers, and another between workers and employers (clients). The employment agreement that domestic workers hold is between workers and employers, which does not receive legal recognition as an employment relationship under Indonesian labor law.¹⁰

Consequently, it is not surprising that cases like Siti Khotimah arise,¹¹ along with various issues such as unpaid labor, wage deductions, unfair dismissals, sexual violence, and physical abuse, which have become commonplace for domestic workers. Records from the National Commission on Human Rights (Komnas HAM) indicate that there were at least 2,637 cases of violence against domestic workers between 2017 and 2022.¹² A few examples of the violence experienced by domestic workers include:

“... household work never ends ... I start working for my employer at 7:00 AM. I clean and organize the entire house, do the shopping, cook, tidy up again, wash and iron clothes, and take care of a 3-year-old and a 6-year-old. In the evening, I clean the house again and prepare dinner. I only finish at 6:00 PM ... My body is exhausted. I once had high blood pressure. But I have to work.”¹³

10 See: Syahwal, “Paradigma Politik Hukum Pengupahan Indonesia: Studi Hak atas Upah Layak bagi Buruh Informal,” *Veritas et Justitia* 9, no. 1 (2023): 188-216, doi: 10.25123/vej.v9i1.5957. Amnesty International found that the Ministry of Manpower explicitly stated that domestic workers are not under its responsibility. See: Amnesty International, *Indonesia—Exploitation and Abuse: the Plight of Women Domestic Workers* (London: Amnesty International, 2007).

11 The case of Siti Khotimah involves the torture of a domestic worker. She was beaten, scalded with hot water, and confined in a dog cage—these are just a few of the sufferings that Siti Khotimah had to endure. See: M Rosseno Aji, “Mandek di Ruang Pimpinan Dewan,” *Koran Tempo*, 20 Januari, 2023, <https://koran.tempo.co/read/berita-utama/479747/mengapa-dpr-tak-kunjung-sahkan-ruu-pprt>.

12 Press Release from the National Human Rights Commission, Number: 11/HM.00/II/2023, Komnas HAM Supports the Acceleration of the Ratification of the Domestic Workers Protection Bill (RUU PPRT) for the Protection of Human Rights.

13 Jaringan Nasional Advokasi Pekerja Rumah Tangga-Global Alliance Against Traffic in Women-Institut Pekerja Domestik, *Buku Pegangan Pendidikan Politik Pekerja Rumah Tangga* (Thailand: GAATW, 2020).

“... for five years of work, my wage has never increased. My employer says we should be grateful to have a job. But if we weren't there, the employer would be overwhelmed with a messy house. When we go home for Eid, the employer keeps asking when we'll return to work. But my wage is still IDR 800,000.”¹⁴

The absence of a legal framework is significantly reflected in the violence experienced by domestic workers. Efforts to tackle this issue have been ongoing since 2004, with a series of actions aimed towards establishing a legal umbrella to protect domestic workers. However, these efforts have yet to yield results; the laws under development have not reached a clear conclusion despite passing through several government administrations. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee) has also urged the Indonesian government to promptly ratify not only the Domestic Workers Protection Bill (RUU PPRT) but also the ILO Convention 2011/189.¹⁵ A ‘small victor’ was considered achieved when, on March 21, 2023, the plenary session of the House of Representatives designated the RUU PPRT as a DPR initiative bill.

The rampant violence accompanied by stalled legislative processes has given rise to a movement of domestic workers organized by the National Advocacy Network for Domestic Workers (Jala PRT). Since its inception in 2004, the movement has taken various paths and opened multiple avenues of possibility.¹⁶ Jala PRT has been dubbed by Austin as a “feminist politics of presence” due to its focus on social injustices rooted in gender and class.¹⁷ After three decades under the authoritarian rule of the New Order, where the depoliticization of labor movements became a prevalent agenda,¹⁸ this

14 The traces of violence experienced by domestic workers can also be observed in: AJI Jakarta, JALA PRT and ILO Jakarta, *Kami Tidak Akan Diam: 31 Kisah Pekerja Rumah Tangga di Balik Tembok Ruang Domestik* (Jakarta: Jala PRT, 2017).

15 Committee on the Elimination of Discrimination against Women, *Concluding observations on the eighth periodic report of Indonesia*, CEDAW/C/IDN/CO/8, UN Committee on the Elimination of Discrimination Against Women (CEDAW), 24 November 2021, para. 42.

16 International Labour Organization, *Tackling Child Labour in Domestic Work: A Handbook for Action for Domestic Workers and Their Organizations* (Jakarta: Kantor Perburuhan Internasional, 2017).

17 Mary Austin, “Activist Styling: Fashioning Domestic Worker Identities in Indonesia,” *International Quarterly for Asian Studies* 53, no. 1 (May 14, 2022): 31, <https://doi.org/10.11588/iqas.2022.1.18545>.

18 See: Vedi R Hadiz, “Reformasi Total? Labor after Suharto,” *Indonesia*, 66 (1998): 109–25, doi: 10.2307/3351449; Olle Törnquist, “Labour and democracy? Reflections on the Indonesian

movement embodies a call for the state to take responsibility. In accordance with the concept of human rights, the state bears the obligation to fulfill these rights. The domestic workers' movement strives to signify and give meaning to human rights. It is difficult not to agree with Santos, who argues that human rights hold value only when their norms are interpreted in the context of mobilizing civil society against capitalism and imperialism.¹⁹ Thus, the domestic workers' movement seeks to find meaning in the state's human rights obligations and to hold the state accountable.

There is a reason why the Domestic Workers' Movement seeks state intervention. In fact, as one of the countries that has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) as well as the CEDAW, Indonesia is legally bound to the provisions of the ICESCR just like domestic law.²⁰ Indonesia has a legal, not merely moral obligation to fulfill the right to work, including for domestic workers, who are predominantly women. Furthermore, in Article 2(1) of the ICESCR, the state is explicitly burdened with the responsibility to progressively realize a series of human rights enshrined in the covenant, one of which is to provide a legal framework capable of realizing the state's obligations regarding the right to work.²¹ Once these matters are made clear, the next significant question is why the Domestic Workers' Movement seeks the state and what they are advocating for. If we start from the perspective of 'perspectival dualism' as articulated by Fraser,²² which separates culture from economy, the Movement is seeking the

impasse," *Journal of Contemporary Asia* 34,3 (2004): 377–399, doi:10.1080/0047233048000017; Hadiz, Vedi R. "The Indonesian Labour Movement: Resurgent or Constrained?," *Southeast Asian Affairs*, 1 (2002): 130–42, doi: 10.1355/SEAA02H.

19 Boaventura De Sousa Santos, *Towards a New Legal Common Sense* (London: Butterworths Lexis Nexis, 2002); Boaventura De Sousa Santos, "Toward a Multicultural Conception of Human Rights," in *Moral Imperialism: A Critical Anthology*, ed. Berta Hernandez-Truyol (New York: New York University, 2002).

20 See Article 7(2) of the Law No. 39 of 1999 on Human Rights.

21 See: United Nations Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, para. 1, of the Covenant)*, 14 December 1990, E/1991/23, para. 1; International Commission of Jurists (ICJ), *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*, 26 January 1997, paras. 6-7.

22 This foundation highlights Fraser's critique of ontologically monistic concepts of justice, such as Axel Honneth's view that redistribution is inherently tied to recognition, or Dworkin's approach that frames justice solely as redistribution, ignoring recognition. In contrast, Fraser asserts that recognition and redistribution are not mutually exclusive or irreconcilable. She emphasizes that the pursuit of economic justice must not overshadow cultural injustices, and addressing cultural injustices should not come at the expense of economic justice. See: Axel Honneth, "Redistribution as Recognition: A Response to Nancy Fraser," in *Redistribution or Recognition? A Political-*

state to address both cultural injustices and economic injustices experienced by domestic workers. Cultural injustices arise from ‘misrecognition’ of the cultural identity of subjects, while economic injustices stem from the ‘maldistribution’ of material resources.²³ With ‘perspectival dualism,’ Fraser draws a demarcation line between the politics of recognition and the politics of redistribution. The former focuses on cultural *par se* identity, while the latter highlights economic issues *par see* class conflict. Although they are viewed differently, Fraser emphasizes that both are two sides of the same coin. Together, they serve as pendulums in the pursuit of justice.

