

LEGAL PROTECTION OF ELDERLY WORKERS IN INDONESIA'S FOOD AND BEVERAGE SECTOR: A NORMATIVE COMPARATIVE STUDY WITH AUSTRALIA

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Abstract

This research examines legal protection and social security for elderly workers in the Food and Beverage (F&B) sector in Indonesia with a normative and comparative legal approach. The main problem identified is the absence of specific regulations that explicitly protect the rights of elderly workers, especially those who work in the informal sector. Sakernas 2023 data shows that the majority of elderly workers receive substandard wages, long working hours, and minimal access to social security. This study uses a comparative method with the Australian legal system, where the Fair Work Act 2009 explicitly prohibits age discrimination and provides comprehensive legal protection and social security. The analysis found that Indonesia still faces normative gaps, multiple regulatory interpretations, and overlapping labour and social protection policies. The research recommendations emphasise the importance of regulatory reform, strengthening the social security system, as well as more optimal education and supervision. With these steps, it is expected that elderly workers in the F&B sector can work safely, with dignity, and obtain proper social rights in accordance with the times. The results of this study are expected to be an important contribution for policy makers and business actors in Indonesia.

Keywords: *Legal Protection of Elderly Workers, Social Security, Food and Beverage (F&B) Sector, Fair Work Act 2009 Australia, Indonesian Labour Regulation Reform.*

INTRODUCTION

Recent demographic shifts in Indonesia reveal a clear and compelling trend: a significant rise in the number of elderly individuals who remain economically active, particularly in the labor sector. According to data from Statistics Indonesia (BPS) in 2024, the number of elderly workers has reached 17.53 million, a notable increase from 10

million in 2016.¹ This surge not only reflects demographic change but also underscores the continued economic relevance of the elderly population in national development. Elderly individuals, especially those employed in the informal sector, make a substantial contribution by supporting household economic stability and broader community resilience. Many elderly workers serve as primary breadwinners, particularly in contexts where access to social security is limited and state financial support is minimal. This reality affirms that the presence of elderly individuals in the workforce is not merely supplementary but has become a vital component of national economic stability.

This perception is reinforced by data showing that more than 85% of elderly workers are engaged in the informal sector, which typically lacks adequate labor protections and is highly vulnerable to economic uncertainties.² Notably, the food and beverage (F&B) sector accounts for approximately 85.25% of all elderly workers, further highlighting the central role of this sector in absorbing aging labor.³

To provide a comprehensive overview of the growth in elderly employment in Indonesia, the following table presents statistical data on the increase in elderly workers in recent years:

Table 1. Increase in the Labor Force Aged Over 60 Years – Statistics Indonesia (BPS)

Year	Month	
	February	August
1 2024	17.528.089,00	18.075.948,00
2 2023	16.875.019,00	16.815.238,00
3 2022	16.055.946,00	16.574.877,00
4 2021	14.909.726,00	14.945.466,00
5 2020	14.622.876,00	14.763.609,00

¹ Badan Pusat Statistik. "Angkatan Kerja (AK) Menurut Golongan Umur, 2016–2024." Badan Pusat Statistik. Terakhir diperbarui 16 Januari 2025. <https://www.bps.go.id/id/statistics-table/2/Njk4IzI=/angkatan-kerja--ak--menurut-golongan-umur.html>

² Geriatri Lansia Sehat Bahagia. "Fenomena Lansia Pekerja: Antara Perjuangan Hidup dan Ketimpangan Sosial." Geriatri.id. 2025. <https://www.geriatri.id/artikel/3073/fenomena-lansia-pekerja-antara-perjuangan-hidup-dan-ketimpangan-sosial>

³ CNBC Indonesia. "Sedih! Hampir 20 Juta Lansia RI Mesti Banting Tulang demi Uang." CNBC Indonesia. 16 Januari 2025. <https://www.cnbcindonesia.com/research/20250116110426-128-603614/sedih-hampir-20-juta-lansia-ri-mesti-banting-tulang-demi-uang>.

6	2019	13.964.400,00	13.631.664,00
7	2018	13.195.915,00	13.171.894,00
8	2017	12.018.744,00	11.480.840,00
9	2016	10.887.526,00	10.797.437,00

Source: Statistics Indonesia (BPS), "Labor Force by Age Group, 2016–2024," accessed May 28, 2025

This increase in elderly employment raises new challenges in terms of legal protection and social security. Elderly workers possess distinct characteristics—such as declining physical and health capacities—that necessitate additional safeguards to ensure safe working conditions and access to social entitlements.

A similar phenomenon has also been observed in Australia, where the number of elderly workers has risen significantly in recent years. In response, the Australian government has strengthened its legal framework through the *Fair Work Act 2009*, which explicitly prohibits age-based discrimination in the workplace and guarantees elderly workers access to employment rights and social security provisions, such as the *Age Pension* managed by Services Australia. While the absolute number of elderly workers in Australia is smaller than in Indonesia, the country's regulatory preparedness and integrated social protection systems are significantly more advanced.

