

THE ROLE OF LEGAL EMPOWERMENT BY THE COMMUNITY IN STRENGTHENING ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW IN INDONESIA

Study in Jakarta and Yogyakarta



The Role of Legal Empowerment by the Community in Strengthening Access to Justice for Women in Conflict with the Law in Indonesia

©2023 Indonesia Judicial Research Society (IJRS)

Copyright is protected by Law

Publisher:

This study is published by Indonesia Judicial Research Society with support from International Development Research Centre (IDRC) and Alternative Law Groups (ALG).

Team of Writers:

Indonesia Judicial Research Society (IJRS)

Marsha Maharani

Bestha Inatsan Ashila

Siti Ismaya

Aisyah Assyifa

Dio Ashar Wicaksana

Naomi Rehulina Barus

Muhammad Ad'har Nasir

Editor:

Yvonna Kezia D. Nafi

Translator:

Arezka Ari Hantyanto

First Edition:

Jakarta, November 2023

ISBN:

978-623-93444-8-1

This publication is published by the Indonesia Judicial Research Society with support from the International Development Research Centre (IDRC) and Alternative Law Groups (ALG).

Views in this publication belong to the writers and do not necessarily

reflect

the views of the International Development Research Centre (IDRC) and Alternative Law Groups (ALG).

FOREWORD

Increasing the community's legal capacity is one component in measuring the access to justice index in Indonesia. This component measures whether individuals experiencing legal problems have the abilities needed to resolve the problem.

Aspects of community capacity need to be of particular concern to policymakers, academics, and even civil society groups, and this is because the final results of the measurement of the Indonesian Access to Justice Index (2021) show that the Indonesian people's legal capacity figure is 38.7, which indicates that the contribution of this figure still harms the final score of the Access to Justice Index in Indonesia. Moreover, increasing community capacity is one of the national strategies for increasing access to justice in Indonesia in the 2020–2024 National Medium Term Development Plan (Rencana Pembangunan Jangka Menengah/RPJM).

The role of increasing community capacity through legal empowerment activities is interrelated with fulfilling access to justice in Indonesia. The experience of the Indonesian Judicial Monitoring Community (Masyarakat Pemantau Peradilan Indonesia Fakultas Hukum Universitas Indonesia/MaPPI-FHUI) and APIK Jakarta Legal Aid (LBH APIK Jakarta) in carrying out legal empowerment for paralegals has had a significant impact in providing knowledge development on access to justice policies for women and children in the court environment. This activity impacts paralegals to use this knowledge to ensure the implementation of Supreme Court policies when assisting cases involving women in conflict with the law in the courtroom.

Therefore, we see a positive impact on community legal empowerment activities. IJRS collaborates with Alternative Law Groups (ALG) to conduct research aimed at exploring the role of communities in implementing legal empowerment, as well as the impact of these activities in policy reform related to fulfilling access to justice. Furthermore, this research also looks from the perspective of policymakers so that they can see what challenges and initiatives are made concerning community legal empowerment activities.

Finally, I am grateful for the support from the parties who helped prepare this book, especially the Alternative Law Groups (ALG) and the International Development Research Center (IDRC), for their total support in completing it. Hopefully, this book will be valuable for victim's assistants, paralegals, communities, academics, and policymakers.

Denpasar, 6 November 2023

Dio Ashar Wicaksana, S.H., M.A.
Executive Director of IJRS

TABLE OF CONTENTS

FOREWORD	i
TABLE OF CONTENTS	ii
CHAPTER 1 INTRODUCTION	2
• Background	2
• Research Questions	6
• Research Methodology	7
CHAPTER 2 LITERATURE REVIEW	10
• Conceptual Framework on Access to Justice for Women in Conflict with The Law	10
• Overview and Challenges of Access to Justice for Women in Indonesia	12
• Legal Empowerment for Access to Justice for Women in Conflict with the Law	18
• Legal and Policy Reforms for Access to Justice for Women in Conflict with the Law	21
• Practices of Legal Empowerment in Other Countries	22
• The Role of Non-State Actors in Legal Empowerment and Policy Reform	28
CHAPTER 3 PERSPECTIVES OF THE NATIONAL LAW DEVELOPMENT AGENCY (BPHN), NATIONAL COMMISSION ON VIOLENCE AGAINST WOMEN (KOMNAS PEREMPUAN), AND LEGAL EMPOWERMENT PRACTITIONERS ON LEGAL EMPOWERMENT REGARDING ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW	40
• BPHN	40
• Komnas Perempuan	41
• LBH APIK Jakarta	43
• PEKKA	43
• BPHN, Komnas Perempuan, and legal empowerment practitioners play important roles in ensuring legal empowerment and access to justice for women in conflict with the law (PBH).	44
• The forms of activities, methods, and strategies implemented by BPHN (Legal Aid and Human Rights), Komnas Perempuan (National Commission on Violence Against Women), and legal empowerment practitioners in conducting legal empowerment to ensure access to justice for PBH	59

- Adaptation and innovation applied by BPHN, Komnas Perempuan, and legal empowerment practitioners in addressing obstacles in implementing legal empowerment to ensure access to justice for PBH 70

CHAPTER 4 LEGAL EMPOWERMENT RELATED TO ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW THROUGH A COMMUNITY PERSPECTIVE 83

- The Role of Communities in Jakarta and Yogyakarta in Implementing Legal Empowerment to Ensure Access to Justice for Women in Conflict With The Law 97
- The Activities, Methods, And Strategies Employed By Communities In Jakarta And Yogyakarta To Carry Out Legal Empowerment For Ensuring Access To Justice For PBH 103
- Obstacles, Adaptations, and Innovations Applied by Communities in Jakarta and Yogyakarta in Conducting Legal Empowerment to Ensure Access to Justice for PBH 118
- The Impact of Legal Empowerment and Policy Reform Efforts by Communities in Jakarta and Yogyakarta Aims to Ensure Access to Justice for PBH 128

CHAPTER 5 POLICY REFORM REGARDING ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW FROM THE PERSPECTIVE OF THE NATIONAL LEGAL DEVELOPMENT AGENCY, NATIONAL COMMISSION ON VIOLENCE AGAINST WOMEN, AND LEGAL EMPOWERMENT PRACTITIONERS 134

- The Role of Institutions and Communities in Enacting Policy Reform to Ensure Access to Justice for Women Dealing with the Legal System 134
 - The Form of Activities, Methods, and/or Strategies Applied in Advocating Policy Reform to Ensure Access to Justice for Women in Conflict with the Law 144
 - Adaptations and Innovations Applied to Address Challenges in Implementing Policy Reform to Ensure Access to Justice for Women in Conflict with the Law 153
-

CHAPTER 6 REFORMING POLICIES RELATED TO ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW FROM A COMMUNITY PERSPECTIVE	165
<ul style="list-style-type: none"> • The Role of the Community in Policy Reform to Ensure Access to Justice for Women in Conflict With the Law 165 • What are the forms of activities, methods, and/or strategies applied by the community in advocating for policy reforms to ensure access to justice for women in conflict with the law? 178 • What are the Challenges Faced and the Adaptations and/or Innovations Implemented by the Community in Dealing with Advocacy Challenges Related to Policy Reform to Ensure Access to Justice for Women in Conflict with the Law? 187 	
<hr/>	
CHAPTER 7 THE IMPACT OF LEGAL EMPOWERMENT AND POLICY REFORM ON ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW BY STATE AND NON-STATE ACTORS FROM A RESEARCHER'S PERSPECTIVE	196
<ul style="list-style-type: none"> • Evidence-Based Policy: The Role of Non-State Actors in Evidence-Based Policy Advocacy 196 • The Role of Multi-Sectoral Collaboration 199 • Legal Capabilities of Women in Conflict with the Law 202 • Community Resilience 206 	
<hr/>	
CHAPTER 8 NATIONAL CONSULTATION ON RESEARCH ON THE ROLE OF LEGAL EMPOWERMENT BY COMMUNITIES IN STRENGTHENING ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW IN INDONESIA (A STUDY IN JAKARTA AND YOGYAKARTA)	212
<hr/>	
CHAPTER 9 CONCLUSION AND RECOMMENDATIONS	227
<ul style="list-style-type: none"> • Conclusion 227 • Recommendations 228 	

CHAPTER 1

INTRODUCTION



01

CHAPTER 1 INTRODUCTION

Background

The deeply rooted gender bias within Indonesian society often places women in a position inferior to men.¹ Not just in daily life, women also often face difficulties in achieving their rights and accessing justice. Women frequently encounter various problems in conflict with the law – whether they are witnesses, perpetrators, or even victims. For example, in sexual violence cases, women victims often face stigmatization and revictimization instead of getting justice. Such treatment is received from the public and Law Enforcement Officials who are supposed to provide protection and security.

Access to justice becomes more difficult as there is intersectionality that adds layered vulnerabilities to women.² Poor or low-educated women will have a harder time accessing justice than those who are educated and economically affluent. The same goes for ethnic and racial minority backgrounds, migrants, and indigenous peoples³ as well as other vulnerable groups such as people with disabilities, the elderly, and children, who are vulnerable to experiencing excessive discrimination in

¹ Gender bias refers to someone who receives different treatment based on their gender identity. In terms of access to justice and legal empowerment, it is found that besides discriminatory attitudes towards justice seekers who are part of the minority and/or indigenous communities, gender bias towards women is one of the inhibiting factors in accessing justice equally, both through formal and informal justice systems., see Ineke Van De Meene and Benjamin Van Rooij, *Access to Justice and Legal Empowerment: Making the Poor Central in Legal Development Co-operation* (Leiden: Leiden University Press, 2008), page. 10.

² Crenshaw argues in her writing that the courts have repeatedly ignored certain issues faced by Black women by treating them solely as women or solely as Black individuals. The issues faced by Black women are much more complex than the experiences of white women, such as racism. A woman's identity cannot be separated from other identities that are inherent to her. These identities influence the vulnerabilities that they experience., see Kimberle Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics," *University of Chicago Legal Forum* 8 (1989), 144.

³ The United Nations categorizes people of African descent, indigenous peoples, Roma and Sinti people, people who belong to national or ethnic minorities, people of certain religions or languages, migrants, refugees, asylum seekers, homeless people, people living in extreme poverty, women, and LGBTQI+ people as vulnerable groups., see United Nations, "Vulnerable Groups: Who are they?", available at https://www.un.org/en/fight-racism/vulnerable-groups?gclid=CjwKCAjwu5yYBhAjEiwAKXk_ePFRqix8qJ1oof0RDpAUqNvxrsraAKXVFej0xmXCD2-6-EaoJXdTluRoCp8oQAvD_BwE, diakses 25 Agustus 2022.

the application of the law.⁴ Therefore, it is important that these groups are given more space to voice their needs and experiences in accessing justice.

The United Nations Development Programme (UNDP) defines access to justice as the ability of people to seek and obtain justice, both through formal and informal institutions, that complies with human rights standards.⁵ The Indonesian Constitution guarantees that everyone has the right to recognition, guarantees, protection, fairness, and equal treatment before the law.⁶ The provisions in the Indonesian Constitution are also in line with the global agenda, particularly Goal 16 of the Sustainable Development Goals (SDGs) promoted by the United Nations, which promotes a peaceful and inclusive society for sustainable development by providing access to justice for all and building effective, accountable, and inclusive institutions at all levels.⁷

In modern and egalitarian legal systems, effective access to justice is also a fundamental human rights requirement to realize everyone's legal rights.⁸ Modern societies have moved beyond *laissez-faire*⁹ individualistic views to recognize the social rights and obligations of governments, communities, associations, and individuals.¹⁰ Access to justice, as another human right like the right to work, health, and/or education, which is now enshrined in modern constitutions, requires affirmative action by the state to ensure everyone can enjoy it.¹¹

The Bingham Centre for The Rule of Law Report states that in addition to poverty and illiteracy, widespread discrimination has been identified as a critical barrier for individuals to access justice.¹²

⁴ Indonesia, *Law on Human Rights*, UU No. 39 Tahun 1999, LN No. 165 year 1999, TLN No. 3886, article 5.

⁵ United Nations Development Programme, *Programming for Justice: Access for All - A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice* (Bangkok: UNDP Regional Centre in Bangkok, 2005), page 5.

⁶ Indonesia, *1945 Constitution*, art. 28D para (1).

⁷ United Nations, "The 17 Goals - Sustainable Development Goals", available at <https://sdgs.un.org/goals>, accessed on 24 August 2022.

⁸ Mauro Cappelletti dan Bryant Garth, "Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective", *Buffalo Law Review* 181 (1978), accessed on 23 August 2022, page. 185.

⁹ *Laissez-faire* is a policy of minimal government intervention in individual and societal economic affairs..

¹⁰ *Ibid.*, page. 184.

¹¹ *Ibid.*

¹² Julinda Beqiraj dan Lawrence McNamara, *International Access to Justice: Barriers and Solutions* (Bingham: Bingham Centre for The Rule of Law Report, 2014), page. 14.

Discrimination is a hindrance that can affect all aspects of access to justice – from awareness and understanding of legal rights, access to legal counsel and dispute resolution mechanisms, to achieving fair, impartial, and enforceable solutions.¹³ Although *de jure* discrimination can be repealed through laws, eliminating *de facto* discrimination requires additional positive strategies.¹⁴

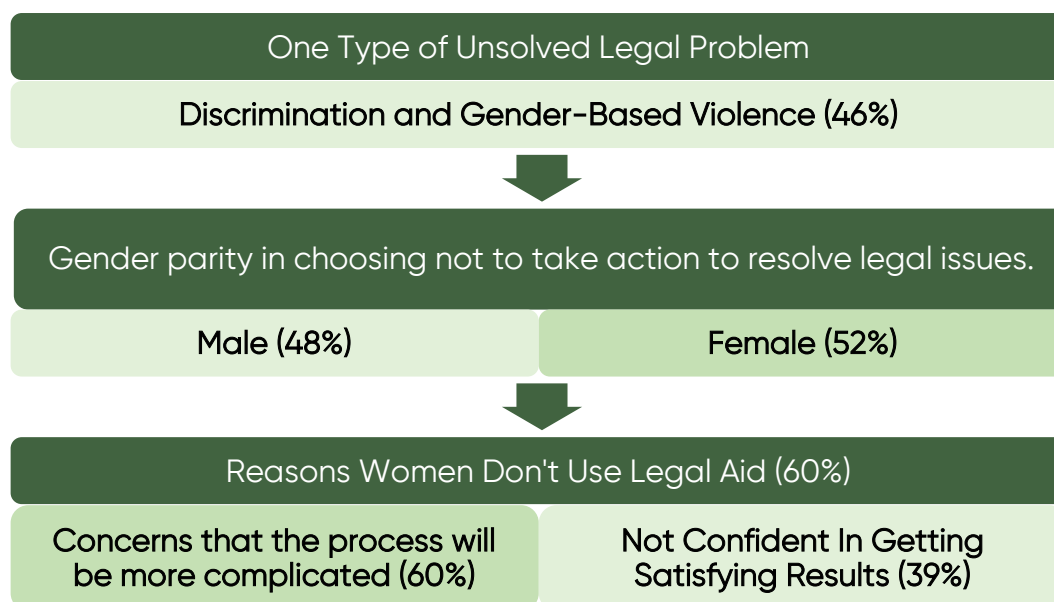


Chart 1. 2019 Access to Justice Index in Indonesia survey concerning Gender Based Violence

The 2019 Access to Justice Index in Indonesia found that 46 percent of people experiencing problems related to gender-based discrimination and violence chose to do nothing about the issues they faced.¹⁵ Additionally, 52 percent of women were reluctant to take legal action to resolve their problems.¹⁶ 60 percent of women did not seek legal assistance when facing legal issues because they feared the problems would become more complicated if they sought legal aid.¹⁷ These data points highlight why legal empowerment is essential for women through

¹³ *Ibid.*, page. 16.

¹⁴ *Ibid.*

¹⁵ In addition to issues of gender-based discrimination and violence, there are other types of legal problems where people decide to do nothing about their situation, namely criminal issues at 46 percent, cyber/online issues at 48 percent, and employment issues at 51 percent., See Dio Ashar Wicaksana, *et al.*, 2019 Access to Justice Index in Indonesia (Jakarta: Indonesia Judicial Research Society & Konsorsium Masyarakat Sipil untuk Akses terhadap Keadilan, 2019), page. 101.

¹⁶ *Ibid.*

¹⁷ *Ibid.*,page 110.

three pillars of individual and community action: knowing the law, using the law, and shaping the law.¹⁸

The role of women's organizations is undoubtedly critical in this regard. For example, the Legal Aid Institution - Indonesian Women's Association for Justice (Lembaga Bantuan Hukum APIK/LBH APIK), an organization in Indonesia actively providing legal assistance and initiating pro-women policy reforms.¹⁹ Advocacy by LBH APIK has succeeded in increasing the participation of Indonesian women in pushing the government to enact pro-women policies, which is manifested in legal products such as Law No. 23 of 2004 concerning the Elimination of Domestic Violence.²⁰ LBH APIK also provides legal education, especially for women victims of violence, and participates in training programs for law enforcement officials, paralegals, and *pro bono* lawyers.²¹

In addition, one of the successes of policy reform related to access to justice for women in the judicial process is due to the initiative of civil society organizations (CSOs). This achievement is indeed not separated from the success of legal empowerment. CSOs, in this case, the Indonesian Judicial Monitoring Society, Faculty of Law, University of Indonesia (Masyarakat Pemantau Peradilan Indonesia Fakultas Hukum Universitas Indonesia/MaPPI-FHUI), in collaboration with LBH APIK, conducted research to identify violations and deviations committed by judges against women in conflict with the law during the trial process. The findings successfully pushed the Supreme Court of the Republic of Indonesia in 2017 to issue Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law (PERMA 3/2017).

Interestingly, this research found that paralegals in Indonesia have successfully pushed judges to comply with PERMA 3/2017, especially in terms of providing support for women in conflict with the law, whether as victims, witnesses, or defendants. Paralegals can understand and apply this regulation in their daily work after receiving training from MaPPI-FHUI and LBH APIK. In addition, in 2021, the Indonesia Judicial Research Society

¹⁸ Open Society Foundations, *Making The Law Work for People* [s.l.: s.n., s.a.], available at <https://www.opensocietyfoundations.org/publications/making-the-law-work-for-people>, Accessed on 22 August 2022, hlm. 4.

¹⁹ Patra M. Zen, *Legal Empowerment of The Poor: Lessons Learned from Indonesia* (Jakarta: Yayasan Lembaga Bantuan Hukum Indonesia supported by United Nations Development Programme and Commission on Legal Empowerment of the Poor, 2007), page. 9.

²⁰ *Ibid.*

²¹ *Ibid.*

(IJRS) has also attempted to evaluate the implementation of PERMA 3/2017. This demonstrates that legal empowerment can enhance the capacity of CSOs, particularly paralegals, to ensure gender equality and non-discriminatory policies in the judiciary.

Building from the success story above, IJRS, as a research team, aims to examine further the experiences and practices in the field – namely, every legal aid service, service provider, women's crisis center, civil society organization, and other non-state actors closely related to women's issues and legal empowerment. This study will further explore the roles and participation of related institutions in legal empowerment and advocacy for policy reform related to access to justice for Women in Conflict with the Law (Perempuan Berhadapan dengan Hukum/PBH). Furthermore, this research also aims to explore the relationship between legal empowerment and policy reform. The term "community" is used inclusively to refer to various organizations that actively participate in implementing legal empowerment and various advocacy for policy reform related to access to justice for PBH.

Research Questions

Based on the background above, the research team proposes research questions as follows:

1. What is the role of communities in Jakarta and Yogyakarta in empowering the law to ensure access to justice for PBH?
 - a. What is the role of community participation in organizing legal empowerment to ensure access to justice for PBH?
 - b. What activities, methods, and strategies are applied by communities in organizing legal empowerment to ensure access to justice for PBH?
 - c. What adaptations and/or innovations are applied by communities in organizing legal empowerment to ensure access to justice for PBH?
2. What is the role of the community in Jakarta and Yogyakarta in policy reform related to access to justice for PBH?
 - a. What is the role of community participation in policy reform to ensure access to justice for PBH?
 - b. What are the forms of activities, methods, and/or strategies the community applies in advocating for policy reform to ensure access to justice for PBH?

- c. What adaptations and/or innovations are applied by the community in addressing advocacy barriers related to policy reform to ensure access to justice for PBH?
3. What is the impact of legal empowerment and policy reform by communities in Jakarta and Yogyakarta in ensuring access to justice for women in contact with the law?
 - a. How does legal empowerment and policy reform as community work create changes related to access to justice for PBH?
 - b. What is the correlation between the development of access to justice for PBH and the work of communities through legal empowerment and policy reform?

Research Methodology

This research is conducted empirically using a qualitative approach. This approach is crucial to explore the experiences of the community in organizing legal empowerment and the participation of the community in policy reform related to access to justice for PBH. The research is conducted in two cities, Jakarta and Yogyakarta, considering that these cities are strategic regarding social movements and have various legal aid organizations, service providers, civil society organizations, women's crisis centers, and civil society organizations.

Data was collected throughout November–December 2022 for in-depth interviews with key informants and February 2023 for focused group discussions (FGD). Interviews with key informants were conducted to listen to their experiences, expertise, and contributions in the field of legal empowerment in Indonesia, both as actors of the state and non-state actors, as well as mapping the community of legal empowerment organizers and advocacy for policy reform related to access to justice for PBH. For this purpose, the Research Team has conducted interviews with four key informants, namely MN (Head of Legal Aid Program Sub-Section at the Centre for Legal Aid and Education from the National Law Development Agency/BPHN), SAT (Commissioner of the National Commission on Women 2020–2024), SM (Director of LBH APIK Jakarta), and FVS (Co-Director of Women Head of Family Empowerment Association/PEKKA).

The FGD process has also been conducted in both cities to explore participants' direct experiences as representatives of communities actively involved in legal empowerment and advocacy for policy reform

related to access to justice for PBH, specifically within the scope of Jakarta and Yogyakarta. The list of participants is as follows:

FGD Jakarta	FGD Yogyakarta
1. Perhimpunan Bantuan Hukum dan Hak Asasi Manusia Indonesia (PBHI)	1. Perhimpunan Bantuan Hukum dan Hak Asasi Manusia Indonesia (PBHI)
2. LBH Masyarakat	2. LBH Masyarakat
3. LBH Jakarta	3. LBH Jakarta
4. LBH APIK Jakarta	4. LBH APIK Jakarta
5. Himpunan Wanita Disabilitas Indonesia (HWDI)	5. Himpunan Wanita Disabilitas Indonesia (HWDI)
6. Koalisi Perempuan Indonesia	6. Koalisi Perempuan Indonesia
7. Perempuan Mahardhika	7. Perempuan Mahardhika
8. Ikatan Perempuan Positif Indonesia - Jakarta (IPPI Jakarta)	8. Ikatan Perempuan Positif Indonesia - Jakarta (IPPI Jakarta)
9. Jaringan Indonesia Positif (JIP)	9. Jaringan Indonesia Positif (JIP)

Table 1. List of FGD participants

The weakness of the FGD method is the limited number of participants in which the results cannot be generalized or used as a general conclusion for a larger population or group, even if they have similar characteristics or participant characteristics in the FGD.

In addition to empirical research as described above, a doctrinal literature study was also conducted on legislation, international conventions, journals, and relevant legal books. This doctrinal approach is intended to demonstrate the current situation regarding legal empowerment, policy reform, and access to justice for women in Indonesia, both in theory and practice. Non-legal data sources such as reports from institutions and news media (both electronic and print) were also used as references to support the research. The scope of the research is limited to legal empowerment and policy reform related to access to justice for PBH, particularly women victims who have legal problems and seek to resolve their legal issues through the judiciary.

CHAPTER 2
LITERATURE
REVIEW



02

CHAPTER 2 LITERATURE REVIEW

Conceptual Framework on Access to Justice for Women in Conflict with The Law

The current Indonesian government has set as one of the development agendas in the National Medium-Term Development Plan (RPJMN) 2020-2024 to strengthen political, legal, defense, security, and public service transformation. One indicator of achieving this development agenda is through improving access to justice.²² The understanding of access to justice in this context is defined as:

“

The pathway for individuals to defend and restore their rights and resolve legal issues, both through formal and informal mechanisms, including the capacity of the community, in accordance with human rights standards.²³

The definition is taken from the Access to Justice Index published by the Ministry of National Development Planning/National Development Planning Agency (Kementerian PPN/Bappenas) in 2019. The index is used as an indicator to measure the government's achievement in fulfilling access to justice in the Republic of Indonesia.

The definition of access to justice also aligns with the understanding that has developed at the global level. One such definition of access to justice is formulated by the United Nations Development Programme (UNDP), which states that it is the ability of individuals to seek and obtain remedies through formal or informal mechanisms in accordance with human rights standards.²⁴ Furthermore, the international community has

²² Ministry of National Development Planning/National Development Planning Agency (Ministry of PPN/Bappenas), Appendix to the Presidential Regulation of the Republic of Indonesia No. 18 of 2020 on the National Medium-Term Development Plan 2020-2024 [s.l.: s.n., s.a.], p. 1.15.

²³ Dio Ashar Wicaksana, et al., *Index of Access to Justice in Indonesia 2019* (Jakarta: Indonesia Judicial Research Society, 2019), p. 27.

²⁴ United Nations Development Programme (UNDP) as cited in the Center for Rural and Regional Studies of Gadjah Mada University (PSPK UGM), *Justice for All? An Assessment of Access to Justice in Five Provinces of Indonesia* (Jakarta: Ministry of National Development Planning/National Development Planning Agency (Ministry of PPN/Bappenas) & UNDP, 2007), p. 4.

agreed through the Universal Declaration of Human Rights (UDHR) that access to justice is fundamental to realizing human rights.²⁵ Therefore, access to justice is not merely seen as the fulfillment of rights but also as an important mechanism for individuals to realize their other rights.²⁶

While access to justice is fundamentally for everyone, in the context of development goals aimed at reducing poverty and strengthening democratic governance, ensuring access to justice for marginalized groups becomes crucial.²⁷ The term "marginalized" is often used to refer to a group that faces difficulties in enjoying their rights to adequate living standards, including health and well-being, such as access to food, housing, healthcare facilities, and quality education. It also includes those who experience discrimination based on their gender, ethnicity, or religion.²⁸

In the context of addressing vulnerabilities in society, the Indonesian government focuses on the following groups: the elderly, children, the poor, pregnant women, and persons with disabilities.²⁹ Furthermore, through the National Strategy on Access to Justice 2016–2019, the Indonesian government sets specific targets for the poor or marginalized groups, which include:³⁰

1. Communities, children, and women living in poverty and/or remote areas.
2. Communities, children, and women with disabilities.
3. Communities, children, and women in need of special protection, such as victims of violence, minority groups, indigenous communities, agricultural laborers, plantation workers, and fishermen.

Based on that understanding, ensuring access to justice for women in conflict with the law becomes crucial. Women who become victims of violence, especially those with intersecting vulnerabilities, may face

²⁵ Article 8 of the Universal Declaration of Human Rights (UDHR) states that the right to an effective remedy by competent national tribunals for acts violating fundamental rights should be guaranteed by a constitution or laws..

²⁶ PSPK UGM, *An Assessment of Access to Justice in Five Provinces of Indonesia*, p. 5.

²⁷ *Ibid.*

²⁸ *Ibid.*, p. 7.

²⁹ Indonesia, Law on Human Rights, Law No. 39 of 1999, State Gazette No. 165 of 1999, Supplement to State Gazette No. 3886, Explanation of Article 5 paragraph (3).

³⁰ Ministry of National Development Planning/National Development Planning Agency (Ministry of PPN/Bappenas), National Strategy for Access to Justice 2016–2019 (Jakarta: Ministry of PPN/Bappenas, 2016), p. 4.

obstacles when experiencing injustices, including when attempting to address their legal issues on their own.

In this context, "women in conflict with the law" refers to women involved in legal matters as offenders, victims, witnesses, or parties.³¹ Therefore, understanding access to justice for women facing legal issues entails recognizing situations where women experience injustice and their efforts to resolve their legal problems, both through formal and informal means, to find a resolution and seek redress for violating their rights.

According to the framework of the Access to Justice Index in Indonesia (2019),³² the indicators for ensuring access to justice include having access to quality legal problem-solving mechanisms, access to legal assistance, and obtaining quality outcomes in resolving legal issues. Additionally, access to justice also considers the available legal framework and individuals' capabilities, such as their ability to understand the law, legal processes and navigate legal issues.

Overview and Challenges of Access to Justice for Women in Indonesia

Every person, without exception, has an equal right to justice, regardless of their background, including economic conditions, physical and mental health, social status, culture, education, ethnicity, or race. All of these should never prevent individuals from receiving equal treatment under the law and having equal access to justice.³³ Worldwide, there are four billion people who are deprived of opportunities for a better life and escaping poverty simply because they are excluded from the rule of law.³⁴ They (men, women, and children) do not receive the protection and fulfillment of their rights that should be guaranteed by the state.³⁵

According to the data from the Access to Justice Index in Indonesia 2019, women are one of the groups vulnerable to facing legal issues.³⁶ The common problems experienced by women are often related to family

³¹ Indonesia, Supreme Court, Supreme Court Regulation on Guidelines for Adjudicating Cases Involving Women in Conflict with the Law, Supreme Court Regulation No. 3 of 2017, Article 1, number 1.

³² Wicaksana, Index of Access to Justice in Indonesia 2019, p 39-52.

³³ Patra M Zen and Restu Mahyuni, eds., *Legal Empowerment of The Poor: Lessons Learned from Indonesia* (Jakarta: Indonesian Legal Aid Foundation (YLBHI), 2007), p. 4.

³⁴ The Commission on Legal Empowerment of the Poor, *Making the Law Work for Everyone Vol. 1: Report of the Commission on Legal Empowerment of the Poor* (New York: s.n., 2008), p. 1-2.

³⁵ *Ibid.*

³⁶ Wicaksana, Index of Access to Justice in Indonesia 2019, p. 86.

and children, such as divorce, accounting for 57 percent of cases, issues related to social security or assistance at 57 percent, and administrative issues regarding population registration at 52 percent.³⁷ Other findings indicate that 52 percent of women, of which 34 percent are homemakers, tend not to pursue legal remedies when encountering legal problems in Indonesia.³⁸ Therefore, policies are needed to ensure access to justice for women. It is worth noting that from 2000 to 2016, the National Commission on Violence Against Women (Komnas Perempuan) discovered a total of 421 policies/regulations that still exhibited discriminatory practices towards women.³⁹

Women still face limitations in obtaining their rights, such as access to healthcare, higher education, opportunities in the economic field, decent employment, participation in public activities, and limited access to justice. On one hand, there is a high number of women experiencing violence, human trafficking, sexual harassment, and a lack of protection for women and children.⁴⁰ According to research data from the "Reflection on Handling Sexual Violence in Indonesia: Indexing Court Decisions 2018–2020," out of 735 victims of sexual violence identified in court judgments, the majority, accounting for 99.5 percent, were female, with 72.1 percent of them being children aged 6–18 years old.⁴¹ This data reinforces the assessment that the root cause of sexual violence is the patriarchal culture in Indonesia, which still positions women as the vulnerable party,⁴² and the state's protection, especially for children, is still not ideal.

Based on data from the National Commission on Violence Against Women (Komnas Perempuan), throughout 2021, there were 338,506 cases of gender-based violence, an increase from the previous year's 226,062 cases in 2020.⁴³ Komnas Perempuan also monitored cases of femicide and found 237 cases with various motives, including revenge, rape,

³⁷ *Ibid.*, p. 85.

³⁸ *Ibid.*, p. 101.

³⁹ *Ibid.*, p. 86.

⁴⁰ Komariah Emong Supardjaja, Final Report of the Compendium on Women's Rights (Jakarta: National Law Development Agency (BPHN), 2006), p. 34..

⁴¹ Arsa Ilmi Budiarti, Reflection on Handling Sexual Violence in Indonesia: Indexing Court Decisions from 2018 to 2020 (Jakarta: Indonesia Judicial Research Society, 2022), p. 81–82.

⁴² Hilaire Barnett, *Introduction to Feminist Jurisprudence* (Britania Raya: Cavendish Publishing Limited, 1998), p. 12.

⁴³ National Commission on Violence Against Women (Komnas Perempuan), "Fact Sheet and Key Points of Komnas Perempuan's Annual Notes 2022," <https://komnasperempuan.go.id/download-file/736>, accessed April 4, 2023, p. 1..

jealousy, theft, unwanted pregnancy, and other reasons. These femicides were predominantly committed by husbands, boyfriends, and neighbors of the victims.⁴⁴ Meanwhile, according to the Gender Equality Barometer Study in 2020, out of seven respondents, five had experienced sexual violence against themselves, their family members, or people they knew, with the majority being women.⁴⁵ Most respondents who experienced sexual violence did not report their cases due to fear (33.5 percent) and not knowing where to report (23.5 percent). As a result, most respondents did not find a resolution to their issues.⁴⁶

It is important to recognize that justice for women is the most fundamental and essential right within the framework of human rights, which is guaranteed in various legal documents. At the international level, this right has been ensured through the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Beijing Declaration, and UN Security Council resolutions. It is integrated into the sustainable development agenda.⁴⁷ In Indonesia, some various laws and regulations provide guarantees for the protection of women, particularly those who are victims of violence. These include Law No. 7 of 1984 on the Ratification of CEDAW, Law No. 39 of 1999 on Human Rights, Law No. 23 of 2004 on the Elimination of Domestic Violence, Law No. 21 of 2007 on the Eradication of Human Trafficking, Law No. 21 of 2021 on Sexual Violence Crimes, and various other regulations. Gender mainstreaming is also a strategy outlined in the Medium-Term Development Plan for 2020-2024, where improving the quality of life for women is one of the key goals for future development.⁴⁸ The neglect of women from justice can be both a cause and a consequence of violence and conflict, poverty, inequality, and marginalization or exclusion.⁴⁹

Indeed, women victims still face various barriers when attempting to access justice. For example, they are often asked to present additional

⁴⁴ *Ibid.*, p. 2.

⁴⁵ Dio Ashar Wicaksana, et al., *Quantitative Study Report on the Gender Equality Barometer*, p.

xi

⁴⁶ *Ibid.*

⁴⁷ The Task Force on Justice, *Justice for Women: High-Level Group Report* (s.l.: United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), International Development Law Organization (IDLO), World Bank, Pathfinders for Peaceful, Just and Inclusive Societies, 2020), p. 36.

⁴⁸ Ministry of National Development Planning/National Development Planning Agency (Ministry of PPN/Bappenas), *Technocratic Draft: National Medium-Term Development Plan 2020-2024* [s.l.: s.n., s.a.], p. 294..

⁴⁹ The Task Force on Justice, *Justice for Women*, p. 36.

witnesses to corroborate their experiences, required to prove resistance as evidence of coercion. They may encounter the belief that sexual violence occurs consensually or that women are to blame for the violence they experience.⁵⁰ Victims also often hesitate to report their cases, given the risks of retaliation by the perpetrators, such as defamation claims, or the possibility of being criminalized for seeking an abortion resulting from rape.⁵¹ These barriers also extend to procedural aspects. For instance, there may be a lack of witnesses and evidence in cases of violence during legal proceedings or difficulties in ensuring the victim's presence in such trials due to shame and trauma.⁵²

On the other hand, there are substantive barriers where the law enforcement paradigm still focuses primarily on punishment and fails to address the aspects of recovery and protection for victims. The lack of a gender perspective often confuses law enforcement officials when determining the positions of victims and perpetrators. For example, there have been cases where women and children, who were initially victims, later became perpetrators due to certain circumstances. One such case is the story of WA, a 15-year-old girl who was charged with the crime of abortion. She became pregnant because of a rape committed by her own brother. In the first-instance court, the panel of judges sentenced her to six months in prison. The judges did not consider that WA was a victim of rape by her own brother and experienced various consequences, including an unwanted pregnancy. WA resorted to abortion due to her lack of knowledge, shame, and pressure. The judge did not consider WA's status as an initial victim, the power dynamics at play, and the physical and psychological impact she had suffered.⁵³ Furthermore, there are still instances where charges, demands, and judges' rulings do not adequately consider the assessment of the losses and impacts experienced by the victims.⁵⁴ The execution of verdicts by judges in cases of violence against women has been predominantly

⁵⁰ Lidwina Inge Nurtjahyo, *Women and Children as Victims of Sexual Crimes*, in Sulistyowati Irianto (ed.), *Legal Protection for Women and Children* (Jakarta: USAID & E2J The Asia Foundation, 2015), p. 387.

⁵¹ National Commission on Human Rights (Komnas HAM), *Draft 02 of Standards, Norms, and Regulations on the Right to Access Justice*, (Komnas HAM, Jakarta, n.d.), p. 36.

⁵² Working Group on Access to Justice of the Indonesian Attorney General's Office (Kejaksaan RI) and Indonesia Judicial Research Society (IJRS), *Pocket Book on Access to Justice for Women and Children in Criminal Cases*, (Jakarta: Kejaksaan RI and IJRS, 2021), p. 6.

⁵³ Dio Ashar W and Bestha Inatsan Ashila, *Reject Imprisonment of Sexual Violence Victims!* Written Commentary as Amicus Curiae (Friend of the Court) on case No. 6/PID.SUS-Anak/2018/JMB at the High Court of Jambi, (Depok: MaPPI FHUI, 2018), pp. 8-14.

⁵⁴ *Ibid.*

repressive rather than restorative towards the victims' rights. These structural issues are reinforced by a legal culture in society that still blames the victims and does not fully support them in seeking justice.⁵⁵

Women face greater challenges when it comes to issues related to family law, children, and social welfare. For example, 40 percent of women experience more legal problems related to domestic violence than men, and 75 percent of women face more issues related to child support or alimony.⁵⁶ There are cases of divorce initiated by husbands but canceled when they realize they would be obligated to pay spousal support and child support according to the court's decision. These husbands choose not to divorce their wives and continue their lives with a second wife rather than fulfilling the court's decision, which sometimes leads to injustice for women.⁵⁷ In many cases, former husbands do not fulfill their obligations to provide child support even after a court order for them to pay.⁵⁸ When women leave a relationship with an abuser, it often results in legal issues such as divorce, child custody, criminal proceedings, and child protection. Financially, women may depend on their partners, fear retaliation or recurring violence if they seek help, and lack understanding of available laws and legal protections. Involvement in legal processes can cause trauma, especially if the process is protracted.⁵⁹ Furthermore, victims often cannot access legal assistance or representation and frequently must represent themselves.⁶⁰

Women with low income or belonging to marginalized groups face more cultural and structural barriers in accessing justice.⁶¹ According to research conducted by PEKKA, out of 601 women who are members of PEKKA, 50 percent live below the poverty line, and one in three of these women, who are heads of households, cannot access government

⁵⁵ LBH Apik Jakarta, *Violence against Women on the Rise, the State Must Provide Safe Spaces*: LBH APIK Jakarta Annual Notes, (Jakarta: LBH Apik Jakarta, 2021), p. 3.

⁵⁶ The Task Force on Justice, *Justice for Women*, p. 15.

⁵⁷ Supreme Court of the Republic of Indonesia, *Looking for Effective Instruments in Fulfilling the Rights of Wives and Children Due to Divorce*, <https://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/mencari-instrumen-yang-efektif-dalam-pemenuhan-hak-istri-dan-anak-akibat-perceraian> accessed on 8 May 2023.

⁵⁸ Yusuf Eko Nahuddin, *Former Husband's Failure to Pay Child Maintenance (Hadhanah) in the Perspective of Child Protection*, *Journal of Research and Development in Science and Humanities*, Volume 6, Number 3, Year 2002, p. 464.

⁵⁹ *Ibid.*, p. 23.

⁶⁰ *Ibid.*, p. 24.

⁶¹ The Task Force on Justice, *Justice for Women*, p. 18.

assistance programs.⁶² Nine out of ten women who are heads of households have been unable to access the court system to resolve their divorce cases. The cost of litigation and transportation to reach the nearest court is one of the challenges for the poor in accessing justice.⁶³ Transportation costs pose a significant barrier to attending court hearings for impoverished communities residing in rural areas far from the courts. The farther someone's residence is from the court, the higher the transportation expenses required.⁶⁴

Many women are unaware of their rights that are guaranteed by the law. As a result, when they experience violations such as domestic violence, they tend to let it happen without taking any action. Additionally, the participation of women, especially those who are poor, remains low in politics, social spheres, and community activities.⁶⁵ Therefore, it is crucial to empower poor and marginalized women to build their critical awareness of their rights through education and skills development.⁶⁶ This helps them realize that the harm or problems they face are the responsibility of others who should be held accountable. Increasing awareness allows individuals to recognize issues as violations of their rights and breaches of legal rules, thereby entitling them to seek redress. Lastly, empowering women to utilize available mechanisms for seeking redress is essential in promoting access to justice for women.⁶⁷

The evidence shows that equal access to justice comes at a high cost. Unresolved legal issues can be detrimental to both individuals and society. Unmet legal needs result in undue financial burdens, increased stress, and other health implications. They disrupt family relationships, create employment obstacles, and even lead to job loss. Inequality in access to justice also erodes public trust in the justice system.⁶⁸

⁶² Akhmadi, et al., *Access to Justice: Empowering Women Heads of Household in Indonesia, Case Study in the Provinces of Nanggroe Aceh Darussalam, West Java, West Kalimantan, and East Nusa Tenggara*, (Jakarta: SMERU Research Institute, 2011), pp. 56-58.

⁶³ *Ibid.*, p. 59.

⁶⁴ *Ibid.*, p. 60.

⁶⁵ Iva Hasanah, *Strengthening and Ensuring the Inclusion of Poor Women to Promote Pro-Feminist Public Policies through the Gender Watch Movement in Gresik Regency, Proceedings of the International Conference on Feminism: Intersecting Identities, Agency & Politics* (Jakarta: Yayasan Jurnal Perempuan, 2016), p. 1030.

⁶⁶ *Ibid.*, p. 1031.

⁶⁷ William L.F. Felstiner, et al., "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming" as cited in Choky Risda Ramadhan, et al., *Legal Needs Survey in Indonesia 2019: Lampung and South Sulawesi Provinces* (Jakarta: Indonesia Judicial Research Society, 2020), p. 108.