Redistribution politics positions injustice as a socio-economic condition rooted in the dominant economic and political structures within a society. This injustice manifests in forms such as exploitation, or “*exploitation de l’homme par l’homme*.” Recognition politics, on the other hand, views injustice as a cultural product, thus rooted in existing social relations. Therefore, the struggle for justice represents a class struggle and a cultural struggle, a diffusion between class-based social movements and culture-based movements.

In recognition politics, injustice is seen as stemming from cultural values that cause a distortion in how subjects recognize themselves and others. As Fraser writes, culture is a “terrain of struggle” from which disparities and injustices arise.²⁴ Injustice in the form of misrecognition occurs when institutionalized cultural values—which are understood as floating markers—shape subjects as inferior, marginalized, vulnerable, and “other.”

Philosophical Exchange, ed. Nancy Fraser & Axel Honneth (London: Verso, 2003), primarily at 113; Ronald Dworkin, “What Is Equality? Part 2: Equality of Resources,” *Philosophy & Public Affairs* 10, no. 4 (1981): 283–345. Fraser introduces a new dimension to the struggle for justice, called the politics of representation. Given the impact of globalization, she argues that recognition and redistribution must be linked with representation, enabling social movements to challenge governance and policymaking. As a result, the struggle of social movements is not only cultural and economic but also inherently political. See: Nancy Fraser, “Abnormal Justice,” *Critical Inquiry* 34, no. 3 (2008): 393–422, doi: 10.1086/589478. Rejecting the separation of theory and practice, which Fraser critiques, this preliminary research will focus on two dimensions of the political struggle for justice: recognition and redistribution. The study will not, however, address the struggle against political injustice or the democratization efforts led by social movements.

23 Nancy Fraser, “From Redistribution,” 70; Nancy Fraser, “A Rejoinder to Iris Young,” *New Left Review* I, no. 223 (1997): 126–129, 128, <https://newleftreview.org/issues/i223/articles/nancy-fraser-a-rejoinder-to-iris-young>; Nancy Fraser, “Social Justice in the Age of Identity Politics: Redistribution, Recognition, Participation,” in *Culture and Economy After Cultural Turn* eds. Larry Ray and Andrew Sayer (London: SAGE Publications, 1999), 42.

24 Nancy Fraser, “Rethinking Recognition,” *New Left Review* No. 3 Mei–Juni 2000, <<https://newleftreview.org/issues/i13/articles/nancy-fraser-rethinking-recognition>>, accessed March 29, 2024.

Thus, misrecognition is not a standalone cultural value; it intersects with subordinating relationships. The consequence of misrecognition is not merely a failure of the subject to reflect on their identity; rather, it results in a loss of status as an equal subject, ultimately placing that subject below the others.

The struggle for recognition is, in fact, quite ambiguous, and Fraser is no exception. Clearly, groups that are ‘misrecognized’ can choose to overlook overly constructed differences; however, at times, those misrecognized must focus on the differences that are overlooked. Moreover, on other occasions, those who are misrecognized can scrutinize the dominant group by revealing differences that have been constructed as universal. To challenge such misrecognition, they also need to deconstruct the attributed differences. Groups that are misrecognized may choose to use some of these notes or apply them all.²⁵

Indonesia—like other Asian countries—has a culture of employing marginalized individuals under the titles of ‘helpers’ or ‘household helpers.’ Domestic workers are not considered workers but rather helpers, and they are treated like family. This sentiment is echoed in the views of Nurul Arifin—a legislative member—who asserts that her opposition to the Domestic Workers Bill (RUU PPRT) is based on her intention to preserve the values and traditions of mutual cooperation, rather than a liberal tradition that emphasizes materialism.²⁶ Granting domestic workers the status of workers would erase Indonesian culture and promote a capitalist culture that is fundamentally not part of Indonesian culture. Therefore, she argues that the regulation of domestic workers should emphasize a patron-client relationship between employers and domestic workers to avoid violating the cultural norms that have developed in the country.²⁷

25 Nancy Fraser, *Social Justice*, 51. As a supplementary note, on the same page, Fraser writes her stance as “pragmatism as informed by the insights of critical social theory.”

26 International Labour Organization, “House ‘ping-pongs’ the Draft Law on Domestic Workers,” 21 August 2015, <https://www.ilo.org/jakarta/info/public/fs/WCMS_470250/lang--en/index.htm>, accessed 4 April 2024.

27 Dewan Perwakilan Rakyat Republik Indonesia, *Catatan Rapat Dengar Pendapat Umum Badan Legislasi untuk Mendengarkan Masukan/Pandangan dari narasumber atas RUU tentang Perlindungan Pekerja Rumah Tangga*, 17 June 2020, <<https://berkas.dpr.go.id/akd/dokumen/BALEG-RJ-20200622-044635-4752.pdf>>, accessed 4 April 2024; This perspective is referred to in the discourse as a ‘cultural myth,’ a form of belief about culture that actually serves as a veneer over the exploitation and oppression that is occurring. See: Bede Sheppard, *Workers in the Shadows Abuse and Exploitation of Child Domestic Workers in Indonesia* (New York:

The phenomenon occurring in Indonesia makes Weix's remark relevant: "inside the home and outside the family".²⁸ This remark is meant to illustrate how the processes of inclusion and exclusion occur simultaneously for domestic workers. It is hard to deny that the workplace for domestic workers is the 'home'—especially when they are live-in workers—often becoming a medium that obscures the superior-subordinate relationship established between domestic workers and their employers. Rather than viewing it as a hierarchical relationship, the connection between domestic workers and employers is often constructed as a kinship relationship. Consequently, this becomes a cultural myth that continues to be produced, despite the fact that such a perspective carries the potential for latent exploitation.

The cultural values institutionalized in traditional labor divisions do not associate working women with the labor group. Domestic workers are 'misrecognized' as non-workers. Therefore, the politics of recognition pursued by the Domestic Workers Movement is aimed at advocating for recognition of domestic workers' status as workers. Cultural change is deemed extremely necessary, a fact recognized by the Domestic Workers Movement. This is evident in the steps taken by Jala PRT to establish a 'Domestic Workers School,' which is intended, among other things, to build knowledge and critical awareness among domestic workers regarding their status as women and workers.²⁹ What this domestic workers' movement is doing is a form of 'consciousness raising,' which is one of the methods employed by feminist social movements to awaken awareness as women.³⁰

Human Rights Watch, 2009), 21-42.

28 Quoted verbatim from: G.G. Weix, "Inside the Home and Outside the Family: The Domestic Estrangement of Javanese Servants," in *Home and Hegemony: Domestic Service and Identity Politics in South and Southeast Asia*, eds. Kathleen M. Adams & Sara Ann Dickey (Michigan: University of Michigan Press, 2000), 137–156.

29 International Labour Organization, *Promoting Decent Work for Domestic Workers and Elimination of Child Labor in Domestic Work: Ten Emerging Good Practices from Indonesia* (Geneva: International Labour Office, 2018), 17-18; The Domestic Workers School module includes issues related to gender and various problems faced by domestic workers, focusing on the rights of domestic workers and guidelines for building a domestic workers' movement. Information regarding the modules from the Domestic Workers School can be found in: Jala PRT and International Labour Organization, *MODUL PENDIDIKAN ALTERNATIF PRT: Pegangan untuk Fasilitator* (Jakarta: Kantor Perburuhan Internasional, Tanpa Tahun).