To illustrate this trend, the following table provides data on the growth of elderly employment in Australia in recent years:

Table 2. Growth in the Number of Workers Aged Over 65 in Australia

No	Growth in the Number of Workers Aged Over 65 in Australia	
1	2016	198.500
2	2017	206.058
3	2018	234.960
4	2019	260.002
5	2020	246.968
6	2021	301.211

Source: Australian Institute of Health and Welfare, "Older Australians: Employment and Work," last updated 2024, accessed May 28, 2025

Despite this, regulations specifically addressing the protection of elderly workers remain limited in Indonesia. Many elderly individuals do not receive adequate social security benefits. From the perspective of the Legal Protection Theory, the state has a moral and legal obligation to safeguard vulnerable groups—including the elderly—from social and economic injustice. Social security is essential for elderly workers given their heightened vulnerability in terms of both health and economic security.⁴

Normatively, Law No. 13 of 1998 on the Welfare of the Elderly affirms in Article 5(1) the right of the elderly to receive equal treatment in social and national life. However, this provision does not comprehensively regulate labor protection or social security for elderly workers, particularly in the informal sector. Similarly, Law No. 13 of 2003 on Manpower also lacks specific clauses addressing the rights and protections of elderly workers. The Draft Law on Elderly Welfare, currently listed in the 2024 National Legislative Program (Prolegnas), remains under deliberation and thus has yet to provide a concrete legal basis. As a result, Indonesia still lacks comprehensive regulatory mechanisms to ensure the rights of elderly workers.⁵

This issue is further complicated by several legal challenges. First, there is a normative gap, as no law explicitly regulates elderly worker protection. Second, existing regulations are ambiguous and open to multiple interpretations, causing legal uncertainty. Third, there is normative conflict between labor laws and social protection provisions, leading to overlaps and inconsistencies in implementation. These three issues contribute to the inadequate legal protection afforded to elderly workers, especially in the F&B sector, which is characterized by flexible and informal employment structures.

Statistical data further highlights the precarious situation faced by elderly workers in Indonesia. The August 2023 National Labor Force Survey (Sakernas) reveals that 32.24% of elderly workers earn below the minimum decent wage, with elderly women experiencing greater income disparities—57.53% of them earn relatively low wages,

⁴ Aqil, H. M. "Kondisi Ketenagakerjaan Pekerja Lanjut Usia dan Perubahannya Saat Pandemi Covid-19 di Indonesia Menurut Jenis Pekerjaannya: Analisis Data Sakernas 2021." *Jurnal Ketenagakerjaan* 18, no. 1 (2023)

⁵ The PRAKARSA. "RUU Kesejahteraan Lanjut Usia Masuk dalam Longlist Prolegnas 2024." The PRAKARSA. 23 Januari 2024. <https://theprakarsa.org/ruu-kesejahteraan-lanjut-usia-masuk-dalam-longlist-prolegnas-2024>

averaging only IDR 1.18 million per month.⁶ Additionally, many elderly workers are employed beyond standard working hours, averaging 48 hours per week.⁷ These findings indicate that elderly individuals often work under strenuous conditions without sufficient legal or social protection.

Amidst these challenges, some positive initiatives have emerged in the F&B sector in Jakarta. For instance, Boga Group—operator of several prominent restaurants such as Bakerzin, Putu Made, Pepper Lunch, Kimukatsu, and Leten Paradise Dynasty—actively employs elderly individuals as servers, offering flexible working hours and health facilities, including EKG check-ups.⁸ Similarly, Ebiga Jjamppong at Lippo Mall Puri and Café Uma Oma in Blok M accept elderly workers without age restrictions, as long as they remain productive and willing to work.⁹ These efforts not only provide employment opportunities but also aim to empower the elderly to remain physically and mentally active.

In comparison, Australia has developed a much more advanced and comprehensive legal framework to protect elderly workers. The *Fair Work Act 2009* explicitly prohibits age-based discrimination in the workplace and ensures strong legal safeguards for elderly employees. In addition, Australia's *Age Pension* program—administered by Services Australia—offers robust financial support and social welfare for older citizens. This model presents a relevant benchmark for reforming elderly worker protection policies in Indonesia.¹⁰

This comparison reveals a significant gap between the legal protection frameworks for elderly workers in Indonesia and Australia. Indonesia continues to face major

⁶ Geriatri Lansia Sehat Bahagia. "Warga Lansia di Indonesia Sebagian Besar Masih Aktif Bekerja." Geriatri.id. 2024. <https://www.geriatri.id/artikel/2807/warga-lansia-di-indonesia-sebagian-besar-masih-aktif-bekerja>.