⁶⁸ OECD and Open Society Foundations (2016), *Understanding Effective Access to Justice: Workshop Background Paper* as cited in Task Force on Justice, *Justice for Women*, p.38



Legal Empowerment for Access to Justice for Women in Conflict with the Law

One of the indicators used to measure the Access to Justice Index 2019 is "legal capability," which refers to the individual's ability to effectively respond to legal issues and access the necessary support to resolve them.⁶⁹ The indicator components of "legal capability" include identifying legal issues, understanding legal services and processes, and addressing legal problems.⁷⁰

The Access to Justice Index 2019 found that 46 percent of individuals who experienced discrimination and gender-based violence chose not to act on their issues.⁷¹ Furthermore, when it comes to choosing a resolution for their problems, the majority of women, or 52 percent of respondents, tend to be reluctant to take any action when facing legal issues.⁷² This is concerning because women often face issues related to family and children (such as divorce), social security and assistance, and administrative/civil registration matters.⁷³

It is important to acknowledge that there is social and legal discrimination against issues related to marginalized groups. Identity is closely tied to marginalization and is often used to categorize cases based on age, ethnicity, nationality, sexuality, gender, disability, or intersecting identities as examples of marginalization.⁷⁴ There are many ways in which the law sidelines marginalized groups based on their identities,⁷⁵ treating them as inferior, less important, or forcing them into and/or maintaining positions of powerlessness.⁷⁶

The social system in society has perpetuated the vulnerability of women. This situation is shaped by the influence of social constructions, values, norms, customs, and interpretations of religion that do not always benefit women and make them susceptible to being used to perpetuate

⁶⁹ Pascoe Pleasence, *Reshaping Legal Assistance Services: Building on The Evidence Base* (Australia: Law and Justice Foundation of New South Wales, 2014), p. 130.

⁷⁰ *Ibid.*, p. 136.

⁷¹ Wicaksana, *Index of Access to Justice in Indonesia 2019*, p. 101.

⁷² *Ibid.*

⁷³ *Ibid.*, p. 85.

⁷⁴ David Gurnham, "Introduction: Marginalisation in Law, Policy and Society," *International Journal of Law in Context* (18 March 2022), p. 5.

⁷⁵ Ben Hightower and Kirsten Anker, "(Re)Imagining Law: Marginalised Bodies/Indigenous Spaces," *International Journal of Semiotics of Law* (29 December 2015), p. 1.

⁷⁶ *Ibid.*

patriarchal culture and practices. Women are often marginalized and experience discrimination based on their gender, which is considered inferior to men. There are many stigmas imposed on women by society, such as their perceived physical weakness and their inherent role in childbearing, which ultimately places women in various subordinate roles.⁷⁷ These values eventually become embedded in the law, from formulation to implementation, further disadvantaging women.⁷⁸

Even if a society has the capacity and ability to understand and be aware of legal issues, it may not necessarily have sufficient capabilities to effectively resolve its legal problems, either on its own or with the assistance of others.⁷⁹ This phenomenon is particularly experienced by women as a vulnerable group facing legal issues.

The Quantitative Study Report of the Gender Equality Barometer 2020, conducted on 2,210 respondents, shows that the majority of respondents (93.4 percent) are aware of where to report incidents of sexual violence.⁸⁰ However, among those who know where to report, 43.8 percent choose to report to the police as their first point of contact, 41.6 percent report to their family, 4.9 percent report to their local neighborhood association (Rukun Tetangga or Rukun Warga/RT or RW), and 4.6 percent report to other entities such as legal aid organizations or other service providers.⁸¹



Chart 2.1 Options for Reporting Sexual Violence Report on the Quantitative Study of Gender Equality Barometer 2020

⁷⁷ Barnett, *Introduction to Feminist Jurisprudence*, p. 6.

⁷⁸ *Ibid.*

⁷⁹ Ramadhan, *et. al.*, *Legal Needs Survey in Indonesia 2019*, p. 126

⁸⁰ Wicaksana, *Report on the Quantitative Study of Gender Equality Barometer*, p. 52.

⁸¹ *Ibid.*, p. 53.

The low figures can be attributed to the lack of information regarding the functions and benefits of these services and the societal perception that reporting cases of violence, especially sexual violence, is taboo.

The findings of the research conducted by Komnas Perempuan titled "Monitoring the Access of Female Victims to Integrated Services in the Provinces of Kepulauan Riau, East Java, and Maluku" also reveal a similar pattern. The research found that most victims reported to the Police, accounting for 51.8 percent, while the access to non-state actor institutions was significantly lower, such as NGOs at 35.8 percent and community-based services⁸² at 13.9 percent.⁸³

The survey found that 57.4 percent of respondents who reported experiencing sexual violence, both male and female, believed that the police as law enforcement officers, were unresponsive in handling cases of sexual violence.⁸⁴ Legal empowerment plays a central role in accessing justice. Women are expected not only to understand the available legal services and processes but also to identify and confront legal issues in order to empower themselves.⁸⁵

Indeed, in light of these circumstances, the law is often perceived as a threat rather than an instrument that aids in upholding women's rights. Stephen Golub coined the term "legal empowerment" to refer to using legal activities and services related to development to enhance the control of disadvantaged communities over their lives.⁸⁶ In its development, legal empowerment is not only integrated into the global fight against poverty⁸⁷ but also closely intertwined with issues intersecting with injustice, such as gender issues, land rights, and environmental justice. This relates to the overarching theme of legal empowerment,

⁸² Community-based services are institutions within a community that are formed by community members themselves, often with support from various stakeholders in the surrounding area. The purpose of these institutions is to provide assistance and support to the community residing in that particular area.

⁸³ Komnas Perempuan, "Victim's Experience in Accessing Services: From Community to Service Provider," in *Monitoring Results of Women's Access to Integrated Services in the Provinces of Kepulauan Riau, East Java, and Maluku* (Jakarta: Komnas Perempuan, 2009), p. 21.

⁸⁴ *Ibid.*, p 55.

⁸⁵ *Ibid.*, p. 53.

⁸⁶ Legal empowerment is the use of legal services and related development activities to increase disadvantaged populations' control over their lives, see Stephen Golub, *Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative* (Amerika Serikat, Carnegie Endowment for International Peace, 2003), p. 25.

⁸⁷ In 2008, the United Nations established the High-Level Commission on Legal Empowerment of the Poor, also known as the Commission on Legal Empowerment of the Poor.

which addresses collective, systemic, and sustainable failures to protect and defend the rights of vulnerable and marginalized individuals and communities.⁸⁸

Goodwin and Maru have found that the most common legal empowerment strategies, besides legal literacy, are community mobilization and advocacy.⁸⁹ These methods are expected to embody the three pillars of individual and community action: knowing the law, using the law, and shaping the law.⁹⁰ Legal empowerment is both an approach and an ultimate goal.⁹¹ As an approach, it aims to enhance individuals' and communities' knowledge of the law and design better paths to justice.⁹² As a result, individuals and communities are empowered to use the law to advance their interests and rights.⁹³ Unlike traditional legal aid, legal empowerment utilizes popular education, organizing, participatory research, data collection, storytelling, and narrative strategies to strengthen and amplify the experiences of individuals and communities who have been deprived of their rights.⁹⁴



Legal and Policy Reforms for Access to Justice for Women in Conflict with the Law

Legal empowerment aims to advance equality, fairness, the fulfillment of rights, and justice by promoting understanding and the involvement of communities in forming laws that impact them.⁹⁵ On the other hand, legal reform is a process of analyzing, advocating for, and changing the existing legal system to improve justice or efficiency.⁹⁶ There are four main methods of legal reform, namely:⁹⁷

1. Repealing existing laws;
2. Enactment of new laws;
3. Consolidation: This method involves merging or combining multiple laws into a single comprehensive law

⁸⁸ Open Society Foundations, *Making The Law Work for People* [s.l.: s.n., s.a.], p. 3.

⁸⁹ Laura Goodwin and Vivek Maru, "What Do We Know about Legal Empowerment? Mapping the Evidence," *Hague Journal on the Rule of Law* 9 (2017), p. 169-170.

⁹⁰ Open Society Foundations, *Making The Law Work for People*, p. 4.

⁹¹ *Ibid.*, p. 5.

⁹² *Ibid.*

⁹³ *Ibid.*

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ Legal and Economic Empowerment Global Network, *SDG-enabling Law Reform Drive*, <https://www.leeg-net.org/sdgs-enabling-law-reform-drive>, accessed on 22 September 2022.

⁹⁷ *Ibid.*

4. Codification: It refers to the systematic collection and organization of laws within a state or country based on subject matter

Legal reform to improve the well-being of women can begin by critiquing laws through perspectives and arguments based on women's experiences.⁹⁸ The UNDP and the European Centre for Not-for-Profit Law, in their studies, state that the success of a legal reform process lies in its ability to respond to local needs.⁹⁹ Overall, it is recommended that CSOs adopt participatory methods, particularly through a comparative analysis approach and consideration of domestic legal needs, to address priority issues best for the community.¹⁰⁰ Participatory processes legitimize legal reform efforts, as this method strengthens the improvements introduced by legal products and ensures the apolitical and consistent implementation of policies.¹⁰¹

Women's organizations, and other civil society organizations, such as women's lawyer associations, are uniquely positioned to play a transformative role in advancing legal reform through advocacy, capacity development, awareness of rights, strategic litigation, and monitoring of women's rights.¹⁰² These organizations can significantly contribute by providing pathways and entry points for women to participate in legal reform.¹⁰³ Additionally, they can sustain the reform momentum and advocate for continued investment in implementing laws.¹⁰⁴



Practices of Legal Empowerment in Other Countries



The Philippines

In the Philippines, the term "paralegal" primarily refers to laypersons who claim to know the law and government workings, have undergone some training, and work on behalf of various

⁹⁸ Sulistyowati Irianto, "Feminist Legal Theory" in Legal Protection for Women & Children, ed. Sulistyowati Irianto (s.l.: s.n., s.a.), p. 51.

⁹⁹ United Nations Development Program and European Center for Not-for-Profit, *Elements for Successful CSO Law Reform Initiatives: The Case Studies of Honduras, Iraq and Macedonia*, p. 23.

¹⁰⁰ *Ibid.*

¹⁰¹ *Ibid.*

¹⁰² UN Women, *Equality in Law for Women and Girls by 2030: A Multistakeholder Strategy for Accelerated Action*, pp 32-33.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

governmental and non-governmental organizations.¹⁰⁵ Community-based paralegals in the Philippines, who engage in community empowerment, have been present for several decades and have been recognized for their contribution in helping the poor access justice. Since the early 1930s, there have been precedents for paralegal work as advocates for the poor during agrarian and labor uprisings in response to worsening social and economic conditions, particularly in Central and Southern Luzon (Kerkvliet 1977; Crippen 1946).¹⁰⁶

In the Philippines, for example, the Free Legal Assistance Group (FLAG) deployed community paralegals to respond to the repression under Marcos during the 1970s.¹⁰⁷ Since the downfall of the dictatorship, several civil society organizations, and goal-oriented movements, including farmer and fisherfolk associations, have adopted the paralegal model through an approach known as "alternative lawyering."¹⁰⁸ The highest form of "alternative lawyering" is manifested when poor and marginalized individuals, who are not lawyers by profession or training and have been marginalized by the law and legal system, advocate for their own groups and engage in legal practice. In other words, "alternative lawyering" can achieve its goals when the poor and marginalized are empowered to become lawyers who can understand the law and use it to promote justice and catalyze social transformation.¹⁰⁹

Currently, paralegals in the Philippines are involved in various activities, including (i) Education on human rights, constitutional rights and provisions, and legal rights and procedures; (ii) Legal research, investigation, and documentation, as well as proper casework methods; (iii) Mediation in conflict resolution venues or

¹⁰⁵ Jennifer Franco, Hector Soliman, and Maria Roda Cisnero, *Community-Based Paralegalism in the Philippines: From Social Movements to Democratization* (s. l.: The World Bank, 2014), p. 7.

¹⁰⁶ *Ibid*, p. 5.

¹⁰⁷ Jennifer Franco, Hector Soliman, and Maria Roda Cisnero, "Contemporary Community Based Paralegalism in the Philippines: Opportunities and Challenges," (2011), publication forthcoming (on file with author), dikutip juga oleh H. Abigail Moy, "A Global Legal Empowerment Network: Learning from Others, Growing the Movement", *Human Rights Education in Asia-Pacific*, p. 157.

¹⁰⁸ The Alternative Law Groups, www.alternativelawgroups.org/about.asp?sec=history, also cited by H. Abigail Moy, "A Global Legal Empowerment Network: Learning from Others, Growing the Movement", *Human Rights Education in Asia-Pacific*, p. 157.

¹⁰⁹ Attorney Manuel, *Training Manual for Paralegals* (Manila: Ateneo Human Rights Center, 2010) at 8-9, cited by Alicia Blimkie, "Crime and Poverty: Criminalization and Empowerment of the Poor in the Philippines", *Centre's International Human Rights Internship Program, Vol. 7, No. 1, (2019)*: p. 19.

dispute processing, especially within the village-level justice system (barangay);¹¹⁰ (iv) Representation in certain quasi-judicial dispute resolution courts; (v) Law enforcement as forest guards (bantay gubat) and coastal guards (bantay dagat); (vi) Quasi-judicial dispute resolution; (vii) Policy advocacy at the local, national, and program levels, including local regulations and laws; (viii) Organizing and mobilizing communities to effectively address their justice issues through the enforcement of their legal rights.¹¹¹ Community-based paralegals are now recognized and encouraged in some quasi-judicial bodies, such as the DAR Adjudication Board, which handles disputes related to agrarian reform and the National Labour Relations Commission, which deals with disputes between employers and workers. However, the formal court system has not officially recognized them.¹¹²

In the Philippines, there is also the Humanitarian Legal Assistance Fund (HLAF), which is part of the Alternative Law Groups (ALGs). This program is dedicated to empowering individuals who are in conflict with the criminal justice system. In the context of community empowerment, HLAF targets both individual cases and policy reform.¹¹³ At the individual level, HLAF aims to ensure release from unfair detention, such as for those held for the same period or longer on inappropriate charges, individuals who are innocent but imprisoned, and those who have suffered from any form of inhumane treatment.¹¹⁴ At the policy level, HLAF takes initiatives to lobby against the passage of bills that would lower the age of criminal

¹¹⁰ The barangay justice system (Katarungang Pambarangay) is a state-mandated mechanism that aims to complement courts in the settlement of small disputes. Under the Local Government Code, it is compulsory for disputing parties to refer petty matters to the Barangay Justice System before proceeding to courts. See Vigo, Maricel & Manuel, Marlon 2004. *Katarungang Pambarangay: A Handbook*. Manila: Philippines Canada Local Government Support Program (LGSP).

¹¹¹ *Ibid.*, p. 9.

¹¹² Under the supervision of competent lawyers (See Bar Matter No. 730, June 13, 1997 at http://www.lawphil.net/courts/bm/bm_730_1997.html), the position of paralegals has also been established in the DAR (Department of Agrarian Reform), but purely to assist the judges in deciding cases and resolving backlogs, involving non-lawyers and law graduates who have not yet passed the bar examination (See DAR Opinion No. 109-96 at <http://www.lis.dar.gov.ph/documents/998>). This represents paralegal work in the conventional sense, which is more limited (as legal assistants), but indirectly contributes to the resolution of cases involving farmers and landowners..

¹¹³ Alicia Blimkie, "Crime and Poverty: Criminalization and Empowerment of the Poor in the Philippines", *Centre's International Human Rights Internship Program, Vol. 7, No. 1, (2019)*: p. 21

¹¹⁴ Humanitarian Legal Assistance Foundation Inc. (HLAF), Vision, Mission, Goal (5 June 2016), as cited by Alicia Blimkie, "Crime and Poverty: ..."

responsibility to 12 years,¹¹⁵ hold meetings with government officials to advocate for more humane detention conditions,¹¹⁶ and host consultations on implementing the Juvenile Justice and Welfare Act.¹¹⁷

Community-based paralegals in the Philippines have been established through state-led reform efforts and community-driven initiatives. In this regard, as the enacted laws become more progressive, the need for paralegal training and education becomes crucial as an integral element in legal empowerment. The current standards for paralegal training include (i) Paralegals understanding human rights and socio-political situations; (ii) Introduction to the philosophy of developmental legal advocacy (DLA), which is defined as the use of law creatively to empower communities, reform laws, assert rights, and hold the state or corporations accountable; (iii) Instruction in human rights norms and specific legal principles applicable to basic paralegal skills, such as gathering evidence, drafting statements, engaging in negotiations, lobbying local governments, and other relevant skills.¹¹⁸

Nigeria

In Nigeria, approximately 67% of the urban population lives in informal settlements and is trapped in a cycle of poverty characterized by marginalization and insecurity. These communities often lack access to basic services, secure tenure, and frequently face discrimination and physical violence.¹¹⁹ This aligns with the depiction by the United Nations Commission for the Poor, which states that in Nigeria, the laws, institutions, and policies governing economic and social interactions do not provide equal opportunities

¹¹⁵ Humanitarian Legal Assistance Foundation In. (HLAF), HLAF and Other Childs Rights NGOs Seek CHR's Support to Oppose the Lowering of MACR (2 Aug 2016), as cited by Alicia Blimkie, "Crime and Poverty: ..."

¹¹⁶ Humanitarian Legal Assistance Foundation In. (HLAF), Quezon City Mayor Discusses Prison Conditions with HLAF (2 Aug 2016), as cited by Alicia Blimkie, "Crime and Poverty: ..."

¹¹⁷ Humanitarian Legal Assistance Foundation In. (HLAF), Implementers gather to provide inputs to strengthen the Juvenile Justice Law; Holds Juvenile Justice implementers conference (5 June 2017), as cited by Alicia Blimkie, "Crime and Poverty: ..."

¹¹⁸ Jennifer Franco, Hector Soliman, and Maria Roda Cisnero, *Community-Based Paralegalism in the Philippines: From Social Movements to Democratization* (s. l.: The World Bank, 2014), p. 10.

¹¹⁹ "Promoting legal empowerment of the urban poor in Nigeria through an inter-city community paralegal network", *idrc.ca*, 14 March 2023, <https://www.idrc.ca/en/project/promoting-legal-empowerment-urban-poor-nigeria-through-inter-city-community-paralegal>.

and protection for most of the population, who are largely poor, minorities, women, persons with disabilities, and other marginalized groups.¹²⁰ Therefore, legal empowerment efforts in Nigeria aim to reduce poverty, enhance the rule of law, and assist communities in realizing their rights to improve or transform their social, political, or economic situation.

There are at least two known models of legal empowerment initiatives in Nigeria: The Paralegal Model and Community Lawyering. The Paralegal Model involves non-lawyer paralegals who are trained ad hoc to provide various intermediate legal services that can be resolved or addressed while waiting for the availability of lawyers.¹²¹ In Nigeria, paralegals engage in work related to criminal justice reform, both in legal aid organizations and university clinics.¹²² Generally, these paralegals provide education on legal rights and enforcement mechanisms, offer basic advice and counseling on problem-solving, make referrals, draft complaints and petitions, act as mediators for conflict resolution, and accompany parties to court.¹²³ The Legal Aid Council of Nigeria, which is the official body providing legal aid in Nigeria, also trains its staff members to serve as paralegals for lawyers offering pro bono services.¹²⁴

However, the quality of paralegal services in Nigeria remains questionable as paralegals receive only two to five days of training from legal aid organizations. Another issue is the lack of an integrated framework for paralegals and the lack of supervision by lawyers, which can pose risks to the communities they serve.¹²⁵ The

¹²⁰ Adaobi Egboka, *Legal Empowerment for Persons with Disabilities: Sustainable Options for Marginalized/Vulnerable Communities in Nigeria*, (University of Washington School of Law), p. 23, accessed on 13 March 2023, <https://resourceequity.org/record/3053-legal-empowerment-for-persons-with-disabilities-sustainable-options-for-marginalized-vulnerable-communities-in-nigeria/>.

¹²¹ Jackie Dugard & Katherine Drage, Jackie Dugard & Katherine Drage, *To Whom Do the People Take Their Issues? The Contribution of CommunityBased Paralegals to Access to Justice In South Africa*, (2013), <https://openknowledge.worldbank.org/handle/10986/16597>, 30 April 2018), as cited by Adaobi Egboka, *Legal Empowerment...*, p. 5.

¹²² Adaobi Egboka, *Legal Empowerment...*, p. 29.

¹²³ Global Rights, partner for Justice, *Community based paralegal Training Manual* (2011), https://namati.org/wpcontent/uploads/2015/03/Nigeria_Paralegal_Manual_2011-11-14.pdf, cited by Adaobi Egboka, *Legal Empowerment...*, p.29.

¹²⁴ Legal Aid Council of Nigeria, *Annual Report to the Nigerian Bar Association*, hlm. 5, (2017), <http://www.legalaidcouncil.gov.ng/index.php/en/resources/annual-reports>, as cited by Adaobi Egboka, *Legal Empowerment...*, p. 30.

¹²⁵ Adaobi Egboka, *Legal Empowerment...*, p 26.

sustainability of the paralegal model is also questionable as most paralegal services are unpaid and rely on allowances provided by the legal aid organizations at that time.¹²⁶

Secondly, the Community Lawyering model is driven by lawyers as a tool for social change and has proven effective for impoverished communities.¹²⁷ In Nigeria, this model is not widely popular. Still, it represents a step forward for lawyers advocating for the public interest and is carried out by almost every lawyer or legal aid organization. For example, the clinical legal education program of the Network of University Legal Aid Institutions (NULAI) introduces curriculum-based clinical law courses and establishes legal clinics for students to provide human rights education and legal assistance services to vulnerable groups, communities, and individuals in detention.¹²⁸

the Justice & Empowerment Initiative (JEI) demonstrates one example of legal empowerment in Nigeria. The community-based paralegals of JEI provide basic legal services to urban poor communities, utilizing dispute resolution techniques, legal empowerment, and community mobilization.¹²⁹ The focus areas of the paralegals' work include collective needs (such as access to basic services, environmental pollution, large-scale land dispossession) and individual needs (such as labor disputes, land conflicts, property or inheritance issues, domestic violence, and police brutality).¹³⁰ JEI paralegals are trained to employ traditional paralegal methods alongside innovative and proactive community mobilization techniques, including mediation and negotiation, counseling on rights and legal options, litigation support and accompaniment, community education, collective action, documentation, and media advocacy.¹³¹

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*, p. 27.

¹²⁸ *Ibid.*, p. 30.

¹²⁹ Justice & Empowerment Initiatives, "Community-based Paralegal Services", *justempower.org*, accessed on 15 March 2023, <https://www.justempower.org/what-we-do/paralegals>.

¹³⁰ *Ibid.*

¹³¹ *Ibid.*

The Role of Non-State Actors in Legal Empowerment and Policy Reform

In the framework of discussing legal empowerment and legal policy reform, another important element to be discussed is the role of civil society organizations (CSOs) in legal empowerment and legal policy reform, including efforts to strengthen that role. According to Diamond (1999), civil society is an organized and open social sphere that is voluntary, self-standing, self-generating to some extent, autonomous from the state, and bound by legal rules or shared rule systems.¹³² According to Alexis de Tocqueville, CSOs are a social life domain characterized by voluntarism, self-generating capacity, self-support, independence, and adherence to legal norms and values.¹³³ These CSOs play important roles such as raising awareness, policy advocacy, institution development, and capacity building.¹³⁴

Speaking of CSOs, it is also important to mention the integration of non-governmental organizations (NGOs) as one of the driving and strengthening factors of CSOs themselves. Jeff Atkinson and Martin Scurrah, in their book "Globalizing Social Justice: The Role of Non-Governmental Organizations in Bringing about Social Change," define NGOs as a formally organized group of people (association) that is generally self-governing, private, and nonprofit.¹³⁵ Furthermore, as institutional entities, these NGOs are not bound and/or under the control of state organs.

¹³² Diamond, Larry. (1999). *Developing Democracy: Toward Consolidation*. Baltimore: The Johns Hopkins University Press, as cited in Muhammad Ali Azhar, "The Role of Non-Governmental Organizations (NGOs) in Building the Civilization of Democracy", accessed February 7, 2023, https://www.academia.edu/44078651/PERAN_LEMBAGA_SWADAYA_MASYARAKAT_LSM_DALAM_MEMBANGUN_PERADABAN_DEMOKRASI.

¹³³ Alexis de Tocqueville, 1956a. *Democracy in America* (1835), Vol.I., New York: Vintage Books, as cited in Muhammad Ali Azhar, "The Role of Non-Governmental Organizations (NGOs) in Building the Civilization of Democracy", accessed February 7, 2023, https://www.academia.edu/44078651/PERAN_LEMBAGA_SWADAYA_MASYARAKAT_LSM_DALAM_MEMBANGUN_PERADABAN_DEMOKRASI.

¹³⁴ Sumarto, 2009, as cited in Ardhana Januar Mahardhani, Sulton, and Sunarto, "The Role of Civil Society Organizations (CSOs) in Public Policy Formulation (A Study in Ponorogo Regency)", *Journal of Public Sector Innovations*, Vol. 4, No. 2, (May, 2020): 59-62, accessed February 9, 2023, DOI: 10.26740/jpsi.v4n2.p59-62.

¹³⁵ Tri Jata Ayu Pramesti, "Legal Basis for the Establishment of Social Organizations," hukumonline.com, January 23, 2017, accessed February 7, 2023, <https://www.hukumonline.com/klinik/a/eksistensi-organisasi-non-pemerintah-atau-lsm-dewasa-ini-cl1479>.

Historically, non-governmental organizations (NGOs) have played a significant role in development efforts since the late 1980s. In the post-Cold War era, the international donor community began advocating for a new policy agenda of good governance, which emphasized that development outcomes arise from a balanced relationship between the government, the market, and the third sector, including NGOs as part of the emerging civil society.¹³⁶ In Indonesia itself, political liberalization began after the New Order era, marked by the growth of NGOs within the framework of civil society development.¹³⁷ During President Soeharto's administration, these NGOs played a crucial role as institutions advocating for and critiquing the government's development policies. Subsequently, NGOs became known as one of the driving forces for social change, particularly in the 1990s and during the reform era.¹³⁸

The involvement of NGOs as non-state actors, particularly in advocacy for public policy, including legal empowerment, has become crucial. Considering that in a country that upholds principles of openness and transparency, NGOs serve as intermediaries and connectors for various interests that are not adequately represented by political parties or community organizations.¹³⁹ According to Bridget Hutter, citing Charnovitz and Grabosky, within the regulatory framework, NGOs as non-state actors offer policy analysis and alternatives to government regulators, engage in oversight and auditing processes such as monitoring government policies and evaluating their effectiveness, and participate in consultation processes with the government.¹⁴⁰

¹³⁶ David Lewis, "Non-governmental Organizations, Definition and History," January 2010, p. 3, accessed February 7, 2023, https://www.researchgate.net/publication/302391474_Nongovernmental_Organizations_Definition_and_History/link/5687ec6d08ae1e63f1f72278/download.

¹³⁷ Muhammad Ali Azhar, "Peran Lembaga Swadaya Masyarakat (LSM) dalam Membangun Peradaban Demokrasi," p. 1, accessed February 7, 2023, https://www.academia.edu/44078651/PERAN_LEMBAGA_SWADAYA_MASYARAKAT_LSM_DALAM_MEMBANGUN_PERADABAN_DEMOKRASI.

¹³⁸ *Ibid.*

¹³⁹ As cited by Suci Fitriah Tanjung, "Peran Lembaga Swadaya Masyarakat (LSM) Solidaritas Perempuan dalam Advokasi Kebijakan Pengelolaan Air di Jakarta," Skripsi, Universitas Islam Negeri Syarif Hidayatullah Jakarta, p. 25, accessed February 11, 2023, <https://repository.uinjkt.ac.id/dspace/bitstream/123456789/43599/1/SUCI%20FITRIAH%20TANJUNG-FISIP.pdf>.

¹⁴⁰ Bridget Hutter, "The Role of Non-State Actors in Regulation", (The London School of Economics and Political Science, Mei 2006), p. 7-8, accessed 11 February 2023, https://www.researchgate.net/publication/30528175_The_Role_of_Non-State_Actors_in_Regulation.

Furthermore, David Lewis (2007) also mentions three roles of NGOs: implementers, catalysts, and partners.¹⁴¹ The implementer role is related to mobilizing resources to provide goods and services to those in need. The catalyst role involves the ability of NGOs to inspire, facilitate, or contribute to enhancing thinking and action to promote social transformation directed toward individuals or local communities, or other development actors such as governments, businesses, or donors. The partner role reflects the emerging trend for NGOs to work with governments, donors, and the private sector, including communities, such as capacity-building initiatives.¹⁴²

NGOs have a growing influence in the context of legal empowerment and policy reform. This development began with the demand for transparency and accountability in government decisions. NGOs, as third-party actors, are seen as capable of bridging the communication gap between the state and civil society in political decision-making processes.¹⁴³ This aligns with the Agenda 21 of the UN Documents Cooperation Circles: Gathering a Body of Global Agreements, which states:

“

*Governments will need to promulgate or strengthen, subject to country-specific conditions, any legislative measures necessary to enable the establishment by non-governmental organizations of consultative groups, and to ensure the right of non-governmental organizations to protect the public interest through legal action.*¹⁴⁴

CSOs are considered a transformative force in the use of political power and a key indicator of the growing participation of civil society in shaping policies, both at the national and international levels.¹⁴⁵ In this regard, NGOs strengthen participatory democracy by empowering social

¹⁴¹ David Lewis, *The management of non-governmental development organizations (2nd ed.)*, (London: Routledge, 2007) sebagaimana dikutip dalam David Lewis, *Non-governmental...*, p. 1.

¹⁴² David Lewis, *Non-governmental...*, p. 2-3.

¹⁴³ Delber Andrade Lage and Leonardo Nemer Caldeira Brant, "The Growing Influence on Non-Governmental Organization: Chances and Risks", *III ANUÁRIO BRASILEIRO DE DIREITO INTERNACIONAL / V. 1*, p. 84.

¹⁴⁴ *UN Documents Cooperation Circles: Gathering a Body of Global Agreements*, Agenda 21, Chapter 27.10 and 27.13.

¹⁴⁵ Delber Andrade Lage and Leonardo Nemer Caldeira Brant, "The Growing Influence on Non-Governmental Organization: Chances and Risks", *III ANUÁRIO BRASILEIRO DE DIREITO INTERNACIONAL / V. 1*, p. 80.

groups to influence political decisions.¹⁴⁶ NGOs can also mobilize significant funding for specific policies, enabling them to formulate, finance, and implement initiatives independently of government seals.¹⁴⁷ Therefore, driving policy change is not solely the monopoly of activists or experts.¹⁴⁸

Indeed, the work of NGOs is not without risks. For instance, issues of representation may arise, where certain organizations are privileged over others, leading to conflicts of interest among organizations, the state, and society.¹⁴⁹ Additionally, the effectiveness of NGO actions can be hindered by structural problems, such as a lack of planning synergy between NGOs, the government, and other organizations working within the same scope.¹⁵⁰ However, despite these challenges, the role of NGOs remains crucial in promoting transparent policies and accountability, as discussed earlier.

As part of policy advocacy, NGOs also engage in monitoring and evaluation, two closely related and inseparable activities.¹⁵¹ Monitoring is defined as an internal activity of program management aimed at determining whether a project's program has been implemented according to plan.¹⁵² In the context of regulation, monitoring provides relevant knowledge about the consequences of previously taken policies (Dunn, 2003:28).¹⁵³ On the other hand, evaluation is an internal or external management activity to assess the appropriateness of program design and implementation methods in achieving predetermined goals, assess desired and undesired outcomes of a program, and evaluate factors influencing the level and distribution of benefits produced.¹⁵⁴ NGOs often adopt an approach in monitoring and evaluation that is based on the

¹⁴⁶ UCHANAN and KEOHANE, *The Legitimacy of Global Governance Institutions*, 2006, in Delber Andrade Lage and Leonardo Nemer Caldeira Brant, *The Growing...*, p. 81.

¹⁴⁷ Delber Andrade Lage and Leonardo Nemer Caldeira Brant, "The Growing...", p. 81.

¹⁴⁸ *Ibid.*

¹⁴⁹ Collongwood, Vivien, Louis Logister, *State of the Art: Addressing the INGO 'Legitimacy Deficit'*, 2005, p. 179-188, in Delber Andrade Lage and Leonardo Nemer Caldeira Brant, *The Growing...*, p. 82.

¹⁵⁰ Eoghan Walsh and Helena Lenihan, *Accountability and effectiveness of NGOs: adapting business tools successfully*, 2006, in Delber Andrade Lage and Leonardo Nemer Caldeira Brant, *The Growing...*, p. 83.

¹⁵¹ Musriyadi Nabiu and Ketut Sukiyono, "Metode Monitoring dan Evaluasi: Diskusi," *AGRISEP* Vol. 2 No. 2, (March, 2004): 157-163, accessed February 12, 2023, <https://media.neliti.com/media/publications/75069-ID-metode-monitoring-dan-evaluasi-diskusi.pdf>.

¹⁵² *Ibid.*

¹⁵³ Hendrawati Hamid, *Manajemen Pemberdayaan Masyarakat*, (Makassar: De La Macca, 2018), hlm. 194), accessed 12 February 2023, <http://eprints2.ipdn.ac.id/id/eprint/639/1/Buku%20Manajemen%20Pemberdayaan%20Masyarakat%20PDF.pdf>.

¹⁵⁴ Musriyadi Nabiu and ketut Sukiyono, "Metode Monitoring..."

belief that the primary goal of social and economic development is to assist local communities or vulnerable groups (such as children, women, laborers, etc.), develop organizational/group capacity and knowledge needed to identify and meet their needs.¹⁵⁵

An example of a policy reform process by a NGOs is when LBH APIK Jakarta, together with other civil society organizations, conducted integrated advocacy for the Sexual Violence Bill (RUU TPKS) since 2016. The process involved the preparation of lobbying materials, policy papers, lobbying various parties, campaign actions, and more, leading to the enactment of the Sexual Violence Bill as Law No. 12 of 2022 on Sexual Violence (UU TPKS) in April 2022.¹⁵⁶ However, the handling of sexual violence cases after the enactment of the UU TPKS has not shown significant progress. For instance, out of 75 reported cases of sexual violence to LBH APIK Jakarta in 2022, only 5 cases successfully reached the police level, while the rest were addressed through psychological support, referral to the Witness and Victim Protection Agency (LPSK), or other service institutions.¹⁵⁷ This situation is caused by the absence of implementing regulations for the UU TPKS and other challenges, such as the insufficient understanding of the UU TPKS by law enforcement authorities and their lack of victim-oriented perspectives. Therefore, LBH APIK Jakarta, along with other civil society networks, continues to advocate for the implementation of the UU TPKS through lobbying and meetings with the Ministry of Women Empowerment and Child Protection, aiming to ensure the active involvement of civil society in the formulation of the implementing regulations for the UU TPKS.¹⁵⁸

Furthermore, in addition to playing a role in public policy reform, according to Hikam, NGOs also contribute to strengthening and empowering communities. One of their roles is empowering grassroots communities through various activities such as mentoring, advocacy, awareness-raising, and the dissemination of programs aimed at enhancing the political consciousness of the community and defending their rights to be fulfilled by the state.¹⁵⁹ In the context of empowering grassroots communities in legal matters, CSOs are positioned as key

¹⁵⁵ *Ibid.*

¹⁵⁶ Ardhanareswara Trisha Az Zahra, et al., Annual Report of LBH APIK Jakarta 2022: "Increasing Violence Figures: Bleak Portrait of Justice for Women and Children Victims of Violence," (Jakarta: LBH APIK Jakarta, 2022), p. 40.

¹⁵⁷ *Ibid.*

¹⁵⁸ *Ibid.*, p. 41.

¹⁵⁹ Muhammad Hikam, *Demokrasi dan Civil Society*, (Jakarta: LP3ES, 1999), 200-256.

actors, both as non-state actors and as elites within a community.¹⁶⁰ Placing the community as the main actor implies that all decisions are not made by external parties but by the community themselves.¹⁶¹ The role of non-governmental institutions is more of a learning partner and provider of necessary supporting information.¹⁶² Furthermore, the goal of legal empowerment goes beyond litigation; it aims to enable grassroots communities to become self-reliant in advocating for and driving policy change.¹⁶³

Therefore, CSOs/NGOs play a crucial role in legal empowerment and promoting legal policy reforms. To strengthen civil society and its role in influencing policies, there are 14 important aspects in efforts to strengthen civil society, namely:

1. Creating Training Programs

In addition to preparing technical aspects such as schedules, equipment, rules, and so on, training is conducted with an emancipatory approach. This means that the facilitator's role is to facilitate the learning process of the participants/community based on their own needs and experiences or the experiences of others.¹⁶⁴ For example, when formulating the scope, main themes, and sequence of training materials, facilitators should first ask the participants about their expectations and what they would like to learn during the training. The facilitator can then align this with the pre-designed training plan.¹⁶⁵ If the plan created by the facilitator is well-tested based on experience and relevance, it will likely align with the participants' expectations.¹⁶⁶ Furthermore, it is important to identify the experiences, knowledge, and skills of the participants so that they can also become resources for other participants in the future (the concept of training of trainers).¹⁶⁷

¹⁶⁰ Lembaga Bantuan Hukum Masyarakat, *Faces of Community Legal Empowerment* (Jakarta: Community Legal Aid Institution, 2010), page 6.

¹⁶¹ *Ibid.*, p.7

¹⁶² *Ibid.*

¹⁶³ Alghiffari Aqsa, "Legal Empowerment for the Oppressed," *bantuanhukum*, accessed from <https://bantuanhukum.or.id/pemberdayaan-hukum-untuk-kaum-tertindas/#:~:text=Pemberdayaan%20Hukum%20adalah%20menguatkan%20kapasitas,sebagai%20anggota%20dari%20komunitas%2Fmasyarakat>, September 21, 2022.

¹⁶⁴ Roem Topatimasang, *Changing Public Policy*, (Yogyakarta: Pustaka Belajar, 2000), p. xvii.

¹⁶⁵ *Ibid.*, p.1.

¹⁶⁶ *Ibid.*

¹⁶⁷ *Ibid.*, p.2.

2. Advocacy

One important topic to be covered is advocacy. Advocacy here is not only limited to defense in court (litigation), but also encompasses efforts to promote, propose, and create what does not yet exist, as well as engaging in systematic and organized change.¹⁶⁸ In this section, it is crucial to establish a common understanding of the basic concept of advocacy so that participants have a shared framework when discussing technical aspects of advocacy implementation.¹⁶⁹ However, it is important to note that advocacy is not everything; it is just one of the democratic tools used to strive for and encourage changes in public policy.¹⁷⁰

3. Understanding Public Policy Systems

The process of advocacy assumes that comprehensive changes in societal structures and systems can be achieved through gradual and incremental changes, leading to improvements in various public policies.¹⁷¹ Therefore, another important element to be understood is public policy itself, including its formulation, implementation, and control over decisions that affect the wider society.¹⁷²

4. Building Core Circle

The concept of the "core circle" (allies) refers to a group of individuals and/or organizations who are the initiators, drivers, and main controllers of advocacy activities.¹⁷³ The core circle functions as the strategists and holders of the command baton, forming a solid and cohesive working team that is ready to work full-time in designing strategies, methods, tactics, mobilizing the required resources, and more.¹⁷⁴ Therefore, the core circle in advocacy requires strict prerequisites in terms of having a unified vision and analysis, even extending to a clear ideological stance towards the advocated issue.¹⁷⁵

5. Selecting Strategic Issues

Once the core circle is formed, the next crucial step is to determine the strategic issue to advocate for. The initial stage

¹⁶⁸ *Ibid.*, p.7.

¹⁶⁹ *Ibid.*, p.8.

¹⁷⁰ *Ibid.*

¹⁷¹ *Ibid.*

¹⁷² *Ibid.*, p.36.

¹⁷³ *Ibid.*, p. 63.

¹⁷⁴ *Ibid.*, p. 64.

¹⁷⁵ *Ibid.*

involves gathering as much data and information as possible, which will later be analyzed and filtered to identify the most relevant and strategic advocacy issues.¹⁷⁶ Besides the factor of timeliness, an issue can be considered strategic if it meets the following criteria:¹⁷⁷ i) It is an important and urgent issue driven by the broader community, with the potential for significant and widespread negative impacts if not addressed promptly; ii) It aligns with the aspirations of a majority of the general population; iii) It has the potential to bring about positive changes in other public policy areas, aligning with the envisioned social change desired by the community and the core circle.

6. Designing Target and Strategies

It is important to emphasize that the ultimate goal of formulating advocacy program objectives and engaging in any activities is to bring about changes in public policy.¹⁷⁸ Therefore, when formulating objectives, they should remain aligned with or refer to the goals of the advocated issue.¹⁷⁹ Advocacy does not employ violent means but operates within the existing democratic frameworks.¹⁸⁰ The target of advocacy efforts is solely focused on pushing for improvements in public policy or, at the very least, initiating the beginning of gradual positive change.¹⁸¹

7. Processing Data and Packaging Information

Research in advocacy places greater emphasis on the practical benefits of all the information and data generated. Therefore, its goal is to collect as much data as possible, which is then processed into information used to support other activities in advocacy, such as formulating strategic issues, campaigns, lobbying needs, and more.¹⁸² The same data and information need to be packaged in a way that is tailored to the practical activities of advocacy. For example, data to be used for lobbying the government will be packaged differently than data intended to mobilize the masses.¹⁸³

¹⁷⁶ *Ibid.*, p.75.

¹⁷⁷ *Ibid.*

¹⁷⁸ *Ibid.*, p.93.

¹⁷⁹ *Ibid.*

¹⁸⁰ *Ibid.*

¹⁸¹ *Ibid.*, p.93-94.

¹⁸² *Ibid.*, p.99.

¹⁸³ *Ibid.*

8. Mobilizing Allies and Supporters

Given the inherent complexity and time-consuming nature of advocacy work, it is important to mobilize allies and supporters, both those directly and indirectly involved.¹⁸⁴ Allies can be individuals or other groups that possess resources such as influence, logistics, access, information, infrastructure, facilities, and funding.¹⁸⁵ Mobilizing allies and supporters requires technical expertise and specific strategies.