30 Consciousness raising – which can be literally translated as "increasing awareness" – is a term used to qualify the analytical techniques, organizational structures, and practices employed by women's movements in their efforts to awaken consciousness in the pursuit of social justice. See: Catharine A. MacKinnon, "Feminism, Marxism, Method, and the State: An Agenda for Theory,"

Fraser further argues that the issue of injustice is not merely rooted in misrecognition within the realm of floating signifiers; rather, injustice is also institutionalized through maldistribution which results in economic injustice. Fraser highlights the connection and interrelation between cultural injustice and economic injustice, which is often overlooked due to the simplification of recognition politics as merely identity politics. Moreover, Fraser asserts that economic injustice is not just a ‘secondary effect’ of misrecognition. In the context of domestic workers, economic injustice is reflected in the wage gap they experience. Numerous studies show the wage disparity between women and men in the workforce.³¹ Such gaps do not stem from measurements of quantity or quality of productivity but are solely based on gender differences. It is hard to deny that the deeply ingrained patriarchal culture in Indonesia contributes significantly to this disparity. Since the New Order era, Indonesia has echoed slogans of ‘State Ibuism,’ which subordinates women to men.³² State Ibuism perceives women merely as complements and companions to their husbands, as mothers and educators of children, and as household managers. As Tronto puts it, this paradigm grants men a form of “privileged irresponsibility”.³³

The consequence of such a paradigm is that the work performed by women is seen as integrated within the family, thus does not count as productive labor.³⁴ This paradigm is ideologically constructed. In a patriarchal society, the work done by women is not regarded as a “real job.” Women are merely seen as caregivers for the family and household, while men are

Feminist Theory 7, no. 3 (Spring, 1982): 515–44.

31 See: Martesa Husna Laili & Arie Damayanti, “Gender Wage Differentials in Indonesia: Empirical Evidence in Manufacturing Sectors,” *Indonesian Journal of Economics and Development* 18, no. 3 (July, 2018): 1-21, doi: 10.21002/jepi.2018.12; World Bank, *Indonesia Country Gender Assessment: Investing in Opportunities for Women* (Washington DC: The World Bank, 2020).

32 Julia I Suryakusuma, “The State and Sexuality in New Order Indonesia,” in *Fantasizing the Feminine in Indonesia*, ed. Laurie J Sears (London: Duke University Press, 1996), 101.

33 Privileged irresponsibility refers to the privilege of being exempt from responsibility. Tronto uses this term to describe the division of labor in contemporary society, where certain individuals are ‘permitted’ to avoid caregiving work, as they are assigned other, supposedly more important tasks. See in: Joan Tronto, *Caring Democracy: Markets, Equality, and Justice* (New York: New York University Press, 2013), 103–4.

34 See Federici, who views the existence of ‘gender labor hierarchies’ that place women’s work in a subordinate position compared to the work performed by men. Silvia Federici, *Revolution at Point Zero: Housework, Reproduction, and Feminist Struggle* (New York: PM Press, 2012), 109.

responsible for the economic sustainability of the family. Engels attributed the oppression experienced by women to such causes.³⁵ The work done by women is considered a natural duty of being a woman, rather than being viewed as work that generates value. Domestic workers in Indonesia face similar social identity obstacles, as their contributions are deemed insignificant simply because their activities are viewed as non-productive.³⁶

Even so, Yates notes that the reproductive work performed by women plays a central role in the workforce and indeed contributes to the process of capital accumulation.³⁷ The failure to recognize the value produced by domestic workers leads them to receive low wages. This is not merely a conspiratorial simplification. It has been revealed that the average wage received by domestic workers is only 20-30% of the Provincial Minimum Wage (UMP) in the area where they work.³⁸ In fact, legislative representatives who are discussing the *RUU PPRT* frequently question the wages of domestic workers. These representatives express their reluctance to pay domestic workers according to the regional minimum wage.³⁹ In this regard, state Ibuism serves as a veil that conceals the productive function of the reproductive work performed by domestic workers.

The efforts made by the movement in the realm of redistribution politics aim to achieve equality in the value of work performed by women compared to that of men. This aligns with the Shadow Report from the Indonesian National Commission on Women, which highlights in its Periodic Review to the ICCPR Treaty Body that guaranteeing a series of human rights stipulated in the ICCPR necessitates the recognition of the reproductive work performed by domestic workers. This recognition can be pursued by expanding the scope

35 Friedrich Engels, *The Origin of the Family, Private Property and the State* (London: Penguin Books, 1985).

36 In a broader context, women's work is often labeled as unproductive because it is perceived as not generating value for capitalism. This view stems from the belief that their labor does not contribute directly to economic profit. See: Adam Smith, *The Wealth of Nations* (London: Penguin Books, 1986), 133-140 and 429-449.

37 Michael Yates, *Dapatkah Kelas Pekerja Mengubah Dunia?* (Yogyakarta: Penerbit Independen, 2020).

38 International Labour Organization, "Toward a Better Estimation of Total Population of Domestic Workers in Indonesia," (Geneva: International Labour Office, 2017).

39 International Labour Organization, "House 'ping-pongs'," International Labour Organization, "Toward a Better Estimation."

of protections provided under Indonesian labor law.⁴⁰ This is precisely the initiative championed by the domestic workers' movement.

What the domestic workers' movement demonstrates is a synthesis of cultural and economic struggles, addressing Fraser's concern about social movements that often become mired in the romanticism of "post-socialist" movements. This romanticism tends to overly emphasize claims for equality while ignoring the aggressive nature of markets and the material inequalities they produce.⁴¹ Fraser clearly points out that this leads to a lack of credible emancipatory projects, despite the proliferation of social movements.⁴² Perspectival dualism that Fraser proposes reveals the importance of recognizing both similarities and differences, which is crucial for social movements led by women, including the Domestic Workers' Movement. Women's movements cannot merely advocate for equality, especially when existing social constructions have systematically stripped away women's power and dignity. This aligns with the International Labour Organization's (ILO) perspective on domestic workers, encapsulated in the slogan "work like any other, work like no other." This slogan acknowledges that the work performed by domestic workers is comparable to that of other workers while also highlighting the unique value of their labor, which often results in their exclusion from various rights.

C. Demanding State Responsibility: Questioning Possibilities

1. No Recognition and Redistribution for Domestic Workers in the Law

One thing is certain: the misrecognition and maldistribution that overshadow domestic workers in Indonesia today do not arise from a void or a merely free-floating discourse; they are institutionalized. One of the institutions that perpetuates misrecognition and maldistribution against domestic workers is the law, which Fraser refers to as 'juridified.' In fact, numerous studies reveal how the law is constructed as an instrument of oppression against

40 Komisi Nasional Anti Kekerasan Terhadap Perempuan, *A National Human Rights Institution's Independent Report—the 2nd Indonesian Periodic Review on the International Covenant on Civil and Political Rights (ICCPR)*, Submission to The Human Rights Committee 5 February 2024, <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FNHS%2FIDN%2F57376&Lang=en>, accessed 3 April, 2024.