⁷ Geriatri Lansia Sehat Bahagia. "Fenomena Lansia Pekerja: Antara Perjuangan Hidup dan Ketimpangan Sosial." Geriatri.id. 2025. <https://www.geriatri.id/artikel/3073/fenomena-lansia-pekerja-antara-perjuangan-hidup-dan-ketimpangan-sosial>

⁸ Kaltaranetwork. "Cerita Lanjut Usia Kembali Bekerja di Kafe." Kaltaranetwork. 2024. <https://kaltaranetwork.co/feature/7899/cerita-lanjut-usia-kembali-bekerja-di-kafe-1-sempat-dikira-pemilik-resto>

⁹ Fadlurrohman, F. "Uma Oma Cafe dan Kerinduan Makan di Rumah Nenek." Kompas.id. 29 Maret 2024. <https://www.kompas.id/baca/foto/2024/03/29/uma-oma-cafe-dan-kerinduan-makan-di-rumah-nenek>

¹⁰ Services Australia. "Age Pension." Services Australia. 2023. <https://www.servicesaustralia.gov.au/age-pension>

challenges in formulating clear regulations, implementing effective policies, and ensuring sufficient social security for its aging labor force. Therefore, an in-depth normative analysis of Indonesia's legal protections for elderly workers – particularly in the F&B sector – is essential to identify regulatory weaknesses and propose concrete policy recommendations.

Previous studies have contributed valuable insights into the legal protection of elderly workers in Indonesia. For example, Farudin (2025) has examined the issue of legal safeguards for elderly workers, particularly in the informal and digital sectors. However, his study does not specifically address the food and beverage (F&B) sector.¹¹ Meanwhile, the study conducted by Ariesty (2023) provides a comparative overview of elderly protection regulations in Indonesia and Australia, with a primary focus on the protection of victims of criminal acts.¹² Therefore, this current research aims to complement and expand the existing body of knowledge. Furthermore, this study includes a comparison with legal protection practices in Australia, with the expectation of offering new perspectives and enriching the literature on legal protection and social security for elderly workers, both from the standpoint of labor regulations and social protection. Through this approach, the study is anticipated to make a meaningful contribution towards strengthening legal protection for elderly workers in Indonesia.

This research is also significant given that the Food and Beverage (F&B) sector constitutes a substantial employer of elderly labor in urban areas, particularly in Jakarta. The sector's flexible working hours and relatively light workload make it a preferred choice for elderly individuals who wish or need to continue working. However, in the absence of adequate legal protection, elderly workers in this sector remain vulnerable to exploitation, discrimination, and uncertainty regarding their rights, which ultimately may adversely affect their well-being.

¹¹ Farudin, Muhamad. "Perlindungan Hukum Terhadap Pekerja Lanjut Usia Berdasarkan Hukum Ketenagakerjaan (Kasus Pengemis Online dalam Konten Mandi Lumpur di Tiktok)." *Konsensus: Jurnal Ilmu Pertahanan, Hukum Dan Ilmu Komunikasi* 2, no. 1 (2025): 181–191. <https://doi.org/10.62383/konsensus.v2i1.63>

¹² Ariesty, L. "Analisis Perbandingan Hukum Regulasi Perlindungan Hukum Terhadap Korban Lanjut Usia di Indonesia dan Australia." *Jurnal Hukum Ius Publicum* 4, no. 2 (2023)

Moreover, elderly workers have diverse motivations for remaining in the workforce, ranging from economic necessity and the desire to stay active and productive to maintaining physical and mental health. Accordingly, sufficient legal protection and social security are not merely state obligations but fundamental needs to uphold the dignity and quality of life of elderly workers.¹³

Against this background, this study seeks to address this gap by normatively examining the legal protection policies for elderly workers in Indonesia's F&B sector. It aims to identify key legal issues such as regulatory gaps, ambiguous interpretations of laws, and conflicts between labor provisions and social protection policies. Additionally, it compares these findings with the more advanced protection system in Australia, notably through the Fair Work Act 2009 and the Age Pension social security program. By focusing on the F&B sector as the primary employment choice for urban elderly workers, this study offers a novel contribution in the form of an in-depth analysis of national regulatory weaknesses alongside concrete policy recommendations. The results of this research are expected to serve as an important reference for policymakers and business actors in enhancing legal protection and social security for elderly workers, enabling them to work safely, with dignity, and with their rights fully safeguarded.

METHOD

In this study, the author employs a comparative legal approach as the primary method of analysis. This approach is chosen because the research focuses on analyzing legal protection policies for elderly workers in the Food and Beverage (F&B) sector in Indonesia and comparing them with the policies in place in Australia. The comparative approach allows the researcher to examine the similarities and differences between the legal systems of both countries in a more specific and in-depth manner, thereby identifying best practices that can be adopted to improve policies in Indonesia.