9. Proposing Counter proposals

Public policy is formed through various processes, each with its own types and forms. These processes must be navigated through the avenue of advocacy, which begins with the legislative and jurisdictional processes.¹⁸⁶ The first avenue includes activities such as drafting legislation, including the preparation of counter drafts and engaging in judicial review.¹⁸⁷ On the other hand, the jurisdictional process includes practices in court litigation, legal standing, class action lawsuits, and others. Among these activities, the focus of training is primarily on the legislative process, particularly in political processes, dialogues, and socialization through the submission of counter drafts.¹⁸⁸ The submission of counter drafts involves not only experts and activists but, most importantly, the main subjects of advocacy, which are grassroots communities.¹⁸⁹

10. Influencing Policy Maker

After the advocacy avenue, the second pathway to be encountered is the political and bureaucratic process. Activities that can be undertaken include negotiation, mediation, collaboration, lobbying, and others, which are directed towards two important actors: government bureaucrats and politicians.¹⁹⁰ In terms of lobbying, for example, it can be conducted in an informal (non-formal) and personal setting outside formal settings.¹⁹¹

¹⁸⁴ *Ibid.*, p.127

¹⁸⁵ *Ibid.*

¹⁸⁶ *Ibid.*, p.137

¹⁸⁷ *Ibid.*

¹⁸⁸ *Ibid.*

¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*

¹⁹¹ *Ibid.*

11. Shaping Public Opinion

On the third pathway, which involves the formation of public policy, the process is carried out through socialization and mobilization.¹⁹² This pathway takes place within the community through various activities, including campaigning to garner public support, raising awareness among the community, forming organizational bases for movements, networking and solidarity-building, social disobedience, boycotts, protests, providing political education on specific issues to victims and their families, and so on.¹⁹³

12. Building the Foundation of the Movement

In this section, the focus is on developing a mass base for advocacy movements. This can be done through political education and awareness-raising, as well as organizing the people to exert pressure for changes in public policy that align with the interests of the broader community.¹⁹⁴ Building a movement base, especially within grassroots communities, is crucial considering one of the criticisms leveled against NGOs is their perceived inability to establish grassroots movements rooted in the community.¹⁹⁵ Although this issue also stems from the strict history of the New Order political system, in the current post-reform era characterized by greater freedom, flexibility, and openness, NGOs should ideally be able to build a grassroots movement base within the community.¹⁹⁶

13. Monitoring and Evaluating Programs

In this section, an important activity is monitoring and evaluating programs. It is crucial to monitor and evaluate a program as advocacy plans may change along the way due to dynamic situations and circumstances.¹⁹⁷ Without monitoring, advocacy efforts may not be effective.¹⁹⁸ Additionally, gathering feedback from program beneficiaries is important to assess whether the set targets have been effectively achieved.¹⁹⁹

¹⁹² *Ibid.*

¹⁹³ *Ibid.*

¹⁹⁴ *Ibid.*

¹⁹⁵ *Ibid.*, p.181-182.

¹⁹⁶ *Ibid.*

¹⁹⁷ *Ibid.*

¹⁹⁸ *Ibid.*

¹⁹⁹ *Ibid.*

14. Evaluation and Follow-up of Training.

In this final section, the evaluation of the training is conducted, including the process, content, and outcomes of the training.²⁰⁰ The purpose of the evaluation is to provide feedback for improvement or refinement in future training sessions.²⁰¹ Various aspects can be evaluated, such as the content of the program, methodological processes, whether the objectives have been met and aligned with participants' expectations, participant engagement, facilitator delivery, and technical aspects of the event.²⁰² It's important to note that the evaluation process is not intended to assess graduation or "judge" the success or involvement of participants.²⁰³ The follow-up of the training will also be discussed, including the ideas and suggestions from participants that will be further developed in a more detailed manner by the participants themselves, based on their specific needs and circumstances.²⁰⁴ It should be emphasized that this training guide serves as a basic framework and can always be further developed and improved.

²⁰⁰ *Ibid.*

²⁰¹ *Ibid.*

²⁰² *Ibid.*, p.213

²⁰³ *Ibid.*

²⁰⁴ *Ibid.*

CHAPTER 3

PERSPECTIVES OF THE NATIONAL LAW DEVELOPMENT AGENCY (BPHN), NATIONAL COMMISSION ON VIOLENCE AGAINST WOMEN (KOMNAS PEREMPUAN), AND LEGAL EMPOWERMENT PRACTITIONERS ON LEGAL EMPOWERMENT REGARDING ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW



03

CHAPTER 3

PERSPECTIVES OF THE NATIONAL LAW DEVELOPMENT AGENCY (BPHN), NATIONAL COMMISSION ON VIOLENCE AGAINST WOMEN (KOMNAS PEREMPUAN), AND LEGAL EMPOWERMENT PRACTITIONERS ON LEGAL EMPOWERMENT REGARDING ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW

This subtopic will present the results of the research team's interviews with key informants. The selection of institutions was made based on the representation of state actors, namely the National Law Development Agency (Badan Pembinaan Hukum Nasional or BPHN) and the National Commission on Violence Against Women (Komisi Nasional Anti Kekerasan terhadap Perempuan or Komnas Perempuan); as well as the representation of legal empowerment practitioners from legal aid organizations and civil society organizations, which are non-state actors, namely the Jakarta Legal Aid Institute (Lembaga Bantuan Hukum APIK Jakarta or LBH APIK Jakarta) and the Women Headed Family Empowerment Foundation (Yayasan Pemberdayaan Perempuan Kepala Keluarga or PEKKA).

Before delving into the elaboration of the interview results, this section will briefly discuss the roles of each institution that served as key informants to understand their relevance to the legal empowerment program, as follows:

BPHN

As regulated in Article 4 of the Minister of Law and Human Rights of the Republic of Indonesia Regulation No. 41 of 2021 (Permenkumham 41/2021), the National Law Development Agency (Badan Pembinaan Hukum Nasional or BPHN) is a part of the Ministry of Law and Human Rights of the Republic of Indonesia (Kemenkumham).²⁰⁵ Operating under the authority and accountability of the Minister of Law and Human Rights, BPHN carries out its functions through the following programs:²⁰⁶

1. Formulation of technical policies, programs, and budgets in the field of national law development.
2. Implementation of legal planning, legal analysis and evaluation, legal documentation and information networks, as well as legal counseling and assistance.

²⁰⁵ Indonesia, Ministry of Law and Human Rights, *Ministerial Regulation on the Organization and Work Procedures of the Ministry of Law and Human Rights*, Number PM 41 of 2021, Article 359

²⁰⁶ *Ibid.*, Article 361.

3. Monitoring, evaluation, and reporting on the implementation of legal planning, legal analysis and evaluation, legal documentation and information networks, and legal counseling and assistance.
4. Implementation of administrative tasks of the National Law Development Agency.
5. Execution of other functions assigned by the Minister of Law and Human Rights.

Article 362 of the Minister of Law and Human Rights Regulation No. 41 of 2021 describes that in terms of organizational structure, the National Law Development Agency (Badan Pembinaan Hukum Nasional or BPHN) consists of 5 (five) divisions:

1. Secretariat of the Agency
2. National Legal Planning Center
3. National Legal Analysis and Evaluation Center.
4. National Legal Documentation and Information Network Center:
5. Legal Counseling and Assistance Center:

The key informant from BPHN is MN, the Head of the Legal Aid Program Subdivision at the Legal Counseling and Assistance Center. It is important to note that the functions of the Legal Counseling and Assistance Center are as follows:²⁰⁷

1. Formulation of technical policies, programs, and budgets for developing and enhancing the functional position of Legal Counselors, legal culture, and legal aid.
2. Implementation of coordination for developing and enhancing the functional position of Legal Counselors, legal culture, and legal aid.
3. Preparation of documents for developing and enhancing the functional position of Legal Counselors, legal culture, and legal aid.

Monitoring, evaluation, and reporting on the development and enhancement of the functional position of Legal Counselors, legal culture, and legal aid; and Implementation of administrative and household affairs of the Legal Counseling and Assistance Center.

Komnas Perempuan

Komnas Perempuan is a national human rights institution (NHRI) that operates independently and is established to prevent, address, and

²⁰⁷ *Ibid.*, Article 389.

eradicate all forms of violence against women.²⁰⁸ This institution was established based on Presidential Regulation of the Republic of Indonesia No. 65 of 2005 concerning the National Commission on Violence Against Women (Perpres 65/2005), with the following objectives:²⁰⁹

1. Developing conducive conditions for eradicating all forms of violence against women and enforcing women's human rights in Indonesia.
2. Enhancing efforts to prevent and address all forms of violence against women and protect women's human rights.

To achieve the aforementioned objectives, Komnas Perempuan carries out the following functions and tasks:²¹⁰

1. Disseminating understanding of all forms of violence against women in Indonesia and efforts to prevent, address, and eradicate violence against women.
2. Conducting assessments and research on relevant national legislation and international instruments to protect women's human rights.
3. Monitoring, including fact-finding and documentation of all forms of violence against women and violations of women's human rights, as well as disseminating monitoring results to the public and taking steps to promote accountability and intervention.
4. Providing advice and recommendations to the government, legislative and judicial bodies, and civil society organizations to encourage the development and enactment of legal frameworks and policies that support efforts to prevent, address, and eradicate violence against women in Indonesia, as well as the protection, enforcement, and advancement of women's human rights.
5. Developing regional and international cooperation to enhance efforts to prevent, address, and eradicate violence against women in Indonesia and protect, enforce, and advance women's human rights.

The key informant from Komnas Perempuan in this research is SAT, a Commissioner of Komnas Perempuan for the 2020–2024 term and currently serves as the Chairperson of the Commission on Legal and Policy Reform. The Sub-Commission on Legal and Policy Reform of Komnas Perempuan is tasked with conducting reviews of legislation to develop suggestions and recommendations for policy changes.

²⁰⁸ Indonesia, Presidential Regulation on the National Commission on Violence Against Women, Presidential Regulation No. 65 of 2005, Article 1 and Article 3

²⁰⁹ *Ibid.*, Article 2.

²¹⁰ *Ibid.*, Article 4.

LBH APIK Jakarta

LBH APIK Jakarta is a non-governmental legal aid organization that provides free legal assistance for women and children. The organization is part of the Indonesian Women's Association for Justice (APIK), which was founded by seven female lawyers in Jakarta in 1995. Over time, APIK members from various regions established LBH APIK offices, which currently number 16 offices spread throughout Indonesia.

In 2010, the 10 existing LBH APIK offices at the time decided to join under the same umbrella organization, which was agreed to be called the Federation of LBH APIK Indonesia.²¹¹ In 2012, the Federation of LBH APIK Indonesia changed its name to the Association of LBH APIK Indonesia. This name change was made in accordance with the regulations and legal requirements in Indonesia for the registration of the organization with the Ministry of Law and Human Rights.²¹²

One of the goals of establishing LBH APIK is to create equal conditions between women and men in all aspects of life through the realization of a legal system with a women's perspective. One of the main forms of advocacy carried out is related to cases of gender-based and sexual violence against women. Therefore, it is important to hear their perspective, particularly in this case from LBH APIK Jakarta, as an organization heavily involved in legal empowerment advocacy. In this context, the key informant from LBH APIK Jakarta is SM, a legal empowerment practitioner from LBH APIK Jakarta and has served as the Director from 2018 to 2023.

PEKKA

Pemberdayaan Perempuan Kepala Keluarga (PEKKA) is a non-governmental organization that was formed as an initiative of Komnas Perempuan, called the "Widow's Project," in the late 2000s. The initiative aimed to document the lives of widows in conflict-affected areas, in line with the World Bank's commitment to responding to widows' needs regarding access to resources to overcome economic difficulties and recover from their traumatic experiences through the District Development Program (PPK).²¹³

²¹¹ Association of LBH APIK Indonesia, "About Us," <https://lbhapik.or.id/tentang-kami/> Accessed 31 January 2023

²¹² *Ibid.*

²¹³ PEKKA, "Background," <https://pekka.or.id/latar-belakang/>, Accessed 29 March 2023.

PEKKA's activities began in the mid-2001, followed by the formation of Women-Headed Household (Pekka) groups in early 2002 on Adonara Island, East Nusa Tenggara. Subsequently, the PEKKA Foundation was established in 2004 to continue the organization and support for Pekka groups.²¹⁴ Over time, the development of Pekka groups progressed towards the formation of autonomous mass-based organizations in 2008, known as the Women-Headed Household Union (Serikat Pekka). In 2009, Serikat Pekka successfully formed the Federation of Serikat Pekka Indonesia (FSPI) in various regions of Indonesia. FSPI serves as the national-level organization that acts as the umbrella for the Pekka movement at the national level.²¹⁵

Currently, PEKKA is involved in organizing women-headed households through programs that strengthen the economic²¹⁶ and socio-cultural movements²¹⁷. These initiatives align with PEKKA's vision and mission of creating a prosperous, gender-just, and dignified society, advancing and sustaining the women-headed household movement, resource development, and strengthening the socio-economic movement alongside the Pekka Community.²¹⁸ PEKKA's experience in organizing women-headed households becomes crucial when discussing legal empowerment for legal aid providers, especially when advocating for women who are primarily women-headed households living below the poverty line. A qualitative interview was conducted with FVS, the Co-Director of PEKKA.

BPHN, Komnas Perempuan, and legal empowerment practitioners play important roles in ensuring legal empowerment and access to justice for women in conflict with the law (PBH).

1. Perspectives of BPHN²¹⁹

MN explained that BPHN has functions in providing legal aid and legal education services to the public. Regarding legal aid, it is based on Law No. 16 of 2011 concerning Legal Aid (Law on Legal Aid). As for legal

²¹⁴ *Ibid.*

²¹⁵ *Ibid.*

²¹⁶ PEKKA, "Strengthening Economic Movement" <https://pekka.or.id/penguatan-gerakan-ekonomi/>, Accessed on 29 March 2023.

²¹⁷ PEKKA, "Strengthening Socio-Cultural Movement," <https://pekka.or.id/penguatan-gerakan-sosial-budaya/>, Accessed on 29 March 2023.

²¹⁸ PEKKA, "Background."

²¹⁹ Interview with MN, BPHN employee on 30 November 2022.

education, it refers to the Minister of Law and Human Rights Regulation No. M.01-PR.08.10 of 2007 regarding Amendments to Minister of Law and Human Rights Regulation No. M.01-PR.08.10 of 2006 concerning Legal Education Patterns (Minister of Law and Human Rights Regulation No. M.01-PR.08.10 of 2007). Currently, Minister of Law and Human Rights Regulation No. M.01-PR.08.10 of 2007 is in the process of being elevated in the hierarchy of legislation to become a Presidential Regulation.

Legal education is an effort to empower the community conducted by BPHN. Based on the confirmation with MN from BPHN, the implementation of legal education by BPHN is a mandate or function of BPHN as stipulated in the Minister of Law and Human Rights Regulation No. 41 of 2021 concerning the Organization and Work Procedures of the Ministry of Law and Human Rights. The involvement of BPHN through the Regional Office (Kanwil) of the Ministry of Law and Human Rights in legal education activities conducted by accredited Legal Aid Organizations aims to maintain the substance of legal education materials and build synergy among relevant stakeholders, participants of legal education, and the legal education materials themselves:

“

The involvement of the Regional Office (Kanwil) in legal education activities (facilitated by the Ministry of Law and Human Rights), which we (BPHN) expect to have involvement or connection with relevant ministries/agencies (K/L) or other stakeholders related to the substance of what is conveyed during the dissemination to the target community. This way, we can see the synergy among stakeholders with the target community and the presentation's content (educational material). (...) For example, narcotics is still a problematic issue, but when stakeholders like the National Narcotics Agency (BNN) are involved, the community can directly convey their concerns to the BNN, and the BNN can provide immediate clarification or address the issues. (...) Additionally, if we want to discuss the issues of the New Criminal Code (KUHP), the stakeholders - who are the leaders in its design, such as the Ministry of Law and Human Rights or the Regional Offices - can be engaged. (Outcome of Validation Meeting with MN, BPHN Employee, on June 5th, 2023)

However, BPHN does not specialize its legal education activities and targets towards specific communities or groups:

“

..Indeed, we do not specialize our activities or methods of legal education and target them towards specific communities or groups. Therefore, our target is anyone whom we deem in need of such legal education. (Outcome of the interview with MN, BPHN Employee, on November 30th, 2022.)

The legal education activities as a means of legal empowerment align with the duties and functions of BPHN as regulated in the Minister of Law and Human Rights Regulation 41/2021. These activities aim to educate and enlighten the public in accordance with the national strategy of the Ministry of Law and Human Rights to achieve a legally intelligent, just, and communicative society. Furthermore, the purpose of legal education activities is also to accommodate, collect, and provide solutions if policies have shortcomings and require direct input from the public. For example, when BPHN conducts the socialization of the Draft Criminal Code (Rancangan Kitab Undang-Undang Hukum Pidana/RKUHP) concerning 14 crucial issues.

Regarding vulnerable groups, BPHN acknowledges that there are no specific legal education objectives targeted towards them, including PBH. However, MN emphasizes that legal education activities are still adjusted according to the needs that arise from specific communities or groups. The empowerment activities carried out by BPHN aim to provide legal information, implement the law, ensure access to justice, and promote democracy, which serve as indicators of BPHN's activity achievements.

Regarding the aforementioned matter, it is important to underline that vulnerable groups who face barriers, inequalities, or limitations in enjoying a decent standard of living, need to be given affirmative action to ensure they have equal opportunities as other groups in the same field. Therefore, vulnerable groups need to be specifically protected and treated fairly by both the state and society, as mandated in Article 5, paragraph (3) of Law Number 39 of 1999 concerning Human Rights, which states: "Every person belonging to a vulnerable group is entitled to receive special treatment and protection in accordance with their specific needs."

One form of legal empowerment activity by BPHN is the program for establishing "Desa Sadar Hukum" (Legal Conscious Village) initiated by BPHN. Desa Sadar Hukum/Kelurahan Sadar Hukum refers to a village or urban community that has been nurtured or has voluntarily and independently met the criteria to be recognized as a Legal Conscious Village.²²⁰ As confirmed by MN from BPHN, the primary requirement for Desa Sadar Hukum is the presence of a "Kelompok Keluarga Sadar Hukum" (Legal Conscious Family Group) or paralegal,²²¹ which aims to gather community members who are interested in enhancing their legal awareness.

Based on Circular Letter Number: PHN-05.HN.04.04 of 2017 regarding the Amendment of Criteria for Assessing Legal Conscious Villages/Urban Communities, the following are the processes and procedures for establishing and nurturing Legal Conscious Villages/Urban Communities, including:

1. Formation of legally conscious Village/Urban Community begins with the designation of a village/urban community that already has a Kelompok Kadarkum (Legal Awareness Family Group) as a fostered village/urban community.
2. The proposal for the designation of a fostered village/urban community is submitted by the Subdistrict Head (Camat) to the Regent/Mayor.
3. The Regent/Mayor issues a Decree designating a village/urban community as a fostered village/urban community.
4. The fostered village/urban community continues to be nurtured to become a Legal Conscious Village/Urban Community.
5. BPHN, assisted by the Regional Office of the Ministry of Law and Human Rights, assesses the fostered villages/urban communities to determine which ones meet the criteria of a Legal Conscious Village/Urban Community. The assessment is based on the Index of Legal Conscious Village/Urban Community.
6. The Governor declares a fostered village/urban community as a Legal Conscious Village/Urban Community after considering the proposals from the Regent/Mayor and the Head of the Regional Office of the Ministry of Law and Human Rights.

²²⁰ Kanwil Kalbar, "Formation of Law-Aware Villages/Urban Villages: Efforts to Build a Legal Culture in Society.", <https://kalbar.kemenkumham.go.id/berita-kanwil/berita-utama/6506-pembentukan-desa-kelurahan-sadar-hukum-upaya-membangun-budaya-hukum-di-masyarakat#:~:text=Dalam%20paparannya%20dikatakan%20bahwa%20Desa,Hukum%20dan%20Kelurahan%20Sadar%20Hukum>, accessed on 6 June 2023.

²²¹ Validation Meeting Results with MN, an Employee of BPHN, on June 5, 2023.

The designation of a fostered village/urban community as a Legal Conscious Village/Urban Community is based on the Index of Legal Conscious Village/Urban Community, which relies on data collected from questionnaires completed by village/urban community officials or authorized personnel.²²² As confirmed by MN from BPHN, the assessment of the level of legal awareness in each village/urban community will be based on the total index score of the Legal Conscious Village/Urban Community, which includes four dimensions: (a) access to legal information, (b) implementation of the law, (c) access to justice, and (d) democracy and regulations.²²³

The Desa Sadar Hukum program aims to establish legal awareness groups within a community, hoping that these groups can become agents of change as paralegals who provide legal awareness guidance to their respective villages or local areas. They are expected to collaborate with legal educators in the Ministry of Law and Human Rights. These empowered paralegals are expected to bridge efforts in preventing legal issues and disseminating legal information to villages throughout Indonesia.

The paralegals produced through the Desa Sadar Hukum program are also expected to assist in the non-litigation resolution of legal issues within the villages once legal awareness in a village and community has increased. However, BPHN also recognizes that the resolution process through the community or community leaders may potentially not bring justice to the disputing parties. Therefore, mechanisms for litigation and access to legal aid organizations must still be provided.

2. Komnas Perempuan Perspective²²⁴

Based on its mandate and authority, SAT explains that Komnas Perempuan does not directly engage in legal empowerment for communities or the general public. Activities carried out by Komnas Perempuan, such as socialization, campaigns, and learning forums, represent a small part of legal empowerment activities, specifically

²²² Circular Letter Number: PHN-05.HN.04.04 Year 2017 regarding the Amendment of Criteria for Assessing Legal Conscious Villages/Sub-districts.

²²³ Validation Meeting Results with MN, an Employee of BPHN, on June 5, 2023 also refers to Circular Letter Number: PHN-05.HN.04.04 Year 2017 regarding the Amendment of Criteria for Assessing Legal Conscious Villages/Sub-districts.

²²⁴ Interview with SAT, Commissioner of the National Commission on Violence Against Women (Komnas Perempuan) on November 1, 2022..

providing legal literacy. The role of Komnas Perempuan as a state institution differs from that of civil society organizations or Legal Aid Institutions. The programs organized by Komnas Perempuan are not specifically aimed at legal empowerment or directly targeting the public. Instead, they primarily focus on advocating for change among stakeholders:

“

Regarding legal empowerment issues, it is true that Komnas Perempuan does not directly engage in legal empowerment activities, as I experienced before in organizations like LRC KJHAM, YLBHI, or LBH APIK. As a state institution, we focus more on influencing policy at the institutional level, within law enforcement agencies and government ministries/organizations. (Interview with a Commissioner of Komnas Perempuan, November 1, 2022)

SAT explains that currently, Komnas Perempuan has five sub-commissions, namely:

1. Sub-commission on Legal and Policy Reform: This sub-commission is responsible for reviewing legislation to provide recommendations and suggestions for policy changes.
2. Sub-commission on Monitoring: This sub-commission monitors, collects facts, and documents violations of women's human rights and cases of violence against women.
3. Sub-commission on Education: This sub-commission focuses on promoting gender-based human rights education.
4. Sub-commission on Community Participation: This sub-commission is responsible for conducting campaigns and public education activities.
5. Sub-commission on Recovery System Development: This sub-commission examines and provides recommendations for recovering victim's well-being.

Considering that one of the roles of Komnas Perempuan is as a resource center for women's human rights,²²⁵ Komnas Perempuan actively engages in campaigns and education on the issue of violence against women. In the process of these campaigns and education, there is a widespread dissemination of knowledge and information regarding violence against women through various media

²²⁵ National Commission on Violence Against Women (Komnas Perempuan). "Profile of Komnas Perempuan," accessed on February 23, 2023.

platforms.²²⁶ For example, social media platforms such as Twitter, Instagram, Facebook, and websites, as well as mass media through the preparation of press releases or coverage and serving as sources in various media outlets.

One of the reasons why Komnas Perempuan conducts education and campaigns on women's issues is due to the limited legal literacy caused by the economic constraints faced by the community. In addition, the existing social structure that is still imbalanced is also a factor why the poor are more susceptible to intimidation by authorities and feel afraid to engage with the law, especially if they lack legal awareness. The lack of legal awareness makes people reluctant to report criminal incidents they have experienced. Through campaigns and socialization efforts, especially targeted toward women, the community can become aware of their rights, build arguments, and assert their bargaining positions against authorities.

However, SAT explains that legal empowerment goes far beyond campaigns, dissemination, socialization, or providing legal information conducted by Komnas Perempuan. Legal empowerment should build individuals' empowerment and resilience. According to SAT, the goal of legal empowerment is not only to inform but also to cultivate critical awareness among the public regarding their rights so they actively know where to report and what actions to take when facing legal issues. One of the objectives of community legal empowerment is for individuals to be aware of and recognize existing legal issues and to take initiative and necessary actions.²²⁷ Legal empowerment occurs when the poor have the opportunity and capacity to use "law" or legal mechanisms to address their problems.²²⁸ Even if an economically disadvantaged woman has full awareness of her rights, knowledge of accessing legal assistance, and the confidence to demand her rights, she may still face injustice and encounter inefficient and corrupt legal institutions. Therefore, social mobilization and organization are equally important aspects of legal empowerment.²²⁹

²²⁶ *Ibid.*

²²⁷ Community Legal Aid Institute (LBH Masyarakat), *The Face of Community Legal Empowerment*, (LBH Masyarakat: Jakarta, 2010), p. 95..

²²⁸ Stephen Golub, "What Is Legal Empowerment? An Introduction," in *Legal Empowerment: Practitioners' Perspectives* (Roma: IDLO, 2010), p. 10.

²²⁹ Matthew Stephens, "The Commission on legal Empowerment of the poor: An Opportunity Missed," *Hague Journal on the Rule of Law* 1 (2009), p. 138.

3. Perspectives of legal empowerment practitioners

*Legal Empowerment Practitioner from LBH APIK Jakarta*²³⁰

Most of the work in legal empowerment is primarily carried out by communities, both at the international and national levels, through entities such as legal aid organizations, service providers, community-based organizations, grassroots communities, non-governmental organizations (NGOs), and other non-state actors, particularly those engaged in social issues.

As a legal aid organization, one of the key visions and missions of LBH APIK Indonesia Association is to strengthen the women's movement as part of the civil society movement in promoting gender-just legal empowerment and empowering the legal resources of the community.²³¹ Regarding its role in conducting legal empowerment for women, SM explains:

“

We have a goal; one of LBH APIK's positions is for legal empowerment in society, right? So, we provide assistance to community organizations, paralegals, and the general public in terms of continuous community and paralegal assistance, as well as legal education. (Interview with SM, a legal empowerment practitioner from LBH APIK Jakarta, on November 23, 2022.)

According to SM, gender-based violence is one of the phenomena or social issues that trigger the Community to engage in legal empowerment. As long as someone is a woman, the threat of becoming a victim of gender-based violence will persist. Through legal empowerment, women can be motivated to become empowered for themselves, their families, and their communities. Legal empowerment can help them understand their rights and the legal instruments in place to protect them.

“

So, legal empowerment in society aims to make the community aware of their rights and access legal services that they are already aware of, as well as to provide mitigation when they become victims so that they can advocate for themselves. (Interview with SM, a legal empowerment practitioner from LBH APIK Jakarta, on November 23, 2022.)

²³⁰ Interview with SM, legal empowerment practitioner from LBH APIK Jakarta on November 23, 2022.

²³¹ Association of LBH APIK Indonesia, "About Us,"

Therefore, understanding legal instruments and having access to legal assistance, especially in cases of gender-based violence, becomes crucial for women.



Firstly, because we believe that the community comprises legal subjects who should understand how the law operates. Secondly, many victims fall prey to gender-based violence or individuals who lack legal awareness and subsequently become victims of the legal system itself. Therefore, we aim to ensure that the community becomes legally aware and serves as advocates within their communities. (Interview with SM, a legal empowerment practitioner from LBH APIK Jakarta, on November 23, 2022.)

This confirms one of the findings of the research conducted by the International Development Law Organization (IDLO) in collaboration with The Global Women's Institute, which states that the lack of knowledge among survivors of gender-based violence about the laws and regulations in place to protect them creates barriers and gaps in accessing justice.²³² This is often accompanied by the victims' lack of awareness to reports the crimes committed against them and the limited availability of support services for victims.²³³ Additionally, the research also found that legal aid programs carried out by community paralegals offer unique opportunities to enhance access to justice for survivors of gender-based violence.²³⁴

What is the position of paralegals in providing legal assistance in Indonesia?

The Legal Aid Law states that Legal Aid Providers have the right to recruit lawyers, paralegals, lecturers, and law students.²³⁵ Furthermore, Minister of Law and Human Rights Regulation No. 3 of 2021 on Paralegals in Providing Legal Assistance (referred to as Permenkumham 3/2021) further explains that a paralegal is any person from the community, society, or Legal Aid Provider

²³² The Global Women's Institute, *Survivor-Centered Justice for Gender-Based Violence in Complex Situations: Research report informed by case studies from Afghanistan, Honduras, Papua New Guinea, the Philippines, South Sudan, and Tunisia* (Roma: International Development Law Organization, 2022), p. 11.

²³³ *Ibid.*

²³⁴ *Ibid.*, p 101.

²³⁵ Indonesia, Law on Legal Aid, Law No. 16 of 2011, State Gazette No. 104 of 2011, Supplement to State Gazette No. 5248, Article 9.

who has undergone paralegal training, is not a practicing lawyer, and does not independently accompany Legal Aid Recipients in court.²³⁶

To be recruited as a paralegal, an individual must meet the following requirements:²³⁷

- a. Indonesian citizen.
- b. Minimum age of 18 years.
- c. Ability to read and write.
- d. Not a member of the Indonesian National Armed Forces, Indonesian National Police, or Civil Servants.
- e. Meet other requirements determined by the Legal Aid Provider and not conflicting with the prevailing laws and regulations.

Community paralegals, as an extension of the organization, also carry out the role of legal empowerment for the community. The presence of an office in a certain area does not guarantee that everyone can visit it. Therefore, with the presence of APIK paralegals who live in the community, it is expected that they can reach out to victims more effectively.

“

So, the focus on paralegals is to facilitate access to services. We want paralegals to be the extended arm of LBH APIK Jakarta, bringing access to justice closer to the community. That's why it's important to us because not everyone can access LBH APIK directly. There are many barriers, such as our office being far from their homes or individuals not having gadgets to engage in online consultations. (Interview with SM, a legal empowerment practitioner from LBH APIK Jakarta on November 23, 2022.)

Legal empowerment practitioners from PEKKA²³⁸

PEKKA carry out legal empowerment with a Community-based approach by organizing women-headed households in villages. FVS explains that the legal empowerment conducted by PEKKA is based

²³⁶ Indonesia, Ministry of Law and Human Rights, Ministerial Regulation on Paralegals in Legal Aid Provision, Ministerial Regulation No. 3 of 2021, Article 1 Number 5.

²³⁷ *Ibid.*, Article 4.

²³⁸ Interview with FVS, legal empowerment practitioner from PEKKA on November 22, 2022.

on the organization's vision and mission, which includes advancing and sustaining the women-headed household movement, as well as participating in building and strengthening the socio-economic movement alongside the PEKKA community.

In addition to economic empowerment, PEKKA also works on legal empowerment to ensure access to legal identity to promote access to social protection.



We found that the majority of women who are heads of households do not have legal identities, meaning they don't have identification cards (KTP) or family cards (KK), mainly because their marriages are not officially registered... This becomes a barrier for them to access local resources and government programs for economic support. That's why we believe legal empowerment is crucial. Firstly, it raises awareness that legal identity is a fundamental right of citizens and encourages them to pursue it. We need individuals who can assist and strengthen them on a daily basis. Eventually, we trained leaders from women-headed household groups to become paralegals, and they, in turn, support each other. Although many PEKKA community paralegals themselves do not have identification cards, they engage in self-help and assist other members in obtaining legal identities. (Interview with FVS, a legal empowerment practitioner from the Women-Headed Household Empowerment Foundation, on November 22, 2022)

This is in line with the research findings by Anastasia Cahyaningrum regarding PEKKA's advocacy strategies in empowering women in Desa Batangan, Bangkalan Regency.²³⁹ The current development planning in Desa Batangan mainly focuses on infrastructure rather than the issue of obtaining legal documents. As a result, many residents of Desa Batangan, including women-headed households, face difficulties in managing their civil registration documents. However, these civil registration documents, serving as legal identities, are crucial for accessing other basic rights, such as obtaining a birth certificate for school registration purposes for

²³⁹ Anastasia I. Cahyaningrum, "Danda Janda, Advocacy Strategy of PEKKA NGO in Empowering Vulnerable Women in Desa Batangan, Bangkalan Regency," *PolGov Journal* 2 (2020), p. 122.

children.²⁴⁰ Unfortunately, this issue has been overlooked by the village administrators in Desa Batangan.

Building on these challenges, PEKKA has actively promoted collective action among grassroots women to access civil registration services. This is done through the Klinik Layanan Informasi dan Konsultasi (KLIK) program, which serves as a gateway to legal empowerment in Desa Batangan. This approach has had a positive impact on the community of Desa Batangan by successfully identifying the community's civil registration needs. The paralegals have facilitated the process of obtaining marriage certificates through the pro bono route and have collaborated with the Religious Court of Bangkalan and the Office of Religious Affairs (KUA) in Tanah Merah Sub-district.

²⁴¹

SM believes that the ultimate goal of legal empowerment is to enable individuals, particularly women, to become empowered and resilient

“

The legal assistance we provide is not based on making them dependent on lawyers or legal advisors, but rather on empowering them. In our legal aid approach, the principle is empowerment so that the victims who seek help can also learn about the legal process they are going through. They can anticipate future situations if they become victims again or when their ongoing case is in progress. They are informed about the actions they can take and the rights they can access, enabling them to be empowered, survive, and thrive. (Interview with SM, legal empowerment practitioner from LBH APIK Jakarta, November 23, 2022)

Furthermore, SM highlights the barriers to accessing justice faced by PBH (Persons in a Situation of Poverty) who are victims of violence. One significant obstacle is the difficulty in obtaining a Surat Keterangan Miskin (Certificate of Poverty)²⁴² or commonly known as Surat Keterangan Tidak Mampu (SKTM). The challenge of accessing administrative requirements such as SKTM becomes a tangible barrier for women who are victims of impoverished backgrounds when seeking free legal aid.

²⁴⁰ *Ibid.*

²⁴¹ *Ibid.*, p. 129.

²⁴² Interview with SM, Legal Empowerment Practitioner from LBH APIK Jakarta on November 23, 2022.

The Law on Legal Aid states that legal aid is a legal service provided free of charge by legal aid providers to legal aid recipients.²⁴³ The law also specifies that legal aid recipients are individuals or groups in poverty.²⁴⁴ However, certain requirements must be met to qualify for free legal aid, one of which is submitting a Surat Keterangan Miskin (Certificate of Poverty) or SKTM issued by the village head, sub-district head, or equivalent authority in the applicant's place of residence.²⁴⁵

PBH from the poor does indeed align with the characteristics of legal aid recipients as stipulated in the Legal Aid Law. However, SM has identified the following obstacles commonly experienced by victims classified as poor, ranging from violence perpetrated by authorities to a lack of legal literacy.

“

... the obstacles are how they can access the SKTM (Certificate of Poor), if the perpetrators are the neighborhood or village officials, where they need to obtain the SKTM. Additionally, there is also the issue of their ability to access it. Secondly, the access to information, to what extent do they know about legal aid services for the poor? To what extent do they understand that legal aid is their right? (Interview with SM, a legal empowerment practitioner from LBH APIK Jakarta on November 23, 2022.)

In practice, LBH APIK Jakarta does not only provide legal aid to the "poor" as required by the Legal Aid Law. They realize that not all poor people have access to SKTM (Certificate of Poor) - and in response to this, LBH APIK needs to consider what schemes can be implemented.

The Legal Aid Law has a commendable initiative to ensure that the poor have access to legal aid as one of the vulnerable groups, particularly when facing legal issues. However, SM's exposition also highlights the limitations of the Legal Aid Law, as found in the Research Report on Regulations related to Sexual Violence and their Accommodation in Indonesian Legislation by IJRS, ICJR, and PUSKAPA.²⁴⁶

²⁴³ Indonesia, Law No. 16 of 2011 on Legal Aid, Article 1 Number 1.

²⁴⁴ *Ibid.*, Article 1 Number 2.

²⁴⁵ *Ibid.*, Article 14.

²⁴⁶ Maria I. Tarigan, et al., Research Report on Regulations Related to Sexual Violence and their Accommodation in Indonesian Legislation (Jakarta: IJRS, 2022), p. 81.

Limitations of the Legal Aid Law: What about Other Vulnerable Groups?

The limitation of providing free legal aid only to the poor raises questions about guaranteeing legal assistance to other segments of society, such as women and children, who are generally considered vulnerable groups.²⁴⁷

Often, women and children cannot financially support themselves and rely on men as the household breadwinners, creating power dynamics and economic dependence.²⁴⁸ If they become victims of domestic violence, they may face difficulties in seeking legal assistance without the consent and financial support of their husbands or parents. On the other hand, they may not be registered as part of the poor population because their basic needs are still being met by their husband or parents as the providers within the family.²⁴⁹

In the case of PEKKA, the economic empowerment carried out by PEKKA is based on the daily challenges faced by women that are not solely related to financial issues (lack of money), but rather a comprehensive process addressing the issue of poverty experienced by women in relation to their economic dependence on men. Therefore, one of the goals of PEKKA's economic empowerment is to achieve economic self-reliance.

Economic self-reliance is achieved through the implementation of activities aimed at promoting the establishment of self-help organizations in legal empowerment efforts. Economic empowerment programs are often perceived as solely providing material assistance. However, this is precisely the focus of PEKKA's program, as economic empowerment means encouraging women to understand the principles of self-reliance and become agents of change.

“

We are consistent in our belief that economic empowerment does not involve giving money, but rather, we believe in fostering self-reliance. So we have resources that we can manage, such as through savings

²⁴⁷ *Ibid.*

²⁴⁸ *Ibid.*

²⁴⁹ *Ibid.*

and loans. They may not have money, but what do they have? They have copra, coffee beans, rice, or whatever they possess because in reality, they are rich in their villages. (Interview with FVS, legal empowerment practitioner from the PEKKA Foundation, on November 22, 2022)

PEKKA's approach to economic empowerment aligns with the findings of UN Women regarding women's economic empowerment as a central element in realizing women's rights and gender equality. In this context, women's economic empowerment is understood as equalizing women's capabilities, including the ability to participate in existing markets, access and control productive resources, access decent work, have control over their time, lives, and bodies, and have meaningful participation in economic decision-making at all levels, from households to international institutions.²⁵⁰

Furthermore, legal literacy is not only targeted towards women but is also important for relevant actors in the legal system. Based on SM's experience as a legal empowerment practitioner, the capacity of relevant actors, particularly police investigators, in understanding Law No. 23 of 2004 on the Elimination of Domestic Violence (Anti-Domestic Violence Law) and handling women victims of domestic violence is still limited:

“

*...when the victim already understands their rights and can access legal assistance services, then our law, in the Anti-Domestic Violence Law, requires one piece of evidence plus witness testimony, which fulfills the element of domestic violence because it is considered *lex specialis*. However, law enforcement officials, particularly investigators, often require two witnesses. Meanwhile, domestic violence cases typically occur within the private sphere, making it difficult to have multiple witnesses. In many cases, the victim and the perpetrator may be the only witnesses present at the time. (Interview with SM, legal empowerment practitioner from LBH APIK Jakarta, November 23, 2022.)*

²⁵⁰ UN Women, "Facts and Figures: Economic Empowerment", UN Women, Accessed on March 26 2023, <https://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures#:~:text=Women's%20economic%20empowerment%20includes%20women's,economic%20decision%20making%20at%20all.>

SM also found obstacles in the law enforcement agencies that negatively affect female victims, particularly in cases of sexual violence. For example, misconceptions about the concept of restorative justice and the handling of cases after they go viral on social media:

“

Similarly, in cases of sexual violence, restorative justice becomes like a commodity used by law enforcement agencies for everything in restorative justice, while there are legal provisions that prohibit it. Especially in cases of sexual violence, they have long-lasting traumatic effects on the victims. So, when a case becomes sensationalized and receives support from the community, only then do law enforcement agencies become busy in enforcing it again. This creates an unequal justice system for cases that don't go viral, as they don't receive justice because they lack viral media attention. Law enforcement agencies do not prioritize them, resulting in suboptimal handling of the cases. (Result of an interview with SM, a legal empowerment practitioner from LBH APIK Jakarta, on November 23, 2022.)

The forms of activities, methods, and strategies implemented by BPHN (Legal Aid and Human Rights), Komnas Perempuan (National Commission on Violence Against Women), and legal empowerment practitioners in conducting legal empowerment to ensure access to justice for PBH

1. The perspective of BPHN²⁵¹

Legal education conducted by BPHN can be carried out by BPHN's staff members holding functional positions as legal educators, as well as external parties affiliated with BPHN. The mapping of legal education actors was done differently before and after the issuance of the Legal Aid Law. Prior to the existence of the Legal Aid Law, the Organizational Structure and Work Arrangement (SOTK) of BPHN only included the Legal Education Center. However, since the issuance of the Legal Aid Law in 2011, the activities have been expanded to include the Legal Education and Assistance Center. In addition to being carried out by internal Legal Educators, legal education

²⁵¹ Interview with MN, an employee of BPHN on November 30, 2022.

activities by BPHN can also be conducted in collaboration with external parties, such as Legal Aid and Consultation Institutions (LKBH) at campuses or universities. Article 4, paragraph (2) of the Legal Aid Law stipulates that legal aid covers civil, criminal, and administrative legal issues, both in litigation and non-litigation matters. MN explains that in terms of non-litigation, legal education, and community empowerment are part of legal aid.

After enacting the Legal Aid Law, the Ministry of Law and Human Rights (Kemenkumham) established legal education functions in various positions, including at the central level of BPHN, regional offices, and local governments, as well as legal education by legal aid organizations. Therefore, in this regard, there are two actors involved. The first is the government agency with legal education functions, such as BPHN and local government agencies or other government institutions. The second actor is the legal aid organizations.

In carrying out its duties and functions in legal empowerment activities, BPHN utilizes persuasive, educational, communicative, and accommodative approaches. The persuasive approach is used to attract the community's interest in the legal education material provided. The conveyed material should be educational, enlightening, and informative, in line with the national strategy of the Ministry of Law and Human Rights to educate the public.²⁵² The communicative approach emphasizes the ability to communicate, participate, and interact with the communities being educated. Lastly, the accommodative approach focuses on accommodating, addressing, and providing solutions when there are issues or problems raised. In this regard, indirectly, BPHN seeks to encourage communities to advocate for themselves in the subsequent policy-making processes if there are any shortcomings or feedback identified during the legal education sessions.

BPHN also operates based on the concept of a legally intelligent and inclusive society that aligns with the community's needs. The aim is not solely to resolve every case within the community through the judicial system. Empowered communities with community paralegals can inclusively resolve certain cases through non-litigious means. However, while recognizing the potential risks of injustice that may arise in the resolution or decisions made by these community figures,

²⁵² Interview with MN, an employee of BPHN on November 30, 2022.

the community can still refer to the nearest legal aid organization to take legal action if necessary.

In implementing community empowerment, BPHN collaborates with various civil society organizations, including those related to PBH issues. For example, BPHN has collaborated with LBH APIK to provide training to communities within their network in Semarang, where community empowerment is primarily focused on APIK's working partners, such as women victims facing legal issues. Other collaborations have also been established, such as with the Ministry of Village, Development of Disadvantaged Regions, and Transmigration of the Republic of Indonesia (Ministry of Village PDTT).