41 Fraser, *Justice Interruptus*, 3.

42 Fraser, *Justice Interruptus*, 3.

gender.⁴³ So, what about human rights law? More provocatively, Charlesworth writes that the institutions that create law are always and will continue to be dominated by men. Therefore, only men's experiences will be incorporated, while women's experiences are excluded.⁴⁴

Before delving into the topic further, it is necessary to establish an epistemological framework. This sub-discussion is essentially an ideological critique of human rights law, particularly concerning domestic workers. An ideological critique aims to uncover the 'invisible' by dissecting the 'visible.'⁴⁵ In line with this, Fraser views injustice as stemming from a veil that limits the participation of subjects in the social realm. The implication is clear: the struggle for justice is a struggle to unveil and critique the shroud that conceals injustice.⁴⁶ Thus, the primary task of ideological critique is to reveal the hidden meanings within the social fabric surrounding an object. When this perspective is implemented in law, ideological critique will unveil the ideological patterns concealed within the law. It is crucial to recognize that law does not operate in a vacuum of non-subjectivity. Law interacts and intersects with various variables, thereby undermining all claims of objectivity and neutrality in law.⁴⁷

Fraser carefully notes that the role of law in perpetuating misrecognition and maldistribution is through the creation and maintenance of subordinating relationships. The law renders certain subjects as inferior, marginalized, and 'other,' while other subjects emerge as superior and powerful, thereby preventing the establishment of equal participation.⁴⁸ Misrecognition

43 See: Eko Mukminto, "Hukum, Ideologi Patriarki, dan Kekerasan Sistematis Atas Perempuan: Suatu Kajian Žižekian," *Nurani Hukum: Jurnal Ilmu Hukum* 3, no. 1 (2020): 1-13, doi: 10.51825/nhk.v3i1.8566.

44 Hilary Charlesworth, "Human Rights as Men's Rights," in *Women's Rights, Human Rights: International Feminist Perspectives*, eds. Julie Peters and Andrea Wolper (London: Routledge, 1995), 103; Also, the saying that 'human rights' that are documented are merely 'men's rights' in their theoretical and practical order, see in: V. Spike Peterson and Laura Parisi, "Are Women Human? It's Not an Academic Question," in *Human Rights Fifty Years On: A Reappraisal*, ed. Tony Evans (Manchester, Manchester University Press, 1998), 132.

45 F. Budi Hardiman, *Kritik Ideologi: Menyingkap Pertautan Pengetahuan dan Kepentingan Bersama Jurgen Habermas* (Yogyakarta: Kanisius, 2009), 40; Alan Hunt, "The Ideology of Law: Advances and Problems in Recent Applications of the Concept of Ideology to the Analysis of Law," in *Consciousness and Ideology*, ed. Patricia Ewick (London: Routledge, 2006), 31.

46 Nancy Fraser, "Abnormal Justice," *Critical Inquiry* 34, no. 3 (March 2008): primarily footnote no. 22, <https://doi.org/10.1086/589478>.

47 Patricia Smith, *Feminist Jurisprudence* (New York: Oxford University Press, 1993), 3.

48 Fraser, "Rethinking Recognition," Smith, *Feminist Jurisprudence*, 3.

arises from the institutionalization of cultural values that create a ‘status hierarchy’,⁴⁹ while maldistribution emerges from the institutionalization of economic imbalance, referred to as ‘class hierarchy’.⁵⁰ Therefore, to address misrecognition and maldistribution, it is necessary to deconstruct social institutions—including law—that create subordinating relationships by changing the values that govern interactions among subjects.

In the human rights legal document regarded as the pinnacle of recognition of a series of human rights, the Universal Declaration of Human Rights (UDHR), it is emphasized that “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Article 2 of the UDHR seeks to affirm ‘sameness’ or, in human rights discourse, what is referred to as the ‘universality assumption’ among all human beings. This classical interpretation of human rights defines them as a cluster of rights granted to individuals by virtue of their humanity. However, when considering the misrecognition and maldistribution affecting domestic workers, such assumptions demand a re-evaluation.⁵¹

Misrecognition and maldistribution affecting domestic workers arise from the ‘spring of injustice’ stemming from a clear separation between public and private spheres. This culturally inscribed distinction separates the public sphere as one where reason plays its role, while the private sphere is where feelings prevail.⁵² Domestic workers, who perform their duties in the private sphere, are ultimately misrecognized as non-workers, leading to the low wages they receive because the work they do in the private realm is not considered to create value in the same way that work performed in the public sphere does. The separation between public and private spheres has long been a target of critique and confrontation by political movements spearheaded by

49 See: Nancy Fraser and Nancy A. Naples, “To Interpret the World and to Change It: An Interview with Nancy Fraser,” *Signs* 29, no. 4 (2004): 1103–1124. doi: 10.1086/382631.

50 Fraser and Naples, “To Interpret the Word .”

51 See: Marie-Bénédicte Dembour, “Critiques,” in *International Human Rights Law*, eds. Daniel Moeckli, Sangeeta Shah, Sandesh Sivakumaran, and David Harris (Oxford: Oxford University Press, 2014), 53–4.

52 Nicola Lacey, “Theory into Practice? Pornography and the Public/Private Dichotomy,” *Journal of Law and Society* 20, no. 1 (1993): 93–113, doi: 10.2307/1410114.

feminism.

The dichotomy between public and private spheres should not be merely seen as a product of patriarchal culture. In fact, capitalism also plays a similar role. Fraser rightly notes that capitalism has not only ‘front stories’ that are clearly economic, encompassing various elements such as markets, capital accumulation, and class conflict. She also highlights the existence of supporting ‘back stories’ that are not economic yet play a central role in capitalism alongside the economic dimension.⁵³ This dichotomy between public and private spheres serves as the backstory of capitalism that supports the process of capital accumulation. The interdependence between these back stories and front stories gives rise to Fraser’s concept of cannibal capitalism.

In critical discourse on human rights, the dichotomy between public and private spheres also manifests. However, human rights law is seen as resting on a solid foundation of male experience, leading to the protection provided by human rights law being merely a reflection of men’s ‘fears’ about potential threats to them.⁵⁴ Unsurprisingly, MacKinnon confrontationally states thatf “human rights have not been women’s rights—not in theory or in reality, not legally or socially, not domestically or internationally.”⁵⁵ This argument emerges not without reason; historically, human rights documents have often sidelined women. For instance, the Anti-Torture Convention, Article 1 establishes that one of the indicators of torture is that the act is committed by a ‘public official or other person acting in an official capacity.’ The norm illustrates the incorporation of male into the law while women’s experiences are silently overlooked. Violence is only recognized as occurring in public spaces by public officials or anyone acting in an official capacity, while violence in private spaces is disregarded. Yet, numerous findings indicate that women experience unimaginable violence in private spheres. However, the aforementioned legal norm does not address this, simply because men are considered the superior individuals in private spaces. This affirms Coomaraswamy’s assertion in 1996, as the Special Rapporteur on violence

53 Nancy Fraser, *Cannibal Capitalism* (Verso Books, 2022).

54 Hillary Charlesworth, “What are ‘Women’s International Human Rights?’” in *Human Rights of Women: National and International Perspectives*, ed. Rebecca J Cook (Philadelphia: University of Pennsylvania Press, 1994), 71.

55 Catharine A. MacKinnon, “Rape, Genocide, and Women’s Human Rights,” in *Genocide and Human Rights*, ed. Mark Lattimer (London: Routledge, 2007).

against women, who revealed that nation-states have yet to adequately address the violence women face in private realms, leading to a denial of recognition by states as a form of violence.⁵⁶

Not only that, in the covenant often referred to as the ‘umbrella’ that shelters the rights of domestic workers and as ‘a tool for social and economic justice,’ the ICESCR also perpetuates the public-private dichotomy. Article 11 of the ICESCR employs the term ‘himself and his family,’⁵⁷ illustrating the public and private dichotomy within the ICESCR, where men are depicted as individuals who work to earn an income to create a decent standard of living for their families, while women are portrayed as individuals who remain at home managing domestic affairs. This aligns with Federici’s assertion that within the capitalist economic system, a hierarchy is established, where those working in the public sector are entitled to higher wages compared to those working in private sectors.⁵⁸ Such provisions seem to conflict with Article 3 of the ICESCR, which guarantees equal enjoyment of rights for both men and women.