This approach enables a more focused examination of regulations, norms, and the implementation practices of legal protection relevant to elderly workers, ensuring that the research findings can provide practical and contextually appropriate

¹³ Maghfirah. "Analisis Pekerja Lansia Pada Masa Awal Pandemi COVID-19 di Indonesia." *Jurnal Ketenagakerjaan* 18, No. 2 (2022). doi: 10.47198/naker.v17i3.161

recommendations for Indonesia. The comparative approach is particularly relevant given the differing characteristics of the two countries' legal systems: Indonesia employs a mixed legal system influenced by customary law and positive law, whereas Australia applies a common law system that is more mature in terms of labor protection and social security for the elderly. By comparing these two legal systems, this study aims to reveal existing gaps or disparities and offer solutions through policy adaptations suitable for the Indonesian context.

Methodologically, this research will review legislation, legal doctrines, and relevant literature from both countries, as well as analyze policies and practices concerning legal protection for elderly workers in the F&B sector. The results of this comparative analysis are expected to contribute academically and provide practical recommendations for policymakers and business practitioners in Indonesia to strengthen legal protection for elderly workers.

RESULT AND DISCUSSION

1. Implementation of Labor Legal Protection for Elderly Workers in the Food and Beverage Sector in Indonesia

a. Legal Framework and Regulatory Gaps for Elderly Workers in Indonesia

The implementation of labor legal protection for elderly workers in the Food and Beverage (F&B) sector in Indonesia has increasingly become a concern alongside the rising participation of elderly workers in the labor market. Normatively, the legal framework governing protection for elderly workers in Indonesia is based on several principal laws. Law Number 13 of 2003 on Manpower and Law Number 13 of 1998 on Elderly Welfare are two highly relevant legal instruments in this context, although they have different focuses and scopes. However, upon closer examination, elderly workers are not explicitly categorized as a vulnerable group entitled to special protection under these laws.

This situation highlights several key legal issues, namely the existence of a normative vacuum regarding protection for elderly workers, ambiguous interpretations of existing regulations, and potential conflicts between labor provisions and social protection. This

legal uncertainty results in weak and ineffective legal protection for elderly workers, particularly in the F&B sector, which tends to be flexible and informal.

It can be concluded that there is no regulation explicitly governing legal protection for elderly workers in Indonesia. The absence of such policies is mainly due to limited legislative attention to the specific needs of elderly workers and the complexity of employment conditions dominated by the informal sector. Additionally, socio-economic factors and the presence of a mixed legal system that still accommodates customary law further hinder the formulation of more specific regulations. There is also a perception that the number of elderly workers is not significant, coupled with a lack of advocacy from elderly groups and policy priorities that focus more on the productive younger workforce and general social protection considered more urgent. The complexity of the legal system and weak enforcement of labor law contribute to the insufficient attention to elderly workers, even though data indicate that they are numerous and vulnerable, especially in informal sectors with minimal protection. On the other hand, such policies may be perceived as additional burdens for some employers, particularly concerning severance pay obligations and the provision of social security.

Policies should be developed to encompass elderly workers across all sectors, both formal and informal. Such policies should target workers aged 60 and above, active in both formal and informal sectors, such as the F&B sector, which employs many elderly workers in urban areas. The existence of these policies would provide benefits in the form of legal protection, social security, and decent employment opportunities for elderly workers. However, to date, protection has been primarily focused on the formal sector, while elderly workers in informal sectors such as F&B, agriculture, and freelance work have received less attention. These policies would benefit vulnerable elderly workers and society at large by sustaining elderly productivity, although employers who are unprepared for increased social and administrative costs may perceive them as burdensome.

The implementation of such policies needs to be national in scope, focusing on sectors employing a large number of elderly workers, particularly informal sectors such as F&B, agriculture, and MSMEs. Currently, legal and social protections predominantly apply in

the formal sector, whereas elderly workers in informal sectors have limited access to protection and social security. Therefore, policies must be inclusive and adaptive to reach all sectors, including digital platforms, which have become workplaces for elderly workers vulnerable to exploitation.

From the perspective of Legal Protection Theory, the state has the obligation to ensure that all citizens, including elderly individuals who remain economically active, receive protection. This obligation aims to guarantee the fulfillment of fundamental rights inherent to every worker. Such protection efforts can be realized through various mechanisms, such as guidance provision, social assistance, and strengthening recognition of workers' human rights. Additionally, protection encompasses physical, social, and economic aspects regulated through applicable legal norms.¹⁴ In practice, the phenomenon of elderly workers active in informal and digital sectors indicates that the current legal framework is not fully capable of anticipating and responding to the challenges faced by this group.

Law Number 13 of 1998 on Elderly Welfare also provides a legal basis for elderly protection in Indonesia. Article 5 paragraph (1) of this law affirms that elderly individuals have equal rights in social and state life, including the right to fair and non-discriminatory treatment. However, substantively, this law focuses more on general social welfare aspects of the elderly and does not detail labor protection or social security for elderly workers, especially those employed in informal sectors such as F&B. Consequently, a legal gap exists that results in minimal legal protection for economically active elderly workers.