Currently, BPHN is collaborating with several civil society organizations, including LBH APIK, LBH Makassar, and other LBHs in various regions, to develop training modules for paralegals. This collaboration will be formalized through a Memorandum of Understanding (MOU) between the organizations. According to confirmation from MN of BPHN, the module development, which is still in progress, follows the guidelines outlined in Minister of Law and Human Rights Regulation No. 3 of 2021 on Paralegals in Providing Legal Aid. The module consists of 9 main teaching materials, including:

“

The development of the module is still ongoing since late 2022, and it is expected to be completed by mid-2023. The process is supported by A2J (Access to Justice) in collaboration with LBH APIK, PBHI, YLBHI, and several CSO communities. The approach taken in developing the module is highly inclusive and open. However, the most important aspect is ensuring that the guidelines adhere to Minister of Law and Human Rights Regulation No. 3 of 2021, along with its Implementation Guidelines and Curriculum. The guidelines outline nine main teaching materials as the foundation, and the syllabus is adjusted accordingly. For example, topics related to vulnerability, gender, disabilities, and children are included as sub-topics within one of the nine main teaching materials. (This information was obtained from a validation meeting with MN, an employee of BPHN, on June 5, 2023)

Based on the information provided by MN from BPHN above, it can be seen that although BPHN does not yet have specific activities targeting issues such as women facing the law, there are efforts by BPHN to pay attention to gender issues and vulnerable groups such as persons with disabilities and children. This is done through the development of paralegal training modules involving communities that have a focus on these issues.

2. Perspectives of Komnas Perempuan²⁵³

As previously explained, Komnas Perempuan's programs are not specifically aimed at providing legal empowerment and directly targeting communities. SAT explained that for comprehensive legal empowerment, Komnas Perempuan relies more on service providers who provide legal empowerment to victims, communities, or the public:

“

Komnas Perempuan does not directly engage with communities unless they invite Komnas Perempuan. Currently, in terms of its working mechanism, Komnas Perempuan still supports service institutions, whether they are part of service provision forums or not. The current form of support is limited to sharing sessions, while in the context of legal empowerment, we rely on service providers who carry out the work. (Interview with a Commissioner of Komnas Perempuan, November 1, 2022.)

The Sub-Commission for Monitoring of Komnas Perempuan (National Commission on Violence Against Women) organizes learning forums for service institutions that handle and assist cases of violence against women. These forums have been institutionalized as the Service Provision Forum. In 2000, in Malang, East Java, due to the increasing number of cases of violence against women, there were 33 community organizations providing assistance to women victims of violence. Together with Komnas Perempuan, they initiated the establishment of the Learning Forum. This forum was created based on the understanding that services for victims of violence were still partial and required substantial resources. Thus, there was a need for

²⁵³ Interview with SAT, Commissioner of Komnas Perempuan on November 1, 2022.

activities to share resources among service institutions and to collaborate with other service providers.²⁵⁴

In 2014, the name "Learning Forum" was changed to the Service Provision Forum for Women Victims of Violence (Forum Pengada Layanan/FPL). The forum consists of institutions that share the vision of eliminating violence against women and advocating for increased state responsibility in protecting and fulfilling the rights of women victims. By 2015, the FPL had 112 members spread across 32 provinces in Indonesia.²⁵⁵ Komnas Perempuan often involves the FPL in various activities, such as providing input for draft legislation, referring cases to the complaints unit, and other collaborative efforts.

The Monitoring Sub-Commission also has a sharing session platform that serves as a space for online collaborative learning. It is used, for example, to discuss relevant information that service institutions need to know or prevalent cases. In addition to being a platform for sharing, the forum also serves as a capacity-building platform for service institutions. For instance, when discussing issues related to online gender-based violence, participants can learn from each other about case handling, challenges, and lessons learned.

As a result of the forum, service institutions have gained confidence in handling cases they receive, thanks to the learning opportunities provided, including new cases such as Online Gender-Based Violence (KBGO) from other organizations. Komnas Perempuan has also supported the advocacy of a KBGO case accompanied by an institution to ensure that the case is processed through the court system and the perpetrator is held accountable. This success story highlights the impact of the platform's development.

Therefore, it can be concluded that Komnas Perempuan does not directly empower the community, but empowers and strengthens service institutions to have better abilities, knowledge, and relationships in handling cases of violence against women. Komnas Perempuan bases its activities and programs on the experiences of women victims, for example, in formulating recommendations and suggestions to government agencies:

²⁵⁴ Service Procurement Forum, Profile of FPL, accessed on June 12, 2023, at <https://fpl.or.id/profil-fpl/>

²⁵⁵ *Ibid.*

“

The experiences shared by victims through service providers are captured and transformed into women's knowledge, such as cyber violence and female genital mutilation. We take these experiences and turn them into knowledge, which we then use to advocate for policy changes or social transformations. This social change is achieved through campaigns and public education, and its results are gradual. (Interview with a Commissioner of Komnas Perempuan, November 1, 2022)

Komnas Perempuan strives to adopt feminist leadership. One way they do this is by listening to the stories and experiences of service providers, as these stories bring forth the experiences of women victims, which are then documented as women's knowledge. This documented women's knowledge serves as a basis for advocating policy changes and social transformations. One of the ways to drive social change is through campaigns and public education.

3. Perspectives of Legal Empowerment Practitioners

*Legal empowerment practitioners from LBH APIK Jakarta*²⁵⁶

LBH APIK Jakarta employs the concept of Gender Structured Legal Aid in providing legal empowerment for women, particularly impoverished women.

What is Structural Gender Legal Aid?

The concept of Gender Structured Legal Aid (Bantuan Hukum Gender Struktural/BHGS) is a form of legal assistance provided to financially disadvantaged women, using a gender perspective and analysis (gender equality) that aims to bring about changes in societal structures and the legal system (substance, structure, and culture).

In addition, LBH APIK Jakarta also has a strategy to gather individuals who are considered potential paralegals, especially those who have influence in their respective areas:

²⁵⁶ Interview with SM, legal empowerment practitioner from LBH APIK Jakarta on November 23, 2022.

“

First, our legal empowerment strategy involves gathering champions or individuals whom we believe have the potential to become paralegals. These paralegals can come from various backgrounds, such as members of the Family Welfare Movement (PKK), community leaders, or religious figures. We provide paralegal training for them, and through their connections and positions as community leaders in their respective areas, they can easily reach out to the community directly. (Interview with SM, legal empowerment practitioner from LBH APIK Jakarta, November 23, 2022.)

In implementing the Gender Structured Legal Aid (BHGS), LBH APIK Jakarta employs legal empowerment strategies both online and offline.

“

Secondly, since everything is online now and social media is easily accessible, we also utilize it as a means of legal empowerment. So, we maximize both offline and online approaches to ensure that the community can access the information and services to the fullest extent. (Interview with SM, legal empowerment practitioner from LBH APIK Jakarta, November 23, 2022.)

Technology offers a more efficient way to provide legal services to a broader audience,²⁵⁷ particularly through the Internet or online platforms. Technology offers the potential to expand the geographical reach of legal advice providers and enables individuals to help themselves more effectively.²⁵⁸ The use of the internet serves as an accessible means of legal recourse for the general public to seek and gather information related to the legal issues they are facing.²⁵⁹

LBH APIK Jakarta has also established a Memorandum of Understanding (MoU) with the Pondok Bambu Class I State Detention

²⁵⁷ The Engine Room, Technology for Legal Empowerment: A Global Review (United States: The Engine Room, 2009), 8, <https://www.theengineroom.org/wp-content/uploads/2019/01/Tech-for-Legal-Empowerment-The-Engine-Room.pdf>.

²⁵⁸ The Engine Room, Technology for Legal Empowerment: A Global Review, 8.

²⁵⁹ Margaret Hagan, "The User Experience of the Internet as a Legal Help Service: Defining standards for the next generation of user-friendly online legal services," *Virginia Journal of Law and Technology* 20, no. 394 (2016), 413, <https://ssrn.com/abstract=2942478>.

Center (Rumah Tahanan/Rutan)²⁶⁰ in East Jakarta to provide legal empowerment for female prisoners in Rutan and Pondok Bambu Penitentiary. The MoU between LBH APIK Jakarta and Pondok Bambu Class I Rutan has been in effect since 2015.²⁶¹ LBH APIK Jakarta conducts legal education and consultation sessions once a month for women who are suspects or defendants in Pondok Bambu Class I Rutan.²⁶² As of 2019, LBH APIK Jakarta has been a partner for women facing various legal issues, including cases related to human trafficking, theft, embezzlement, assault, fraud, and narcotics.²⁶³

Regarding paralegal work, the legal empowerment strategy also includes regular discussions, organizing campaigns, and involving LBH APIK Jakarta in legal empowerment activities within their respective communities.

“

In addition, paralegals are empowered through regular engagements. We have periodic discussions with them, both within women's communities, fishermen communities, housewives, the Family Welfare Movement (PKK), medical professionals, as well as with young paralegals and other community groups that LBH APIK Jakarta reaches out to. We organize events and activities where they are involved in legal empowerment initiatives, whether it be on university campuses, within the general community, or through campaigns that aim to empower the community through legal means. (Interview with SM, legal empowerment practitioner from LBH APIK Jakarta, November 23, 2022.)

Legal Empowerment Practitioner from PEKKA²⁶⁴

PEKKA also implements legal empowerment strategies through community paralegals. The legal empowerment efforts undertaken by PEKKA employ a community-based approach and organize strategies to empower women-headed households in rural areas by promoting the establishment of self-help organizations. These

²⁶⁰ Pondok Bambu Class I Correctional Facility is a specialized prison institution for women.

²⁶¹ LBH APIK Jakarta, *"The State Must Seriously Implement Commitments to Protect Women Victims of Gender-Based Violence: Notes from LBH APIK Jakarta based on Case Handling and Advocacy Experience 2019"* (Jakarta: LBH APIK Jakarta, 2019), 37, https://pdf.usaid.gov/pdf_docs/PA00XTS3.pdf.

²⁶² LBH APIK Jakarta, *"The State Must Seriously Implement Commitments to Protect Women Victims of Gender-Based Violence, 37."*

²⁶³ LBH APIK Jakarta, *"The State Must Seriously Implement Commitments to Protect Women Victims of Gender-Based Violence, 37."*

²⁶⁴ Interview with FVS, Legal Empowerment Practitioner from PEKKA on November 22, 2023.

organizations aim to achieve economic self-reliance for women-headed households.



In the beginning, we started with PEKKA groups in villages. These groups later developed into PEKKA cooperative and savings and loan groups. Since the initial focus was on economic empowerment, the entry point was through economic activities. We indeed encourage the establishment of self-help organizations aiming for economic self-reliance. Over time, the PEKKA groups expanded not only at the village level but also at the district level. We realized that instead of making the PEKKA groups the target of our programs, they should be the agents of change. That's why we encouraged them to develop community-based organizations. (Interview with FVS, legal empowerment practitioner from PEKKA, November 22, 2022).

Generally, a self-help organization refers to voluntary gatherings of individuals with similar needs and issues that are not addressed by existing organizations, institutions, or groups.²⁶⁵ Empowering women through self-help organizations involves enhancing their autonomy and self-determination, enabling them to represent their interests through self-defined means, and becoming more empowered and confident in making life choices and demanding their rights. Activities in this context include personal development and empowerment, supported by professionals and individuals who can assist in overcoming feelings of powerlessness, starting with the process of recognizing and utilizing the resources they possess.²⁶⁶

Self-help organizations can provide various social and economic benefits to improve the quality of women's lives. Through social interactions and enhancing individual skills, self-help organizations can promote economic self-sufficiency for women. This, in turn, can have a positive impact on the empowerment and self-confidence of individuals and groups.²⁶⁷ While the specific aim of self-help

²⁶⁵ Biplab Kumar Dey, "A Study of Women Self-Help Group Members in North District of Tripura, India", *Socrates*, Vol. 2 (1) (2014), ISSN 2347-6869 (E) & ISSN 2347-2146 (P).

²⁶⁶ Dr. S. Dhanasekaran, "Women Empowerment Involvement in Self-Help Groups - An Analysis", *AGPE The Royal Gondwana Research Journal of History, Science, Economic, Political and Social Science*, Vol. 2 (1), July 2021 (112-118), p. 116, <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://media.neliti.com/media/publications/359767-women-empowerment-involvement-in-self-he-1d7c5488.pdf>

²⁶⁷ Biplab Kumar Dey, "A Study of Women Self-Help Group Members in North District of Tripura, India", *Socrates*, Vol. 2 (1) (2014), ISSN 2347-6869 (E) & ISSN 2347-2146 (P).

organizations formed by PEKKA is to achieve economic self-reliance for women, the establishment of self-help organizations can also have broader impacts in addressing feelings of powerlessness in economic, social, and political spheres.²⁶⁸

That's a great example of how self-help organizations have been applied to empower women in India. The research conducted by Paul Anand, et al., highlights the positive impact of self-help organizations on the economic and social well-being of women. The Self-Employed Women's Association (SEWA) is a successful example of an organization that has empowered women economically through the concept of self-help organizations. By providing full-time employment opportunities, SEWA has enabled women to become economically independent and empowered in decision-making processes. This empowerment not only benefits the women themselves but also has implications for the lives of their children.²⁶⁹

Programs based on the concept of self-help organizations are essentially self-development programs that rely on and strengthen women's empowerment. Such programs serve as an initial step in promoting broader engagement of women. Regular meetings of women in communities facing similar life situations can help build social relationships and support groups that recognize the importance of relevant psychological processes.²⁷⁰ In this context, group support activities can instill in team members the understanding that their actions have an impact not only on individuals but also on the group as a whole. This fosters a sense of collective action, motivating the group to work together toward empowerment.²⁷¹

In addition to establishing self-help organizations to achieve economic self-reliance among female-headed households, PEKKA also targets the strengthening of paralegals to conduct advocacy at the village level. This includes facilitating legal awareness, providing case assistance, advocating for policy changes, and conducting

²⁶⁸ Dr. S. Dhanasekaran, "Women Empowerment Involvement in Self-Help Groups - An Analysis", AGPE The Royal Gondwana Research Journal of History, Science, Economic, Political and Social Science, Vol. 2 (1), July 2021 (112-118), p. 116

²⁶⁹ Paul Anand, et. al., "Can Women's Self-Help Groups Contribute to Sustainable Development? Evidence of Capability Changes from Northern India", IZA DP No. 12940, January 2020, IZA Institute of Labor Economics, p. 8

²⁷⁰ *Ibid*, p. 12

²⁷¹ *Ibid*, p. 13

socialization activities that build forums with various stakeholders (multi-stakeholder forums).

According to FVS's explanation, the capacity building of PEKKA's paralegals consists of several elements, namely increasing knowledge, skills, and abilities to organize community-based victim empowerment.²⁷²

Regarding knowledge enhancement, PEKKA's paralegals are encouraged to understand the context of Indonesian women, including the common issues faced and the portrayal of Indonesian women's lives. This understanding refers to issues such as access to justice and the root causes of gender inequality and power relations in Indonesia. Furthermore, PEKKA provides skill development for case handling to its paralegals by enhancing their understanding of the legal framework in Indonesia. Paralegals are equipped with knowledge of the Indonesian legal system and relevant legal frameworks to provide effective support. Additionally, paralegals are introduced to the concept of community-based victim empowerment, which emphasizes that not all legal issues are resolved through litigation or result in imprisonment. Non-litigation efforts such as prevention, mediation, and engagement of key stakeholders (except in rape cases) are also considered. Therefore, paralegals are encouraged to engage in direct practice and are provided with guidelines on communicating violence cases to the community.²⁷³

Another strategy employed by PEKKA in legal empowerment is the development of the PEKKA Information and Consultation Service Clinic (KLIK PEKKA). When the paralegals and the PEKKA union had gained sufficient strength, and with increasing support from the government, PEKKA established KLIK PEKKA in 2014 to provide access to legal protection for women and children. Initially, the focus of the protection provided revolved around legal identity and consultation on cases of violence against women and children. However, in 2016, the services were expanded to include not only legal protection but also social protection, reaching out to poor and marginalized communities who could not access social protection and guarantees. Over time, KLIK PEKKA evolved into a facilitation platform connecting

²⁷² Results of validation meeting with FVS, Legal Empowerment Practitioner from Yayasan Pemberdayaan Perempuan Kepala Keluarga on June 8, 2023.

²⁷³ *Ibid.*

the community with stakeholders, providing a space for dialogue and collaboration.

The data from 2020 indicates that the consultation services provided through KLIK PEKKA in the village of Tolmar, Bangkalan Regency, East Java, reached 160 cases in a single day, with 139 participants. The community's participation in utilizing KLIK PEKKA services also contributes to the establishment of PEKKA groups in the area, enabling them to engage in various activities such as networking among group members, religious activities, and conducting awareness campaigns related to health and agriculture.²⁷⁴

Adaptation and innovation applied by BPHN, Komnas Perempuan, and legal empowerment practitioners in addressing obstacles in implementing legal empowerment to ensure access to justice for PBH

1. Perspectives of BPHN²⁷⁵

In conducting community empowerment, the BPHN (Legal Aid and Human Rights Protection Agency) conducts research on the legal needs within a community or specific region, which is then presented in the form of a legal issue map. As an innovative approach, this map refers to statistical or administrative data from relevant legal institutions or ministries. The data is then analyzed to identify the legal education needs and map them accordingly. For example, in an area with a high prevalence of drug-related issues, the primary focus of legal education would be on drug-related matters. Another example is in an area where there are many cases of domestic violence, which is known to be caused by alcohol abuse. The research results and related data become priority issues for preparing legal education materials. In the future, the BPHN also aims to develop methods for determining the target audience and legal education materials using legal need surveys. This approach would go beyond relying solely on administrative data and instead focus on the actual needs of the community.

The government also provides legal assistance through the Legal Smart Channel (LSC), a virtual/online service application developed

²⁷⁴ PEKKA, "KLIK PEKKA Brings Hope," <https://jwp.pekka.or.id/home/2020/10/klik-pekka-membawa-harapan/>, accessed on May 11, 2023.

²⁷⁵ Interview with MN, an employee of BPHN on November 30, 2022.

by the BPHN. Each year, BPHN answers over 3,000 legal-related questions from the public through the application. During legal education events, whether held in shopping centers or schools, the BPHN always provides information about the LSC. The LSC application also includes a map showing the distribution of legal aid, making it a convenient channel for accessing legal consultations and education in terms of distance and time.

Based on confirmation from the BPHN, there is currently no formal mechanism for case referrals from the BPHN to legal aid organizations. This means that the BPHN, in this context, only provides information and a list of legal aid organizations to those seeking legal assistance. Therefore, if a person seeking legal aid still requires litigation representation after receiving consultation from the BPHN, whether through the LSC (online) or in-person at the BPHN consultation office (offline), the BPHN will only direct or refer them to the nearest legal aid organization²⁷⁶ listed in the Minister of Law and Human Rights Decision No: M.HH-02.HN.03.03 of 2021 regarding Verified and Accredited Legal Aid Organizations as Legal Aid Providers for the Period 2022-2024.

In implementing legal empowerment, there are still challenges regarding the synergy between legal education conducted by government institutions and legal aid organizations.²⁷⁷ Issues often arise because each legal educator from the government and legal aid organizations work independently without clear guidelines. The BPHN has found that some legal aid organizations often choose specific target areas for legal education, including areas within their proximity.²⁷⁸ However, there are still other areas that require legal education and assistance. Therefore, as confirmed by the BPHN, it is important to establish synergy from the beginning in order to map the needs of specific areas and target relevant issues. The BPHN believes that its involvement through the Regional Office (Kanwil) of the Ministry of Law and Human Rights in legal education activities conducted by accredited Legal Aid Organizations is necessary. This is to ensure the substance of legal education materials and to build

²⁷⁶ Validation Meeting Results with MN, an employee of BPHN, on June 5, 2023.

²⁷⁷ The Legal Aid Law explains that legal aid organizations can provide legal education and community empowerment through non-litigation legal assistance.

²⁷⁸ Interview with MN, an employee of BPHN on November 30, 2022.

synergy between relevant stakeholders, participants of legal education, and the legal education materials themselves.²⁷⁹

Furthermore, another barrier is related to synergy with other Ministries/Institutions (K/L) in cases where there are similar activities such as legal aid and legal education, considering the potential overlapping jurisdictions and functions of the respective units. In this regard, it is necessary to consider how to encourage initiatives to establish clear agreements and understandings among relevant K/Ls regarding the division of authority and functions. In this context, the authority/function of providing legal aid and legal education lies with the Ministry of Law and Human Rights (Kemenkumham), the Supreme Court (Mahkamah Agung), the Ministry of Village, Development of Disadvantaged Regions, and Transmigration (Kementerian Desa PDTT), as well as the Local Governments (Pemerintah Daerah).

Currently, BPHN does not have specific activities dedicated to legal aid issues unless there is a specific region that requires specialized legal education on related issues. One factor is the need to broaden the definition of vulnerability in the Legal Aid Law, not only limited to the category of the poor but also considering other aspects of vulnerability, such as social and economic factors. Therefore, the National Legal Aid Conference (2019) recommended revising the Legal Aid Law to include a definition of vulnerability that encompasses other aspects, such as social vulnerability.²⁸⁰

2. Perspectives of Komnas Perempuan²⁸¹

One of the challenges faced by Komnas Perempuan in organizing sharing sessions with first-line service institutions is scheduling and time differences. This is because the invited institutions come from various regions in Indonesia, spanning the western, central, and eastern parts of the country, which have different time zones. Another challenge is the limited internet access, which prevents some participants from receiving complete learning information. To address these challenges, Komnas Perempuan has adapted by disseminating materials after the learning forum event or allowing participants to communicate through the Zoom chat column regarding the specific topics or materials they need for further discussion. The third

²⁷⁹ Validation Meeting Results with MN, an employee of BPHN, on June 5, 2023.

²⁸⁰ Asfinawati, et al., *Laporan Konferensi Nasional Bantuan Hukum I*, (s.l.: YLBHI, 2019), p. 22.

²⁸¹ W Interview with SAT, Commissioner of the National Commission on Violence Against Women on November 1, 2022.

challenge is the limited allocation of funds provided for educational activities of service institutions, which is limited to only three times per year.

“

"Another challenge is that, after the pandemic, we started using Zoom, and the internet connection became a hindrance. It often results in participants not receiving complete information as the signal gets interrupted. However, technology does help in expanding access to information. For instance, after providing discussions or sharing sessions, I distribute materials through Google Drive or ask participants to write in the chat the topics they need for the next discussion. (Interview with SAT, Komnas Perempuan Commissioner, November 1, 2022.)"

3. Perspectives of Legal Empowerment Practitioner

*Legal Empowerment Practitioner from LBH APIK Jakarta*²⁸²

In conducting legal empowerment, LBH APIK Jakarta has innovated through social media campaigns. LBH APIK understands that social media has become integral to people's lives. LBH APIK Jakarta actively utilizes various social media channels such as Facebook, Instagram, Twitter, and YouTube. Additionally, LBH APIK Jakarta has a podcast series called BIDUAN on Spotify, which is hosted by their paralegals. The podcast medium is chosen for education and campaigns because it can be easily accessed and listened to by people from anywhere.

LBH APIK Jakarta has even collaborated with META, the parent company of Facebook and Instagram, in order to combat gender-based violence. SM believes that this is an innovative initiative that has a positive impact not only on LBH APIK Jakarta, but also on society and the social media platforms themselves. The innovation also involves engaging community leaders and influencers in campaigns, legal education, and community empowerment. This is done to make the delivery process more interesting and diverse and to broaden perspectives:

²⁸² Interview with SM, legal empowerment practitioner from LBH APIK Jakarta on November 23, 2022.

“

...usually we do this for campaigns, legal education, or community empowerment by involving external individuals so that it's not just LBH APIK all the time. We want to avoid monotony and provide different perspectives by bringing in external speakers and addressing various issues. (Interview with SM, legal empowerment practitioner from LBH APIK Jakarta, on November 23, 2022.)

In terms of paralegal training, LBH APIK Jakarta also innovates to ensure the effectiveness of the training through varied training methods and programs. Regular surveys are conducted with paralegals to identify the thematic needs that should be addressed in legal empowerment activities. LBH APIK Jakarta also engages in reflection and evaluation together each year to provide the best services, especially in legal education and the implementation of legal aid programs. These initiatives involve receiving input from fellow service providers within the women's network, beneficiaries of LBH APIK, as well as field workers involved in providing legal assistance for PBH.

LBH APIK Jakarta also conducts monitoring and evaluation of their work to maximize and improve their services, as well as to meet diverse needs and ensure the effectiveness of legal education.

“

For example, we try to reach out to neighborhood associations (RT) or people whom we haven't been able to reach before, and then we learn from successful experiences in Community A or B that can be applied in other places. (Interview with SM, legal empowerment practitioner from LBH APIK Jakarta, on November 23, 2022.)

SM also believes that the process of learning between communities or among fellow community members is also crucial.

“

So there are times when we ask paralegal A or community A to join us in providing education to community B, and likewise, if young paralegals at campus A need education or updates on activities, we usually ask our fellow paralegals who have previously been involved to share their experiences or participate as well. (Interview with SM, legal empowerment practitioner from LBH APIK Jakarta on November 23, 2022.)

LBH APIK Jakarta also publishes an Annual Report called "Catatan Akhir Tahun" (Catahu) LBH APIK Jakarta, which can be accessed on their website. Catahu LBH APIK Jakarta documents the support and advocacy journey conducted by LBH APIK Jakarta each year. SM believes that the reflection in Annual Notes of LBH APIK Jakarta is a form of empowerment and a demonstration of transparency in their work and their accountability to the community, especially the beneficiaries of LBH APIK Jakarta.

“

So, there are many things we do, with the aim of why the annual report is important to us, to maintain transparency and also so that the community, as we are a public service organization, can understand the situation and conditions and provide support or input to LBH APIK Jakarta to ensure that the legal aid movement for women and children can continue to be carried out by us. (Interview with SM, legal empowerment practitioner from LBH APIK Jakarta, on November 23, 2022.)

In carrying out legal empowerment, various obstacles are sometimes encountered. For example, how the community perceives gender-based violence, such as sexual violence. SM found that not all community members are willing to accept awareness campaigns with such content, and there are difficulties in involving men in raising awareness about gender-based violence issues.

“

...The issue of gender-based violence, sexual violence, not all members of the community are willing to accept it because they perceive gender issues as solely pertaining to women. However, that is not the case, as everyone has a responsibility. Our challenge is how to involve men or engage community and religious leaders who are men in legal awareness campaigns related to gender-based violence or justice for women. That's the challenge we face. (Interview with SM, legal empowerment practitioner from LBH APIK Jakarta on November 23, 2022.)

In facing this challenge, SM explained that in the Jabodetabek area, emphasis is placed on paralegals who serve as community connectors (for example, individuals who have influence and credibility within their communities, such as the head of a neighborhood association). They are the ones who are most readily accepted by their respective communities because there is already a

sense of trust and familiarity as neighbors and acquaintances. Therefore, approaching the community through these community paralegals is more readily accepted.

As previously discussed, regarding legal education for women prisoners held in correctional facilities, SM also mentioned significant obstacles during the COVID-19 pandemic. SM explained that the Zoom application in correctional facilities is not a paid version, resulting in limitations and interruptions during online legal education sessions as the Zoom sessions end every 45 minutes. SM also discovered that women prisoners tend to refrain from seeking legal assistance due to the assumption that it will incur costs, and they often lack personal documents, particularly identification documents such as their ID card (KTP), which is not provided to them when they are detained in correctional facilities and is left with the police. As a result, paralegals often need to coordinate and retrieve these documents for women in detention.²⁸³

SM also explained that as an adaptation in supporting clients and as a form of legal empowerment, paralegals often bring relevant laws and booklets or leaflets, such as those related to the Law on the Elimination of Domestic Violence (PKDRT). However, some APH (actors in the law enforcement sector) tend to resist these efforts by paralegals. There is a perception that they feel "blamed" or "misunderstood" by paralegals acting as advocates for the victims.²⁸⁴ Additionally, SM also highlighted that paralegals understand that in certain situations, APH handling the victims may not have a comprehensive support system. For example, if there is a need for forensic psychologists but there is a lack of budget, paralegals can create space for collaboration and cooperation:

“

What expenses can be covered by the Police's PPA Unit (Unit Pelayanan Perempuan dan Anak/Women and Children Services Unit of Indonesia Police)? Is sharing the cost to help minimize the victim's expenses possible? (Result of an interview with SM, a legal empowerment practitioner from LBH APIK Jakarta on November 23, 2022.)

²⁸³ Validation Meeting Results with SM, legal empowerment practitioner from LBH APIK on June 9, 2023.

²⁸⁴ Validation Meeting Results with SM, legal empowerment practitioner from LBH APIK on June 9, 2023.

Legal Empowerment Practitioner from PEKKA²⁸⁵.

Similar to LBH APIK Jakarta, PEKKA also engages in legal empowerment, but the challenges faced are different. Considering that the entry point for legal empowerment carried out by PEKKA is economic empowerment, according to FVS, there is a perception within society and stakeholders that economic empowerment is still understood only as material assistance. Women's empowerment, on the other hand, is also perceived to be sufficient with the representation of women and men. In response to these challenges, PEKKA innovates its strategies to consistently break down such stigmas or perceptions. PEKKA's economic empowerment is focused on ensuring that women truly understand how to manage their available resources to achieve economic self-reliance and become agents of change in their communities.

Economic empowerment for women is often targeted towards those who face discrimination in terms of education and access to employment opportunities. In such situations, the losses experienced by women go beyond economic aspects; they have also lost the opportunity to live independently due to cultural or religious factors. In many cases, women find themselves at the lower end of the socioeconomic spectrum.²⁸⁶ Through economic empowerment, women gain a space to contribute to society through self-help group activities that provide opportunities for income generation. This, in turn, creates economic independence and well-being for women and their families.²⁸⁷

PEKKA consistently assures its members that each region has its own potential in terms of natural resources that can be managed for economic empowerment activities. One example of success is the "saving from scarcity" initiative in East Nusa Tenggara, which was one of the first groups developed by PEKKA.



So primarily, we work in rural areas, and the first group we developed was in East Nusa Tenggara (NTT). NTT is a poor and arid region, but it is also rich in natural resources, so it's actually a process of saving from scarcity. That inspired other villages that are relatively more fertile and

²⁸⁵ Interview with FVS, legal empowerment practitioner from PEKKA on November 22, 2022.

²⁸⁶ Dr. S. Dhanasekaran, "Women Empowerment Involvement in Self-Help Groups - An Analysis", AGPE The Royal Gondwana Research Journal of History, Science, Economic, Political, and Social Science, (Vol. 02 (1), July 2021 (112-118), p. 116

²⁸⁷ *Ibid.*

have more natural resources that can be managed. So we persist in that approach... What may be different is that we empower and negotiate with stakeholders not to provide assistance unless they have an understanding. For example, at the time, we spent a year forming groups and training them on financial management, understanding the principles of self-reliance, and emphasizing that the changes should be driven by them, not us. (Interview with FVS, a legal empowerment practitioner from PEKKA, on November 22, 2022).

In addition to economic empowerment, PEKKA's innovation lies in strengthening identity by recognizing the shared challenges faced by women heads of households. This serves as a starting point for mutual support and empowerment. Through the principle of self-reliance, women gain increased confidence and understanding of their rights, motivating them to strengthen one another. PEKKA instills the perspective that the process of empowering women heads of households goes beyond material gains. It also involves recognizing their existence, empowering them, and establishing an organization that fights for their identity.

Currently, PEKKA is pushing for innovation to transform the PEKKA union into a legal aid organization. FVS explains that PEKKA has conducted an identification process of the PEKKA union, considering factors such as the number and capacity of paralegals to determine if it is suitable to be developed into a legal aid organization. As part of this effort, PEKKA also monitors strong regions (districts) and communicates with the National Legal Aid Agency (BPHN) and the Ministry of Law and Human Rights

However, PEKKA faces several challenges in implementing legal empowerment for women. FVS categorizes these challenges into three sources of influential power within society: visible power (government and policies), hidden power (religious leaders and influential figures), and invisible power (societal mindsets).

The direction of the Marriage Law (Law No. 1 of 1974) serves as one of the policy-related obstacles faced by PEKKA. According to FVS, the Marriage Law has broad implications for other laws and shapes societal perspectives. For instance, the implementation of the Marriage Law responds to societal perceptions regarding the interpretation of religion, particularly concerning patriarchal perspectives on marital relationships. This also affects the enforcement of other laws, such as the Law on the Elimination of

Domestic Violence (PKDRT), which is related to the status of the household head as stipulated in the Marriage Law. As a result, women may be unable to make decisions autonomously.

FVS views that the daily challenges faced by women are also related to power dynamics. FVS divides them into two sources of power: visible power (policy) and hidden power (religious and cultural perspectives). In the context of marriage, culture places women in an unequal position. For example, when women seek divorce, they face social stigma that positions them as at fault. On the other hand, existing policies such as the Law on the Elimination of Domestic Violence (PKDRT) and the Child Protection Law indirectly confront perspectives on marital relationships formed within the Marriage Law. Although there has been progress in terms of administrative policies recognizing women as household heads, the perspective on marital relationships within the Marriage Law remains a challenge for women as household heads.

According to FVS, when looking at specific regions, there is a general assumption that in communities where communal practices, customs, and kinship are still prevalent, there is a higher likelihood of strong sociocultural stigma than in metropolitan areas with more individualistic societal characteristics. Based on PEKKA's experience in legal empowerment across 27 provinces, the strong kinship conditions and deeply patriarchal customary systems present their challenges for women.

Indeed, the lack of understanding among women about their rights poses a significant barrier to the effective implementation of legal empowerment for women. PEKKA's legal empowerment methods aim to empower women to become agents of change. However, this process requires women first to have a deep understanding of their rights. This understanding enables them to share information, build capacity, and utilize their skills to bring about change among others in their communities. By starting with self-awareness and knowledge, women can become catalysts for positive transformations:

“

"PEKKA itself has been around for over 20 years, so if we go to the field, we might hear things like 'Oh, my child has become part of the Army, even the Special Forces, and some have pursued higher education thanks to my involvement with PEKKA.' It's not just about the financial aspect of the savings and loans they utilize, but when a woman's mindset opens up, it will undoubtedly influence her children and

extended family. Legal empowerment is the main issue that PEKKA and women as agents of change need to address. (Interview with FVS, legal empowerment practitioner from the Women-Headed Household Empowerment Foundation, on November 22, 2022)

In essence, increasing understanding of individual rights is the goal of legal empowerment, which aims to empower community organizations in using legal and administrative procedures to uphold their rights. Furthermore, protecting the rights of beneficiaries of legal empowerment can be achieved through activities that provide skills, increased self-confidence, and the necessary knowledge to the beneficiaries of legal empowerment.²⁸⁸

Another obstacle also comes from the government. For example, not everyone working in government agencies understands gender mainstreaming. Sometimes, there is still a belief that helping women is sufficient by providing economic assistance, conducting training for only one or two days, or simply ensuring gender representation. As the authority with the power and budget to formulate policies, there should be a continuous improvement in gender perspective to ensure that biases are not present in their implementation:

“

I criticized the fact that in East Java, there was assistance provided to women who were online motorcycle taxi drivers. However, the underlying paradigm was to organize and empower them so they would not continue working as online motorcycle taxi drivers. They were given training for home-based industries, and women were pushed back into domesticated work. According to them, being an online motorcycle taxi driver is not a suitable job for women, and they believe that women working in that field are vulnerable to sexual violence. I believe that the government should focus on enforcing regulations and providing protection by negotiating with online motorcycle taxi companies to ensure the safety of female drivers. (Interview with FVS, a legal empowerment practitioner from PEKKA, on November 22, 2022)

PEKKA has implemented various innovations in its legal empowerment activities, both as a general approach and in response to the

²⁸⁸ Asian Development Bank dan The Asia Foundation, Legal Empowerment for Women and Disadvantaged Groups, (Mandaluyong City: Asian Development Bank, 2009), p. 18

challenges faced. One of these innovations is the support provided by the MAMPU program – the Australia-Indonesia Partnership for Gender Equality and Women's Empowerment. With this support, PEKKA has developed several legal empowerment approaches for women-headed households, including the KLIK PEKKA program, capacity building for leadership and women's organizations, establishment of savings and loan cooperatives, and the PEKKA Mart initiative to support small businesses.²⁸⁹

Through the MAMPU program, PEKKA has achieved several accomplishments regarding the number of individuals or groups empowered, increased issuance of civil registration documents, improved access to social protection programs, provision of consultation and legal assistance services, and policy reforms.²⁹⁰ For instance, PEKKA has formed over 600 grassroots women's groups of more than 800 women-headed households, producing 5,000 female cadres. Regarding access to social protection, the KLIK PEKKA program has served as a consultation platform for over 50,000 residents in PEKKA's working areas.

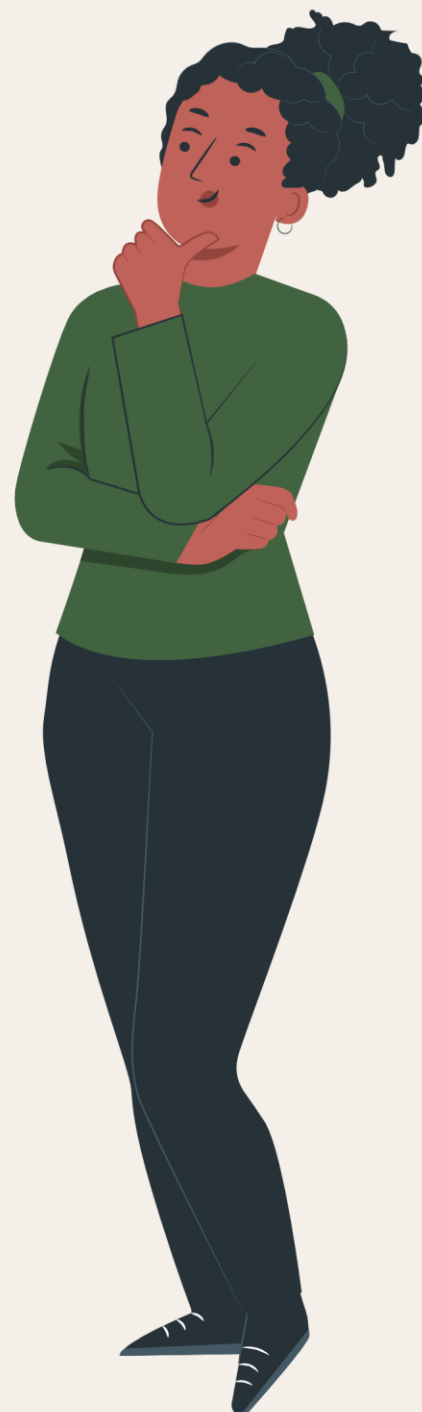
Regarding access to civil registration documents, PEKKA has successfully facilitated the issuance of 1,000 birth certificates in support of the national program for 100,000 Free Birth Certificates. They have also advocated for the integration of KLIK PEKKA services into the Integrated Service and Referral System (Sistem Layanan dan Rujukan Terpadu/SLRT) in 386 villages, aiming to improve data accuracy and access to social protection. Collaborative efforts to promote the KLIK PEKKA program have also been undertaken in four villages in Sukabumi, West Java, and five districts in Baubau City, Southeast Sulawesi, with the support of local government funding.

²⁸⁹ MAMPU, "Yayasan Pemberdayaan Perempuan Kepala Keluarga (PEKKA), Accessed on May 12, 2023, <http://mampu.bappenas.go.id/mitra-kami/pekka-yayasan-pemberdayaan-perempuan-kepala-keluarga/>

²⁹⁰ *Ibid.*

CHAPTER 4

LEGAL EMPOWERMENT
RELATED TO ACCESS TO
JUSTICE FOR WOMEN IN
CONFLICT WITH THE LAW
THROUGH A COMMUNITY
PERSPECTIVE



04

CHAPTER 4

LEGAL EMPOWERMENT RELATED TO ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW THROUGH A COMMUNITY PERSPECTIVE

The findings in this subsection will present the results of the Focus Group Discussions (FGD) conducted by the research team in Jakarta and Yogyakarta. The FGD held in Jakarta involved eight communities, including the Indonesian Legal Aid and Human Rights Association (Perhimpunan Bantuan Hukum dan Hak Asasi Indonesia/PBHI), Community Legal Aid (Lembaga Bantuan Hukum Masyarakat/LBHM), LBH APIK, Indonesian Disabled Women's Association (Himpunan Wanita Disabilitas Indonesia/HWDI), Indonesian Woman Coalition (Koalisi Perempuan Indonesia/KPI), Mahardhika Women, Indonesian Positive Women's Association (Ikatan Perempuan Positif Indonesia/IPPI), and Indonesian Positive Network (Jaringan Indonesia Positif/JIP).

Meanwhile, in Yogyakarta, there were seven communities involved, namely the LBH APIK Yogyakarta, PEKKA Bantul, LBH Yogyakarta, National Advocacy Network for Domestic Workers (Jaringan Advokasi Nasional Pekerja Rumah Tangga/JALA PRT), Indonesian Positive Women's Association (IPPI) Yogyakarta, Women, Disabled, and Children Advocacy Center (Sentra Advokasi Perempuan, Difabel dan Anak/SAPDA Yogyakarta), and Rifka Annisa Women's Crisis Center.

Before delving into the elaboration of the FGD results, this section will briefly discuss the roles of each participating institution, particularly the issues they focus on and the communities they empower:

Communities in Jakarta

As mentioned earlier, eight communities were involved in the FGD activities in Jakarta. However, this section will only elaborate on six institutions, as the other two are LBH Apik Jakarta, part of LBH APIK Indonesia, as discussed in the previous section, and IPPI, whose focus area is Yogyakarta.

1. PBHI

PBHI is a legal aid organization that extensively applies international human rights principles and norms.²⁹¹ Their legal assistance targets the general public, with a dedication to the development and defense of non-discriminatory and inclusive human rights for all individuals, regardless of

²⁹¹ Syamsuddin Radjab, et. al., *Modul Perkaderan PBHI* (s.l.: PBHI, 2009), p. 6

religion, language, ethnicity, gender, sexual orientation, race, social status, career, profession, as well as political and ideological orientation.²⁹²

PBHI focuses on three main issues: judicial system reform, access to justice, and the protection, improvement, and formation of human rights defenders.²⁹³ These issues are reflected in their implemented programs, including legal assistance and advocacy, education and training, legal and policy studies, research and documentation, publications, public discussions and campaigns, lobbying, and advocacy and network-building efforts.²⁹⁴

2. LBH Masyarakat

LBH Masyarakat is a legal aid organization with the general public as its primary target. They apply the appreciative inquiry approach, which assesses communities' potential and strengths.²⁹⁵ As a legal aid provider, LBH Masyarakat demonstrates a diverse and inclusive focus on various societal issues, including fair trials, the death penalty, health, narcotics, LGBTIQ rights, HIV/AIDS, mental health, and issues concerning children and women.²⁹⁶

3. HWDI

HWDI is an NGO (Non-Governmental Organization) that focuses on the welfare of women with disabilities. They work on various issues related to the well-being of women with disabilities. HWDI often educates the public on understanding and interacting with different types of disabilities through their campaign called "Cerita Inklusif tentang Disabilitas" (CINTABILITAS - Inclusive Stories about Disabilities).²⁹⁷ HWDI also runs a vocational training center called INCLUDIA, which aims to empower people with disabilities and enhance their skills for employment opportunities.²⁹⁸ HWDI also has a paralegal community that advocates for the rights of children and women with disabilities, recognizing their vulnerability to marginalization and violence due to their identities.