It cannot be denied that the view of the ICESCR is merely that of the ‘younger sister’ of the ICCPR. This perspective cannot be separated from the designation of the ICESCR as the ‘second generation’ of human rights. These two points reflect a hierarchy within human rights documents themselves. Simply put, this is a reflection of a culture that places women as a second-class society, below men. The superiority of the ICCPR emerges because its contents address the fears that men have regarding what may happen to them. Thus, the law contributes to perpetuating the demarcation line between the public and private spheres, even though this dichotomy has become a veil that obstructs women from enjoying human rights. Aldin and Mantouvalou

56 Radhika Coomaraswamy, “Report of the Special Rapporteur on Violence against Women, its Causes and Consequences,” E/CN.4/1997/47/Add.1, United Nations Commission on Human Rights Fifty-Third Session Item 9 (a) of the Provisional Agenda.

57 This is quoted from the ‘original text’ of the ICESCR: ‘The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for **himself and his family**, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.’ However, the Committees on Economic, Social and Cultural Rights later emphasized in General Comment No. 4 that “the right to adequate housing applies to everyone.”

58 Silvia Federici, “Social Reproduction Theory: History, Issues and Present Challenges,” *Radical Philosophy* 2, no. 4 (2019): 55–57.

aptly refer to this as ‘legislative precariousness,’ indicating that all the vulnerabilities experienced by domestic workers are a consequence of the law’s demands.⁵⁹

The expectation for respect, fulfillment, and protection of human rights for domestic workers emerges from the International Labour Organization Convention No. 189 concerning Decent Work for Domestic Workers, 2011 (ILO/C189), accompanied by Recommendation No. 201. This legal document addresses issues of gender equality, human rights, and social justice.⁶⁰ ILO/C189 itself entered into force in 2013. Through ILO/C189, domestic workers actually receive adequate recognition and redistribution. Beyond the legal texts that aim to provide similar provisions, even as they use the ICCPR and ICESCR as their starting points. Thus, it becomes clear when Article 3(1) of ILO/C189 establishes human rights standards as the benchmark for fulfilling the rights of domestic workers. However, ILO/C189 does not inherit the private-public dichotomy that lingers in the two human rights instruments; Articles 5 and 6 of ILO/C189 demonstrate the contrary.⁶¹

However, the ILO’s stance in 2011 did not manage to inspire the Indonesian government, which in various legal products continue to show no hope for support for domestic workers. In 2015, the Ministry of Manpower issued Regulation of the Minister of Manpower No. 2 of 2015 concerning the Protection of Domestic Workers (Permenaker 2/2015). According to the National Commission on Human Rights, out of a total of 30 articles in this regulation, at least 19 articles regulate matters related to Domestic Worker Placement Agencies (LPPRT). The remaining 11 articles address issues concerning domestic workers and employers, yet they are still very general, lacking detail and comprehensiveness. Permenaker 2/2015 does not address the issue of recognition for domestic workers, let alone provide fair

59 Einat Albin and Virginia Mantouvalou, “The ILO Convention on Domestic Workers: From the Shadows to the Light,” *Industrial Law Journal* 41, 1 (2012): 67–78, doi: 10.1093/indlaw/dws001.

60 Lorenza Fontana, “The Contentious Politics of Labour Rights as Human Rights: Lessons from the Implementation of Domestic Workers Rights in the Philippines,” *Human Rights Quarterly* 42, no. 4 (2020): 859–77, doi: 10.1353/hrq.2020.0044.

61 Articles 5 and 6 of ILO/C189 break through the demarcation line between the private and public spheres that hinders protection efforts for domestic workers. These two articles outline the potential for violence that domestic workers may face in the workplace, which is the employer’s home.

redistribution for them.

Despite the inadequacies of the above Ministerial Regulation, the Indonesian government, in its reporting to the CEDAW Committee and the CESCRC Committee, emphasized that Permenaker 2/2015 is a legal regulation presented as a precondition for the *RUU PPRT* that is being deliberated in the legislative building.⁶² Although the Indonesian government has attempted to show its commitment, the CEDAW Committee continues to question the steps taken by the Indonesian government to protect domestic workers.⁶³ In response to this question, the Indonesian government still considers Permenaker 2/2015 to be a sufficient instrument while awaiting the ratification of the *RUU PPRT*, which includes recognition of the rights of domestic workers by referring to human rights conventions and ILO conventions, as well as aspects of welfare and the prevention of exploitation against domestic workers.⁶⁴ Permenaker 2/2015 has become merely a shield for the Indonesian government to avoid scrutiny from the international community regarding its commitments to the protection of domestic workers, while simultaneously legitimizing the ‘business practices’ of *LPPRT*, which in practice become the source of injustices faced by domestic workers.

Permenaker 2/2015 should serve as a tool to correct the paradigm of protection provided by Indonesian labor law, as outlined in Law Number 13 of 2003 concerning Employment. The paradigm of informality was once challenged, as stated in the Constitutional Court Decision Number 75/PUU-XX/2022. Instead of serving as an institution to correct norms that are inconsistent with basic norms, the court, in its legal balance, viewed that ‘home workers—domestic workers—have characteristics that differ from workers

62 Pemerintah Indonesia, *Eighth periodic report submitted by Indonesia under article 18 of the Convention, due in 2016*, CEDAW/C/IND/8, UN Committee on the Elimination of Discrimination Against Women (CEDAW), 8 Januari 2020, para. 189; Pemerintah Indonesia, *Second periodic report submitted by Indonesia under articles 16 and 17 of the Covenant, due in 2019*, E/C.12/IDN/2, UN Committee on Committee on Economic, Social and Cultural Rights, 3 November 2021, para. 95.

63 Committee on the Elimination of Discrimination against Women, *List of issues and questions in relation to the eighth periodic report of Indonesia*, CEDAW/C/IDN/Q/8, UN Committee on the Elimination of Discrimination Against Women (CEDAW), 27 Juli 2020, para. 19.

64 Pemerintah Indonesia, *Replies of Indonesia to the list of issues and questions in relation to its eighth periodic report*, CEDAW/C/IDN/RQ/8, Committee on the Elimination of Discrimination against Women Seventy-Ninth Session, 21 June–9 July 2021 Item 4 of the provisional agenda, 2 Februari 2021, para. 83.

employed by companies.⁶⁵ One of the aspects it highlighted was the issue of the workplace for domestic workers, which is the home. The aforementioned decision, in fact, perpetuates the demarcation between the public and private spheres. This dichotomy, whether willingly or unwillingly, alienates women from the public sphere. Women are merely seen as fulfilling the needs of men, and their work is regarded as caregiving that lacks value and is merely a responsibility attached to their status as women.

2. Recognition without Redistribution

The misrecognition and maldistribution experienced by domestic workers illustrate the dialectical relationship between the capitalist economic system and patriarchal culture. Therefore, the struggle is not only an identity-based struggle but also a class-based struggle. Maldistribution can be resolved by overhauling the political economic order, which can be achieved through the transformation of economic structures. Meanwhile, misrecognition can be addressed by changing the symbols of designation, which can be pursued by reinterpreting the misrecognized signifiers. In short, recognition and redistribution must be carried out with integrity, employing a transformative approach for redistribution and a deconstructive approach for recognition. An important note is that recognition and redistribution cannot be placed at separate poles; they are adjacent and complementary.⁶⁶ The maldistribution experienced by domestic workers is not free from the influence of misrecognition. Maldistribution has become a barrier for individuals to engage in the interpretation of cultural signs within society.⁶⁷ Conversely, the failure to recognize reproductive labor as work—as an outcome of patriarchal culture—can hinder women’s efforts to challenge the capitalist economic system.⁶⁸

Misrecognition and maldistribution, as discussed earlier, are significantly influenced by norms institutionalized in legal documents. Law further perpetuates subordinated relationships that limit subjects from participating equally in social life, including human rights law. In cannibal capitalism, law

65 See in Constitutional Court Decision No. 75/PUU-XX/2022, para 3.14.2.1, 147-148.

66 Fraser and Naples, “To Interpret the World.” Constitutional Court Decision No. 75/PUU-XX/2022, 147-148.

67 See in: Fraser, *Justice Interruptus*, 21.

68 Fraser, “From Redistribution to Recognition?,” 78.

becomes a non-economic variable that is also devoured, supporting capital accumulation. Fraser succinctly states that ‘without this non-economic sphere of capitalism—emphasis by the author—there could be no production or profit or capital.’⁶⁹ It becomes clear when the ideological critique of law above shows the role of law in creating and perpetuating injustice for domestic workers through a strict demarcation between public and private spaces. This also explains why the *RUU PPRT* has yet to be enacted, despite having passed through various government regimes.