This condition is exacerbated by the absence of derivative regulations or specific policies that comprehensively regulate protection for elderly workers. The Draft Law on Elderly Welfare, currently under discussion in the 2024 National Legislation Program (Prolegnas), has yet to be finalized, so legal protection for elderly workers lacks a solid legal basis and operational implementation framework.

¹⁴ Basofi, M. B., and I. Fatmawati. "Perlindungan Hukum Terhadap Pekerja Di Indonesia Berdasarkan Undang-Undang Cipta Kerja." *Professional: Jurnal Komunikasi Dan Administrasi Publik* 10, no. 1 (2023): 77-86. <https://doi.org/10.37676/professional.v10i1.3544>

Given current conditions, there is an urgent need to formulate specific protection policies for elderly workers, considering the accelerating aging population and the significant increase in elderly workers. Although this issue has received national and global attention for decades, specific policies have yet to be implemented. Therefore, the implementation of such policies must be expedited in light of projections for substantial elderly population growth through 2045 and the urgent need to maintain their productivity and welfare. Through this approach, normative gaps and inconsistencies between regulations can be identified, potentially hindering effective legal protection. It also allows an assessment of how well existing legal norms align with principles of justice and legal certainty. This condition demonstrates that current legal protections have not adequately addressed serious health and economic risks faced by elderly workers.

Legal uncertainty is also a significant obstacle in implementing labor protection for elderly workers. Conflicts arise due to overlapping authorities between labor provisions and social security regulations, leading to unclear implementation and oversight. For example, BPJS Ketenagakerjaan (Social Security Agency for Employment) has yet to specifically regulate protection for elderly workers, potentially resulting in many elderly workers not being accommodated within this social security program. The gap between applicable laws and field practices indicates weak regulatory enforcement, so their rights do not receive adequate legal protection.

b. The Complexity of Implementing Employment Legal Protection for Elderly Workers in the Food and Beverage Sector in Indonesia

Elderly workers in the Food and Beverage (F&B) sector often face significant physical and time-related burdens, which, if not specifically regulated, can exacerbate their health conditions and reduce their quality of life. Generally, aging is accompanied by a decline in physical capabilities and health status, which adversely affects work capacity, thereby necessitating more specialized and intensive protection and guarantees.¹⁵ Furthermore, the types of employment relationships regulated under the law – such as Fixed-Term

¹⁵ Adioetomo, S. M., Cicih, L. H. M., Asmanedi, dan S. Toersilaningih. "Menjadi Lansia: Antara Anugerah dan Tantangan." Dalam Memetik Bonus Demografi Membangun Manusia Sejak Dini, disunting oleh S. M. Adioetomo dan E. L. Pardede, 295–335. Jakarta: Rajawali Press, 2018

Employment Contracts (PKWT) and Indefinite-Term Employment Contracts (PKWTT)—have implications for the job stability of elderly workers.

In the informal F&B sector, the recruitment process does not solely prioritize skills or experience but is also heavily influenced by emotional ties and family-like values. Budgetary constraints further limit employers' choices in hiring workers. Compatibility between prospective employees and the work environment, owners, as well as fellow employees, becomes a critical consideration during the selection process in this sector.¹⁶ It is common for elderly workers to receive only temporary contracts that do not guarantee long-term employment, thereby increasing their risk of social-economic insecurity and vulnerability, particularly in informal sectors like F&B.

A normative review of existing provisions indicates the urgent need for comprehensive regulatory reform. Amendments to the Labor Law must include special protections for elderly workers, such as flexible working hours, occupational safety adjusted to the physical conditions of the elderly, and prohibitions against age discrimination. Moreover, the Elderly Welfare Law should be strengthened to more comprehensively cover employment protections and expanded in scope to be more inclusive, especially for elderly workers in the informal sector. Thus, employment legal protection for elderly workers should not remain merely an ideal norm but must be effectively realized to achieve justice and welfare for all elderly workers in Indonesia.

2. Policy Analysis of the Age Discrimination Act 2004 Australia as a Potential Foundation for the Adoption of Legal Protection for Elderly Workers in Indonesia

a. Legal Framework for the Protection of Elderly Workers in Australia

The *Fair Work Act 2009* serves as the principal regulation governing employment in Australia, aiming primarily to establish a balance and fairness between employees and employers. This legislation provides comprehensive protection for all workers, including the mature workforce, often referred to as mature workers, which encompasses elderly employees. A normative approach to the *Fair Work Act 2009* reveals how this regulation accommodates the specific needs of elderly workers, particularly through provisions that

¹⁶ Hendro, A. D., dkk. "Identifikasi Kriteria Pekerja Informal terhadap Pemilik Usaha Makan Minum di Jakarta." *Indonesian Business Review* 4, no. 2 (Desember 2021): 114–133

govern flexible working arrangements and protections against unfair dismissal, making it a relevant model for adaptation in Indonesia.