²⁹² PBHI, "Tentang PBHI," <https://pbhi.or.id/profil/>, accessed on 20 March 2023.

²⁹³ *Ibid.*

²⁹⁴ *Ibid.*

²⁹⁵ LBH Masyarakat, *Wajah Pemberdayaan Hukum Masyarakat* (Jakarta: LBH Masyarakat, 2010), p. 6.

²⁹⁶ LBH Masyarakat, "Tentang Kami," <https://lbhmasyarakat.org/tim-kami/>, accessed on 11 May 2023.

²⁹⁷ HWDI, "CINTABILITAS," <https://www.hwdi.org/cintabilitas>, accessed on 11 May 2023.

²⁹⁸ HWDI, "INCLUDIA," <https://www.hwdi.org/includia>, accessed on 11 May 2023.

4. Koalisi Perempuan Indonesia (KPI)

KPI is a women's organization that advocates for justice and democracy to promote the fulfillment of women's rights in various areas, including politics, economics, law, sexuality, reproduction, education, religion, social and cultural aspects, as well as the environment.²⁹⁹ The groups of interest that KPI focuses on in its work include:³⁰⁰

1. Indigenous women
2. Elderly women and senior citizens
3. Professional women
4. Women working in the informal sector
5. Urban poor women
6. Rural poor women
7. Youth, students, and scholars
8. Sex workers (Pedila)
9. Women workers
10. Widows, female-headed households, and single women
11. Marginalized girls
12. Women farmers
13. Coastal and fisherwomen
14. Homemakers
15. Lesbian, bisexual, and transgender women
16. Women with disabilities
17. Migrant women workers
18. Domestic workers

5. Perempuan Mahardhika

Perempuan Mahardhika is an organization that aims to advocate for women's rights to be free from all forms of discrimination and violence, including gender-based violence, and to achieve well-being and a dignified life. Their work in advocating for women's rights is based on four pillars: grassroots organizing, knowledge development, building and expanding networks and taking action.³⁰¹

Perempuan Mahardhika carries out activities and programs through collaborations with women's organizations, labor unions, and pro-democracy organizations. One of their initiatives is establishing the Feminist School program, which aims to create a network of young feminists who want to work together to create social change and strive to liberate women from various forms of oppression and discrimination.³⁰²

²⁹⁹ Koalisi Perempuan Indonesia, "Tentang," <https://www.koalisiperempuan.or.id/tentang/>, accessed on 12 May 2023

³⁰⁰ Koalisi Perempuan Indonesia, "Kelompok Kepentingan," <https://www.koalisiperempuan.or.id/tentang/kelompok-kepentingan/#>, accessed on 12 May 2023.

³⁰¹ Perempuan Mahardhika, "Tentang Kami," <https://mahardhika.org/tentang-kami/>, accessed on 12 May 2023.

³⁰² Perempuan Mahardhika, "Sekolah Feminis," <https://mahardhika.org/sekolah-feminis/>, accessed on 12 May 2023.

6. Jaringan Indonesia Positif - Jakarta (JIP Jakarta)

JIP (Jaringan Indonesia Positif) is a network that advocates for the support of People Living with HIV/AIDS (PLHIV) in Indonesia. JIP has several objectives, including:³⁰³

1. Advocating for and empowering people living with HIV regarding health, social, educational, and economic aspects towards well-being.
2. Engaging in collective advocacy on HIV-related issues.
3. Ensuring the availability of peer support systems for people living with HIV that are culturally appropriate and aligned with local wisdom.

Communities in Yogyakarta

FGD in Yogyakarta involves seven communities. Regarding the institutions LBH APIK Yogyakarta (which is a part of the Association of LBH APIK Indonesia) and PEKKA Bantul (which is a part of PEKKA), they have been reviewed in the previous chapter. Therefore, this chapter will only discuss the other five communities apart from those two.

1. Rifka Annisa Women's Crisis Center

Rifka Annisa, which means 'Women's Friend,' is a non-governmental organization committed to eliminating violence against women.³⁰⁴ Its existence is driven by deep concern over the patriarchal cultural tendencies that place women in a subordinate position to men.³⁰⁵ This has resulted in women being vulnerable to various forms of violence, including physical, psychological, economic, social, and sexual violence, such as harassment and rape.³⁰⁶ Therefore, the organization envisions creating a just and gender-equitable society that does not tolerate violence against women. They uphold principles of social justice, awareness and care, autonomy, good integrity, and the preservation of local wisdom in pursuit of their mission.³⁰⁷

2. Jaringan Nasional Advokasi Pekerja Rumah Tangga (JALA PRT)

The National Advocacy Network for Domestic Workers (JALA PRT) is a national advocacy network that was formed on July 11, 2004, and consists of 26 civil society organizations and individuals in Indonesia. The

³⁰³ Jaringan Indonesia Positif, "Sejarah - Visi, Misi, dan Tujuan", jip.or.id, accessed on 12 May 2023, <https://jip.or.id/sejarah- visi- misi- dan- tujuan/>

³⁰⁴ Rifka Annisa Women's Crisis Center, "Sejarah Rifka Annisa", rifka-annisa.org, accessed on 15 March 2023,

<https://www.rifka-annisa.org/id/2013-10-04-07-06-57/sejarah>.

³⁰⁵ *Id.*

³⁰⁶ *Id.*

³⁰⁷ Rifka Annisa Women's Crisis Center, "Visi Misi", rifka-annisa.org, accessed on 15 March 2023, <https://rifka-annisa.org/id/2013-10-04-07-06-57/visi-dan-misi>.

network focuses on the welfare of female Domestic Workers (PRT) and actively plays a role in addressing issues related to the protection of domestic workers.³⁰⁸ JALA PRT also advocates for the establishment of a system that protects the rights of domestic workers and promotes decent working conditions for them.

In this regard, JALA PRT endeavors to protect Domestic Workers (PRT) in Indonesia because they observe that the situation of domestic workers, particularly in Indonesia, often falls into the "3D" category: dark - meaning limited access, living in closed environments far from the outside world; dirty - involving rough working conditions and dirty environments; and dangerous - with no job security, working with hazardous equipment, and in unsafe environments.³⁰⁹

3. **Sentra Advokasi Perempuan, Difabel dan Anak (SAPDA)**

Sentra Advokasi Perempuan, Difabel, dan Anak (SAPDA) is a non-governmental organization (NGO) that aims to fulfill and protect the rights of women, people with disabilities, and children. They strive for justice, freedom, well-being, and equality based on human rights principles.³¹⁰ One of their objectives is to establish the "Rumah Cakap Bermartabat" (RCB) unit, which focuses on addressing violence against women with disabilities, children with disabilities, and women with children with disabilities. Through the RCB unit, SAPDA provides legal assistance, psychological support, and psychosocial support to those in need.³¹¹

4. **LBH Yogyakarta**

LBH Yogyakarta is a civil society organization with a vision and mission to shape the direction of political, economic, social, cultural, and political transformation with a gender-just approach based on people's movements. They aim to guarantee and protect the people's fulfillment of economic, social, and cultural rights and fundamental human

³⁰⁸ "Deskripsi JALA PRT", *carilayanan.com*, accessed on 12 May 2023., <https://carilayanan.com/listing/jala-prt/>.

³⁰⁹ As stated on <http://repository.umy.ac.id/bitstream/handle/123456789/29526/5.%20BAB%20I.pdf?sequence=5&isAllowed=y>.

³¹⁰ Sentra Advokasi Perempuan, Difabel dan Anak, "Profil SAPDA", *sapdajogja.org*, accessed on 15 March 2023, <https://sapdajogja.org/2016/01/profil-sapda/>.

³¹¹ "Profil RCB SAPDA", *sapdajogja.org*, 8 March 2022, accessed on 12 May 2023, <https://sapdajogja.org/2022/03/profil-rcb-sapda/>.

freedoms.³¹² Officially established on September 6, 1981, LBH Yogyakarta has gained the community's trust due to its involvement in handling various cases, ranging from human rights violations to criminal, civil, political, and labor-related issues, and more.³¹³ They have introduced structural legal aid to advocate for justice for oppressed and economically disadvantaged communities. The legal assistance they provide goes beyond relying solely on positive law provisions but also incorporating the values of justice and norms that are relevant and prevailing in society.

5. Ikatan Perempuan Positif Indonesia – Yogyakarta (IPPI Yogyakarta)

Ikatan Perempuan Positif Indonesia (IPPI) Yogyakarta is an association of women living with HIV and those affected by HIV who reside in the Special Region of Yogyakarta, and it was founded on August 10, 2010. IPPI Yogyakarta was established based on the needs of women living with HIV and those affected by HIV to have their rights as citizens fulfilled, considering the multitude of issues faced by women living with HIV or affected by HIV.³¹⁴

The vision of IPPI Yogyakarta is "the realization of empowered women living with HIV and those affected, with a high quality of life, and equality with other Indonesian citizens in the fields of health, social, education, and economy, especially in the DIY region."³¹⁵ The objectives of establishing IPPI Yogyakarta are as follows:³¹⁶

1. Empowering women living with HIV and those affected in the aspects of health, social, education, and economy towards well-being.
2. Improving the quality of life and providing support to women living with HIV and other affected individuals to become more empowered and self-developed.
3. Enabling women living with HIV and those affected to play an active and meaningful role in HIV and AIDS prevention and management efforts.
4. Collaboratively advocating for issues related to women living with HIV and those affected.

³¹² Yogi Zul Fadhlī, *et.al*, *Membunuh Demokrasi: Catatan Akhir Tahun 2020 LBH Yogyakarta*, (Yogyakarta: Lembaga Bantuan Hukum (LBH) Yogyakarta, 2021), p. 9, accessed on 12 May 2023, <https://lbhyogyakarta.org/2021/02/18/catatan-akhir-tahun-catahu-2020-lbh-yogyakarta/>.

³¹³ *Id.*

³¹⁴ "Ikatan Perempuan Positif Indonesia di Yogyakarta", *ippi.or.id*, accessed on 12 May 2023, <https://www.ippi.or.id/provinsi/di-yogyakarta/>.

³¹⁵ *Id.*

³¹⁶ *Id.*

The Role of Communities in Jakarta and Yogyakarta in Implementing Legal Empowerment to Ensure Access to Justice for Women in Conflict With The Law

In this subsection, we will review communities based on whether they play a role in legal empowerment in its entirety or focus on one of the three pillars of legal empowerment: knowing the law (know law), using the law (use law), and shaping the law (shape law) as outlined in "Making The Law Work for The People," a guide to legal empowerment and inclusive innovation.³¹⁷

1. Know law

In essence, knowing the law is not only about ensuring that every individual and community is aware of their rights but also about understanding how the justice system works and how both communities and individuals can uphold their rights and access remedies for legal issues they encounter.

2. Use law

Use law refers to how law can be applied or utilized. In legal empowerment, this concept can also be understood as the ability to use the law by paralegals, advocates, lawyers, and other parties (such as victim's assistants) or even individuals facing injustice and legal issues to help themselves and their communities. It involves employing legal knowledge and mechanisms to seek justice and advocate for their rights effectively.

3. Shape law

Shaping the law or influencing legal frameworks involves legal empowerment in the realm of systemic change. For example, through monitoring and evaluation, building evidence to alter discriminatory and harmful policies and regulations, or even proposing new policies and regulations that benefit the protection of vulnerable groups in society. This can be achieved by securing individual and community rights through strategic litigation and advocacy.

In this subsection, the discussion will focus on the pillars of knowing the law and using the law. Meanwhile, the pillar of shaping the law (shape law) will be the main topic of discussion in Chapter 6.

³¹⁷ Open Society Foundations, *Making The Law Work for People*, p. 4.

Communities in Jakarta

As legal aid providers, PBHI, LBH Masyarakat, and LBH APIK Jakarta are legal aid institutions that have used the law through litigation and non-litigation means. This is demonstrated through the legal assistance they offer to the public, as done by PBHI and LBH Masyarakat. Specifically, LBH APIK Jakarta provides legal aid and assistance targeted at women, especially those classified as PBH.

Indeed, as legal aid institutions, one of their routine activities is legal socialization or education on laws and regulations to assist those affected. In this regard, communities and individuals can acquire legal knowledge (knowing the law), enabling them to empower themselves in advocating for their rights when facing legal issues.

Legal counseling manifests the pillar of knowing the law, primarily through education. It increases legal awareness for individuals and communities so that they can identify legal issues and address them through legal processes.³¹⁸ Legal awareness and education play a significant role in society, particularly in upholding rights and legal obligations.

As for the organizations that are part of OMS/CSOs (Organisasi Masyarakat Sipil or Civil Society Organizations), not all of them implement all the pillars of legal empowerment. However, at the very least, OMS such as HWDI, IPPI Jakarta, KPI, and Perempuan Mahardhika carry out legal empowerment through the pillar of knowing the law.

HWDI, as a Civil Society Organization focusing on women with disabilities, has utilized the pillars of knowing the law and using the law. HWDI actively conducts regular socialization and counseling sessions for the community of people with disabilities, particularly intending to raise awareness of their rights as a vulnerable group often experiencing discrimination and violence based on their identities as women and individuals with disabilities. These counseling efforts also aim to empower women with disabilities to report perpetrators and seek the restoration of their rights through legal channels, especially in cases where their rights are violated, particularly within the realm of criminal offenses. As a result, the series of socialization and counseling activities conducted by HWDI for their community falls under the implementation of the know law pillar.

³¹⁸ Madina Kozhukhova and Miras Zhiyenbayev, "Conceptualizing Legal Culture and Legal Awareness: Meaning and Structural Components," *SHS Web of Conferences* 55 (2018), p. 4.

Besides implementing the "know law" pillar, HWDI has also utilized the "use law" pillar by establishing the SETARA paralegal group. Ms. MH, as a representative of HWDI in the FGD, explained that HWDI has formed a community paralegal group called SETARA to assist women with disabilities in feeling more confident when reporting the violence they experience. By creating the SETARA paralegal group, HWDI has equipped its members with legal knowledge and how the law can aid the community of women with disabilities.

IPPI Jakarta, as a Civil Society Organization focusing on women living with HIV (ODHA), has indeed implemented the "know the law" pillar. SA, as a representative of IPPI Jakarta, explained that their legal empowerment activities involve networking with various communities, especially those related to HIV issues, P2TP2A (Integrated Service Center for Women and Children), and the National Commission on Violence Against Women (Komnas Perempuan). IPPI's main focus in legal empowerment is on women living with HIV who encounter legal issues. Apart from networking, IPPI Jakarta also supports and assists women with HIV in reporting legal problems to the police.

JIP (Jaringan Indonesia Positif or Indonesia Positive Network) is a Civil Society Organization actively involved in legal and health issues concerning people living with HIV/AIDS (ODHA) in Indonesia. They have implemented the "know law" and "use law" pillars. Under the "no law" pillar, JIP carries out legal empowerment through socialization, advocating policy reforms, and providing legal consultations for the ODHA community. NI, as a representative of JIP, also explained that they offer legal consultations through community paralegals for ODHA and provide an understanding of their fundamental rights and how to use existing laws to address the issues they face.

Indeed, JIP has also established a community paralegal group to support and assist ODHA facing legal issues, thus identifying the "use law" pillar. NI further elaborated that during their socialization and legal consultations, JIP introduces the intersection between issues of ODHA and vulnerability to violence to raise awareness about violence-related services that understand HIV-related issues. This approach aims to provide appropriate solutions to the challenges faced by ODHA. By doing so, JIP effectively implements both the "know law" and "use law" pillars to empower and assist the ODHA community in Indonesia.

KPI is a Civil Society Organization actively involved in women's issues in Indonesia. They have also implemented the "know law" pillar. EE, as a representative of KPI, explained that they undertake several activities to empower women through legal means, including strengthening the capacity

of paralegals, conducting community socialization, engaging in advocacy, and collaborating with the government, non-governmental organizations, and communities. The socialization activities conducted by KPI go beyond merely informing the public about the law; they also aim to foster an understanding of how to empower themselves by utilizing the available legal instruments. In doing so, KPI effectively implements the "know law" pillar to empower women and enable them to use the existing legal resources for their benefit.

Perempuan Mahardhika, as a Civil Society Organization actively engaged in women labor issues, has indeed implemented the "know law" pillar through various legal empowerment activities. These activities include conducting socialization sessions, establishing paralegal support, and providing legal assistance for women. DF, as a representative of Perempuan Mahardhika, emphasized the importance of increasing legal awareness through socialization, particularly for women laborers who are vulnerable to experiencing sexual violence and domestic violence (KDRT). DF stated that legal socialization empowers women laborers by making them aware of their rights and providing them with strength and confidence to address their legal issues. By conducting these activities, Perempuan Mahardhika effectively implements the "know law" pillar to empower women laborers and equip them with the knowledge to navigate and address legal challenges they may encounter.

Communities in Yogyakarta

In this research, communities play a role in legal empowerment to strengthen individuals and community members in advocating for their rights and encouraging them to pursue justice independently. Based on the results of Focus Group Discussions (FGD) with several communities in Yogyakarta, they integrately conduct legal empowerment both for their paralegal community members and the general public.

In the context of legal empowerment, LBH APIK Yogyakarta envisions the strengthening of the women's movement as part of the civil society movement in achieving gender-just legal empowerment. To realize this vision, one of LBH APIK Yogyakarta's missions is the empowerment of legal resources within the community.³¹⁹ Based on the researcher's observations, LBH APIK Yogyakarta approaches legal empowerment by building individual and community actions to "know the law" through legal socialization or counseling and

³¹⁹ Asosiasi LBH APIK Indonesia, "Tentang Kami."

paralegal training, especially concerning the rights of individuals and communities, the ways to assert their rights using the law, and accessing remedies. Additionally, LBH APIK Yogyakarta's empowerment efforts also focus on enabling individuals and communities to "use the law" through paralegal training and advocacy efforts, particularly in cases related to gender-based violence. In this regard, LBH APIK Yogyakarta provides legal assistance and support to individuals and groups, especially women and children, to address disputes and seek resolution.

In line with its vision and mission, Rifka Annisa Women's Crisis Center also organizes women and communities to eliminate violence against women and create a gender-equal society.³²⁰ They achieve this by empowering women who are victims of violence, including children, the elderly, and individuals with disabilities, through awareness-raising and community involvement via critical education and networking reinforcement. Similar to LBH APIK Yogyakarta, Rifka Annisa's approach to empowerment involves building individual and community actions to "know the law" and "use the law." The "know the law" aspect is reflected in Rifka Annisa's activities such as legal consultations and paralegal training. On the other hand, the "use the law" aspect is demonstrated by Rifka Annisa's efforts to provide gender-based support to women and children, including women with disabilities and those living with HIV/AIDS.

SAPDA (Sarana Advokasi Perempuan Difabel dan Anak) also engages in empowerment, education, and advocacy on issues concerning women, persons with disabilities, and children within the wider community.³²¹ In this regard, they employ the "know the law" approach, for instance, through paralegal training. By equipping paralegals with legal knowledge, they become capable of "using the law" (use the law) to advance their interests and rights, including advocating for the rights of persons with disabilities, particularly women with disabilities.

As an organization focused on the welfare of domestic workers (Perempuan Pekerja Rumah Tangga - PRT), JALA PRT also strives to strengthen PRT organizations by organizing and developing the capacity of domestic workers.³²² The approach used by JALA PRT reflects a form of women

³²⁰ Rifka Annisa Women's Crisis Center, "Visi Misi", *rifka-annisa.org*, accessed on 15 March 2023, <https://rifka-annisa.org/id/2013-10-04-07-06-57/visi-dan-misi>.

³²¹ Sentra Advokasi Perempuan, Difabel dan Anak, "Profil SAPDA", *sapdajogja.org*, accessed on 15 March 2023, <https://sapdajogja.org/2016/01/profil-sapda/>.

³²² Chapter II "Dinamika JALA PRT dan Afiliasi Organisasi JALA PRT", *repository.umy.ac.id*, accessed on 15 March 2023,

empowerment among domestic workers aimed at "knowing the law" (know the law) and "using the law" (use the law). JALA PRT also collaborates with other communities knowledgeable about the law to participate in teaching at the Domestic Worker School (Sekolah PRT). Through this, JALA PRT's community becomes more capable of advocating for stronger protection for domestic workers. This includes issues related to wages, health insurance, employment guarantees, protection from violence, and other relevant matters.

As an organization focused on women living with HIV, IPPI Yogyakarta also engages in empowerment efforts to build the knowledge of individuals and communities through the "know the law" approach. This is achieved by strengthening the capacity of women impacted by HIV to empower themselves in the areas of health, social well-being, education, law, and economics through advocacy, resource mobilization, and skill-building initiatives to achieve overall well-being.³²³ IPPI Yogyakarta's work includes addressing issues of violence against women living with HIV and preventing mother-to-child transmission of HIV. They provide psychosocial support to parents of children living with HIV as well.³²⁴ Additionally, IPPI Yogyakarta actively promotes economic empowerment and mobilizes the community by advocating for feminist leadership perspectives and the rights to sexual and reproductive health.³²⁵

Within the context of legal empowerment, PEKKA Bantul also focuses on empowering women who are heads of households.³²⁶ It is important to emphasize that PEKKA Bantul carries out empowerment with an approach aimed at enabling the community to understand the law (know the law) through paralegal training activities and public education. PEKKA Bantul also adopts the "use the law" approach, which is evident in their efforts to handle cases, especially those related to domestic violence, sexual violence, divorce, and legal identity issues (such as marriage certificates, national identity cards - KTP, birth certificates, etc.).

Unlike other communities mentioned earlier that have specific focuses, LBH Yogyakarta is an organization that addresses diverse issues. LBH Yogyakarta, in this regard, empowers individuals and communities with an approach that

<http://repository.umi.ac.id/bitstream/handle/123456789/29526/6.%20BAB%20II.pdf?sequence=6&isAllowed=y>.

³²³ Ikatan Perempuan Positif Indonesia, "Visi Misi", *ippi.or.id*, accessed on 15 March 2023, https://www.ippi.or.id/tentang_kami/.

³²⁴ *Id.*

³²⁵ *Id.*

³²⁶ Pemberdayaan Perempuan Kepala Keluarga, "Pemberdayaan hukum", *pekka.or.id*, accessed on 15 March 2023, <https://pekka.or.id/kerangka-pemberdayaan/#>.

aims to make them knowledgeable about the law (know the law). This is achieved through legal consultations, legal socialization, critical legal education for the communities they assist, paralegal training, and networking with other communities to share experiences in handling cases. LBH Yogyakarta also manifests the "use the law" approach in their empowerment efforts when they receive complaints of various types of cases and provide legal assistance for structural cases.

The Activities, Methods, And Strategies Employed By Communities In Jakarta And Yogyakarta To Carry Out Legal Empowerment For Ensuring Access To Justice For PBH

Communities in Jakarta

The institutions participating in the FGD in Jakarta also presented the forms of legal empowerment activities or methods they carry out. In general, the findings from the FGD in Jakarta indicate that the forms of activities, methods, and/or strategies applied by the communities in Jakarta include networking with fellow paralegals, capacity-building through training for paralegals, legal socialization or counseling for the community, and legal assistance provided through consultations and support.

The representative from PBHI shared their experience that as paralegals, they often encounter situations where communities lack understanding of the law and what constitutes legal violations:

“

I feel that socialization is necessary, you know, as the first step. Why? Because the reality out there is that many people really don't understand the basics of the law or what constitutes a legal violation. (Result from FGD with PW, a representative from PBHI on February 2, 2023)

The representative from LBH Masyarakat also shared a story highlighting the importance of community paralegals. For example, they may have shared an experience with the community of sex workers in Cijantung, East Jakarta:

“

We still often visit Cijantung, even until today, going there in the evenings to gather at their (sex workers) rented rooms, around twenty to thirty of them, just to have casual conversations. We discuss the issues they face and how they deal with the law. Who are the opponents (parties they often conflict with)? (Result from FGD with YO, a representative from LBH Masyarakat on February 2, 2023)

When the sex worker community gains an understanding of the law through legal education provided by LBH Masyarakat, they become empowered and capable of advocating for themselves:

“

We always refer to them as 'advocates' for their community. Please do not misunderstand when we train them as legal aid providers; our goal is for them (sex workers) to understand how to advocate for themselves if they get caught in a legal situation. (Result from FGD with YO, a representative from LBH Masyarakat on February 2, 2023)

The representative from LBH Masyarakat also shared a story that during the COVID-19 pandemic, there were dozens of sex workers who were arrested for violating the large-scale social restrictions (PSBB) by being on the streets at night. This illustrates the importance of having community paralegals, especially sex workers themselves, as advocates for their peers. This vulnerability is due to their profession being perceived as disrupting public order:

“

What is the legal basis for my friend's detention? When will my friend be released? So, training them (community paralegals) to understand what they are doing is not going in the wrong direction. (Result from FGD with YO, a representative from LBH Masyarakat on February 2, 2023)

In addition to the sex worker community, LBH Masyarakat also reaches out to other vulnerable communities, such as children working as parking attendants, to conduct the Legal Clinic on Wheels (Klinik Hukum Berjalan - KHB) for legal education and awareness:

“

...the latest example we did was in Tanjung Priok. We found a community living under the bridge, where the majority of them work as parking attendants, but they are mostly children and often involved in drug use. (Result from FGD with YO, a representative from LBH Masyarakat on February 2, 2023)

Based on the information shared by the speakers in the FGD conducted in Jakarta, LBH Masyarakat's legal empowerment efforts are divided into several methods, activities, and strategies. The methods they employ consist of two main approaches: paralegal training and the Mobile Legal Clinic (Klinik Hukum Berjalan - KHB), which involves reaching out to various vulnerable

communities. Additionally, they conduct 'kongkow paralegal' (Paralegal Hangout) sessions, where paralegals and their communities come together each month to exchange perspectives and ideas.

Regarding activities, LBH Masyarakat carries out three types of activities. First, they provide legal consultations to the community based on LBH Masyarakat's focus issues. Second, they conduct legal education and awareness campaigns for communities. And third, they offer legal assistance outside the court process. In terms of legal empowerment strategies, LBH Masyarakat utilizes two advocacy approaches. The first strategy involves involving paralegals in advocacy efforts to ensure that the success of an advocacy campaign is not solely dependent on LBH Masyarakat's work, lawyers, or research institutions, but also on empowering paralegals to contribute to the success of the advocacy. The second strategy employed by LBH Masyarakat is conducting research to gain insights into the distribution of cases that occur.

4 Types of Legal Aids From LBH Masyarakat³²⁷

1. **Lawyering:** Providing comprehensive legal representation both inside and outside the court.
2. **Shadow Lawyer:** Providing shadow assistance, especially outside the court, aimed at empowering community groups, or families seeking legal aid.
3. **Consultation:** Offering legal advice to those seeking legal aid without direct involvement in the ongoing legal process.
4. **Referral:** Offering suggestions to those seeking legal aid to consult further or directly meet with parties or institutions with greater authority in addressing the issues they are facing.

Similar to PBHI and LBH Masyarakat, LBH APIK Jakarta also conducts legal socialization or education. A representative from LBH APIK Jakarta mentioned that they have conducted legal socialization related to the Law on the Elimination of Domestic Violence (UU PKDRT) to communities and students:

“

Even until now, despite the Law on the Elimination of Domestic Violence (UU PKDRT) being enacted in 2004, sometimes the public still doesn't fully

³²⁷ LBH Masyarakat, *Laporan Tahunan 2022 Lembaga Bantuan Hukum Masyarakat* (Jakarta: LBH Masyarakat, 2022), p. 6.

understand its various forms. What is widely known by the public is mainly physical violence. However, there are many other forms, such as sexual violence and economic violence, which are often overlooked and not well understood. (Result from FGD with SN, a representative from LBH APIK Jakarta, December 16, 2022)

LBH APIK Jakarta also emphasizes the importance of providing accurate legal information and information related to the rights of female victims to their clients, which in Indonesian are referred as "mitra" or partners (a term frequently used by LBH APIK Jakarta to refer to their 'clients'). LBH APIK chooses this term to create a closer bond with their clients during legal consultations about the issues they are facing.:

“
Furthermore, we often focus on ensuring that our partners understand the rights of victims when they experience domestic violence, and if they want to file for divorce from their husbands. It is crucial for us to strengthen their understanding of the rights they can access or obtain as victims. (Result from FGD with SN, a representative from LBH APIK Jakarta, December 16, 2022)

LBH APIK Jakarta also encourages their partners (clients) to empower themselves based on the information provided by their assistants:

“
...not only continuously providing direct assistance, sometimes we just give them legal information and empower the partners to proceed on their own. In common terms, it's like being a ghost lawyer. (Result from FGD with SN, a representative from LBH APIK Jakarta, February 2, 2023)

In the context of resolving cases through non-litigation methods, the LBH APIK Jakarta representative explains that sometimes victims can actually obtain legal certainty through non-litigation processes. For instance, in cases of dating violence, victims tend to choose faster routes that can directly impact the perpetrator, such as mediation or summoning. When the victim's goal is merely to warn the perpetrator, non-litigation methods become a more effective choice and become a target for socialization to anticipate obstacles and challenges that may arise in the case resolution process.

The paralegal representing HWDI explained that in terms of legal empowerment, HWDI has formed a community of paralegals. In establishing this community, HWDI has also built partnerships with LBH Jakarta, Dinas

PPAPP (Department of Women's Empowerment and Child Protection), and P2TP2A (Integrated Service Center for Women and Children). Additionally, HWDI has entered into a Memorandum of Understanding (MoU) with the Indonesian National Police, particularly in handling cases involving persons with disabilities.

According to the representative from HWDI, who is a woman with physical disabilities and also works as a paralegal, there is a need for specific community paralegals catering to four types of disabilities: physical disabilities, intellectual disabilities, mental disabilities, and sensory disabilities:

“

Thus, the needs are very different. The four types of disabilities - physical disabilities, sensory disabilities such as deaf and blind, intellectual disabilities, and mental disabilities - each have their own unique characteristics. So, I cannot provide assistance to a friend with intellectual disabilities, for example. (Result of FGD with MH, representative from HWDI, on February 2, 2023)

Paralegal SETARA concept by HWDI

HWDI has established paralegal SETARA, which refers to community paralegals who themselves are persons with disabilities. This approach ensures that individuals with disabilities who seek legal consultations or assistance feel more comfortable and understood, as they are dealing with someone who shares similar experiences and conditions.

As an HWDI paralegal, the speaker emphasizes the importance of courage and feeling safe for children and women with disabilities to report the violence they experience. Therefore, the presence of SETARA paralegals becomes crucial:

“

So, the priority is to encourage them to report first, and then we guide them accordingly. (Results of FGD with MH, representative from HWDI on February 2, 2023)

Furthermore, KPI emphasizes the importance of empowering the community by providing them with legal knowledge related to their rights and how to use the law effectively. KPI achieves this by conducting extensive socialization activities directly to the community and also through online platforms as a new method to expand the reach of KPI's socialization efforts:

“

This [socialization] is what I believe is crucial—how to raise awareness among the community so that they become legally aware and empowered on their own... so that individuals can advocate for themselves without relying solely on existing institutions. (FGD findings with EE, representative from KPI, Jakarta on February 2, 2023)

EE also explained that KPI conducts paralegal training in collaboration with non-governmental organizations, communities, and the government. According to her, strengthening the capacity of paralegals cannot be achieved solely through providing training; instead, it requires cooperation between institutions, such as working with LBH APIK and other organizations to provide paralegal training to KPI members in all areas, including at the village level:

“

Because our members are present in what we call 'Balai Perempuan' or BP, and these BPs are at the village level. So we provide training to communities down to the village level. Our target includes various interest groups, for example, we are currently focusing on strengthening youth groups and student organizations. We are preparing the future generations to take over from us because we cannot be here forever; time keeps moving forward. We are preparing these young groups to be aware and knowledgeable. (FGD results with EE, representative of KPI, Jakarta, February 2nd, 2023)

KPI itself does not provide legal assistance. Any legal assistance needed will be referred to legal aid organizations, such as LBH APIK in Jakarta or other regions. Another form of collaboration between KPI and LBH APIK is the capacity building of paralegals through training provided by LBH APIK to KPI members across all regions. The provision of paralegal training demonstrates that legal empowerment is also carried out among non-state actors, aiming to support and strengthen each other and the communities they serve, especially in their empowerment through organizational efforts.

Regarding Perempuan Mahardhika, legal empowerment is carried out through activities that increase legal awareness among the community, provide assistance and support, and offer legal aid to those seeking justice. For instance, in cases of domestic violence, Perempuan Mahardhika provides psychological support to the victims through psychological services while also empowering and building their confidence to report the incidents they have experienced.

In addition, Perempuan Mahardhika is equipped with legal aid resources and paralegal capacity to assist women in addressing the issues they face:

“

For providing legal aid, Perempuan Mahardhika conducts educational programs to raise awareness among women about their rights under the law. We also establish paralegal teams to offer advocacy for the issues they are facing. (FGD findings with DF, representative of Perempuan Mahardhika, Jakarta, February 2, 2023)

Perempuan Mahardhika also conducts socialization on the implementation of the Law on the Elimination of Domestic Violence (PKDRT) to raise legal awareness. They acknowledge that in cases of domestic violence and sexual violence, even when the cases have reached the judicial process, there is a tendency for women to blame themselves and have a tendency to return to abusive relationships. This indicates that victims require psychological support. Therefore, alongside the legal awareness campaign, Perempuan Mahardhika also provides psychological support services and establishes paralegals to advocate for the issues they are facing.

JIP, in addressing the issue of HIV, conducts socialization to stakeholders from various institutions such as the Health Department, Social Services, DP3AK, PPAP, and various communities. The main objective is to introduce the issue of HIV to institutions that may not be familiar with it. Additionally, the socialization efforts aim to empower individuals living with HIV:

“

We also try to strengthen our community members, urging them not to be afraid, ashamed, or worried about revealing their HIV status. We reassure them that if they come to us for help, we will support them, and we introduce them to services that are friendly and understanding towards people living with HIV, such as LBH APIK. We also investigate the sensitivity of government-provided services towards individuals with HIV. It's important not to push forward without ensuring that they are ready to handle legal situations faced by women living with HIV. (Results of FGD with NI, representative of JIP, on December 16, 2022)

JIP utilizes networking methods and establishes community paralegals comprising individuals from the LGBT community and those living with HIV in seven provinces and thirteen cities across Indonesia. Representatives from IPPI further explain that IPPI also employs networking methods with JIP,

P2TP2A, Komnas Perempuan, and P3 in supporting women with HIV to file reports with the relevant authorities for handling their cases, such as the Police and P2TP2A.

JIP utilizes various activities in legal empowerment concerning HIV issues. One of these activities is conducting socialization to introduce HIV-related matters to the community and other relevant parties. JIP recognizes that HIV issues intersect between the legal and health fields. Therefore, individuals from the health sector also need to be equipped with knowledge and sensitivity in handling HIV victims who experience violence or have legal problems. This sensitivity is essential to assess the needs of the victims, which may not always involve litigation but can also include counseling and other forms of support.

“

We often hold meetings and invite all stakeholders from various departments such as the Health Department, Social Services, DP3AK (Dinas Pemberdayaan Perempuan, Perlindungan Anak dan Kependudukan/Department of Women's Empowerment, Child Protection and Population), and PPAPP (Dinas Pemberdayaan, Perlindungan Anak dan Pengendalian Penduduk/Department of Empowerment, Child Protection and Population Control). We also invite community members. What's the purpose? Besides introducing HIV issues to these departments, which may not have previously been involved with HIV-related matters, we also want to hear from those who 'integrate' HIV issues with violence-related services. We have conducted several direct consultations with public health services as well. (Results of FGD with NI, representative of JIP on December 16, 2022)

Another activity conducted by JIP is providing legal consultations for communities and PLHIV (People Living with HIV). Additionally, JIP engages in policy reform efforts by creating policy briefs to advocate for the establishment of relevant policies. For instance, policies that address the needs for medication among PLHIV:

“

We also produce a product called policy brief. So, based on the gathered information, we identify situations that need to be addressed with policy makers. For instance, if the issue is related to health, we usually create a policy brief for the Ministry of Health to address a particular situation. (Result of FGD with NI, representative of JIP, on December 16, 2022.)

Communities in Yogyakarta

During the FGD involving various communities in Yogyakarta, they presented various forms of activities undertaken as efforts for legal empowerment. For instance, legal education or legal awareness campaigns aimed to disseminate information and understanding of legal norms and prevailing laws to foster legal consciousness among the public and promote a culture of compliance with legal norms and regulations.³²⁸ Additionally, legal empowerment also involved legal consultations, which provide legal advice, explanations, information, or guidance to members of the community facing legal issues, to help them resolve their problems in accordance with applicable laws and regulations.³²⁹

Communities involved in legal empowerment activities, such as legal education and legal consultations, are exemplified by LBH APIK Yogyakarta. KD, a representative of LBH APIK, explains that they have an ongoing program with the Ministry of Law and Human Rights of the Republic of Indonesia (Kemenkumham) that encompasses legal empowerment, legal education or legal awareness campaigns, and legal consultations. KD stated the following:

“

So, almost every month, we conduct legal education or legal awareness campaigns and legal empowerment activities. Legal empowerment aims to target community figures such as the village head and elderly members of the community. Specifically, in rural areas, we are currently focusing on Sleman because we have a program for the elderly in Sleman. (Results of FGD with KD, a representative of LBH APIK Yogyakarta on February 16, 2023)

The legal empowerment strategy applied by LBH APIK, which involves engaging community leaders as the subjects of empowerment, aims to enable these community figures to take action and impact cases of violence that occur in their areas, particularly in neighborhoods (RT/RW). This strategy used by LBH APIK Yogyakarta aligns with the experiences of legal

³²⁸ Alih Usman, "Komunikasi Dialogis Penyuluhan Hukum Bagian Satu", *bpsdm.kemenkumham.go.id*, 7 June 2022, accessed on 11 May 2023, <https://bpsdm.kemenkumham.go.id/informasi-publik/publikasi/pojok-penyuluhan-hukum/komunikasi-dialogis-penyuluhan-hukum-bagian-satu>.

³²⁹ Alih Usman, "Konsultasi Hukum dan Bantuan Hukum", *bpsdm.kemenkumham.go.id*, 7 June 2022, accessed on 11 May 2023, <https://bpsdm.kemenkumham.go.id/informasi-publik/publikasi/pojok-penyuluhan-hukum/konsultasi-hukum-dan-bantuan-hukum#:~:text=Konsultasi%20Hukum%20adalah%20pelayanan%20jasa,peraturan%20perundang%20undangan%20yang%20berlaku>.

empowerment by Fundacion CONSTRUIR³³⁰ in Bolivia, where the beneficiaries of empowerment are regarded as agents of change in their environment and communities, especially in the context of eliminating all forms of violence against women.³³¹

The activities of legal socialization and legal education conducted by LBH APIK Yogyakarta are targeted at communities with limited knowledge of the law, especially concerning domestic violence (KDRT). Furthermore, LBH APIK's strategy to expand empowerment involves engaging paralegals. This involvement enables paralegals to handle cases, particularly those related to domestic violence victims in their respective areas. For example, in the Lansia (Elderly) Program in Tridadi and Pandowoharjo villages, LBH APIK engages paralegals to assist elderly individuals in obtaining ID cards (KTP) and provides support and monitoring for elderly individuals with health issues, including those with mental health issues (ODGJ).

JALA PRT conducts socialization activities as part of its efforts for legal empowerment, but it packages these activities under the " Domestic Worker School" program initiated in 2003. The Domestic Worker School aims to: (i) enhance critical awareness among domestic workers to empower them, know their rights, and improve their bargaining position both individually and collectively; (ii) cultivate leaders among domestic workers who can organize and advocate for their rights, and who will also manage unions/organizations representing domestic workers in social dialogues for their interests; and (iii) establish a model training/education center for domestic workers that can be replicated in other areas with domestic worker communities.³³² JALA PRT also receives financial support from the National Commission on Violence Against Women (Komnas Perempuan) for the " Domestic Worker School," which is related to a similar legal education program run by Komnas Perempuan called the Learning Forum, as discussed in the previous section.

According to JM, a representative of JALA PRT, the Domestic Worker School is conducted regularly every week, both offline and online, using platforms such

³³⁰ Fundacion CONSTRUIR is a Bolivian non-profit civil society organization that focuses on research, empowerment of rights, communication, dialogue, monitoring, and social advocacy with the aim of strengthening access to justice and effective guardianship of the basic rights of vulnerable groups..

³³¹ Fundación Construir, Community Defenders Organized for the Right to a Life Free of Violence, in *Legal Empowerment Experiences from Latin America*, NAMATI (Innovation in Legal Empowerment), (January, 2018): 5, accessed on 29 April 2023, <https://namati.org/resources/legal-empowerment-experiences-latin-america/>.