Nevertheless, this study rejects an instrumental view of the law. It cannot be denied that law has the capacity to create equal participation among subjects in society. Ultimately, law is positioned as a site of struggles, whether in terms of class and/or gender. The following question then arises: is it possible for the state to utilize the law to realize the emancipatory role of law while fulfilling its obligations to respect and protect the human rights of domestic workers amidst the cannibalistic form of capitalism in Indonesia? To address this question, it is necessary to examine the current practice of law-making in Indonesia, particularly in the field of human rights law.

It must be acknowledged that there are numerous findings indicating a decline in the law-making practices in Indonesia today, particularly regarding how national legislative projects disregard the ‘voices from below’ that have been mobilized by civil society movements. For example, the issue of the ‘presidential threshold’ in Law No. 7 of 2017 concerning General Elections. Civil society collectively rejected this norm, yet it remains entrenched. Questions may arise: why is this the case? Simply put, current law-making processes are primarily intended to protect and serve the interests of ‘*the few*.’ In the case of the Election Law, the presidential threshold is designed so that financial elites can easily consolidate power and support specific political actors, solely to safeguard their capital accumulation.⁷⁰ Ultimately, it must be acknowledged that President Joko Widodo’s regime is heavily supported by these capital owners.⁷¹

69 Fraser, *Cannibal*, 53.

70 See: Darwin Tambunan, “The Intervention of Oligarchy in the Indonesian Legislative Process,” *Asian Journal of Comparative Politics* 8, no. 2 (2023): 637–653, doi: 10.1177/20578911231159395.

71 Read more in: Burhanuddin Muhtadi, “Jokowi’s First Year: A Weak President Caught between Reform and Oligarchic Politics,” *Bulletin of Indonesian Economic Studies* 51, no. 3 (2015): 349–368, doi: 10.1080/00074918.2015.1110684.

Later, it clarifies why the *RUU PPRT* has yet to gain legitimacy; legal recognition and redistribution for domestic workers would pose obstacles for capital owners by imposing a series of obligations on them. Given this, the question of whether the state can legitimize the *RUU PPRT* finds its answer. The state may, at some level, provide mere recognition, but not redistribution. Through the law, the state will recognize the status of domestic workers as workers; this is clearly articulated in Article 1 of the *RUU PPRT*, which stipulates that “Domestic Workers are individuals employed by an employer to perform household work.” This legal provision signifies the recognition of domestic workers as workers within the *ius constituendum* of Indonesia’s labor law.⁷²

However, the law will not provide any redistribution that ensures domestic workers will receive fair wages or other decent work conditions. As seen in Article 1 of the Protection of Domestic Workers Bill, the employment relationship between domestic workers and employers is framed as a socio-cultural relationship. By viewing this employment relationship as socio-cultural, the interaction between domestic workers and employers is not seen solely as an economic relationship but as a social and cultural one that, to some extent, involves personal interaction between the parties. The implications of this are clear: domestic work is regarded as part of a moral or traditional responsibility, rather than as a formal job regulated by labor laws. This reflects how domestic work is frequently not recognized as equivalent to other forms of employment, despite its significant economic value, and is often socially devalued.

The impossibility of redistribution to domestic workers can also be seen in the use of the principle of kinship (*asas kekeluargaan*) as the basis for their protection, as stated in Article 2 of the Protection of Domestic Workers Bill. This principle assumes that the relationship between domestic workers and employers is personal, which may hinder efforts to provide more formal and systematic protection, as is the case in other employment relationships. Within the framework of the kinship principle, legal protection for domestic workers

⁷² Compare this provision with the norm in Article 1 of Law No. 13 of 2003 on Manpower, which states that “a worker is any person who performs work in return for wages or other forms of compensation.”

is often not viewed as a right equal to that of other workers, but rather as a moral or social obligation that emphasizes mutual trust and personal closeness between the employer and domestic worker. With the principle of kinship in place, the fulfillment of domestic workers' rights, such as fair wages, is not seen as an obligation that must be met by the employer in accordance with clear and binding legal rules, but rather as a moral or social duty. The presence of Article 11(d) in the Protection of Domestic Workers Bill further strengthens the informal character of this employment relationship, as it shifts the regulation of wages to an agreement between the domestic worker and the employer. In this context, wages are no longer governed by clear and binding legal norms, but are entirely dependent on the personal negotiation between both parties. When the work performed by domestic workers is regarded as a moral duty, the number of wages received by domestic workers becomes predictable—merely sufficient for subsistence.

Based on the above explanations, it is clear that the issue of redistributing rights to Domestic Workers is a complex problem, both economically-politically and culturally. From an economic-political perspective, redistribution to PRT is diametrically opposed to the interests of capital owners who currently dominate law-making in Indonesia. From a cultural dimension, the impossibility of redistribution is also influenced by social views that regard domestic work as a moral responsibility or a traditional duty, rather than a job that deserves to be compensated with wages equivalent to other sectors of employment. Additionally, another cultural reason is that the protective paradigm using the principle of kinship causes the employment relationship between PRT and the employer to still be seen as a more personal relationship, which, in turn, means that wages and working conditions for PRT are often determined based on informal agreements, rather than binding legal norms.

D. Conclusion

Reflecting on the question of whether the state can meet the demands of the domestic workers movement, it becomes clear that the issue is far more complex than simply a matter of legal recognition or policy enactment. The movement seeks not only acknowledgment but also a transformative shift in the economic and social structures that perpetuate inequality. While the state,

as the custodian of human rights obligations, has a responsibility to address the injustices faced by domestic workers, its ability to fully meet these demands remains constrained by entrenched power dynamics within Indonesia's political and economic systems. This tension is further revealed in the movement's push for passing the Bill, which aims to address both misrecognition and maldistribution. However, this push highlights a fundamental conflict between the movement's aspirations and the political economy in which it operates. Capital owners, who hold substantial influence over law-making processes, prioritize maintaining their economic advantage, often resulting in legal frameworks that protect their interests rather than promoting social justice for marginalized groups. In this way, a paradox emerges: while legal recognition of domestic workers as workers may be achievable, the redistribution of resources and protections necessary to ensure real justice is far less likely.

The state's response to the demands of the domestic workers movement must also be viewed in the context of broader socio-economic forces. In an era dominated by cannibalistic capitalism, where profit often takes precedence over human welfare, the state's role is shaped not only by its legal obligations but also by the constraints imposed by capitalist interests. The recognition of domestic workers as workers may seem like a step forward, but it risks being a hollow gesture if not accompanied by substantive changes to the economic structures that perpetuate inequality. Without such changes, the legal recognition of domestic workers is unlikely to translate into genuine improvement in their working conditions or well-being. In this light, the state's failure to adequately respond to the movement's demands is not merely a result of legal inertia or bureaucratic delay, but a reflection of the broader tensions between economic power and social justice. The domestic workers movement, therefore, serves as a poignant reminder of the limitations of legal reforms in addressing the root causes of inequality—namely, the systemic forces that shape labor relations and economic distribution. True justice for domestic workers will require not only legal recognition but also a fundamental reimagining of the social and economic systems that govern work, power, and wealth in Indonesia.