One key provision in the *Fair Work Act 2009* is Section 65 concerning *Requests for Flexible Working Arrangements*. This section grants workers, especially those aged 55 and over, the right to request changes to their work arrangements, including working hours, patterns, and locations. Such requests must be submitted in writing with clear reasons, and employers are required to provide a written response within 21 days, including reasons if the request is denied.¹⁷ This provision is crucial for elderly workers who may face physical limitations or family responsibilities, making work flexibility an essential and effective protective instrument.

Additionally, Section 117b, which governs the *Requirement for Notice of Termination or Payment in Lieu*, offers special protection for employees aged over 45 with a certain tenure. This section mandates longer notice periods for termination or compensation payments in lieu of notice, providing significant legal certainty and social protection for mature workers facing job loss. Such protection helps reduce the economic uncertainty often experienced by elderly employees, affording them sufficient time to seek new employment or adjust to changing work conditions.

Although the *Fair Work Act 2009* does not explicitly regulate social security specific to elderly workers, it establishes minimum standards for fair wages and working conditions for all employees, including mature workers. These protections are complemented by other Australian regulations covering social security, health insurance, and pension benefits, thereby forming an integrated protection system for elderly workers. The implementation of the *Fair Work Act 2009* is supported by the Centre for Economic Policy Research on Ageing (CEPAR), a research center specializing in employment and protection issues for mature workers. CEPAR provides detailed data and analysis on challenges and solutions in elderly worker protection and publishes the document *Legal Protections for Mature Workers*, serving as a key reference for policymakers and labor practitioners. This institution plays a vital role in ensuring that Australia's employment

¹⁷ Fair Work Ombudsman. "Flexible Working Arrangements." Fair Work Ombudsman, 2024

policies remain responsive to the needs of elderly workers while raising public awareness of their rights.¹⁸

b. Relevance and Potential Adaptation of the Fair Work Act 2009 in Indonesia

A comparison with the Australian legal system reveals significant gaps in Indonesian regulations, such as the lack of specific legal protections, weak law enforcement, and insufficient sustainable social security programs for elderly workers. These weaknesses are exacerbated by low compliance among employers in fulfilling severance pay and social security obligations. Doctrinal legal studies and related literature underscore the necessity for policy adaptation that is more responsive to the conditions of elderly workers in both formal and informal sectors.

The successful experience of Australia in protecting elderly workers through the *Fair Work Act 2009* demonstrates significant benefits. For mature workers, these protections enhance access to fair employment opportunities, reduce age discrimination, and provide the flexibility needed to balance work with health conditions. Employers benefit from a workforce that is experienced and loyal, contributing to increased productivity and organizational stability. The state gains socio-economic advantages through increased labor participation of the elderly, which helps alleviate the burden on pension and social security systems.

The practice of adapting legal norms from other countries into national legal systems is a common strategy in legal reform processes worldwide, including Indonesia. The motivations behind such adaptations vary, ranging from desires to align with international legal developments to the need to adjust to economic, technological, social, and political changes.¹⁹

In this context, Indonesia must critically consider the experience of countries like Australia, which has implemented the *Fair Work Act 2009* to strengthen worker protections, including for the elderly. Given Indonesia's large informal sector and

¹⁸ Centre of Excellence in Population Ageing Research (CEPAR). "Legal Protections for Mature Workers." Agustus 2019. <https://cepar.edu.au/sites/default/files/cepar-fact-sheet-legal-protections-for-mature-workers.pdf>

¹⁹ Purwadi, Hari, Adi Sulistiyono, dan Adriana Grahani Firdausy. "Konsekuensi Transplantasi Hukum terhadap Pancasila sebagai Norma Dasar dan Hukum Lokal." *Yustisia* 4, no. 1 (Januari–April 2015): 1–15. <https://doi.org/10.20961/yustisia.v4i1.8622>

developing social security system, legal protection for elderly workers must be tailored to these realities. Revising the Labor Law to integrate rights to flexible work arrangements and fair termination protections is urgently needed. Furthermore, strengthening an inclusive social security system, enhancing education for employers and employees, and strict law enforcement must become integral components of the implementation strategy.

Normatively, the *Fair Work Act 2009* offers a mature and tested legal framework for protecting elderly workers from workplace discrimination and injustice. With appropriate adjustments to Indonesia's socio-economic context, these principles could reinforce labor protections and sustainably support the welfare of mature workers while improving national productivity.

Although several laws provide general worker protections, such as Law No. 13 of 2003 concerning Manpower which regulates fundamental labor protections, these do not explicitly accommodate the specific needs of elderly workers. Provisions related to non-discriminatory treatment and the right to job protection are general and do not specifically target the vulnerable elderly workforce. Likewise, Law No. 13 of 1998 on Elderly Welfare affirms the right of the elderly to equal treatment in society but lacks detailed employment and social security protections for elderly workers, especially in the informal sector.