³³² "Pendidikan Alternatif Bagi Pekerja Rumah Tangga (Sekolah Wawasan)", accessed on 18 March 2023, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/presentation/wcms_617044.pdf.

as Zoom or WhatsApp, nationally and locally in the Yogyakarta region, particularly in Sleman and parts of Yogyakarta City. The "Sekolah untuk PRT" program addresses various issues, including legal knowledge, legal assistance, socialization of the Domestic Workers Protection Law (UU TPKS), and other related topics. Significant and relevant issues for domestic workers are those related to workplace violence and domestic violence, as mentioned by J:

“

Furthermore because many domestic workers also experience violence related to their work with employers, there are also cases of domestic violence among domestic workers. So when domestic workers face violence, they must have the courage to speak up. (Results of FGD with JM, representative of JALA PRT, on February 16, 2023)

Like LBH APIK Yogyakarta and JALA PRT, PEKKA Bantul also conducts socialization activities within community groups, including the Family Welfare Empowerment (PKK) in Bantul, addressing issues related to domestic violence. Empowerment activities through the improvement of paralegal quality are also carried out by PEKKA Bantul, with one of the issues addressed being disabilities. RM from PEKKA Bantul provided the following statement:

“

PEKKA itself provides funding for paralegal training by organizing offline training sessions. Recently, PEKKA has established a partnership with SAPDA for the enhancement of paralegal skills. (Result of FGD with RM, representative of PEKKA Bantul, February 16, 2023)

RM also shared an excellent practice conducted by the PEKKA Bantul community in handling sexual violence cases. For example, a case of rape committed by a father in Bantul against his daughter resulted in pregnancy. The case was handled through coordination and communication with Bantul Social Services. Eventually, the perpetrator of sexual violence was legally prosecuted and sentenced:

“

I had already reported the case to the Social Services and they followed up on it, eventually reaching the DIY Regional Police. The police directly intervened at the local police station, and the perpetrator was eventually arrested by the DIY Regional Police. Alhamdulillah, the perpetrator has been sentenced, and justice has been served. (Result of FGD with RM, representative of PEKKA Bantul, 16 February 2023)

The above case is an example of the types of violence that often occur in personal relationships, where the perpetrator is someone known and close to the victim. This is consistent with the Quantitative Study Report on Gender Equality Barometer by INFID and IJRS in 2020, which reported that 99.8 percent of sexual violence perpetrators are people known to the victims, such as friends (40.6 percent), partners (27.2 percent), and family members (17.9 percent).³³³

In the context of domestic violence, sexual violence occurs due to an unequal power relationship between the perpetrator and the victim, which places the victim in a vulnerable and powerless position. This power relationship is hierarchical, characterized by inequality and/or dependency based on social status, culture, knowledge, education, and/or economic status, resulting in one party having power over the other, particularly in gender-based relationships, often disadvantaging the party in a lower position.³³⁴ This power dynamic presents significant challenges in enforcing the law in cases of sexual violence, as the perpetrator may feel entitled and not guilty when committing such crimes due to the power they hold over the victim.³³⁵ Therefore, the case support provided by PEKKA Bantul, as mentioned above, serves as a good practice in assisting victims of violence, especially in domestic settings.

Furthermore, another form of activity and strategy often carried out by communities is 'networking' with other communities to build relationships, communication, or connections, exchange ideas, information, and resources based on mutual trust and mutual benefit among partnering parties. It is hoped to be a key factor in accelerating social change through networking strategies with various stakeholders.³³⁶

The networking strategy is employed by communities, such as IPPI Yogyakarta. NPA from IPPI Yogyakarta explains that IPPI Yogyakarta is an institution that receives gender-based violence complaints, specifically for women who are people living with HIV/AIDS (PLWHA) in the DIY region. It is not a direct empowerment or legal education organization. However, IPPI

³³³ Dio Ashar Wicaksana, et. al. (2), *Laporan Studi Kualitatif Barometer Kesetaraan Gender: Persepsi dan Dukungan Pemangku Kepentingan Terhadap RUU Penghapusan Kekerasan Seksual dan UU Nomor 16 Tahun 2019 tentang Perubahan Atas UU Perkawinan*, (Jakarta: INFID, 2020), p.15

³³⁴ Mahkamah Agung, PERMA No. 3 Tahun 2017, art. 1 number 9.

³³⁵ Nur Aisyah, "Pelanggaran Kekerasan Seksual di Lembaga Pendidikan Keagamaan", *kompas.id*, 5 January 2022, accessed on 11 May 2023, <https://www.kompas.id/baca/opini/2022/01/05/pelanggaran-kekerasan-seksual-di-lembaga-pendidikan-keagamaan>.

³³⁶ Jonatan Lassa dan Dominggus Elcid Li, "Jaringan LSM dan Masa Depan Keberlanjutan LSM di Indonesia", (Department of Foreign Affairs and Trade), p. 24, accessed on 11 May 2023, <https://www.ksi-indonesia.org/assets/uploads/original/2020/02/ksi-1580491935.pdf>.

Yogyakarta still implements a networking strategy in its support efforts by connecting with other institutions such as Rifka Annisa and UPTD PPA, which also focus on similar issues, namely protecting women and children from violence.

In the context of supporting women who are PLWHA and also victims of domestic violence, IPPI Yogyakarta plays a role in empowering these women in various areas such as health, social, education, and economic aspects. Regarding the legal support for these women as victims of domestic violence, IPPI Yogyakarta can coordinate with Rifka Annisa. Through this networking practice, IPPI Yogyakarta demonstrates a commendable approach in building relationships and resources, especially in protecting women who are ODHA and, at the same time, are also PBH.

As LBH APIK Yogyakarta, PEKKA Bantul, and IPPI Yogyakarta support and assist female and child victims of gender-based violence, Rifka Annisa also offers similar services to victims with or without disabilities and PLWHA. The importance of providing assistance to women with HIV/AIDS is particularly evident due to the increased vulnerability caused by their HIV/AIDS status. This vulnerability can lead to violations of their rights, especially in accessing better healthcare, education, information, and economic independence.³³⁷ Women with HIV/AIDS may face multiple layers of vulnerability stemming from their gender identity, living in poverty, and facing moral stigma associated with women living with HIV/AIDS, such as assumptions about their sexual behavior and partner relationships.³³⁸ Studies, such as the Secretariat of State for The Support and Socio-Economic Promotion of Women 2015-2017, have shown that women living with HIV/AIDS are four times more vulnerable to sexual violence and six times more susceptible to physical violence during pregnancy.³³⁹

Therefore, in its support activities, Rifka Annisa adopts a strategy of empowering clients by providing comprehensive information about their cases, including the legal processes involved, to ensure that clients fully understand the consequences of their decisions. Additionally, Rifka Annisa

³³⁷ Syaima Sabine F, "Bagaimana Kekerasan Berbasis Gender terjadi pada Perempuan Pengidap HIV/AIDS?", <https://www.rifka-annisa.org/id/component/k2/item/778-bagaimana-kekerasan-berbasis-gender-terjadi-pada-perempuan-pengidap-hiv-aids>, accessed on 2 June 2023.

³³⁸ *Ibid.*

³³⁹ *Ibid.*, quoted from "National Commission on Violence Against Women, *Catatan Tahunan tentang Kekerasan terhadap Perempuan Tahun 2021 "Bayang-Bayang Stagnasi: Daya Pencegahan dan Penanganan Berbanding Peningkatan Jumlah, Ragam dan Kompleksitas Kekerasan Berbasis Gender terhadap Perempuan*, (Jakarta, Komnas Perempuan, 2022).

actively involves the victims in the preparation of relevant case documents, such as complaints, responses, and others, as explained by LO:

“

We provide our clients with comprehensive information, such as the step-by-step process, the applicable legal provisions, and the rights they can obtain. (...) Whatever decision they make regarding the case of domestic violence, we want them to be aware of the possible outcomes, including the possibility of recurrence if they decide to withdraw their report. (...) In the preparation of documents like complaints, responses, and others, we work together with the clients. Our goal is to ensure that they understand the contents of these documents and actively participate in their preparation. This way, they are more informed and involved in the legal process. (Results of the Focus Group Discussion with Ms. LO, representative of Rifka Annisa, on February 16, 2023)

Rifka Annisa provides case assistance and conducts offline and online socialization and discussions through Zoom, Instagram, and Twitter. Interestingly, they have different classes for fathers, mothers, male teenagers, and female teenagers, considering they have various communities in the Kulon Progo and Gunung Kidul regions.³⁴⁰ Through these socialization efforts, Rifka Annisa aims to strengthen legal awareness among different groups, including law enforcement officers, fellow advocates, service institutions, and other NGOs. They address various issues, such as gender-based violence (KBGO) cases that have increased during the COVID-19 pandemic.

SAPDA's activities include providing legal services through the Rumah Cakap Bermartabat (RCB) SAPDA unit, which operates under the Women Disability Crisis Center (WDCC) division of SAPDA.³⁴¹ These activities reflect the organization's commitment to assisting and supporting women with disabilities, disabled children, and women with disabled children who have experienced violence.³⁴² The legal assistance activities aim to empower and strengthen the legal rights of these individuals. One of the strategies adopted by SAPDA involves engaging the disability community, particularly women with disabilities, to support and accompany their fellow disabled individuals who are facing legal challenges. Capacity building is another crucial aspect where

³⁴⁰ The selection of the Gunung Kidul and Kulon Progo regions is based on data obtained by Rifka Annisa, indicating that both areas have a relatively high number of cases, including women with disabilities

³⁴¹ "Profil RCB SAPDA", *sapdajogja.org*, 8 March 2022, accessed on 12 May 2023, <https://sapdajogja.org/2022/03/profil-rcb-sapda/>.

³⁴² *Ibid.*

SAPDA provide training and workshops related to the rights of persons with disabilities and organizations working in the disability sector.

“

Example: In this current year, 2022-2023, we have been empowering legal rights, as far as I remember, for 18 disability organizations in Indonesia. Well, they are still representatives there, and I can't recall the exact locations, but they are mostly in Java. We have both online and offline methods available. (Results from FGD with NSA, a practitioner in the SAPDA community, February 16, 2023)

Regarding the involvement of disability organizations in the court system, SAPDA not only establishes Memorandums of Understanding (MoUs) and advocates for active participation of individuals with disabilities in the courts but also encourages them to understand the judicial system itself:

“

Firstly, we invite them for training sessions to help them understand the legal procedures in Indonesia, the legal system, and the specific legal procedures. We aim to provide them with a comprehensive understanding of the Indonesian legal system, including civil and criminal laws, the institutions involved, law enforcement agencies, and the parties present in the judicial process. (Results of the Focus Group Discussion with NSA, representative of SAPDA on February 16, 2023)

Unlike some other communities, SAPDA does not focus on empowering paralegals specifically in the legal context. Instead, SAPDA's programs revolve around the development of "peer counseling" that focuses on both legal and psychological counseling. This counseling approach can be provided either at the early stages when identifying or encountering cases, or at the later stages during the victim's recovery process.

LBH Yogyakarta's activities include conducting paralegal training, providing legal consultations, and delivering legal education and outreach to various communities and regions, both offline and online through platforms like Zoom, Instagram, and podcasts. Additionally, LBH Yogyakarta engages in critical legal education with the communities it supports. For instance, LBH Yogyakarta encouraged the formation of the "Wadon Wadas" women's organization in Wadas and supported their involvement in various consultations with stakeholders, particularly regarding the impact of mining in

the area.³⁴³ Furthermore, LBH Yogyakarta conducts advocacy school training with women from different faith-based unions, aiming to empower them with advocacy skills and knowledge.

Exactly, the experience of Wadon Wadas actively advocating for the impact of mining aligns with Noor's (2011) concept of empowerment, which promotes a new paradigm of development centered on community, participation, empowerment, and sustainability.³⁴⁴ In this context, communities are considered subjects (agents or participants who act) and collectively work towards achieving self-reliance, developing creative potential, mastering their environment and resources, solving problems independently, and participating in shaping political processes at the national level.³⁴⁵

Obstacles, Adaptations, and Innovations Applied by Communities in Jakarta and Yogyakarta in Conducting Legal Empowerment to Ensure Access to Justice for PBH

Communities in Jakarta

In the FGD activities conducted in Jakarta, the presentation regarding obstacles in legal empowerment was carried out using a group discussion method, which consisted of two groups. The first group included representatives from PBHI, LBH APIK, IPPI, and JIP. The second group consisted of representatives from LBH Masyarakat, Perempuan Mahardhika, KPI, and HWDI.

The obstacles faced by the communities in the first group consist of several factors, such as funding or budget limitations, human resources turnover, the COVID-19 pandemic which led to the need for some activities to be conducted online, government regulations that are not gender-friendly in terms of legal services, challenges from the side of APH (Law Enforcement Officers),

³⁴³ The conflict between authorities and residents in Wadas Village, located in the Bener District of Purworejo Regency, Central Java, began with the plan to construct the Bener Dam project in Purworejo Regency. This dam project is one of the National Strategic Projects (Proyek Strategis Nasional - PSN) that will supply significant water needed for the Yogyakarta International Airport (YIA) in Kulon Progo Regency, Yogyakarta. To meet the project's material needs, specifically andesite rock for construction, the government intended to extract andesite from Wadas Village, requiring an area of approximately 145 hectares to be mined. This plan triggered opposition from most villagers due to concerns about potential adverse effects, such as damage to water sources and increased risk of landslides and other related issues. For more information, refer to Fitria Chusna Farisa. "Duduk Perkara Konflik di Desa Wadas yang Sebabkan Warga Dikepung dan Ditangkap Aparat", <https://nasional.kompas.com/read/2022/02/09/18264541/duduk-perkara-konflik-di-desa-wadas-yang-sebabkan-warga-dikepung-dan>, accessed on 30 May 2023.

³⁴⁴ Noor.M, "Pemberdayaan Masyarakat", CIVIS1 Scientific Journal (2), (2011):87-99.

³⁴⁵ *Id.*

corruption, lack of social security for facilitators or field workers, imbalance of incentives with their work, and stigmatization of APH towards victim assistants.

Regarding the obstacles faced by the first group, several innovations were implemented to overcome them. For the funding issue, they resort to fundraising campaigns through partnerships with fundraising organizations and networking activities in various regions. To address the challenges arising from the transition of activities from face-to-face to online, they provide technological education to help the community operate applications, adjust working hours, and conduct policy awareness campaigns. Moreover, they standardize human resources, create policy briefs, advocate for businesses to enroll in social security (BPJS), and offer legal training to tackle other obstacles.

The second group in the FGD conducted in Jakarta also presented the obstacles they encountered and the innovations they implemented to address the challenges in legal empowerment. Some of the hurdles they faced were similar to those encountered by the first group, such as the impact of the COVID-19 pandemic and the transition to online activities. These conditions led to limited reach and less effective execution of activities, as participants tended to feel fatigued with online engagement. Moreover, issues related to accessibility were tackled by HWDI through innovation in conducting inclusive awareness campaigns as follows:

“

By inclusive awareness campaigns, we mean that there are four different types of disability needs: 1) physical disabilities, 2) sensory disabilities, such as hearing and visual impairments, 3) intellectual disabilities, and 4) mental or psychosocial disabilities. In each of these four categories, the way we interact and communicate varies. (Results of the Validation Meeting with MH, representative from HWDI on February 2, 2023)

Ms. MH also explained that inclusive awareness campaigns are targeted towards APH (Authorities in the Police, Prosecutor's Office, and Judiciary) to understand how to interact with persons with disabilities and treat them as human beings, not as powerless individuals due to their disability status:

“

... Each APH, whether in the Police, Prosecutor's Office, or Judiciary, should understand the 4 categories of disabilities and how to interact with them. For example, with visually impaired individuals, the interaction involves guiding them while they hold the companion's arm, rather than us holding their hand.

My point is that every APH should understand the needs of persons with disabilities, as outlined in PP 39 on Appropriate Accommodations. Proper etiquette in interacting with them should be considered as part of these appropriate accommodations. (Results of the Validation Meeting with MH, representative from HWDI on February 2, 2023)

In addition, another obstacle faced by the participants of the FGD in the second group is the presence of corruption practices in the law enforcement process in Indonesia. For example, police report being "facilitated" with money. This is addressed through two approaches: formal and informal.³⁴⁶ First, formal efforts are made by reporting cases to the Division of Professionalism and Security of the Indonesian National Police (Propam Polri) regarding torture, information on law enforcement processes facilitated with money, and other violations in the law enforcement process based on data collected by paralegals every 6 months. Additionally, complaints can also be filed with the Ombudsman. Second, informal efforts are made by disseminating public information related to torture and corruption in the law enforcement process.³⁴⁷

Finally, there are obstacles related to human resources capacity in handling cases, one of which is the lack of understanding of policies, especially at the regional level. With limited human resources as managers of the system, it certainly affects how an organization forms integrity, realizes its vision and mission, and achieves its goals as it should be.³⁴⁸ To address this issue, an innovation is carried out in the form of training from other institutions, such as training provided by LBH APIK, and meetings for updates with the network.

The PBHI representative in the FGD explained the risks involved when receiving reports from communities:

“

In cases like sexual violence, sometimes survivors feel ashamed and hesitant to report because of the stigma attached to being a victim. For example, sex workers or transgender individuals involved in same-sex relationships may be reluctant to report legal issues due to fear of being exposed. (Results of the FGD with PBHI practitioner on December 16, 2022)

³⁴⁶ Results of the Validation Meeting with FGD Participants in Jakarta on June 8, 2023.

³⁴⁷ *Ibid.*

³⁴⁸ "Pengertian Sumber Daya Manusia Dan Peranannya Pada Organisasi", *manajemen.uma.ac.id*, 3 November 2021, accessed on 11 May 2023, <https://manajemen.uma.ac.id/2021/11/pengertian-sumber-daya-manusia-dan-peranannya-pada-organisasi/>.

Additionally, PBHI has identified social and economic barriers. When someone wants to pursue a legal case, there are social factors to consider, and it can also have economic implications, such as disruptions to their work activities. On the other hand, LBH APIK shared about the challenges regarding the status of paralegals, as they are often not recognized by APH when accompanying legal processes at the police:

“

Usually, what we often encounter is that sometimes when paralegals accompany legal processes at the police station, they are not acknowledged by APH themselves. Although in the Legal Aid Law, they indeed have the right to accompany victims during legal proceedings. However, the police still question their legitimacy as paralegals, and sometimes even the role of paralegals is being doubted. (Results from FGD with SN, Practitioner at LBH APIK Jakarta, December 16, 2022)

A representative from LBH APIK Jakarta explained that by building the resilience of partners, in this case, PBH (Para Bantuan Hukum or Legal Aid Paralegals), they can also overcome the human resource limitations of legal aid providers. In addition to providing direct consultations, LBH APIK Jakarta also offers online consultations, which help to overcome the obstacles posed by the shortage of human resources in assisting victims.

“

Because considering our limited human resources, it's not possible for us to accompany thousands of partners in the field every day. (Results from FGD with SN, a representative from LBH APIK Jakarta on February 2, 2023)

The obstacles related to the accompaniment process at the Police are also experienced by HWDI (Himpunan Wartawan Disabilitas Indonesia). Paralegals are asked for certification, even though they only have a letter of assignment from the organization for the purpose of providing assistance:

“

However, the obstacle arises when I accompany my colleagues directly at the Police level. To provide support, we are asked for certification, even though HWDI only issues a letter of assignment, but still, they demand an ID stating that I am from HWDI and also certification. Since I had previous training as a paralegal at LBH Jakarta, I have the certification, and that's what I showed them. LBH Jakarta itself doesn't issue an ID as a paralegal. So, wherever I go, I have to carry the certificate to prove that I am a paralegal. (Results from FGD with a practitioner from HWDI, December 16, 2022)

The speaker from HWDI also explained that there are obstacles in terms of the understanding of APH, as they still lack comprehension about the four types of disabilities:

“

Furthermore, the obstacle lies in the fact that we deal with four types of disabilities. Each type has different needs, including physical disabilities, sensory disabilities like deaf and blind, as well as intellectual and mental disabilities. Each type requires different approaches... Now, in APH, there is still a lack of understanding about these four types of disabilities. There is a lack of awareness about how to interact ethically with individuals with disabilities, which greatly hinders us as companions to our friends. (Results from FGD with a practitioner from HWDI, December 16, 2022)

Furthermore, the representative from Perempuan Mahardhika also explained that the complexity of sexual violence cases poses unique challenges in providing legal assistance. At least two situations are faced by Perempuan Mahardhika in this regard:

First, there is the complexity of the psychological state of sexual violence victims, who often blame themselves continuously, leading them to be reluctant to report and pursue legal action. In response to this, Perempuan Mahardhika considers it necessary to ensure access to psychological assistance for victims, as providing psychological support to them is essential and should be prioritized alongside the legal process against the perpetrators. This is also a form of support for the victims to come to terms with their situation and can be the initial step in building the victims' self-confidence to report the crime.

Secondly, there is the complexity of cases involving power relations, such as domestic violence. The challenge faced by Perempuan Mahardhika is when protection for the victim has been attempted, for example, through advocacy, assistance, finding safe houses, or helping with the divorce process, there are situations where the victim eventually wants to return to the abusive environment. This presents its own complexity in cases like domestic violence, which requires special attention to provide support and psychological assistance to the victim not only during the legal process but also to ensure that the victim remains in a safe situation before, during, and after going through the legal proceedings.

JIP (Jaringan Indonesia Positif) also found obstacles related to the human resources for assistance, with the discovery that some female clients come for consultations but feel uncomfortable when they are paired with a non-

cisgender female companion³⁴⁹, such as a cisgender male or transgender individual. This discomfort hinders the clients from sharing their stories openly and freely:

“
Because in our situation, for example, we don't want any gender bias, but this is what happens in the field: when a woman with HIV has a problem, and we offer a paralegal, it turns out that the paralegal's gender, for instance, being transgender or male, creates an incomplete connection. We honestly realized that our paralegal composition wasn't properly thought through. (Results from FGD with NI, a representative from JIP, December 16, 2022.)

Furthermore, the speaker from JIP also found that not all women are interested in becoming paralegals. This, in turn, affects the composition of paralegals within their organization:

“
What's happening here? It's interesting, right? Not all women are interested in applying to become paralegals. Why is that? Is it because these women are afraid to discuss legal matters or afraid to accompany legal situations? (Results from FGD with a practitioner from JIP, December 16, 2022.)

To address this issue, the JIP speaker also shared that they collaborate with other organizations and service networks, such as IPPI Jakarta, which has a division for P3

“
Since we didn't have an ideal composition of paralegals, we ended up involving other networks like the Indonesian Positive Women's Association, who have the P3 division, meaning they are recipients of reports and consist of all women. This helps us to further address the situations of violence or legal issues experienced by our female friends with HIV. (Results from FGD with a practitioner from JIP, December 16, 2022.)

Exactly, this highlights the importance of diversifying assistance, especially paralegals, based on their identities. In the context of the challenges faced by JIP, the various gender identities of companions become crucial. Similarly, this

³⁴⁹ The term "cisgender" is used to refer to people whose gender identity aligns with the sex they were assigned at birth. Non-transgender individuals fall under this category. For more information, you can refer to the "Glosarium Istilah Orientasi Seksual, Identitas & Ekspresi Gender dan Karakteristik Seks" provided by Gaya Nusantara," <https://gayanusantara.or.id/info-lgbtqi/glosarium-istilah/>, accessed on 21 June 2023.

can be observed in the findings of SETARA paralegals by HWDI, where the paralegals are composed of individuals with different disabilities to accommodate the needs and comfort of disabled individuals seeking legal consultations for their issues.

Communities in Yogyakarta

The communities engaged in legal empowerment certainly face their own challenges, including those in Yogyakarta. They have shared several experiences of adaptation and innovation when dealing with emerging challenges, such as limited human resources, restricted funding or budgets, and others. Firstly, regarding the limitation of human resources, L from Rifka Annisa explained that one of the adaptations they made is by engaging in 'shared human resources' with other organizations. For instance, involving personnel from SAPDA (an organization supporting people with disabilities) for disability-related cases as a form of collaboration, as stated by L:

“

Regarding human resources, we deal with it by sharing resources with other organizations. For example, when we discuss disability issues, we involve friends from SAPDA. There might not be any financial compensation, but we help each other out and understand each other's limitations. (Results from FGD with L, a practitioner from Rifka Annisa, February 16, 2023)

LBH Yogyakarta also faces limitations in the number of female lawyers.³⁵⁰ In response to this, they have developed an adaptation where consultations are only provided for divorce cases. Meanwhile, for cases that are deemed to require assistance, LBH Yogyakarta will refer them to other lawyers or legal aid organizations.

Unlike LBH Yogyakarta, the issue of human resources at SAPDA is the lack of capacity in understanding and teaching to provide tailored education for the community. For instance, when it comes to providing information related to investigation or inquiry procedures, sometimes they require personnel from the police who can explain in detail. However, these matters present their own challenges, such as the limited perspectives that the police might have or even the absence of capacity for teaching:

³⁵⁰ Based on the information from KWK of LBH Yogyakarta, there are only four female lawyers in LBH Yogyakarta.

“

Sometimes there are community needs, for example, related to their curiosity about the process or procedures at the Police. (...) So, it's not just about reading the standard operating procedures (SOP) or based on our experiences. Actually, we need police officers who can explain it. The actual procedures at the Police might be like A-B-C-D, but finding police personnel who have that perspective is actually more difficult. (...) How they have the expertise to explain, teach, have the right perspective, and have the time. (Results from FGD with NSA, a practitioner from SAPDA, February 16, 2023)

In facing the challenges of human resources, besides providing legal empowerment to its community, SAPDA also engages in adaptation and innovation by gathering data on individuals or parties who possess the needed expertise. They seek professionals such as psychologists, psychiatrists, lawyers, judges, prosecutors, and police officers who are willing to collaborate with them.

The next challenge frequently faced by communities in their efforts for legal empowerment is the limitation of funds or budget. For some organizations with the responsibility for case resolution, the lack of funds or budget is undoubtedly a crucial issue. This aligns with the data from the "Index of Access to Justice in Indonesia 2019," which indicates that aspects of funding, such as the provision of legal aid by the government, are not yet optimal, resulting in a limited number of Legal Aid Organizations (OBH) and litigants receiving state financing.³⁵¹ In terms of the amount, the allocated budget is considered insufficient to fully meet the basic needs of legal assistance, particularly in the investigative stage of the process.³⁵²

As explained by KWK from LBH Yogyakarta, the budget provided by the Ministry of Law and Human Rights (Kemenkumham) is not sufficient due to the high number of cases handled by LBH Yogyakarta, both in litigation and non-litigation matters. In response to this challenge, LBH Yogyakarta has taken the following actions, as stated by KWK:

“

Yes, in the previous year, the budget has been decreasing, and it's quite limited. In the last year, we had around 35 or 30 million for litigation cases, and approximately 10 million for non-litigation cases, if I'm not mistaken. It's

³⁵¹ Dio Ashar Wicaksana, "Indeks Akses terhadap Keadilan di Indonesia 2019", (Jakarta: Konsorsium Masyarakat Sipil untuk Akses terhadap Keadilan, 2020), p. 88.

³⁵² *Id.*

actually not much at all considering the high number of cases we handle, so many of our cases end up being pro bono. We often end up funding ourselves. We handle the proceedings with our own funds, and we also finance our own awareness campaigns because it's quite challenging to get reimbursement. (Results from FGD with KWK, a practitioner from LBH Yogyakarta, February 16, 2023)

JM from JALA PRT shared another experience, as they do not have specific funding for legal aid for women in conflict with the law. In terms of funding, besides having donors for specific programs like organizing events, JALA PRT relies on membership fees and opens up a donation system. SAPDA also receives funding from donors, but they often face funding challenges due to higher expenses for supporting disabled individuals than non-disabled individuals. For example, they require a budget for sign language interpreters. To address this, SAPDA innovates by training its volunteers while negotiating with donors to ensure the specific needs of disabled individuals are met. These efforts are made to ensure that the unique needs of disabled individuals are still adequately catered to despite the funding challenges.

Apart from the challenges of human resources and funding, other findings highlight various obstacles faced by communities engaged in legal empowerment. One such challenge is the presence of threats against these communities. For example, paralegals from PEKKA Bantul face difficulties when handling divorce cases where their clients' spouses are police officers. In domestic violence cases, some stakeholders try to cover up the incidents to give the impression that their area is free from such cases.³⁵³ These circumstances present unique challenges, as they discourage victims of domestic violence from reporting the abuse due to fear or intimidation. Representatives from LBH APIK Yogyakarta, IPPI Yogyakarta, Rifka Annisa, and other community members expressed these points.

In cases of domestic violence, the reluctance of victims to report can be caused by several factors, including: (i) the victims feeling ashamed if their family's disgrace becomes known to others, including extended family, as some parts of society still consider the violence they experience as a result of their own faults; (ii) the significant economic dependence of the domestic violence victims on the perpetrator (husband); and (iii) the performance and perspectives of law enforcement agencies in handling domestic violence

³⁵³ The results of the Focus Group Discussion (FGD) with R, a practitioner from PEKKA, on February 16, 2023.

cases, where there is still a strong belief that a husband's violent behavior towards his wife is a private matter (a household affair).³⁵⁴ The lack of protection from law enforcement also raises concerns that the perpetrator (husband) will become even more violent towards the victim (wife) after the victim returns home. On one hand, domestic violence victims are also hesitant to report because they worry about their future if their partner becomes entangled with law enforcement.³⁵⁵ These findings further reinforce the fact, as discussed earlier, that power dynamics present a distinct challenge in the efforts to enforce the law in cases of sexual violence, including sexual violence within households.

Furthermore, regarding the learning forum organized by the National Commission on Violence Against Women (Komnas Perempuan), only Rifka Annisa stated that they have participated, while several other organizations have not been involved or even received information about the forum, such as LBH Yogyakarta, SAPDA, and IPPI. According to SAPDA, their organization has never received any information regarding the learning forum, such as the schedule, participants, or mechanisms. In the context of Jala PRT, their organization has not been actively involved in the learning forum. However, Komnas Perempuan provides financial support for legal education activities organized by Jala PRT, specifically the Domestic Worker School (Sekolah Pekerja Rumah Tangga or Sekolah PRT), by funding several sessions.

The Domestic Worker School (Sekolah Pekerja Rumah Tangga or Sekolah PRT) was initiated by Lita Anggraini, an activist with Jala PRT, in 1995. The school's targeted and diverse education programs have made it highly popular among participants. For example, participants in the Sunday School program receive education on Reproductive Health, how to deal with employers and elderly individuals (Pramurukti), public speaking skills, and advocacy issues.³⁵⁶ JALA PRT also provides an alternative education program for domestic workers called Sekolah Wawasan, replicating Sekolah PRT. Apart from nurturing leaders and organizers among domestic workers, the focus is also on enhancing critical awareness so that they become empowered individuals aware of their rights and have better bargaining power at both the individual

³⁵⁴ Sulistyowati Irianto dan L.I. Nurtjahyo, *Perempuan di Persidangan Pemantauan Peradilan Berperspektif Perempuan* (Edisi I; Jakarta: Yayasan Obor Indonesia in cooperation with Convention Watch, Center for Women and Gender Studies at the University of Indonesia, and NZAID, 2006), p. 68. As quoted in La Jamaa, "Perlindungan Korban Kekerasan Dalam Rumah Tangga Dalam Hukum Pidana Indonesia", *Jurnal Cita Hukum*, Vol. 1 No. 2, (December, 2014), p. 256.

³⁵⁵ La Jamaa, *op.cit.*, p. 250.

³⁵⁶ MAMPU Bappenas, "Sekolah Pekerja Rumah Tangga Bantu Perempuan Sadari Hak dan Tingkatkan Kemampuan", <http://mampu.bappenas.go.id/kegiatan/sekolah-pekerja-rumah-tangga-bantu-perempuan-sadari-hak-dan-tingkatkan-kemampuan/>, accessed on 2 June 2023.

and collective levels.³⁵⁷ The learning cycle in Sekolah Wawasan includes in-class sessions, assignments, actions or realization, and evaluation.

The Impact of Legal Empowerment and Policy Reform Efforts by Communities in Jakarta and Yogyakarta Aims to Ensure Access to Justice for PBH

Communities in Jakarta

Participants in the FGD conducted in Jakarta also discussed the positive impacts of legal empowerment and innovations in overcoming barriers encountered during legal empowerment efforts. For example, the first discussion group experienced various innovations during the COVID-19 pandemic, which enabled their activities to continue smoothly after receiving training and socialization. Another impact was the increased awareness of the community regarding legal reporting. Regarding the support for people living with HIV and the ODHA area, the organization noted several impacts, including increased community awareness of technology, reduced stigmatization and discrimination, improved advocacy skills, and a decrease in open corruption practices by law enforcement officials when providing legal service to PBH

The second group also highlighted the impacts of the innovations they implemented, such as having a mobile human resources team and the establishment of a Center for Information and Consultation for Persons with Disabilities, which will be placed in P2TP2A (Integrated Service Center for Women and Children). Additionally, the enactment of the Disability Regional Regulation (Perda Disabilitas) also resulted in positive impacts from their legal empowerment efforts:

“

The Disability Regional Regulation (Perda Disabilitas) was just enacted last October. In the regulation, I included provisions regarding legal aid because I observed the situation on the ground, where psychiatric examinations (visum psikiatrikum) were already covered by a gubernatorial regulation and offered for free. However, some services still required payment, which can be quite expensive. So, I incorporated provisions in the disability regulation requesting free legal aid for such cases. When dealing with individuals with mental health issues, sometimes they are referred by the police to hospitals that provide free

³⁵⁷ "Pendidikan Alternatif bagi Pekerja Rumah Tangga (Sekolah Wawasan), https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/presentation/wcms_617044.pdf, accessed on 2 June 2023.

services, but there are only a few such hospitals available. Considering the condition of the person during the referral date, they might be feeling down or relaxed, making it difficult to obtain their statements or testimonies. As a result, we established a Memorandum of Understanding (MoU) with the Police, where the referral date is left blank. We only fill in the date when the person is in a better state of mind, enabling us to obtain their statements more effectively. In the Disability Regional Regulation, I requested free psychiatric examination services in more accessible hospitals. (FGD Outcome, December 16, 2022)

The community participants in the FGD in Jakarta also discussed the impacts of their legal empowerment efforts conducted by their respective organizations. The representative from KPI (Komunitas Penyandang Disabilitas Indonesia) shared that through networking with other institutions, the process of lobbying and having meetings with government agencies has become easier. Additionally, the community gained trust from the government, and as a result, government authorities have started to be more open to listening and considering inputs from the community.

The representative from LBH APIK Jakarta also shared the impacts of their advocacy efforts for the Domestic Violence Law (UU PKDRT). This step has led to women gaining a better understanding of their rights, identifying actions that constitute violations, and learning about the rights of wives in obtaining financial support within the household, empowering women in the process. Additionally, LBH APIK Jakarta has been advocating for the Draft Law on the Protection of Domestic Workers (RUU PPRT) and providing input on provisions related to the protection of physical and economic violence, which will be accommodated in the draft of the RUU PPRT. Lastly, there have been positive impacts from empowering LBH APIK's partners in case support. The partners have become more independent in facing their cases, as expressed in the following statement:

“

Well, in relation to our partners, sometimes we don't always accompany them directly throughout the process. Sometimes, we simply provide legal information and empower our partners to take the lead in handling their own cases. It's like being a ghost lawyer, you know. We offer consultations to our partners so that they can empower themselves when dealing with their legal processes. If they have any doubts or lack of knowledge, they can consult us online. Considering our limited human resources, it's not possible for us to physically accompany thousands of partners in the field every day. It's just not feasible to conduct activities like that. So, providing legal information and

involving our partners to independently navigate their cases is very important. (FGD outcome with SN, Practitioner from LBH APIK Jakarta, 16th December 2022)

Communities in Yogyakarta

Empowerment carried out by communities is expected to have positive impacts, both for the individuals and groups being empowered, as well as for the community as a whole. During the FGD process, the involved communities highlighted one crucial element of empowerment, which is its impact. There are several positive impacts that result from empowerment, such as an increase in the public's perspective and knowledge about gender issues. Additionally, people become more courageous in reporting incidents, gain a better understanding of their rights, and this leads to the emergence of new advocates who raise legal awareness, thereby empowering both the community and society at large.

Furthermore, this empowerment also has specific impacts on the internal dynamics of the community. One of them is the increase in trust from relevant stakeholders, as experienced by PEKKA. Through the programs they have implemented, PEKKA has gained more recognition and is no longer underestimated by local community leaders. In a dissertation titled "*The relationship of civil society organizations (CSOs) and political parties in post-Suharto Indonesia: a women's CSO perspective*," the concern for women's rights is not only carried out by CSOs focusing on women but also involves community leaders such as Fatayat and Muslimat NU. This involvement has influenced the strength of political demands related to women's rights in the policymaking process.³⁵⁸ In the context of legal empowerment, community leaders can become agents of change, and their awareness and concern are also essential to ground legal empowerment in society and have a significant impact on the mass scale of legal empowerment itself.

Similarly, SAPDA has experienced similar outcomes, where they have successfully collaborated with various courts and involved disability organizations:

“

We (SAPDA) conveyed to the court that in the future, besides having an MoU with SAPDA, they can also have an MoU with local disability organizations to assist the court, for example, in conducting accessibility checks in the court

³⁵⁸ Aditya Perdana, *Dissertation*, "The relationship of civil society organizations (CSOs) and political parties in post-Suharto Indonesia: a women's CSO perspective", Hamburg University, p. 127.

premises. So, the collaboration is between SAPDA and the court, but SAPDA encourages disability organizations in the area to cooperate with the court as well, although it might not necessarily involve SAPDA directly. (Summary of Consultation Meeting with NSA, SAPDA practitioner, on June 15, 2023)

From the positive impacts mentioned above, participants in Yogyakarta hope that legal empowerment efforts can be integrated and continuous to enhance the knowledge and understanding of both the public and communities regarding legal issues and information. Furthermore, it is expected that legal empowerment will also have an impact on increasing the knowledge and capacity of law enforcement officials to be more victim-centric in their perspectives.

Even so, communities involved in legal empowerment also face negative impacts in the field. As mentioned by JY from JALA PRT, their community often faces external pressures and is forced to leave their household and family, including their children, when engaging in JALA PRT activities. Additionally, there are many restrictions on active participation in JALA PRT's organizational activities, imposed by employers or even the community itself. JY from JALA PRT provides the following statement:

“*Until now, domestic workers have been seen as uneducated individuals who work in domestic settings. So, when domestic workers have the capability and opportunity to empower or support their fellow domestic workers who are facing issues, they are not supported, but rather hindered from doing so. (Results of FGD with JY, practitioner at JALA PRT on 16 February 2023)*

Domestic workers are among the vulnerable groups, making them susceptible to violations of their rights and labor laws, as well as facing discrimination and unfair treatment, especially from their employers, such as physical abuse and even sexual harassment. According to the records of the Domestic Workers Advocacy Network (Jala PRT) from 2017 to 2022, there were 1,635 cases of multiple violence against domestic workers resulting in fatalities, 2,021 cases of physical and psychological violence, and 1,609 cases of economic violence.³⁵⁹ The complexity of the issues faced by domestic workers is due to their weak bargaining power. Domestic workers lack strength when dealing

³⁵⁹ Nienda Farras Athifah, "Data Kasus Kekerasan Terhadap PRT pada 2017-2022", <https://www.metrotvnews.com/play/NAOCX2eL-data-kasus-kekerasan-terhadap-prt-pada-2017-2022>, accessed on 4 June 2023.

with their employers due to several factors such as low skills and education, the absence of strong workers' organizations advocating for their rights, and government policies that are not adequately responsive and accommodating to protect domestic workers.³⁶⁰ Therefore, apart from the presence of government intervention through policies ensuring the protection of domestic workers' rights, there is also a need to strengthen their legal understanding so that they can have an equal bargaining position. Ultimately, this empowerment will enable them to advocate for their rights and interests as workers.

³⁶⁰ Andrian Sutedi, *Hukum Perburuhan*, (Jakarta: Sinar Grafika, 2009). p. 2, as quoted in Ida Hanifah, "Kebijakan Perlindungan Hukum Bagi Pekerja Rumah Tangga Melalui Kepastian Hukum", *Jurnal LEGISLASI INDONESIA Vol 17 No. 2*, (June, 2020),p. 195.

CHAPTER 5

POLICY REFORM REGARDING
ACCESS TO JUSTICE FOR WOMEN
IN CONFLICT WITH THE LAW
FROM THE PERSPECTIVE OF THE
NATIONAL LEGAL DEVELOPMENT
AGENCY, NATIONAL COMMISSION
ON VIOLENCE AGAINST WOMEN,
AND LEGAL EMPOWERMENT
PRACTITIONERS



05

CHAPTER 5

POLICY REFORM REGARDING ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW FROM THE PERSPECTIVE OF THE NATIONAL LEGAL DEVELOPMENT AGENCY, NATIONAL COMMISSION ON VIOLENCE AGAINST WOMEN, AND LEGAL EMPOWERMENT PRACTITIONERS

The findings in this subsection will present the results of interviews conducted by the research team with Mr. MN from BPHN and Ms. SAT from the National Commission on Violence Against Women (Komnas Perempuan). BPHN (National Legal Development Agency) and Komnas Perempuan represent state actors, while Ms. SM from LBH APIK Jakarta and Ms. FVS from PEKKA are legal empowerment practitioners from legal aid organizations and CSOs, which are non-state actors.

The Role of Institutions and Communities in Enacting Policy Reform to Ensure Access to Justice for Women Dealing with the Legal System

1. Perspective of BPHN³⁶¹

According to the information provided by the spokesperson from BPHN, the role of communities is essential in providing input for formulating policies undertaken by the government. For instance, legal awareness activities can serve as a channel for communities or CSOs to provide input to the policy-making process through appropriate mechanisms. Community empowerment activities are also expected to contribute to the establishment of "Desa Sadar Hukum" (Legal Awareness Village). The formation of the Legal Awareness Village aims to create a knowledgeable and just rural community capable of engaging in preventive efforts against crime and comprehending legal information provided by the government.

In the context of policy reform to ensure access to justice, particularly for women dealing with the legal system, BPHN (National Legal Development Agency) has a limited role in the perspective of legal empowerment. This can be understood considering that BPHN does not have a specific function in policy formation or reform. Nevertheless, based on the provisions of the Minister of Law and Human Rights Regulation of the Republic of Indonesia Number 41 of

³⁶¹ Interview with MN, an employee of BPHN on November 30, 2022..

2021 concerning the Organization and Work Procedures of the Ministry of Law and Human Rights, BPHN does indeed have a function to analyze and evaluate laws.³⁶²

For example, the provisions in the Legal Aid Law that limit the recipients of legal aid to only poor individuals or groups. Even though BPHN has the function of providing legal education and assistance, it does not have the mandate to reform such policies. In this regard, BPHN merely creates an avenue to receive input from the public regarding policy-making processes through appropriate mechanisms, including input on specific policy drafts. Furthermore, in line with its function to analyze and evaluate laws, BPHN can prepare reports related to the "Analysis and Evaluation of Laws concerning Access to Legal Assistance Services."³⁶³

This limitation ultimately has an impact, particularly on BPHN's empowerment efforts. There are no specific targeted issues in the activities undertaken, such as women's rights issues. Such initiatives can only be initiated if there is a specific need arising from a certain area for conducting specialized legal education on the relevant issue.³⁶⁴

2. Perspective of the Komnas Perempuan³⁶⁵

As outlined in the previous chapter, one of the tasks of the National Commission on Violence Against Women (Komnas Perempuan) based on Presidential Regulation 65/2005 is conducting assessments and researching various existing laws and relevant international instruments for protecting women's human rights.³⁶⁶ Ms. SAT explained that some of the responsibilities of Komnas Perempuan also include providing advice and recommendations to the government

³⁶² Indonesia, Minister of Law and Human Rights, Regulation of the Minister of Law and Human Rights of the Republic of Indonesia regarding the Organization and Working Procedure of the Ministry of Law and Human Rights, Number 41 of 2021, Article 361 letter b.