BIBLIOGRAPHY

- AJI Jakarta, JALA PRT and ILO Jakarta. *Kami Tidak Akan Diam: 31 Kisah Pekerja Rumah Tangga di Balik Tembok Ruang Domestik*. Jakarta: Jala PRT. 2017.
- Aji, M Rosseno. “Mandek di Ruang Pimpinan Dewan.” *Koran Tempo*, 20 Januari 2023, <https://koran.tempo.co/read/berita-utama/479747/mengapa-dpr-tak-kunjung-sahkan-ruu-pprt>.
- Albin, Einat., and Virginia Mantouvalou. “The ILO Convention on Domestic Workers: From the Shadows to the Light.” *Industrial Law Journal* 41, 1 (2012): 67–78. DOI:10.1093/indlaw/dws001.
- Amnesty International. *Indonesia—Exploitation and Abuse: the Plight of Women Domestic Workers*. London: Amnesty International. 2007.
- Austin, Mary. “Activist Styling: Fashioning Domestic Worker Identities in Indonesia.” *International Quarterly for Asian Studies* 53, no. 1 (2022): 25–51. DOI: 10.11588/iqas.2022.1.18545.
- Boris, Eileen, and Jennifer N. Fish. “Slaves No More: Making Global Labor Standards for Domestic Workers.” *Feminist Studies* 40, no. 2 (2014): 411–443. DOI: 10.1353/fem.2014.0018.
- Charlesworth, Hilary. “Human Rights as Men’s Rights,” in *Women’s Rights, Human Rights: International Feminist Perspectives*, edited by Julie Peters and Andrea Wolper. London: Routledge. 1995.
- . “What are ‘Women’s International Human Rights?’” in *Human Rights of Women: National and International Perspectives*, edited by Rebecca Cook. Philadelphia: University of Pennsylvania Press. 1994.
- Committee on the Elimination of Discrimination against Women. *Concluding observations on the eighth periodic report of Indonesia*. CEDAW/C/IDN/CO/8. UN Committee on the Elimination of Discrimination Against Women (CEDAW). 24 November 2021.
- . *List of issues and questions in relation to the eighth periodic report of Indonesia*. CEDAW/C/IDN/Q/8. UN Committee on the Elimination of Discrimination Against Women (CEDAW). 27 Juli 2020.
- Coomaraswamy, Radhika. “Report of the Special Rapporteur on Violence against Women, its Causes and Consequences.” E/CN.4/1997/47/Add.1. United Nations Commission on Human Rights Fifty-Third Session Item 9 (a) of the Provisional Agenda.
- Dembour, Marie-Bénédicte. “Critiques,” in *International Human Rights Law*, edited by Daniel Moeckli, Sangeeta Shah, Sandesh Sivakumaran, and David Harris. Oxford: Oxford University Press. 2014.
- Dewan Perwakilan Rakyat Republik Indonesia. *Catatan Rapat Dengar Pendapat Umum Badan Legislasi untuk Mendengarkan Masukan/Pandangan dari narasumber atas RUU tentang Perlindungan Pekerja Rumah Tangga*. 17 Juni 2020. <<https://berkas.dpr.go.id/akd/dokumen/BALEG->

- RJ-20200622-044635-4752.pdf>. Diakses 4 April 2024.
- Diani, Mario. "The Concept of Social Movement," *The Sociological Review* 40, no. 1 (1992): 1-25.
- Dworkin, Ronald. "What Is Equality? Part 2: Equality of Resources," *Philosophy & Public Affairs* 10, no. 4 (1981): 283–345.
- Engels, Friedrich. *The Origin of the Family, Private Property and the State*. London: Penguin Books. 1985.
- England, Kim. "Home, Domestic Work and the State: the Spatial Politics of Domestic Workers' Activism," *Critical Social Policy* 37, no. 3 (2017): 367-385. DOI: 10.1177/0261018317695688.
- Federici, Silvia. "Social Reproduction Theory: History, Issues and Present Challenges," *Radical Philosophy* 2, no. 4 (2019): 55–57.
- . *Revolution at Point Zero: Housework, Reproduction, and Feminist Struggle*. New York: PM Press. 2012.
- Fontana, Lorenza. "The Contentious Politics of Labour Rights as Human Rights: Lessons from the Implementation of Domestic Workers Rights in the Philippines," *Human Rights Quarterly* 42, no. 4 (2020): 859–77. DOI: 10.1353/hrq.2020.0044.
- Fraser, Nancy. "A Rejoinder to Iris Young," *New Left Review* I, no. 223 (1997): 126-129. <https://newleftreview.org/issues/i223/articles/nancy-fraser-a-rejoinder-to-iris-young>.
- . "Abnormal Justice," *Critical Inquiry* 34, no. 3 (2008): 393-422. DOI: 10.1086/589478.
- . "Behind Marx Abode: For an Expanded Conception of Capitalism," *New Left Review* No. 86. Maret-April 2014. <<https://newleftreview.org/issues/ii86/articles/nancy-fraser-behind-marx-s-hidden-abode>>. Diakses 12 Maret 2024.
- . "From Redistribution to Recognition? Dilemmas of Justice in a 'Post-Socialist' Age," *New Left Review* No. 212 (1995): 68-93. <<https://newleftreview.org/issues/i212/articles/nancy-fraser-from-redistribution-to-recognition-dilemmas-of-justice-in-a-post-socialist-age>>. Diakses 27 Maret 2024.
- . "Rethinking Recognition," *New Left Review* No. 3 Mei-Juni 2000, <<https://newleftreview.org/issues/ii3/articles/nancy-fraser-rethinking-recognition>>.
- . *Cannibal Capitalism: How Our System is Devouring Democracy, Care, and the Planet—and What We Can do About it*. London: Verso. 2022.
- . *Crisis of Care? On the Social-Reproductive Contradictions of Contemporary Capitalism*. In Bhattacharya, Tithi. (ed.). *Social Reproduction Theory: Remapping Class, Recentering Oppression*. London: Pluto Press. 2017.
- . *Justice Interruptus: Critical Reflections on the Postsocialist Condition*.