This legal protection gap becomes more apparent when compared to Australia's system. The *Fair Work Act 2009* explicitly prohibits all forms of age discrimination at work and guarantees elderly workers' rights through flexible working hours, protection against unfair dismissal, and access to social security programs such as the Age Pension. This system provides not only formal but also substantive protection, supported by strict oversight and education for employers and employees regarding their rights and obligations. The protection model implemented in Australia can serve as a crucial reference for Indonesia to improve elderly worker protection, particularly in sectors that employ large numbers of elderly workers, such as the food and beverage (F&B) industry.

However, the application of the *Fair Work Act 2009* principles requires strong commitment from the government, employers, and society to create an inclusive work

environment for elderly workers. Therefore, policy adaptation must consider Indonesia's workplace culture, which is still dominated by the informal sector and employment relations different from those in Australia. The adaptation should be accompanied by good approaches, including training programs, socialization, and strengthening labor supervisory institutions to ensure effective and sustainable legal protection.

A phased approach through pilot programs in both formal and informal sectors, such as the F&B industry, could be an effective initial step to test and adjust new policies before nationwide implementation. This aligns with the Legal Protection Theory, which emphasizes the need for active state presence in providing tangible protection for vulnerable groups, including elderly workers.

Comprehensive application must consider various aspects of elderly worker protection. The first step involves developing specific regulations detailing the rights and obligations of elderly workers, including workload adjustments, flexible working hours, and protection against age discrimination, through revisions or supplements to Law No. 13 of 2003 and Law No. 13 of 1998. Subsequently, strengthening law enforcement mechanisms should be prioritized with strict supervision and firm sanctions against violations, especially concerning employer obligations related to severance pay and social security. Inclusive policies should also be designed to reach the informal sector and digital platforms, by establishing transparent employment agreements and regulations preventing exploitation. Moreover, the development of sustainable social security programs, such as enhancing Old Age Security and Pension schemes accessible to informal workers, must be optimized, accompanied by education on timely fund disbursement to prevent miscommunication. Implementation of age-friendly work schemes, including part-time and remote work, should be supported by appropriate skills training to keep elderly workers productive and healthy. Finally, cross-sector collaboration among government, businesses, labor unions, and civil society organizations is essential to formulate and implement these policies in an integrated and effective manner.

Thus, the adoption of principles from Australia's *Fair Work Act 2009*, adapted to Indonesia's social, economic, and cultural characteristics, is expected to become a

strategic solution to strengthen legal protection for elderly workers in Indonesia. Strengthening regulations and legal protections for elderly workers is not only an urgent matter of social justice but also a form of respect for the dignity and contributions of the elderly to national development. The state must ensure that every elderly worker can work safely, with dignity, and have their rights protected, as mandated by the constitution and universal legal protection principles.

CONCLUSION

Based on normative and comparative legal research between Indonesia and Australia, it can be concluded that legal protection for elderly workers in Indonesia's Food and Beverage (F&B) sector remains very limited and has yet to adequately address the real needs on the ground. This situation arises due to the absence of specific and comprehensive regulations governing the protection of elderly workers, leaving this group vulnerable economically, health-wise, and socially. Ambiguities in legal norms, multiple interpretations of provisions, and conflicts between labor regulations and social security policies constitute major obstacles that frequently result in the neglect of elderly workers' rights, especially in the informal sector, which predominantly absorbs elderly labor in Indonesia.

In contrast, Australia demonstrates a significant difference by implementing more specific and responsive legal protections tailored to the needs of elderly workers, such as flexible working arrangements and protections against unfair termination under the Fair Work Act 2009 and the Age Discrimination Act 2004. The findings of this article indicate that Indonesia urgently needs to reform its labor protection regulations for elderly workers, particularly in the F&B sector, by adopting best practices from Australia. This step is expected to realize more equitable, inclusive, and adaptive protections for elderly workers in Indonesia, enabling them to work safely, with dignity, and to receive their rightful social entitlements.

REFERENCES

Book

Adioetomo, S. M., Cicih, L. H. M., Asmanedi, dan S. Toersilaningsih. "Menjadi Lansia: Antara Anugerah dan Tantangan." Dalam *Memetik Bonus Demografi Membangun Manusia Sejak Dini*, disunting oleh S. M. Adioetomo dan E. L. Pardede, 295–335. Jakarta: Rajawali Press, 2018

International Conventions/Legislation::