³⁶³ Working Group on Legal Analysis and Evaluation of Access to Legal Aid Services, Final Report on Legal Analysis and Evaluation of Access to Legal Aid Services, (Jakarta: National Law Development Agency, Ministry of Law and Human Rights, 2020), pp. 1-255.

³⁶⁴ Interview with MN, Employee of BPHN on November 30, 2022.

³⁶⁵ Interview with a Commissioner of the National Commission on Violence Against Women (Komnas Perempuan) on November 1, 2022.

³⁶⁶ Indonesia, Presidential Regulation on the National Commission on Violence Against Women, Presidential Regulation No. 65 of 2005, Article 2.

and non-governmental organizations such as CSOs to encourage the formulation and enactment of legal policies.

One of the missions of the National Commission on Violence Against Women (Komnas Perempuan) is to facilitate the creation of a national policy framework and to support CSOs in developing a comprehensive and inclusive recovery system for women victims of violence. One of the roles of Komnas Perempuan is to act as a catalyst for change and formulate policies related to protecting women victims of violence.

Since its establishment in 1998, Komnas Perempuan has been instrumental in establishing various legislative regulations for women's protection. Among these is the Law No. 31 of 2014, which amends Law No. 13 of 2006 on Witness and Victim Protection (referred to as the Witness and Victim Protection Law). This law was initiated based on the experiences of the May 1998 tragedy victims.

Protecting witnesses and victims was one of the key recommendations to resolve the cases related to the May 1998 events. During that time, adequate protection measures were unavailable, often discouraging victims from reporting their cases.³⁶⁷ The tragedy was triggered by the financial crisis in the Asian region, which led to chaos and human rights violations, including the rape of Chinese women³⁶⁸ who were used as tools of terror during the political upheaval.³⁶⁹

According to one source, the number of rape victims in May 1998 reached 152 people, with twenty of them losing their lives due to

³⁶⁷ Komnas Perempuan, "Sejarah" <https://komnasperempuan.go.id/sejarah> accessed on March 9, 2023.

³⁶⁸ During the conflict and riots of May 1998, there were acts of oppression and discrimination against the Chinese ethnic group, including looting, destruction of homes and shops, sexual harassment, rape, and even murder. This discrimination occurred because the Chinese ethnicity was one of the minority groups in Indonesia, and there were stereotypes and negative perceptions directed towards the Chinese community. Chinese women were targeted to become victims of sexual violence because women's bodies are often used as targets in conflict situations where women's bodies are used as objects to destroy a certain race. On the other hand, women are seen as symbols of honor for their community. The sexual violence experienced by Chinese women was not only physical but also verbal, including insults, derogatory remarks, and demeaning words. Source: <https://ejournal.unesa.ac.id/index.php/avatara/article/view/45989/38801> Accessed on July 9, 2023.

³⁶⁹ VOA Indonesia, "24 Tahun Tragedi Mei 1998: Relawan Terus Perjuangkan Hak Korban Pemerkosaan," <https://www.voaindonesia.com/a/tahun-tragedi-mei-1998-relawan-terus-perjuangkan-hak-korban-pemerkosaan-/6574054.html> Accessed on March 9, 2023.

assault, burning, and sexual harassment.³⁷⁰ Many victims were threatened and lacked proper protection within the criminal justice system. As a result, Komnas Perempuan advocated for establishing an institution to protect witnesses and victims, which eventually led to the initiation of the Witness and Victim Protection Agency (LPSK).

In addition to the Witness and Victim Protection Law, Komnas Perempuan, along with civil society, advocated for Law No. 23 of 2004 on the Elimination of Domestic Violence (referred to as the Domestic Violence Law or UU PKDRT). One of the key motivations behind this law was the data on reported domestic violence cases received by Komnas Perempuan, which had been coming from service-providing institutions. The law emerged after a lengthy struggle of approximately seven years by women's movement activists from various backgrounds. This law is considered a legal breakthrough, as previously, cases of domestic violence were seen as private matters and were challenging to prosecute.³⁷¹

The objectives of this law include prevention, protection of victims, and addressing perpetrators of domestic violence.³⁷² Some of the provisions outlined in this law are as follows: 1) Rights of Victims: Victims have the right to protection, healthcare services, social worker assistance, legal aid, and measures to ensure their confidentiality;³⁷³ 2) Recovery Efforts: Recovery can be facilitated by healthcare professionals, social workers, supporting volunteers, and spiritual counselors;³⁷⁴ 3) Restraining Orders: Restraining orders can be issued against perpetrators of domestic violence, aiming to keep them away from the victim for a specific period of time and distance; 4) Protection Orders: Protection orders can be issued for the victim and other family members.³⁷⁵ The Domestic Violence Law marked a significant step in addressing domestic violence as a societal issue and providing legal measures to prevent and protect victims.

Based on the validation meeting with the Commissioners of the National Commission on Violence Against Women (Komnas Perempuan), several changes emerged with the enactment of the

³⁷⁰ *Ibid.*

³⁷¹ Indonesia, Law on the Elimination of Domestic Violence, Law No. 23 of 2004, State Gazette No. 95 of 2004, State Gazette Supplement No. 4419.

³⁷² *Ibid.*, article. 4.

³⁷³ *Ibid.*, article. 10.

³⁷⁴ *Ibid.*, article. 39.

³⁷⁵ *Ibid.*, article. 28.

Domestic Violence Law (UU PKDRT), including a) A revolutionary legal update that transformed domestic violence (KDRT), previously considered a private matter, into a criminal offense; b) Increased reporting of domestic violence cases, particularly violence against wives. This indicates a growing awareness among victims to seek justice; c) The mandate to establish Women and Children's Services Units (Unit PPA) and Crisis Centers (RPK) under the UU PKDRT; d) Many law enforcement agencies have shifted to referring or utilizing the UU PKDRT, replacing the Criminal Code (KUHP), indicating substantive, structural, and legal cultural progress.

However, there are still some notes on implementing the UU PKDRT. One is the absence of implementing regulations for the law, resulting in incomplete infrastructure mandated by the law. For instance, rules regarding restraining orders and counseling for perpetrators are yet to have technical regulations. Additionally, the scope of marriages covered by this law remains unclear, specifically whether it includes customary marriages or marriages recognized only by religious institutions not recorded in civil records.

Komnas Perempuan also created the National Police Chief Regulation No. 3 of 2008 regarding the Establishment of Special Service Rooms and Procedures for Examining Witnesses and/or Victims of Criminal Acts. The establishment of Special Service Rooms (Ruang Pelayanan Khusus or RPK) aims to provide services and protection for children and women who are witnesses, victims, and/or suspects.³⁷⁶ RPKs are required to be established from the level of Police Resort (Polres) and Metropolitan Police Resort (Polresta) to Provincial Police (Polda) and the Indonesian National Police Headquarters (Mabes Polri). RPKs are situated within or are part of the working space of the Women and Children's Service Unit (Unit Pelayanan Perempuan dan Anak or UPPPA).³⁷⁷

The guiding principles for providing services to witnesses and/or victims that must be followed by all police officers include upholding human rights, ensuring the confidentiality of witnesses and/or victims, refraining from judging victims and/or witnesses, providing translators when necessary, informing witnesses and/or victims about case

³⁷⁶ Indonesia, Indonesian National Police, Chief of the Indonesian National Police Regulation on the Establishment of Special Service Rooms and Procedures for the Examination of Witnesses and/or Victims of Criminal Acts, Chief of Indonesian National Police Regulation No. 3 of 2008, Article 2..

³⁷⁷ *Ibid.*, article.5

developments, and treating witnesses and/or victims with empathy.³⁷⁸

This regulation also contains provisions regarding the necessary facilities and equipment in the Special Service Rooms (RPK), service mechanisms, examination procedures, coordination, and cooperation. According to the Commissioners of Komnas Perempuan during the validation meeting, one of the changes resulting from this regulation is the establishment of RPKs within the police force. However, they may not be present in all Provincial Police (Polda) units yet. Additionally, based on the latest data, there are currently 528 Women and Children's Service Units (Unit Pelayanan Perempuan dan Anak or UPPPA) at various levels of the police force, and there are special investigators who handle cases involving women and children. These investigators possess the necessary capacity, perspective, and skills. Having dedicated rooms for victims is essential to ensure that the examination of victims and perpetrators can be conducted separately. Furthermore, with the existence of this regulation, investigators have guidelines on what can and cannot be done when handling cases involving women and children.

In addition, other policies advocated by Komnas Perempuan include Law No. 21 of 2007 on the Eradication of Trafficking in Persons: This law addresses the critical issue of human trafficking, Law No. 12 of 2006 on Citizenship: Particularly focusing on gender equality in citizenship status, Law No. 12 of 2022 on Sexual Violence Crimes (UU TKPS): This law specifically addresses sexual violence crimes and current advocacy for the Draft Law on Protection of Domestic Workers: Komnas Perempuan, together with civil society, is currently pushing for the enactment of a law on the rights of domestic workers.

In every process of policy advocacy, Komnas Perempuan consistently involves various civil society organizations and communities. For instance, they engage victim support advocates and, in some cases, even survivors of violence who have become empowered. During the advocacy for the Sexual Violence Crimes Bill (RUU TKPS) and lobbying efforts with the government, Komnas Perempuan included a mother whose child was a victim of sexual violence. This mother shared her story of fighting for her child's case and rights.

³⁷⁸ *Ibid*, article 3

The presence of this mother played a significant role in raising awareness among members of the DPR (People's Consultative Assembly) about the cases of sexual violence the community faces.

“

Yes, of course, it's done through advocates/victims' companion because if victim community members, for example, are involved in advocacy, those engaging should already be survivors themselves. It's important that they don't encounter situations they might not be prepared for, including if, for instance, in the context of the Sexual Violence Crimes Bill, a victim (mother) is willing to come forward. Until now, she is still fighting for her child's recovery and sharing how she fought for her child's rights. This has been quite helpful in raising awareness among members of the DPR. (Interview excerpt with SAT, Commissioner of the National Commission on Violence Against Women.)

There's also a story of a paralegal who works under the supervision of LBH APIK Jakarta and diligently engages in advocacy to fight for the cases of violence she supports. According to a Commissioner of Komnas Perempuan, this demonstrates the successful process of legal empowerment conducted by communities and civil society. This paralegal is no longer advocating solely for her own interests but is also willing to advocate for the interests of other women victims. According to Eko Bambang Subiyantoro, advocacy aims to drive policy changes and emphasizes self-empowerment. Advocacy is a part of a social movement rooted in community organization and self-empowerment³⁷⁹, where women are willing to take action to defend the rights of their group.

On one hand, empowering communities aims to enable them to participate in policy-making.³⁸⁰ A successful civil society movement is not just about organizing communities; it's also about how this organization can drive policy changes. Access to justice and the realization of human rights cannot be achieved without initiating policy changes.³⁸¹

³⁷⁹ Adzkar Ashinin, et al., "Becoming the Eyes of Justice: Monitoring for Change: Data-driven Advocacy Training for Civil Society on Corruption Court," (Jakarta: ELSAM and LeIP, 2016), page 44.

³⁸⁰ Legal Aid Community Institution, "Wajah Pemberdayaan Hukum Masyarakat" ("The Face of Community Legal Empowerment"), (LBH Masyarakat: Jakarta, 2010), pages 95-96.

³⁸¹ ELSAM, "Advokasi Berbasis Bukti: Keterampilan untuk Perubahan Kebijakan (Evidence-Based Advocacy: Skills for Policy Change)," <https://elsam.or.id/uncategorized/advokasi-berbasis-bukti-keterampilan-advokasi-untuk-perubahan-kebijakan> accessed on May 12, 2023..

3. Perspective of Legal Empowerment Practitioners

*Legal Empowerment Practitioner from LBH APIK Jakarta*³⁸²

The concept of BHGS, embraced by LBH APIK Jakarta as a legal assistance concept, has implications for policy reform contributions. Ms. SM explained that analysis is conducted on case handling and best practices identified from cases handled by LBH APIK Jakarta. This then becomes a study that serves as a proposal for policy advocacy both at the national and local levels through policy briefs. In general, there are two types of policy briefs, namely advocacy briefs and objective briefs:³⁸³

1. Advocacy briefs are policy briefs that argue for a specific action to be taken on a particular issue; and
2. Objective briefs are policy briefs that provide a brief evidence-based and information-based overview to encourage readers to decide on a specific issue.

Ms. SM stated that policy briefs from LBH APIK Jakarta contribute to regulating Electronic-Based Sexual Violence (EBSV) in the Electronic Information and Transactions Law (UU TPKS). The policy brief titled "The Urgency of Regulating Online-Based Sexual Violence Offenses and Victim Protection in the Draft Law on Sexual Violence Eradication" is an objective brief. Most of its data is primarily gathered based on the BHGS concept. Therefore, BHGS in this context, becomes more than just a legal assistance instrument; it also transforms lived experiences into data to drive evidence-based policymaking.

Primary data from LBH APIK Jakarta includes field reports based on accompanying and/or handling victims of online sexual violence, a collection of experiences from victims of online gender-based violence, and LBH APIK Jakarta's annual records of handling cases of violence against women in the years 2018, 2019, 2020, and 2021.³⁸⁴ Meanwhile, the Annual Report of LBH APIK Jakarta for the years 2018–2021 has gathered 783 cases of online sexual violence, which

³⁸² Interview with SM, Legal Empowerment Practitioner from LBH APIK Jakarta on November 23, 2022.

³⁸³ Penn Libraries University of Pennsylvania, "Social Policy," <https://guides.library.upenn.edu/c.php?g=866343&p=6218367#:~:text=There%20are%20two%20types%20of,decision%20on%20a%20particular%20issue>, accessed on 9 June 2023.

³⁸⁴ LBH APIK Jakarta, "Policy Paper – Online-Based Sexual Violence and Victim Protection: The Importance of Comprehensive Legal Regulation in the Sexual Violence Criminal Code Bill," https://drive.google.com/file/d/17cCPBmHrD_XoWe7ZST0FFfCtoJ10XJCB/view, accessed June 9, 2023, p. 4.

increases each year.³⁸⁵ This highlights an urgency to regulate this form of crime within a supportive legal framework that can aid victims' recovery.

Evidence-based policymaking has two main objectives: to use existing knowledge to shape policies, and to build a knowledge bank that leads to better decision-making in the future.³⁸⁶ With the policy advocacy carried out by LBH APIK Jakarta, as highlighted by Ms. SM's presentation, the data collection through the BHGS approach can be effectively utilized to support the formation of evidence-based policies that benefit victims of sexual violence, especially those involving online platforms. This is because BHGS prioritizes the victim's perspective. Therefore, the regulation of online-based sexual violence in new legal frameworks like the Electronic Information and Transactions Law (UU TPKE) is expected to shield women victims from being ensnared by the Information and Electronic Transactions Law (UU ITE) for online sexual violence.

Furthermore, with the mandate provided by Article 46 paragraph (2) of UU TPKE, the concept of protection and recovery needs to be established through Government Regulations on Information or Electronic Document Disconnection as an effort to realize the right to be forgotten for victims of online sexual violence. Ms. SM stated that various obstacles encountered in the field can be examined to contribute to policy improvements.

“

We may not be able to promise many things, but through advocacy and empowerment, we will gain a lot—starting from experience, understanding the legal process, and then mutually reinforcing one another. Because cases of gender-based violence cannot be handled solely by LBH APIK Jakarta; we require numerous individuals to ensure smooth access to justice and legal assistance services provided to women facing legal issues. (Result of an interview with Ms. SM, legal empowerment practitioner from LBH APIK Jakarta, on November 23, 2022.)

³⁸⁵

³⁸⁶ Urban Institute, “Principles of Evidence-Based Policymaking,” accessed from https://www.urban.org/sites/default/files/publication/99739/principles_of_evidence-based_policymaking.pdf, p. 2.

*Legal Empowerment Practitioner from PEKKA*³⁸⁷

Based on an interview with Ms. FVS, there are three important aspects that paralegals from PEKKA need to possess to foster empowerment and guide the legal empowerment process. These aspects are the ability to understand the law and their rights (know law), the ability to use the law effectively (use law), and the ability to shape and socialize the law through legal awareness in the community, especially among women-headed households (shaping the law). Research by the Open Society Foundations has found that paralegals have added value that makes them highly effective in assisting communities in seeking justice.³⁸⁸ This is due to community paralegals having a set of skills that go beyond legal assistance, encompassing other professional skills such as social work, mediation, teaching, indigenous community leadership, interpretation, legal representation, and administration. Additionally, community paralegals possess sensitivity to local issues and culture, enabling them to apply these skills according to a community's situation and needs. It is these skills and sensitivities that make community paralegals highly effective in helping communities seek justice.³⁸⁹

Not only do paralegals provide case assistance, but they also play an effective role in legal empowerment and policy reform. Findings from the Open Society Foundations' research state that paralegals equipped with knowledge and a human rights framework can provide education about rights and legal mechanisms available to communities, enabling them to address their issues independently. Moreover, community paralegals can also bring about systemic changes through community support in legal and policy reform efforts.³⁹⁰

The legal empowerment work carried out by PEKKA targets women-headed households, aiming to support one another to become empowered collectively. This is similar to the legal empowerment efforts by the Alternative Law Group in the Philippines, where legal empowerment activities are grounded in the belief that communities have the primary role in driving social transformation. This is manifested through community-based paralegal training and

³⁸⁷ Interview with FVS, a legal empowerment practitioner from PEKKA on November 22, 2022.

³⁸⁸ Open Society Foundations, *Community-based Paralegals: A Practitioner's Guide*, (New York: Open Society Institute, 2010, p. 19

³⁸⁹ *Ibid.*

³⁹⁰ *Ibid.*

support activities, focusing on groups such as women, farmers, urban poor, labor unions, street vendors, and indigenous communities.³⁹¹ Therefore, concerning policy reform, the capacity instilled in PEKKA's paralegals to understand and use the law (know law, use law, and shaping the law) is directed at strengthening them to advocate for policies at the village level as a form of legal development (shaping the law). This goes beyond just policy formation; it also encompasses creating supportive policies to implement the established policies. For instance, this could involve establishing local regulations regarding child marriage prevention, the formation of a Child Marriage Prevention Task Force, and advocating for village budget allocation for assisting cases of domestic violence or child marriage.

The Form of Activities, Methods, and/or Strategies Applied in Advocating Policy Reform to Ensure Access to Justice for Women in Conflict with the Law

1. Perspective of BPHN³⁹²

BPHN recognizes that the community is becoming increasingly legally aware and can make use of legal education media organized by the government, including BPHN, especially in providing input for the drafting of policy regulations. One example is when drafting the Criminal Code Bill, which has now been enacted as Law Number 1 of 2023 regarding the Criminal Code³⁹³; and Law Number 11 of 2020 concerning Job Creation.³⁹⁴ The communication process between the government and the public in this regard becomes mutually synergistic and can prevent the spread of false news or hoaxes.

³⁹¹ *Ibid.*

³⁹² Interview with MN, employee of the National Law Development Agency (BPHN) on November 30, 2022.

³⁹³ The drafting of the Penal Code (KUHP) through Law Number 1 of 2023 is intended to replace the *Wetboek van Strafrecht* or the Criminal Code known as the *Kitab Undang-Undang Hukum Pidana* (Criminal Law Code) as stipulated in Law Number 1 of 1946 concerning Criminal Law Regulations, which has been amended several times. This Penal Code serves as the national criminal law foundation of the Unitary State of the Republic of Indonesia, regulating substantive criminal acts in Indonesia..

³⁹⁴ Law Number 11 of 2020 concerning Job Creation (*Cipta Kerja*) was repealed through Government Regulation in Lieu of Law (Perpu) Number 2 of 2022 concerning Job Creation, which was later enacted into law through Law Number 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation. This Job Creation Law has a significant impact on the Indonesian society as it covers various aspects, including: (a) improving the investment and business ecosystem; (b) labor; (c) ease, protection, and empowerment of Cooperatives and Micro, Small, and Medium Enterprises (MSMEs); (d) ease of doing business; (e) support for research and innovation; (f) land procurement; (g) economic zones; (h) central government investment and acceleration of national strategic projects; (i) administrative governance; and (j) imposition of sanctions.

Considering that within the context of policy, BPHN (National Legal Development Agency) only holds the function of legal analysis and evaluation, BPHN's efforts to gather input through legal education strategies need to be maximized as part of BPHN's endeavor to support policy reform that aligns with societal needs. Therefore, as mentioned in the previous chapter, there is a need for the development of a legal needs survey method to determine targets and content, ensuring that the legal education is truly tailored to the needs of the community. This also includes capturing input from the public regarding policy reform efforts, which can then be used for policy analysis and evaluation in line with BPHN's function.

2. Perspectives of Komnas Perempuan³⁹⁵

One of the strategies employed by Komnas Perempuan (National Commission on Violence Against Women) when advocating for policy reform is positioning. When dealing with the legislature (DPR), Komnas Perempuan leverages its strategic role as a state institution and places itself in a different position from civil society. This strategy was utilized, among other instances, during the advocacy for the Bill on the Eradication of Sexual Violence (RUU TPKS). This often raised questions and protests from civil society as Komnas Perempuan was seen as lobbying or advocating on its own, without involving civil society. Nevertheless, members of the DPR found it difficult to distinguish between the "voice" of Komnas Perempuan and the "voice" of civil society. Therefore, this positioning is carried out to assert Komnas Perempuan's role as a "national human rights institution" in expressing its voice and intentions. In practice, however, Komnas Perempuan continues to engage in consolidation and dialogue with civil society, and the substantive advocacy points being pursued are not significantly different, such as jointly advancing the interests of victims.

“

Komnas Perempuan functions as a state institution distinct from our NGO colleagues. Although some of our NGO friends question and even get upset about Komnas Perempuan lobbying on its own, this is done to differentiate our positioning in policy advocacy. We speak as a national human rights institution with this mandate, so that it's clear whose voice is that of Komnas Perempuan, a victim, or a

³⁹⁵ Undang-undang Nomor 11 Tahun 2020 tentang Cipta Kerja dicabut melal

supporter. This positions Komnas Perempuan as a national human rights institution. To put it in perspective, we learned from the 2019 experience that members of the DPR (House of Representatives) couldn't distinguish between Komnas Perempuan's voice and that of an NGO. So, when I first introduced myself to the DPR members, I was lectured and scolded. However, that was accepted and became a reflection point for Komnas Perempuan. (Excerpt from an interview with SAT, Commissioner of Komnas Perempuan, November 1, 2022.)

During advocacy and campaign activities, Komnas Perempuan also consolidates and collaborates with various organizations and communities. For instance, when advocating for the Bill on the Eradication of Sexual Violence (RUU TPKS), Komnas Perempuan participated in providing awareness to labor unions. The materials presented were tailored to the specific conditions or contexts, such as discussing cases of gender-based violence and sexual violence that can occur in the workplace. From meetings like these, new movements emerge, such as labor unions joining efforts to lobby the DPR for expedited discussions on the RUU TPKS. Advocacy is also undertaken by students, and even religious groups such as religious organizations that initially opposed the RUU TPKS, but later joined and collaborated with Komnas Perempuan. For example, the 'Aisyiyah³⁹⁶ group, which had not yet formed a stance on the RUU TPKS, eventually engaged in discussions and came to the DPR alongside Komnas Perempuan to express their support for the RUU TPKS.

“
Yes, the communities we support, like Komnas Perempuan, provide awareness to labor unions. We adjust the content to address issues such as sexual violence or gender-based violence, which can also occur within labor unions or workplace environments. We make sure the content is relevant to their interests. So, then the labor union

³⁹⁶ui Peraturan Pemerintah Pengganti Undang-Undang (Perpu) Nomor 2 Tahun 2022 tentang Cipta Kerja yang kemudian ditetapkan menjadi undang-undang melalui Undang-undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja. UU Cipta Kerja ini memiliki dampak yang sangat masif terhadap masyarakat di Indonesia karena mencakup terkait dengan: (a) peningkatan ekosistem investasi dan kegiatan berusaha; (b) ketenagakerjaan; (c) kemudahan, perlindungan serta pemberdayaan Koperasi dan Usaha Mikro, Kecil, dan Menengah; (d) kemudahan berusaha; (e)

members come to the DPR on their own initiative, proposing the acceleration of discussions on the Sexual Violence Eradication Law. As far as I remember, it involved labor unions, students, and various religious groups. They prepared papers not just from the Islamic context but from multiple religions. It's like, after our outreach, we visited religious organizations, including those who were initially opposed. Yet, they later joined us in discussions and public hearings. (Excerpt from an interview with SAT, Commissioner of Komnas Perempuan, November 1, 2022.)

Currently, Komnas Perempuan is engaged in advocacy efforts to promote the Draft Law on the Protection of Domestic Workers (RUU PPRT), involving the domestic worker community. In this advocacy process, Komnas Perempuan is employing a similar strategy to the one used in advocating for the Sexual Violence Eradication Law (UU TPKS). This strategy targets various groups, such as religious groups, youth groups, and employers. When approaching religious groups, Komnas Perempuan emphasizes that providing protection to marginalized groups is a religious duty. When engaging with employers, the focus is on highlighting that the RUU PPRT also ensures the rights of employers and provides legal certainty for them. Regarding youth groups, the approach underscores the fact that they have grown up under the care of domestic workers, and therefore, domestic workers should be valued just like any other workers in the public sector. The presence of domestic workers contributes to a sense of security and comfort for women and men working in the public sector.³⁹⁷

Through these discussions and collaborations, the voices advocating for the importance of the Draft Law on the Protection of Domestic Workers (RUU PPRT) include not only Komnas Perempuan and the domestic worker community, but also youth groups, employers, and other segments. As for the government, Komnas Perempuan coordinates with the President's Office (KSP), the Ministry of Manpower, the Ministry of Women Empowerment and Child Protection, and the Ministry of Law and Human Rights.³⁹⁸ The KSP is a target of advocacy because it oversees the work of various ministries and agencies. Communication is established to

³⁹⁷ dukungan riset dan inovasi; (f) pengadaan tanah; (g) kawasan ekonomi; (h)

³⁹⁸ investasi Pemerintah Pusat dan percepatan proyek strategis nasional; (i)

encourage the KSP to prompt the President to express support for the RUU PPRT. Additionally, the KSP is also concerned about domestic worker protection issues. Komnas Perempuan's advocacy efforts are undertaken by building, developing, and strengthening sources of strength, enabling them to reach various societal groups, build strong coalitions, and possess sufficient information.³⁹⁹ Ultimately, the advocacy aims to raise public awareness, including among both the general population and policymakers, about a particular issue in order to bring about policy changes and improve conditions.⁴⁰⁰

“

Nowadays, especially in policy advocacy like the RUU PPRT, it certainly involves the domestic worker community. Komnas Perempuan has reached out to religious groups, youth groups, and employers. So, currently, those who are advocating are talking about the importance of the Domestic Workers Protection Law. For instance, young people who have had experiences being cared for by domestic workers or experiences as employers, how domestic workers have assisted them in managing households – that's the focus now. (Excerpt from an interview with SAT, Commissioner of Komnas Perempuan, November 1, 2022.)

Based on a validation meeting with Komnas Perempuan's commissioners, after successful policy advocacy and enactment, Komnas Perempuan develops monitoring and evaluation instruments (Monev) to ensure the implementation of those policies. An example is the Monev instrument prepared for the implementation of the Law on the Elimination of Domestic Violence (UU PKDRT). Through the Monev results, Komnas Perempuan identifies obstacles in the law's implementation, leading to recommendations such as a) optimizing the implementation of the UU PKDRT, b) creating a Domestic Violence Eradication Action Plan or a National Action Plan for the Elimination of Violence Against

³⁹⁹pelaksanaan administrasi pemerintahan; dan (j) peneraan sanksi.adilan, hlm. 42

⁴⁰⁰ Maggie Black, "A Handbook on Advocacy – Child Domestic Workers: Finding a Voice" as referred in *Menjadi Mata Keadilan: Memantau untuk perubahan: pelatihan Advokasi Berbasis Data untuk Masyarakat Sipil tentang Pengadilan Tindak Pidana Korupsi ("Becoming the Eyes of Justice: Monitoring for Change: Data-Driven Advocacy Training for Civil Society on Corruption Court")*, Adzkar Ashinin, et.al. (Jakarta: ELSAM dan LeIP, 2016), p. 36.

Women, and c) establishing restorative justice standards for domestic violence cases. In the future, Komnas Perempuan will conduct policy implementation monitoring and evaluation alongside four other National Human Rights Institutions and other CSOs.⁴⁰¹

3. Perspective of Legal Empowerment Practitioners

Legal Empowerment Practitioner from LBH APIK Jakarta⁴⁰²

Ms. SM explained that in policy reform, LBH APIK Jakarta also relies on the role of academics and practitioners to help formulate easily understandable policy briefs. This is particularly important to ensure that the policy briefs are comprehensive from both legal and scholarly perspectives, making them acceptable to stakeholders.

“

So, of course, involving academics, practitioners, and individuals directly engaged in policy advocacy is also a very important aspect. (Excerpt from an interview with Ms. SM, legal empowerment practitioner from LBH APIK Jakarta, November 23, 2022)

Ms. SM also explained that policy advocacy concerning access to justice for women must involve various parties that promote and support such changes. Often, there are communities that do not align with efforts for policy reform related to women's access to justice, as seen during the process of enacting the Sexual Violence Eradication Law (UU TPKS).

“

Well, in policy advocacy, everyone should be involved to push and support, because even a small amount of opposition can become a barrier. For instance, if there's a group of women who don't support the Sexual Violence Law (UU TPKS), but then they directly benefit from this law when they become victims. So, when there's a opposing group like that, it becomes a hindrance to our advocacy. (Results of an interview with SM, legal empowerment practitioner from LBH APIK Jakarta on November 23, 2022)

⁴⁰¹ Validation Meeting with Komnas Perempuan Commissioner on June 5, 2023

⁴⁰² Interview with SM, Legal Empowerment Practitioner from LBH APIK Jakarta on November 23, 2022.

This is also related to the situation where the status of victim advocates was not recognized before the enactment of PERMA 3/2017. Every advocate even had to submit a request letter to the Judge or Chief Justice of the Court in order to be allowed to accompany the victim.

Furthermore, Ms. SM also elaborated that policy reform cannot be achieved alone and highlighted the importance of collaborative roles among civil society organizations in advocating for an issue. In this regard, LBH APIK Jakarta has collaborated with the Indonesian Court Monitoring Society of the Faculty of Law, University of Indonesia (MaPPI FHUI) in monitoring activities based on PERMA 3/2017:

“

We have been invited by MaPPI FHUI several times, and we continue to monitor and evaluate whether there are violations during court proceedings. For instance, advocates might not be allowed in the courtroom, or there could be Judges who lack a gender perspective. We make monitoring and evaluation efforts and report the results to the Supervisory Board of the Supreme Court of the Republic of Indonesia or to the Judicial Commission during the implementation as well. (Excerpt from an interview with Ms. SM, legal empowerment practitioner from LBH APIK Jakarta, November 23, 2022)

In the previous chapter, Ms. SM explained that within the context of legal empowerment, LBH APIK Jakarta relies on activities, methods, and/or legal education strategies that are supported by champions or reliable individuals within their communities. However, when it comes to policy advocacy, Ms. SM clarified that champions are not only drawn from the community or beneficiaries of APIK, but also from various sectors, including law enforcement agencies (APH) and government institutions. She emphasized the need to establish good relationships and collaborations with parties from the Police, Public Prosecution Office (Kejaksaan), the Legislation Body of the Indonesian Parliament (Baleg DPR RI), and even academics from different universities. This was a highlight of the advocacy efforts for the Sexual Violence Eradication Law (RUU TPKS), where collaboration was achieved through shared understanding that the legal product was crucial for victims of sexual violence.

“

Now, when there are individuals in strategic positions forming a specific team, of course, they need to be 'nudged' (approached persistently), and that's very effective in making sure that input from civil society is heard. (Excerpt from an interview with Ms. SM, legal empowerment practitioner from LBH APIK Jakarta, November 23, 2022.)

Furthermore, Ms. SM also explained that approaching individuals in strategically political positions is important to convey proposals and input from civil society, especially concerning the enactment of the Sexual Violence Eradication Law (UU TPKS).

“

So, those positions are indeed important, and the political approach is important as well. Actually, we position these individuals to work for a greater purpose, meaning to 'steer' policy advocacy. For instance, if they become experts in ministries, that's a crucial position. This way, the ministry or institution can understand cases or the needs of victims that they might not have previously comprehended. When someone with an understanding or who has worked with LBH APIK or has been involved in gender-based violence eradication contributes, they can help improve the creation of better legal regulations. (Excerpt from an interview with Ms. SM, legal empowerment practitioner from LBH APIK Jakarta, November 23, 2022.)

One of the activities carried out by LBH APIK Jakarta to monitor policy advocacy is conducting monitoring and evaluation (Monev), particularly concerning PERMA 3/2017 regarding the right to legal representation for women (PBH). Additionally, Ms. SM also mentioned that the results of this monitoring are reported to the Supreme Court's Supervisory Board (Bawas Mahkamah Agung) and the Judicial Commission.

“

We were invited a few times by MaPPI at that time, and we also continued with monitoring and evaluation to check for any violations. For instance, if advocates were not allowed in the courtroom or if there were Judges who lacked a gender perspective. We carried out monitoring and evaluation efforts and reported them to the Supreme Court's Supervisory Board (Bawas) or to the Judicial Commission (KY) during the implementation as well. (Excerpt from an interview with Ms. SM, legal empowerment practitioner from LBH APIK Jakarta, November 23, 2022.)

Legal Empowerment Practitioner from PEKKA.⁴⁰³

PEKKA employs a range of strategies in policy reform. Among these are mobilizing community paralegals within PEKKA to facilitate legal awareness among the public, providing case assistance, and engaging in policy advocacy.

“

...Engaging in policy advocacy that can lead to practical implementation or bring it down to the grassroots level. For example, there's the Domestic Violence Eradication Law (PKDRT), previously, only those at the national level, activists, or legal study institutions were aware of it. But at the village level, they didn't understand, even the village government and law enforcement officials didn't understand. So, we can say that in 2005, we developed legal empowerment, and it was the PEKKA paralegal mothers that we trained who disseminated information about the PKDRT law. (Excerpt from an interview with FVS, legal empowerment practitioner from Yayasan Pemberdayaan Perempuan Kepala Keluarga, November 22, 2022)

PEKKA employs an advanced strategy in policy reform by establishing multi-stakeholder forums that encompass various stakeholders, starting from the village level up to the district level. In this context, PEKKA's paralegals play a role in 'door-to-door' facilitation, conducting visits to various institutions such as the police, public prosecution office, courts, district officials, or legal departments in local governments, and departments related to labor that deal with community empowerment at the village level.

“

So, the paralegal mothers conduct visits and then invite discussions. Initially, we, from the PEKKA Foundation, facilitated and helped the PEKKA mothers to connect with stakeholders, inviting them to come down to the field for direct discussions with the residents. We focus on bringing down the perception that the law intimidates the community. We reflect that when facing a case, we might avoid legal processes. So, considering those who lack access to information and capacity, PEKKA, working in villages, bridges the gap. We work to bring down law enforcement officials and the government itself so they truly understand the problems and challenges faced by the community. (Excerpt from an interview with FVS, legal empowerment practitioner from Yayasan Pemberdayaan Perempuan Kepala Keluarga, November 22, 2022)

⁴⁰³ Interview with FVS, legal empowerment practitioner from PEKKA on November 22, 2022..

Additionally, PEKKA also encourages PEKKA's paralegals to engage in policy advocacy. One of these efforts pertains to access to legal identity services, particularly promoting the establishment of Village Regulations concerning Isbat Nikah (confirmation of marriage), Social and Health Funds in various PEKKA working areas, in collaboration with the MAMPU program.⁴⁰⁴ PEKKA initiates this process at the village level by forming Village Head Decrees (SK Kepala Desa) and Village Regulations. Simultaneously, PEKKA advocates for changes at the national level by providing necessary data for national policy reform.⁴⁰⁵

Policy advocacy doesn't conclude with policy formation. Policy formation is just the beginning of the advocacy process carried out by PEKKA. Building on policy formation, such as Village Head Decrees (SK Kepala Desa), task forces are established to advocate for the issues being addressed. For instance, concerning child marriage and violence prevention against women, PEKKA promotes allocating village funds for case assistance needs. This aligns with PEKKA's strategy to empower PEKKA communities to engage in legal awareness, case assistance, and policy advocacy efforts.⁴⁰⁶

Adaptations and Innovations Applied to Address Challenges in Implementing Policy Reform to Ensure Access to Justice for Women in Conflict with the Law

1. Perspektif BPHN⁴⁰⁷

Representative from BPHN (National Law Development Agency), stated that one of the challenges they face is when they receive input that falls outside their scope of authority (tupoksi). This issue is also related to the overlapping jurisdiction between BPHN and other Ministries/Agencies, while the general public may not fully comprehend the intricacies of government bureaucracy. This constraint can be understood due to the limitations in the authority of a particular institution.

⁴⁰⁴ MAMPU, "Yayasan Pemberdayaan Perempuan Kepala Keluarga (PEKKA)", <http://mampu.bappenas.go.id/mitra-kami/pekka-yayasan-pemberdayaan-perempuan-kepala-keluarga/> accessed on 12 May 2023

⁴⁰⁵ Interview with FVS, legal empowerment practitioner from Women-Headed Family Empowerment Foundation on November 22, 2022.

⁴⁰⁶ *Ibid*

⁴⁰⁷ Interview with MN, employee of the National Law Development Agency (BPHN) on 30 November, 2022.

Therefore, what can be done next is how BPHN can maximize its function and role following its scope of authority. For instance, in the context of the function of analyzing and evaluating policies related to access to legal assistance services, BPHN needs to enhance collaboration and integrated communication with relevant Ministries/Agencies. This is essential for evaluating policies concerning legal assistance for individuals and groups facing legal issues. Cooperation and coordination can be established with the following Ministries/Agencies: (i) Ministry of Law and Human Rights, (ii) Supreme Court of the Republic of Indonesia through the Directorate General of General Judiciary Bodies, (iii) Directorate General of Religious Judiciary Bodies, and Directorate General of Military Judiciary and State Administrative Judiciary, (iv) Attorney General of the Republic of Indonesia, (v) Ministry of Home Affairs, (vi) Ministry of Village Affairs, (vii) Chief of the Indonesian National Police, (viii) Chairman of the Indonesian Advocates Association (PERADI)

2. Perspective of Komnas Perempuan⁴⁰⁸

One of the challenges faced by the National Commission on Violence Against Women (Komnas Perempuan) when advocating for policy reform is encountering resistance from certain parties, especially when dealing with sensitive cases or issues. For instance, when conducting campaigns to combat sexual violence, topics such as adultery, abortion, and others often spark intense debates due to their religious and moral implications.

The approach taken to overcome this resistance is by creating a mapping strategy for lobbying and campaigning. When the National Commission on Violence Against Women (Komnas Perempuan) advocates for the Sexual Violence Eradication Bill (RUU TPKS), there are instances of rejection stemming from religious or other contexts. At that point, Komnas Perempuan does not primarily focus on changing the perspectives of those who oppose it; instead, efforts are directed towards expanding advocacy to reach those who are accepting or neutral (neither accepting nor rejecting) towards the RUU TPKS issue. This approach enhances the effectiveness and strength of the advocacy movement.

⁴⁰⁸ Interview with Commissioner of the National Commission on Violence Against Women (Komnas Perempuan) on November 1, 2022.

“

So, in the past, when it comes to religious or other sensitive issues, our approach wasn't to try to convince those who oppose to accept but rather to strengthen and increase the support from those who already accept it. We focused our efforts on those who were neutral or uncertain. If there were individuals firmly against it, we didn't intervene, as it's better to gain support from those who are undecided. That's how we approached sensitive issues. (Interview excerpt with Ms. SAT, commissioner from Komnas Perempuan.)

One of the innovations that Komnas Perempuan has implemented to raise public awareness about the advocated policies is collaborating with public figures who are widely accepted by the community, such as Indonesian comedians (komika) or influencers like Kalis Mardiasih, Cinta Laura, and Ardina Rasti.⁴⁰⁹ Another approach taken to address resistance in sensitive issues, such as sexual violence, is the creation of "Questions and Answers (QnA)" documents. These documents serve as guidelines for the commissioners to address sensitive questions about adultery, abortion, LGBT, and feminism.

“

Komnas Perempuan addresses sensitive cases through webinars, where questions often arise concerning topics like adultery, abortion, LGBT, and feminism. These are common questions, especially during our campaign to eliminate sexual and domestic violence. These issues are often contentious and intertwined with religious values. To tackle this, for example, in the context of our efforts related to the Sexual Violence Eradication Law, where misinformation is being spread, we create Q&A documents. These documents serve as a guide for the commissioners in responding to such questions. (Results of an interview with Ms. SAT, Commissioner of Komnas Perempuan.)

Furthermore, Komnas Perempuan also strives to engage in dialogue with various parties, including religious scholars/leaders, both male and female, who possess a gender-sensitive perspective. This allows these individuals to assist Komnas Perempuan in responding to sensitive issues.

⁴⁰⁹ Validation meeting with Commissioner of the National Commission on Violence Against Women (Komnas Perempuan) on June 5, 2023.

“

To address this, for example, in the Women's National Meeting (Rapat Harian Komnas Perempuan/RHK), particularly regarding issues related to the Sexual Violence Eradication Law (Undang-Undang Tindak Pidana Kekerasan Seksual/TPKS) and the spread of false information, we create QnA documents that serve as guidelines for commissioners in responding to such questions. Another approach we take is to build a dialogue with male and female religious scholars who have a gender-supportive perspective. They become the ones who respond, for instance, when such issues arise. (Interview with SAT, Komnas Perempuan commissioner.)

Furthermore, when conducting campaigns in specific domains such as religious or cultural spheres, Komnas Perempuan will assign individuals with the capacity and expertise in those areas. For example, those who deeply understand religion or culture make it easier to be accepted by specific community groups.

Regarding the advocacy for the Household Workers Protection Bill (RUU PPRT), despite the establishment of a working group within the government, there is still a need for greater public pressure to push the leadership of the Deliberative Body (Badan Musyawarah) in the Parliament (DPR) to consider this bill as a legislative initiative. According to a Komnas Perempuan Commissioner, there is a difference between advocating for the Sexual Violence Eradication Bill Plan (RUU TPKS) and the Domestic Worker Protection Bill Plan (RUU PPRT). In the advocacy for the RUU TPKS, Komnas Perempuan can engage and emphasize the experiences of victims of sexual violence. On the other hand, for the RUU PPRT, the scope is more limited and is heavily influenced by class bias.