- London: Routledge. 1997.
- . *Social Justice in the Age of Identity Politics: Redistribution, Recognition, Participation*, in *Culture and Economy After Cultural Turn*, edited by Larry Ray and Andrew Sayer. London: SAGE Publications. 1999.
- Fraser, Nancy, and Rahel Jaeggi. *Capitalism: A Conversation in Critical Theory*. Cambridge: Polity Press. 2019.
- Fraser, Nancy., and Nancy A. Naples. “To Interpret the World and to Change It: An Interview with Nancy Fraser,” *Signs* 29, no. 4 (2004): 1103–1124. DOI:10.1086/382631.
- Fraser, Nancy, and Linda Nicholson. “Social Criticism without Philosophy: An Encounter between Feminism and Postmodernism,” *Theory, Culture & Society* 5. No. 2-3 (1988): 373-394. DOI: 10.1177/0263276488005002009.
- Hadiz, Vedi R. “Reformasi Total? Labor after Suharto,” *Indonesia* 66 (1998): 109–25. DOI: 10.2307/3351449.
- . “The Indonesian Labour Movement: Resurgent or Constrained?” *Southeast Asian Affairs* 1 (2002): 130–42. DOI: 10.1355/SEAA02H.
- Hardiman, F. Budi. *Kritik Ideologi: Menyingkap Pertautan Pengetahuan dan Kepentingan Bersama Jurgen Habermas*. Yogyakarta: Kanisius. 2009.
- Honneth, Axel. “Redistribution as Recognition: A Response to Nancy Fraser,” in *Redistribution or Recognition? A Political-Philosophical Exchange*, edited by Nancy Fraser and Axel Honneth. London: Verso. 2003.
- Hunt, Alan. “The Ideology of Law: Advances and Problems in Recent Applications of the Concept of Ideology to the Analysis of Law,” in *Consciousness and Ideology*, edited by Patricia Ewick. London: Routledge. 2006.
- International Commission of Jurists (ICJ). *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*. 26 January 1997.
- International Labour Organization. “House ‘ping-pongs’ the Draft Law on Domestic Workers.” 21 Agustus 2015. <https://www.ilo.org/jakarta/info/public/fs/WCMS_470250/lang--en/index.htm>. Diakses 4 April 2024.
- . *Promoting Decent Work for Domestic Workers and Elimination of Child Labor in Domestic Work: Ten Emerging Good Practices from Indonesia*. Geneva: International Labour Office. 2018.
- . *Tackling Child Labour in Domestic Work: A Handbook for Action for Domestic Workers and Their Organizations*. Jakarta: Kantor Perburuhan Internasional. 2017.
- . *Toward a Better Estimation of Total Population of Domestic Workers in Indonesia*. Geneva: International Labour Office. 2017.
- Jala PRT and International Labour Organization. *MODUL PENDIDIKAN ALTERNATIF PRT: Pegangan untuk Fasilitator*. Jakarta: Kantor Perburuhan Internasional. Tanpa Tahun.
- Jaringan Nasional Advokasi Pekerja Rumah Tangga-Global Alliance Against Traffic in Women-Institut Pekerja Domestik. *Buku Pegangan Pendidikan*

- Politik Pekerja Rumah Tangga*. Thailand: GAATW. 2020.
- Komisi Nasional Anti Kekerasan Terhadap Perempuan. *A National Human Rights Institution's Independent Report—the 2nd Indonesian Periodic Review on the International Covenant on Civil and Political Rights (ICCPR)*. Submission to The Human Rights Committee 5 February 2024. <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FNHS%2FIDN%2F57376&Lang=en>. Diakses 3 April, 2024.
- . *Kertas Posisi Rancangan Undang-Undang Perlindungan Pekerja Rumah Tangga*. Jakarta: Komnas Perempuan. 2021.
- Lacey, Nicola. “Theory into Practice? Pornography and the Public/Private Dichotomy,” *Journal of Law and Society* 20, no. 1 (1993): 93–113. DOI: 10.2307/1410114.
- Laili, Martesa Husna, and Arie Damayanti, “Gender Wage Differentials in Indonesia: Empirical Evidence in Manufacturing Sectors,” *Indonesian Journal of Economics and Development* 18, no 3 (2019): 1-21. DOI: 10.21002/jepi.2018.12.
- MacKinnon, Catharine A. “Feminism, Marxism, Method, and the State: An Agenda for Theory,” *Feminist Theory* 7, no. 3 (1982): 515–44.
- . “Rape, Genocide, and Women’s Human Rights,” in *Genocide and Human Rights*, edited by Mark Lattimer. London: Routledge, 2007.
- Mukminto, Eko. “Hukum, Ideologi Patriarki, dan Kekerasan Sistematis Atas Perempuan: Suatu Kajian Žižekian,” *Nurani Hukum: Jurnal Ilmu Hukum* 3, no. 1 (2020): 1-13. DOI: 10.51825/nhk.v3i1.8566.
- Pemerintah Indonesia. *Eighth periodic report submitted by Indonesia under article 18 of the Convention, due in 2016*. CEDAW/C/IND/8. UN Committee on the Elimination of Discrimination Against Women (CEDAW). 8 Januari 2020.
- . *Replies of Indonesia to the list of issues and questions in relation to its eighth periodic report*. CEDAW/C/IDN/RQ/8. Committee on the Elimination of Discrimination against Women Seventy-Ninth Session. 21 June–9 July 2021 Item 4 of the provisional agenda. 2 Februari 2021.
- . *Second periodic report submitted by Indonesia under articles 16 and 17 of the Covenant, due in 2019*. E/C.12/IDN/2. UN Committee on Committee on Economic, Social and Cultural Rights. 3 November 2021.
- Peterson, V. Spike., and Laura Parisi. “Are Women Human? It’s Not an Academic Question,” in *Human Rights Fifty Years On: A Reappraisal*, edited by Tony Evans. Manchester: Manchester University Press, 1998.
- Putusan Mahkamah Konstitusi Nomor 75/PUU-XX/2022 perihal Pengujian Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- Rohlinger, Deana A., and Haley Gentile, “Sociological Understandings of Social

- Movements: A North American Perspective,” in *Handbook of Social Movements Across Disciplines*, edited by Conny Roggeband and Bert Klandermans. New York: Springer Publishing, 2017.
- Santos, Boaventura De Sousa. “Toward a Multicultural Conception of Human Rights,” in *Moral Imperialism: A Critical Anthology*, edited by Berta Hernandez-Truyol. New York: New York University. 2002.
- . *Towards a New Legal Common Sense*. London: Butterworths Lexis Nexis. 2002.
- Sheppard, Bede. *Workers in the Shadows Abuse and Exploitation of Child Domestic Workers in Indonesia*. New York: Human Rights Watch. 2009.
- Smith, Adam. *The Wealth of Nations*. London: Penguin Books. 1986.
- Smith, Patricia. *Feminist Jurisprudence*. New York: Oxford University Press. 1993.
- Suryakusuma, Julia I. “The State and Sexuality in New Order Indonesia,” in *Fantasizing the Feminine in Indonesia*, edited by Laurie J. Sears. London: Duke University Press, 1996.
- Syahwal. “Paradigma Politik Hukum Pengupahan Indonesia: Studi Hak atas Upah Layak bagi Buruh Informal,” *Veritas et Justitia* 9, no. 1 (2023): 188-216. DOI: 10.25123/vej.v9i1.5957.
- Tambunan, Darwin. “The Intervention of Oligarchy in the Indonesian Legislative Process,” *Asian Journal of Comparative Politics* 8, no. 2 (2023): 637–653. DOI: 10.1177/20578911231159395.
- Tempo. “Pekerja Rumah Tangga Bukan Warga Kelas Dua.” *Koran Tempo*, 20 Januari 2023, <https://koran.tempo.co/read/editorial/479737/mengapa-ruu-pprt-perlu-segera-disahkan>
- Törnquist, Olle. “Labour and Democracy? Reflections on the Indonesian Impasse,” *Journal of Contemporary Asia* 34, 3 (2004): 377–399. DOI:10.1080/0047233048000017
- Touraine, Alain. “An Introduction to the Study of Social Movements,” *Social Research* 52, no. 4 (1985): 749-787.
- Tronto, Joan. *Caring Democracy: Markets, Equality, and Justice*. New York: New York University Press. 2013.
- United Nations Committee on Economic, Social and Cultural Rights (CESCR). *General Comment No. 3: The Nature of States Parties’ Obligations (Art. 2, Para. 1, of the Covenant)*. 14 December 1990. E/1991/23.
- Wahyuningroem, Sri Lestari. “‘Mencivil Keadilan’ (Installing Justice): Civil Society and Transitional Justice in Indonesia”, in *Civil Society in the Global South*, edited by Palash Kamruzzaman. London: Routledge, 2019.
- . “Towards Post-Transitional Justice.” *Journal of Southeast Asian Human Rights* 3, no. 1 (2019): 124-154. DOI: 10.19184/jseahr.v3i1.11497.
- Weix, G.G. “Inside the Home and Outside the Family: The Domestic Estrangement of Javanese Servants,” in *Home and Hegemony: Domestic Service and*