Undang – Undang Nomor 13 Tahun 2003

Undang – Undang Nomor 13 Tahun 1998

Fair Work Act 2009 Australia

Journals

- Aqil, H. M. "Kondisi Ketenagakerjaan Pekerja Lanjut Usia dan Perubahannya Saat Pandemi Covid-19 di Indonesia Menurut Jenis Pekerjaannya: Analisis Data Sakernas 2021." *Jurnal Ketenagakerjaan* 18, no. 1 (2023)
- Ariesty, L. "Analisis Perbandingan Hukum Regulasi Perlindungan Hukum Terhadap Korban Lanjut Usia di Indonesia dan Australia." *Jurnal Hukum Ius Publicum* 4, no. 2 (2023)
- Basofi, M. B., and I. Fatmawati. "Perlindungan Hukum Terhadap Pekerja Di Indonesia Berdasarkan Undang-Undang Cipta Kerja." *Professional: Jurnal Komunikasi Dan Administrasi Publik* 10, no. 1 (2023): 77–86. <https://doi.org/10.37676/professional.v10i1.3544>
- Farudin, Muhamad. "Perlindungan Hukum Terhadap Pekerja Lanjut Usia Berdasarkan Hukum Ketenagakerjaan (Kasus Pengemis Online dalam Konten Mandi Lumpur di Tiktok)." *Konsensus: Jurnal Ilmu Pertahanan, Hukum Dan Ilmu Komunikasi* 2, no. 1 (2025): 181–191. <https://doi.org/10.62383/konsensus.v2i1.63>
- Hendro, A. D., dkk. "Identifikasi Kriteria Pekerja Informal terhadap Pemilik Usaha Makan Minum di Jakarta." *Indonesian Business Review* 4, no. 2 (Desember 2021): 114–133
- Maghfirah. "Analisis Pekerja Lansia Pada Masa Awal Pandemi COVID-19 di Indonesia." *Jurnal Ketenagakerjaan* 18, No. 2 (2022). doi: 10.47198/naker.v17i3.161
- Purwadi, Hari, Adi Sulistiyono, dan Adriana Grahani Firdausy. "Konsekuensi Transplantasi Hukum terhadap Pancasila sebagai Norma Dasar dan Hukum Lokal." *Yustisia* 4, no. 1 (Januari–April 2015): 1–15. <https://doi.org/10.20961/yustisia.v4i1.8622>

Internet/Website:

- Australian Institute of Health and Welfare, "Older Australians: Employment and Work," terakhir diperbarui 2024, diakses 28 Mei 2025, <https://www.aihw.gov.au/reports/older-people/older-australians/contents/employment-and-work>
- Badan Pusat Statistik. "Angkatan Kerja (AK) Menurut Golongan Umur, 2016–2024." Badan Pusat Statistik. Terakhir diperbarui 16 Januari 2025. <https://www.bps.go.id/id/statistics-table/2/Njk4IzI=/angkatan-kerja--ak--menurut-golongan-umur.html>
- Centre of Excellence in Population Ageing Research (CEPAR). "Legal Protections for Mature Workers." Agustus 2019. <https://cepar.edu.au/sites/default/files/cepar-fact-sheet-legal-protections-for-mature-workers.pdf>
- CNBC Indonesia. "Sedih! Hampir 20 Juta Lansia RI Mesti Banting Tulang demi Uang." CNBC Indonesia. 16 Januari 2025. <https://www.cnbcindonesia.com/research/20250116110426-128-603614/sedih-hampir-20-juta-lansia-ri-mesti-banting-tulang-demi-uang>
- Fadlurrohman, F. "Uma Oma Cafe dan Kerinduan Makan di Rumah Nenek." Kompas.id. 29 Maret 2024. <https://www.kompas.id/baca/foto/2024/03/29/uma-oma-cafe-dan-kerinduan-makan-di-rumah-nenek>
- Fair Work Ombudsman. "Flexible Working Arrangements." Fair Work Ombudsman, 2024
- Firmansyah, Rangga Hadi. "Di Indonesia, Lebih dari 50% Penduduk Usia 65–69 Tahun Masih Bekerja." GoodStats. 24 Oktober 2022. <https://goodstats.id/article/di-indonesia-lebih-dari-50-persen-penduduk-usia-65-sampai-69-tahun-masih-bekerja-kxtuN>
- Geriatri Lansia Sehat Bahagia. "Fenomena Lansia Pekerja: Antara Perjuangan Hidup dan Ketimpangan Sosial." Geriatri.id. 2025. <https://www.geriatri.id/artikel/3073/fenomena-lansia-pekerja-antara-perjuangan-hidup-dan-ketimpangan-sosial>
- Geriatri Lansia Sehat Bahagia. "Warga Lansia di Indonesia Sebagian Besar Masih Aktif Bekerja." Geriatri.id. 2024. <https://www.geriatri.id/artikel/2807/warga-lansia-di-indonesia-sebagian-besar-masih-aktif-bekerja>
- Kaltaranetwork. "Cerita Lanjut Usia Kembali Bekerja di Kafe." Kaltaranetwork. 2024. <https://kaltaranetwork.co/feature/7899/cerita-lanjut-usia-kembali-bekerja-di-kafe-1-sempat-dikira-pemilik-resto>
- Services Australia. "Age Pension." Services Australia. 2023. <https://www.servicesaustralia.gov.au/age-pension>
- The PRAKARSA. "RUU Kesejahteraan Lanjut Usia Masuk dalam Longlist Prolegnas

2024." The PRAKARSA. 23 Januari 2024. <https://theprakarsa.org/ruu-kesejahteraan-lanjut-usia-masuk-dalam-longlist-prolegnas-2024>.