This class bias in advocating for the RUU PPRT is also acknowledged by Lita Anggraini, a women's activist who champions the rights of domestic workers. The perception that domestic work is a predominantly female occupation and the view that it requires no special skills contribute to this bias. For instance, some legislative assembly members still believe that domestic workers should be paid low wages. Therefore, there is a need for recognition that domestic work holds equal value and importance to other forms of labor. Ensuring the fulfillment of fundamental rights for domestic

workers is a crucial aspect that needs to be addressed in policy-making.⁴¹⁰

Based on a validation meeting with Komnas Perempuan Commissioners, the Household Workers Protection Bill (RUU PPRT) is perceived as potentially undermining the traditional sense of community cooperation and cultural practices due to practices like "Abdi Dalem" and extended family members helping with household chores ("ngenger"). To minimize class bias, one of the steps taken by Komnas Perempuan is to establish communication with religious organizations to raise awareness that domestic workers are the most vulnerable group and require protection. Komnas Perempuan also engages in discussions with the Indonesian Women's Congress (Kowani), influencers, and young people who are often employers themselves to garner support for the RUU PPRT. Additionally, Komnas Perempuan promotes positive narratives about domestic workers, both for women in the workforce and for young people, to reduce class bias. Furthermore, Komnas Perempuan emphasizes that the bill also provides guarantees for employers.

“

So, what hasn't been done effectively yet is lobbying at the 'next level.' Even though, for instance, the RUU PPRT Working Group has been established within the government, its position in the DPR is actually within the Badan Musyawarah (Bamus), which is led by the DPR leadership. The communication approach there is quite different and at a high level. This is also related to public pressure. If the public applies pressure or campaigns more prominently, it will influence the Bamus leadership's consideration to make it an initiative proposal. This aspect hasn't been fully developed yet, maybe because it's different in nature between the laws like the RUU TPKS and RUU PPRT. With TPKS, we can involve the experiences of victims of sexual violence. But for RUU PPRT, as there are millions of domestic workers, how do we raise awareness about it, especially considering the class bias evident in RUU PPRT? This is something that needs to be collectively addressed. (Result of an interview with SAT, Komnas Perempuan Commissioner.)

⁴¹⁰ Andi Misbahul Pratiwi, "Lita Anggraini: Bias Kelas Masih Menjadi Hambatan Besar dalam Advokasi RUU Perlindungan PRT", <https://www.jurnalperempuan.org/tokoh-feminis/lita-anggraini-bias-kelas-masih-menjadi-hambatan-besar-dalam-advokasi-ruu-perlindungan-prt?locale=en> accessed on 23 May 2023.

Advocacy is a multifaceted endeavor that requires various strategies, creativity, and unwavering commitment. Looking at the diverse strategies employed by Komnas Perempuan, it's evident that the organization possesses a skill set characterized by staff or leaders who are adept at advocacy and problem-solving when addressing challenges within the advocacy process. A strong collaboration between leadership and staff is crucial to support the sequence of advocacy activities. Komnas Perempuan has the capacity to generate and communicate relevant data effectively, which helps to persuade various stakeholders to support the issues at hand. The organization also demonstrates the ability to analyze existing risks and possesses the capacity to communicate and collaborate to ensure meaningful community engagement in advocacy efforts.

David Cohen emphasizes the importance of building and maintaining an advocacy foundation as an ongoing process and expanding the advocacy strategies of an organization.⁴¹¹ In the context of Komnas Perempuan, having adequate resources, skills, long-term partnerships, the ability to work with communities, risk analysis capabilities, organizational coordination and leadership, and the capacity to communicate relevant data are the foundations that can strengthen the advocacy efforts undertaken.

3. Perspective of Legal Empowerment Practitioners

*Legal Empowerment Practitioner from PEKKA*⁴¹²

PEKKA plays a role in policy advocacy at the village level as a form of legal development. In executing this role, Ms. FVS acknowledges that the difficulty level in driving policy advocacy becomes higher at the district, provincial, and even national levels. To address this, PEKKA encourages paralegals to initiate advocacy efforts at the village level. It is easier to promote implementation, such as through village regulations or at least the Village Chief's Decrees, at the village level. These regulations or decrees can quickly establish task forces, for instance, to prevent child marriages, combat violence

⁴¹¹ "David Cohen in ' *Menjadi Mata Keadilan: Memantau untuk perubahan: pelatihan Advokasi Berbasis Data untuk Masyarakat Sipil tentang Pengadilan Tindak Pidana Korupsi* (Becoming the Eyes of Justice: Monitoring for Change: Data-Driven Advocacy Training for Civil Society on Corruption Criminal Courts),' by Adzkar Ashinin, et al. (Jakarta: ELSAM and LeIP, 2016), page 36."

⁴¹² Wawancara dengan FVS, praktisi pemberdayaan hukum dari PEKKA pada 22 November 2022.

against women, or allocate village funds for case support for victims of domestic violence or child marriages.

For instance, Ms. FVS elaborated on PEKKA's target regarding the amendment of the Marriage Law. Recognizing the high level of difficulty⁴¹³ and the substantial resources and energy required to amend laws at the legislative level, PEKKA opted for an alternative strategy that also directly impacts women. This strategy involves advocating for evidence-based policies that have a direct impact on women-headed households.⁴¹⁴

PEKKA found a discrepancy of around 10–11% in the data on women-headed households between the statistics provided by the Central Statistics Agency (BPS) and PEKKA's own data. This difference is attributed to variations in measurement units in data collection, particularly the definition of women-headed households used by BPS compared to PEKKA. To address this, PEKKA took steps to ensure the adoption and use of indicators for defining women-headed households that can be adopted and utilized by BPS.⁴¹⁵ Furthermore, PEKKA recognizes that one of the challenges in amending the Marriage Law is the presence of religious interpretations. To address this, PEKKA strives to involve religious figures in developing modules and classes that can provide a comprehensive understanding of the Marriage Law from a religious perspective. Through this approach, PEKKA believes that engaging in discussions can influence a change in societal perspectives, which is also a crucial step in the broader policy advocacy process.⁴¹⁶

One of the successful stories in policy reform carried out by PEKKA at the local level is the establishment of a Village Regulation (Peraturan Desa) to raise the minimum age for marriage in Sungai Raya Sub-

⁴¹³ Outcome of Validation Meeting with FVS, a legal empowerment practitioner from the Foundation for Women as Head of Household Empowerment, on June 8, 2023. PEKKA believes that even after the changes to the Marriage Law, there are still cultural challenges within the community. This pertains to the fact that the community has not fully grasped the issues addressed by the amendments to the Marriage Law. At the village level, the Village Government also lacks an understanding of the changes to the Marriage Law, leading to unrecorded marriages and widespread approval of marriage dispensation requests. Additionally, challenges arise from the political system in the formation of regulations at the legislative level. Hence, PEKKA begins with efforts to enhance the understanding of the village community and the establishment of regulations at the village level.

⁴¹⁴ *Ibid.*

⁴¹⁵ *Ibid.*

⁴¹⁶ *Ibid.*

District.⁴¹⁷ This achievement began with the implementation of training activities for local community and religious leaders to raise awareness about sexual and reproductive health rights, promote youth activities, and conduct socialization efforts targeting parents to prevent child marriage.⁴¹⁸ Through a shift in perspective, PEKKA and the local community advocated for developing a Village Regulation through discussions involving village residents. This process ultimately resulted in the Village Regulation in Sungai Raya Sub-District.

“

If the village is not contaminated by the political system and empowers PEKKA's women with sufficient capacity, they can influence the village. For instance, as village heads or community members, more than 130 PEKKA women hold leadership positions, enabling them to advocate for gender justice-related policies at the local level. However, at the national level, we cannot act alone. (Validation Meeting Results with Ms. FVS, Legal Empowerment Practitioner from the Women-Headed Household Empowerment Foundation, on June 8, 2023)

PEKKA believes that the effectiveness of driving legislative changes should start with raising legal awareness among the community about the existence of legal regulations. According to PEKKA's research findings, legal awareness within the community can be achieved through the role of village governments in legal education. This legal awareness forms the basis for community compliance with the law, as people understand the substance of a regulation's implementation. Therefore, legal compliance needs to be built through legal education efforts.⁴¹⁹ Furthermore, one of the priorities in evidence-based policy advocacy at the district and village levels is that policies are formulated based on data and the realities experienced by the local community. This approach ensures that the policies created are more aligned with fulfilling the rights and needs of the local population.⁴²⁰

⁴¹⁷ *Ibid.*

⁴¹⁸ Sri Wiyanti Eddyono, et.al., "*Perubahan Pengaturan Usia Minimum Perkawinan, Dispensasi perkawinan dan Praktiknya di Indonesia*", (Jakarta: PEKKA, 2021), p. 117

⁴¹⁹ *Ibid.*

⁴²⁰ *Ibid*, p.147

PEKKA's approach aligns with the findings of the Asian Development Bank's research on "Legal Empowerment for Women and Disadvantaged Groups." The study revealed that the success of legal empowerment for women and vulnerable groups hinges on the active engagement of key stakeholders, including communities and public officials. Legal empowerment ultimately ensures their understanding and ability to navigate legal and administrative processes and structures to access resources, services, and opportunities. Legal empowerment also serves as a bridge to close the gap between communities and public officials by providing information, training, assistance, and support to vulnerable groups in addressing their needs. Simultaneously, efforts are made to provide information and guidance to public officials, assisting them in effectively managing development programs in collaboration with the community.⁴²¹

One of PEKKA's initiatives to bridge the gap between community needs and government responsibilities is the KLIK PEKKA program.

“

KLIK PEKKA started as a project, but we hope that it can be replicated by other villages. So, we created KLIK guidelines for village and district governments, implemented KLIK PEKKA, and developed guidelines for replication. KLIK PEKKA is an entry point for women's development in areas where it doesn't exist yet. (Validation Meeting Outcome with Ms. FVS, Legal Empowerment Practitioner from PEKKA Foundation, on June 8, 2023)

Implementing KLIK PEKKA demonstrates that local-level legal empowerment efforts serve as a preliminary step toward larger advocacy activities. PEKKA's role, in this regard, is to bridge the gap between the community's needs and the government's functions through establishing legal empowerment programs for women-headed households, promoting evidence-based policies, and actively involving the community in policy-making.⁴²² The efforts of policy reform driven by PEKKA indicate that the challenges in achieving policy reform at the national level do not necessarily mean

⁴²¹ Asian Development Bank, "Legal Empowerment for Women and Disadvantaged Groups", (Mandaluyong City: Asian Development Bank, 2009), p. 4.

⁴²² Outcome of Validation Meeting with FVS, Legal Empowerment Practitioner from Yayasan Pemberdayaan Perempuan Kepala Keluarga, on June 8, 2023.

that policy reform cannot be achieved at all. This can be initiated through policy reform at the local level, which also directly impacts women, particularly through evidence-based policies.

*Legal empowerment practitioner from LBH APIK Jakarta*⁴²³

In conducting advocacy related to policy reform, Ms. SM identified various challenges. For instance, during the advocacy process for the Anti-Sexual Violence Bill (RUU TPKS), which was eventually passed on April 12, 2022, there were often instances of black campaigns that used religious interpretations unfavorable to women to oppose the law's enactment. Throughout the advocacy process, groups of women did not support the passage of the law. This naturally posed a significant obstacle to the ongoing collective advocacy efforts.

In response to this situation, Ms. SM explained that LBH APIK Jakarta engaged religious leaders and faith-based organizations in dialogues regarding the importance of the Anti-Sexual Violence Law (UU TPKS) to protect victims of sexual violence.

“

We involve religious leaders because this issue intersects with patriarchal culture. Moreover, interpretations of religion that are not supportive of women often lead to black campaigns. So, we employ this strategy when we want to advocate or approach something. For instance, with Bankum (the National Board for Islamic Legal Affairs), our approach involves engaging with major Islamic organizations like Nahdlatul Ulama (PBNU). (Interview with Ms. SM, legal empowerment practitioner from LBH APIK Jakarta, November 23, 2022.)

SM also explained that religious leaders and religious-based community organizations have extensive networks and access to legal assistance. For example, the advocacy for the Legal Aid Regional Regulation is still ongoing for the Jakarta Special Capital Region (DKI Jakarta) and also maintains strategic relationships with state institutions such as the Jakarta Regional People's Representative Council (DPRD DKI Jakarta).

⁴²³ Interview with SM, Legal Empowerment Practitioner from LBH APIK Jakarta on November 23, 2022.

“

We involve religious leaders because this issue intersects with patriarchal culture. Moreover, interpretations of religion that are not supportive of women often lead to black campaigns. So, we employ this strategy when we want to advocate or approach something. For instance, with Bankum (the National Board for Islamic Legal Affairs), our approach involves engaging with major Islamic organizations like Nahdlatul Ulama (PBNU). (Interview with Ms. SM, legal empowerment practitioner from LBH APIK Jakarta, November 23, 2022.)

In addition, LBH APIK Jakarta also conducts mapping of advocacy opportunities and assigns roles among civil society organizations to advocate for pro-women and children policies.

“

But, once again, policy advocacy cannot be done alone. It's about mapping out what our colleagues have, what they can do, distributing roles and tasks according to their respective capacities. For instance, an organization like ICJR might focus on research. The results of this research can then be used for campaigns, political lobbying, policy briefs, and so on. LBH APIK, for example, has a wealth of experience from survivors, and we can then gather data and empower survivors to participate in campaigns or policy advocacy that we are currently engaged in. (Results of an interview with SM, legal empowerment practitioner from LBH APIK Jakarta, on November 23, 2022.)

Another obstacle encountered in advocating for policy reform related to the RUU PPRT is that sometimes the DPR (Parliament) is not very interested in discussing the rights and welfare of domestic workers due to its association with class issues. LBH APIK Jakarta responded to this by attempting to approach other strategic government institutions, such as the KSP (Kantor Staf Presiden/Presidential Staff Office)

“

Yes, not everything goes smoothly, but rather than not making any effort at all, when the DPR rejects it, it means we look at it from the government's perspective... So we use every method, starting from mapping out which spaces or individuals we can approach and then making those efforts. (Result of an interview with Ms. SM, a legal empowerment practitioner from LBH APIK Jakarta, on November 23, 2022)

CHAPTER 6

REFORMING POLICIES
RELATED TO ACCESS TO
JUSTICE FOR WOMEN IN
CONFLICT WITH THE LAW
FROM A COMMUNITY
PERSPECTIVE



The Role of the Community in Policy Reform to Ensure Access to Justice for Women in Conflict With the Law

1. The Role of the Community in Policy Reform (Participants of FGD in Jakarta and Yogyakarta)

The role of the community is crucial in supporting the rule of law, especially in the implementation of laws closely related to the welfare of women and children. Civil Society Organizations (CSOs), as non-state actors, play a significant role in conducting research and monitoring to assist the government in understanding and responding to issues and needs on the ground.⁴²⁴ Furthermore, one of the ways to enhance access to justice also involves the participation of CSOs in designing and monitoring policy reform processes.⁴²⁵ Therefore, CSOs also contribute to the implementation of policy reforms."

This sub-section will focus on the pillar of shaping the law. In "Making the Law Work for The People,"⁴²⁶ it is explained that legal empowerment operates within the realm of systemic change in the context of the pillar of shaping the law. Manifestations of shaping the law, for example, include activities such as monitoring and evaluation, building evidence to change discriminatory and harmful policies and regulations, or even proposing new policies and regulations that are beneficial in the context of protecting vulnerability within society. This can also involve securing the rights of individuals and the general public through strategic litigation and advocacy.

The FGD processes in Jakarta⁴²⁷ and Yogyakarta⁴²⁸ demonstrated that most Civil Society Organizations (CSOs) play a role in shaping the

⁴²⁴ Act 4 Rule of Law, "The role of civil society in promoting the rule of law," <http://www.act4ruleoflaw.org/en/news/civilsociety>, accessed on 19 May 2023.

⁴²⁵ Maria Bakolias, "Legal and Judicial Development: The Role of Civil Society in the Reform Process," *Fordham International Law Journal* 24 (2000), p. 27.

⁴²⁶ Open Society Foundations, *Making The Law Work for People*, p. 4.

⁴²⁷ The participants of the Focus Group Discussion (FGD) in Jakarta are from PBHI, LBH LBHM, LBH APIK Jakarta, HWDI, Koalisi Perempuan Indonesia, Perempuan Mahardhika, IPPI Jakarta, and JIP

⁴²⁸ The participants of the Focus Group Discussion (FGD) in Yogyakarta are from Rifka Annisa, PEKKA Bantul, SAPDA, LBH Apik Yogyakarta, JALA PRT, LBH Yogyakarta, and IPPI Yogyakarta

law. This role is carried out through activities such as advocating for, designing, and monitoring policy reforms, particularly in the context of initiating laws closely related to the well-being and fulfillment of women's rights. The first sub-section of this chapter will briefly outline success stories from several policy reforms, especially legal reforms through the establishment of legislation that has had a significant impact on access to justice for Women in Conflict with the Law.

Communities in Jakarta

In the Jakarta FGD, discussions regarding the role of the community in policy reform were divided into two groups. The first group consisted of participants from PBHI, LBH APIK, IPPI Jakarta, and JIP, while the second group included participants from LBH Masyarakat, Perempuan Mahardhika, Koalisi Perempuan Indonesia, and HWDI. In their respective presentations, the first group highlighted that each organization had advocated for several legislations that play a crucial role in the well-being and fulfillment of women's rights. These legislations include the Domestic Violence Law (UU PKDRT), the Law on Sexual Violence Crimes (UU TPKS), the Domestic Worker Protection Bill (RUU PPRT), and also at the local level, the Special Capital Region of Jakarta Regulation No. 4 of 2022 concerning the Implementation of the Respect, Protection, and Fulfillment of the Rights of Persons with Disabilities (Perda 4/2022).

The Domestic Violence Law (UU PKDRT) is one of the policy reform products that originated from the initiative of Civil Society Organizations (CSOs). The Draft Bill on Domestic Violence (RUU PKDRT) was proposed by LBH APIK due to the legal challenges faced by women who were victims of marital rape in 1997. At that time, they received assistance and support from LBH Apik:⁴²⁹

With the assistance of LBH APIK, N pursued her case of marital rape in court. At that time, proving the case was quite challenging because domestic violence was still a relatively unfamiliar concept and did not have its own legal framework. Additionally, it was further complicated by Article 285 of the Indonesian Penal Code (KUHP), which did not explicitly address the concept of marital rape:

⁴²⁹ Historia, "Mula KDRT Diusut," <https://historia.id/politik/articles/mula-kdrt-diusut-P14OI/page/1>, accessed on 19 May 2023.

"Anyone who, by force or threat of force, compels a woman who is not his wife to have sexual intercourse with him, shall be punished, for rape, with imprisonment for a maximum of twelve years."

In addition to that case, LBH APIK also documented increased cases of domestic violence against wives, including physical, psychological, sexual, and neglectful forms of violence. This data was then used to advocate for the Draft Bill on Domestic Violence (RUU PKDRT), particularly to protect women and children. Advocacy efforts continued with establishing the Domestic Violence Advocacy Network, driven by LBH APIK in collaboration with 15 other Civil Society Organizations (CSOs). Additionally, there was also a Parliamentary Forum that connected the advocacy network of CSOs with the Indonesian House of Representatives (DPR RI) Commission VII, which handles the legislative process of the RUU PKDRT.⁴³⁰

Furthermore, the Anti-Trafficking in Persons Law (UU TPKS) is a legal product initiated by the National Commission on Violence Against Women (Komnas Perempuan) in 2012.⁴³¹ The drafting of the UU TPKS began in 2014, involving Civil Society Organizations (CSOs) and through various discussions, dialogues, and alignment of perspectives related to sexual violence. As stated in the Academic Draft of the UU TPKS, this law is expected to serve as a comprehensive legal framework that provides legal certainty, breakthroughs, and specific regulations in the prevention and handling of cases of sexual violence, as well as the protection and recovery of sexual violence victims.⁴³²

The Draft Bill on the Protection of Domestic Workers (RUU PPRT) has been advocated for by civil society since 2004 and has been included in the National Legislation Program (Prolegnas) in every legislative period of the Indonesian House of Representatives (DPR RI). However, its enactment is still in the advocacy process as of 2023. The RUU PPRT is closely related to the well-being of women, given that the majority of domestic workers are women, especially from impoverished

⁴³⁰ *Ibid.*

⁴³¹ Tempo, "Kilas Balik 10 Tahun Perjalanan UU TPKS," <https://nasional.tempo.co/read/1582527/kilas-balik-10-tahun-perjalanan-uu-tpks>, accessed on 19 May 2023.

⁴³² Jaringan Masyarakat Sipil and Komnas Perempuan, *Naskah Akademik dan Naskah Rancangan Undang-Undang tentang Penghapusan Kekerasan Seksual* (s.l.: Jaringan Masyarakat Sipil dan Komnas Perempuan, 2020.), p. viii.

backgrounds. The urgency for the enactment of the RUU PPRT is as follows:⁴³³

1. The majority of domestic workers consist of women, who, as a vulnerable group, are at risk of being exploited, for example, through human trafficking;
2. Domestic workers are vulnerable workers because they often work in inappropriate situations, for example, with unlimited working hours, no breaks, no holidays and social security, and are vulnerable to violence, both economically, physically, and psychologically;
3. Domestic workers are prone to discrimination, harassment, and denigration of the profession;
4. Domestic workers are included in the labor force and are not recognized as workers, so they are considered unemployed; and
5. Domestic workers are not accommodated in regulations related to employment in Indonesia.

Next, regarding Local Regulation 4/2022 concerning the Implementation of Respect, Protection, and Fulfillment of the Rights of Persons with Disabilities, from its formulation to its enactment, it has been guided by HWDI (Indonesian Association of Persons with Disabilities) in collaboration with the Jakarta Capital City Government. It contains important points, particularly in terms of justice and legal protection:

Article 10 of Local Regulation 4/2022

"In the implementation of the Respect, Protection, and Fulfillment of the rights of Persons with Disabilities in the field of justice and legal protection, the Jakarta Capital City Government:

- a. Ensures and protects the rights of Persons with Disabilities as legal subjects to undertake legal actions equal to others.*
- b. Provides legal assistance to Persons with Disabilities in accordance with the provisions of the legislation.*

⁴³³ DPR RI, "Urgensi dan Pokok-Pokok Pikiran Pengaturan Penyusunan RUU Perlindungan Pekerja Rumah Tangga," <https://www.dpr.go.id/dokakd/dokumen/RJ5-20200226-054930-5717.pdf>, accessed on 19 May 2023.

Article 10 of Local Regulation 4/2022

c. Conducts legal protection awareness campaigns among the public and state civil apparatus regarding protecting Persons with Disabilities.

Furthermore, in terms of the implementation of legal assistance, Local Regulation 4/2022 also specifies that legal assistance is provided in the following manner:⁴³⁴

- a. Providing legal counsel and disability counselors.
- b. Providing sign language interpreters, typists, and/or illustrators.
- c. Exempting fees for visum et repertum and visum et repertum psychiatric examinations.
- d. Offering recovery and treatment services to victims.
- e. Providing psychosocial support.
- f. Providing witnesses.
- g. Providing experts.
- h. Providing accessible safe houses.

The discussion and presentation are continued by the second group. Similar to the first group, in addition to the Domestic Violence Law, the Law on Sexual Violence Crimes, the Domestic Worker Protection Bill, and local regulations related to persons with disabilities (for example, Local Regulation 4/2022), the Civil Society Organizations in the second group also participate in advocating for the Maternal and Child Health Bill (RUU KIA); Government Regulations and Presidential Regulations as derivative regulations of UU TPKS; and Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage (Amendment to the Marriage Law).

The RUU KIA is an initiative of the Indonesian House of Representatives (DPR RI) aimed at ensuring the well-being of mothers and children, particularly their physical, psychological, social, economic, and spiritual well-being. However, this bill has generated both support and opposition, including debates surrounding a six-month maternity leave for pregnant working women. In the RUU KIA, the mechanism for payment of wages related to maternity leave is as follows:

⁴³⁴ Indonesia, Special Capital Region of Jakarta, Regional Regulation (PERDA) on the Implementation of Respect, Protection, and Fulfillment of the Rights of Persons with Disabilities, Regional Regulation No. 4 of 2022, Article 12.

Article 5, Paragraph (2) of the Maternal and Child Health Bill (RUU KIA)

"Every mother who exercises the right as stipulated in Article 4, paragraph (2) letter a, shall receive the full entitlement of 100% (one hundred percent) for the first 3 (three) months and 75% (seventy-five percent) for the following 3 (three) months."

From the perspective of female workers, they support the regulation to extend maternity leave to six months. However, the regulation also states that employees are entitled to only 70% of their wages in the fourth month of leave. For female workers with low salaries, they will likely choose to continue working to receive their full wages.⁴³⁵ Another issue is that some companies still make it difficult for employees to access these rights. For instance, regarding menstrual leave rights as regulated in Law No. 13 of 2013 concerning Manpower, permission for menstrual leave can only be obtained when female workers receive a doctor's certificate (Surat Keterangan Dokter or SKD) issued by a factory clinic or a level I clinic listed in the Social Security Organizing Agency (Badan Penyelenggara Jaminan Sosial or BPJS) card. This complicated process often forces female workers to continue working even when they are unwell. The same goes for maternity leave, where it is not uncommon for female workers to face unilateral Termination of Employment (PHK) when trying to access maternity leave rights or even as soon as their pregnancy is known.

Furthermore, the provisions in this bill have also sparked protests from business owners who consider the duration of maternity leave to be excessively long.⁴³⁶ Another criticism of the RUU KIA is that it seeks to demand a more balanced role and responsibility for fathers as primary partners to mothers in ensuring the growth and development of their children.⁴³⁷ Representatives from the Indonesian Women's

⁴³⁵ Konde.co, "RUU Kesejahteraan Ibu dan Anak: Sekilas Progresif, Namun Berpotensi Mendomestifikasi Perempuan," <https://www.konde.co/2022/06/ruu-kesejahteraan-ibu-dan-anak-sekilas-progresif-namun-ada-kekuatiran-akan-mendomestifikasi-perempuan.html/>, accessed on 22 May 2023.

⁴³⁶ CNBC Indonesia, "RUU KIA: Ini yang Bikin Pengusaha Jengkel Soal Cuti Lahir," <https://www.cnbcindonesia.com/news/20220620184241-4-348720/ruu-kia-ini-yang-bikin-pengusaha-jengkel-soal-cuti-lahir>, accessed on 22 May 2023.

⁴³⁷ Kurniasih Mufidayati, "RUU KIA Juga Harus Bicara Peran Ayah dalam Pengasuhan," <https://kurniasihmufidayati.com/ruu-kia-juga-harus-bicara-peran-ayah-dalam-pengasuhan/>, accessed on 22 May 2023.

Coalition in this focus group discussion (FGD) also touched upon the importance of considering the well-being and rights of non-working pregnant women in the RUU KIA.

Government Regulations (PP) and Presidential Regulations (Perpres), as implementing regulations related to the UU TPKS, are also important to advocate for. This is especially crucial since there are at least nine implementing regulations mandated by the UU TPKS:

PP	Perpres
1. PP on Victim Assistance Fund; ⁴³⁸	1. Presidential Regulation on Integrated Teams; ⁴⁴³
2. PP on Termination of Access to Information or Electronic Documents; ⁴³⁹	2. Presidential Regulation on Integrated Services at the Center; ⁴⁴⁴
3. PP on Procedures for Handling, Protection, and Recovery; ⁴⁴⁰	3. Presidential Regulation related to Regional Technical Implementation Units for Women and Children Protection; ⁴⁴⁵ and
4. PP on the Implementation of The Law on Sexual Violence Crimes; ⁴⁴¹ and	4. Presidential Regulation on Education and Training Implementation; ⁴⁴⁶
5. PP on Coordination and Monitoring ⁴⁴²	

Next, the revision of Law No. 1 of 1974 on Marriage through a constitutional review of the age requirement for marriage is an

⁴³⁸ This government regulation is mandated by Article 35 paragraph (4) of the Law on Sexual Violence Criminal Acts

⁴³⁹ This government regulation is mandated by Article 46 paragraph (2) of the Law on Sexual Violence Criminal Acts

⁴⁴⁰ This government regulation is mandated by Article 66 paragraph (3) of the Law on Sexual Violence Criminal Acts

⁴⁴¹ This government regulation is mandated by Article 80 of the Law on Law on Sexual Violence Criminal Acts

⁴⁴² This government regulation is mandated by Article 83 paragraph (5) of the Law on Sexual Violence Criminal Acts

⁴⁴³ This presidential regulation is mandated by Article 70 paragraph (3) of the Law on Sexual Violence Criminal Acts

⁴⁴⁴ This presidential regulation is mandated by Article 75 of the Law on Sexual Violence Criminal Acts

⁴⁴⁵ This presidential regulation is mandated by Article 78 of the Law on Sexual Violence Criminal Acts.

⁴⁴⁶ This presidential regulation is mandated by Article 84 paragraph (2) of the Law on Sexual Violence Criminal Acts."

example of the success of strategic litigation as part of the legal empowerment scheme for law change. This refers to legal actions taken by the public to bring about significant changes in existing laws, such as clarifying, amending, or expanding a law to support legal reform goals, for example, by bringing a related case to court.⁴⁴⁷ In this case, the constitutional review petition was filed by child marriage survivors, as reported in the press release from the Constitutional Court of the Republic of Indonesia (MK RI):⁴⁴⁸

"In their petition, the Applicants explained their legal status as Indonesian citizens and victims of child marriage. The Applicants felt forced to marry at an early age due to economic constraints and the burden of debt experienced by their families. During their marriage journey, the Applicants admitted that their rights had been violated, including the right to education, healthy reproduction, and a decent standard of living."

Before the revision of Law No. 1 of 1974, Article 7 of the law stipulated that the minimum marriage age for males was 19 years old, while for females, it was 16 years old - whereas, according to the Child Protection Law, a person is considered a child if they are under 18 years old. The amendment of this regulation through Law No. 16 of 2019 was well-supported and welcomed by Civil Society Organizations and the public, given the very high rate of child marriages in Indonesia. A significant change brought about by the amendment of the law regarding the age limit for marriage is that the minimum age for both males and females to marry has been equalized to 19 years old, which is notably above the age of childhood.

Communities in Yogyakarta

Participants in the Focus Group Discussion (FGD) from Yogyakarta, representing organizations such as Rifka Annisa, PEKKA Bantul, SAPDA, LBH Apik Yogyakarta, JALA PRT, LBH Yogyakarta, and IPPI Yogyakarta, have expressed that their organizations are involved in various advocacy efforts to promote policy reforms related to

⁴⁴⁷ SDG Accountability Handbook, "Pursuing Law Reforms, Strategic Litigation and Legal Empowerment," <https://sdgaccountability.org/wp-content/uploads/2019/05/Pursuing-Law-Reforms.pdf>, accessed on 22 May 2023.

⁴⁴⁸ Constitutional Court of the Republic of Indonesia, "MK Putus Uji Materi Syarat Usia Kawin," https://www.mkri.id/public/content/infoumum/press/pdf/press_714_12.12.2018%20Rilis%2022.PUU.XV.2017%20Perkawinan-PUTUSAN-Shella.pdf, accessed on 22 May 2023.

women's access to justice and cross-cutting issues. Some of the policies they have advocated for include Law No. 8 of 2016 on Persons with Disabilities, the UU TPKS, and the RUU PPRT.

After going through two cycles of the National Legislative Program in 2014 and 2015, the Disabilities Act was finally enacted on March 17, 2016.⁴⁴⁹ This law guarantees the implementation and fulfillment of the rights of persons with disabilities, including the right to life, freedom from stigma, privacy, justice, and legal protection, as well as rights related to education, employment, health, religion, politics, social welfare, accessibility, public services, habilitation and rehabilitation, data collection, freedom from discrimination, neglect, torture, and exploitation.⁴⁵⁰ The law also specifically addresses the rights of women with disabilities, including their right to reproductive health, the choice to accept or reject contraceptive methods, additional protection against intersectional discrimination, and extra protection against violence.⁴⁵¹ In cases where women and children with disabilities become victims of violence, both the central and local governments have a duty to establish information and rapid response units, including easily accessible safe houses.⁴⁵²

In addition to national-level laws, other forms of policy advocacy promoted by CSOs are also carried out at the regional or local policy levels. These include Local Regulation No. 11 of 2022 on Legal Aid for the Poor and Vulnerable Communities in the Yogyakarta Special Region; Governor Regulation No. 31 of 2010 on Domestic Workers; and Mayor Regulation No. 48 of 2011 on Domestic Workers in the City of Yogyakarta. Roem Topatimasang argues that advocacy aims to create policies related to the public interest, whether it involves advocating for a policy that does not exist, reforming policies that are detrimental or ineffective, or ensuring the implementation of existing policies.⁴⁵³

⁴⁴⁹ Yossa AP Nainggolan, *Rekam Jejak Kontribusi Komnas HAM Dalam Pembentukan Undang-Undang Nomor 8 tahun 2016 tentang Penyandang Disabilitas*, (Jakarta: Komisi Nasional Hak Asasi Manusia, 2016), p. 1.

⁴⁵⁰ Indonesia, Law on Persons with Disabilities, Law No. 8 of 2016, Article 5.

⁴⁵¹ *Ibid.*

⁴⁵² *Ibid.*, article 125-127.

⁴⁵³ Adzkar Ashinin, et.al., *Menjadi Mata Keadilan: Memantau untuk perubahan: pelatihan Advokasi Berbasis Data untuk Masyarakat Sipil tentang Pengadilan Tindak Pidana Korupsi*, (ELSAM, AIJ dan Leip), p. 25.

Special Regional Regulation No. 11 of 2022 on Legal Aid for the Poor and Vulnerable Communities in the Yogyakarta Special Region represents a breakthrough in the midst of the limited regulations concerning legal aid, which has traditionally been limited to the poor.⁴⁵⁴ In this regulation, legal aid can be provided to the poor and other vulnerable groups. The regulation defines vulnerable groups as individuals who, due to certain circumstances or events, are potentially denied legal equality and legal certainty.⁴⁵⁵

Meanwhile, Governor Regulation No. 31 of 2010 on Domestic Workers and Mayor Regulation No. 48 of 2011 on Domestic Workers in the City of Yogyakarta represent a breakthrough at a time when the Indonesian government had not yet passed the Domestic Workers Bill. These regulations aim, among other things, to provide legal recognition to domestic workers, regulate employment relationships, and provide protection to both domestic workers and employers.⁴⁵⁶ Some of the breakthroughs addressed in these regulations include:

1. The employment relationship between domestic workers and employers is established through a written or unwritten employment agreement. The contents of the employment agreement should include the identities of both parties, job types and descriptions, the rights and responsibilities of both the domestic worker and the employer, as well as the dispute resolution mechanism;⁴⁵⁷
2. Domestic workers have various rights, including wages, days off, religious holiday allowances, clear job descriptions and work types, sufficient break time, leave, and permissions;⁴⁵⁸

⁴⁵⁴ In accordance with Article 5 of Law No. 16 of 2011 concerning Legal Aid, recipients of legal aid are individuals or groups who are poor and unable to fulfill their basic rights in a dignified and independent manner, including the right to food, clothing, health services, education, employment and entrepreneurship, and/or housing

⁴⁵⁵ Indonesia, Special Region of Yogyakarta, Regional Regulation on Legal Aid for the Poor and Vulnerable Groups, Regional Regulation No. 11 of 2022, Article 1

⁴⁵⁶ Indonesia, Yogyakarta City, Mayor's Regulation on Domestic Workers, Mayoral Regulation No. 48 of 2011, Article 3.

⁴⁵⁷ Indonesia, Special Region of Yogyakarta, Governor's Regulation on Domestic Workers, Gubernatorial Regulation No. 31 of 2010, Article 5, paragraphs (1), (2), (3), and Yogyakarta City, Mayor's Regulation on Domestic Workers, Mayoral Regulation No. 48 of 2011, Article 6, paragraphs (1), (2), (3)

⁴⁵⁸ Indonesia, Special Region of Yogyakarta, Governor's Regulation on Domestic Workers, Gubernatorial Regulation No. 31 of 2010, Article 8, and Yogyakarta City, Mayor's Regulation on Domestic Workers, Mayoral Regulation No. 48 of 2011, Article 6, paragraph (4)

3. If domestic workers are still minors, employers are obliged to consider the rights of the child. This includes ensuring that child domestic workers attend compulsory education, obtaining parental or guardian consent, regulating working hours, allowing communication with parents or guardians, and ensuring access to healthcare, protection from violence, the right to socialize, and participate in activities;⁴⁵⁹
4. Domestic workers have the opportunity to participate in skills training and household ethics programs organized by the government or private institutions.⁴⁶⁰

In addition to advocating for policies at the regional level, Civil Society Organizations also push for various Memoranda of Understanding (MoUs) with various stakeholders, including:

1. MoU between the Sragen District Court and SAPDA and the Disability Community - This MoU is a manifestation of the court's commitment to establishing an inclusive judiciary. It is also a follow-up to the Decree of the General Judiciary Body (Badilum) Number 1692/DJU/SK/PS.00/12/2020 concerning Guidelines for Providing Services to Persons with Disabilities in High Courts and District Courts.⁴⁶¹ SAPDA has entered into MoUs with 58 courts, including general courts, district courts, religious courts, administrative courts, and high courts, regarding disability-friendly or inclusive courts. The aim of this MoU is to encourage courts to provide facilities and infrastructure for persons with disabilities, offer services tailored to their needs, and, if the court encounters disability cases, refer them to disability organizations.⁴⁶²
2. MoU between Rifka Annisa and the Gunungkidul Police regarding Behavior Change Counseling for male perpetrators of Domestic Violence (KDRT). With this MoU, Rifka Annisa will provide counseling

⁴⁵⁹ Indonesia, Special Region of Yogyakarta, Governor's Regulation on Domestic Workers, Gubernatorial Regulation No. 31 of 2010, Article 8, paragraphs (4), (5), (6), and Yogyakarta City, Mayor's Regulation on Domestic Workers, Mayoral Regulation No. 48 of 2011, Article 9.

⁴⁶⁰ Indonesia, Special Region of Yogyakarta, Governor's Regulation on Domestic Workers, Gubernatorial Regulation No. 31 of 2010, Article 10, and Yogyakarta City, Mayor's Regulation on Domestic Workers, Mayoral Regulation No. 48 of 2011, Article 11.

⁴⁶¹ SAPDA, "*PN Sragen dan PN Semarang Siap Mewujudkan Peradilan Inklusif*", <https://sapdajogja.org/2021/11/pn-sragen-dan-pn-semarang-siap-mewujudkan-peradilan-inklusif/>, accessed on 22 May 2023.

⁴⁶² *Validation meeting on June 15, 2023.*

for couples, particularly for male perpetrators, when cases of domestic violence are brought to the Gunungkidul Police.

According to Civil Society Organizations, the successful advocacy of these policies represents an achievement or success of civil society in pushing for policy reform. These achievements include several changes in the form of new legislation, both at the national and regional levels. These changes encompass various forms, ranging from laws to regional regulations, governor regulations, and even Memorandums of Understanding (MoUs) among stakeholders.

2. CSO's Involvement in policy drafting and discussions

In Law No. 12 of 2011 on the Formation of Legislation, the public has the right to provide input on the formation of legislation, whether through verbal or written means. Public input can be conveyed through various channels, such as Public Hearings (Rapat Dengar Pendapat Umum or RDPU), site visits, awareness campaigns, seminars, workshops, or discussions.⁴⁶³ During the validation meeting conducted with Civil Society Organizations (CSOs), several organizations shared their experiences in providing input during the policy development process. SAPDA, for instance, has experience participating in the development of various regulations. This includes the Disability Act and its implementing regulations, such as Government Regulations on Social Welfare for Persons with Disabilities, and Government Regulations on Habilitation and Rehabilitation. Additionally, SAPDA has been involved in the development of regional regulations, such as Regional Regulation No. 4 of 2012 in the Special Region of Yogyakarta concerning the Protection and Fulfillment of the Rights of Persons with Disabilities.

Meanwhile, LBH Apik Yogyakarta was once involved in the discussion of a regional regulation on legal aid that took up to two years, from the drafting of the academic text to its final approval. LBH Apik Yogyakarta engaged in various meetings to discuss the draft policy with policymakers and the public, including vulnerable groups. To provide input in the formulation of legislation, CSOs need to make various efforts. These efforts may include initiatives to seek information about when legislative discussions are taking place. Additionally, CSOs may need to proactively approach and lobby

⁴⁶³ Indonesia, Law on the Formation of Legislation, Law No. 12 of 2011, Article 96..

relevant parties to be included in policy discussions. CSOs often equip themselves with policy briefs or policy papers to use as advocacy materials, helping the government develop regulations that align with the needs of the community.⁴⁶⁴

According to Komnas Perempuan (the National Commission on Violence Against Women), the primary entities involved in the discussion of a law are the Indonesian House of Representatives (DPR) and the government. However, the government does provide opportunities for public participation, both formally and informally. For example, within the DPR, there are Public Hearing (Rapat Dengar Pendapat Umum or RDPU) sessions where various representatives from civil society can be invited to participate. Additionally, civil society organizations often engage in hearings, either with parliamentary commissions or party factions, and even hold direct meetings with specific legislators.⁴⁶⁵

From the experiences of CSOs in Jakarta and Yogyakarta, it can be concluded that communities have the ability to influence the development of policies that align with the issues and needs of the society. Civil society is one of the key actors in public policy alongside public actors (ministries and government agencies) and private actors or businesses.⁴⁶⁶ The participation of the public in the creation of public policies is crucial in various stages, including advocacy, formulation, implementation, and policy evaluation.⁴⁶⁷

In the context of promoting development at the regional level, public participation is essential because it encourages political engagement among citizens. Ultimately, this contributes to the practice of democracy and fosters more open and democratic regional autonomy.⁴⁶⁸ Public participation in policy reform is a critical parameter for achieving well-targeted policies that align with the principles of a democratic state.⁴⁶⁹ With community involvement in

⁴⁶⁴ SAPDA and Jala PRT in the Validation Meeting on June 15, 2023.

⁴⁶⁵ Validation meeting with Komnas Perempuan, June 5, 2023.

⁴⁶⁶ Ardhana Januar Mahardhani, *Advokasi Kebijakan Publik*, (Ponorogo: Penerbitan dan Percetakan Calina Media, 2018), p. 4.

⁴⁶⁷ *Ibid.*, p.71.

⁴⁶⁸ Ricky Wirawan, et al, *Jurnal Ilmu Sosial dan Ilmu Politik Vol. 4, No. 2* (2015), p. 302

⁴⁶⁹ Kompas, "Partisipasi Masyarakat dalam Kebijakan Publik," <https://nasional.kompas.com/read/2022/03/15/04000011/partisipasi-masyarakat-dalam-kebijakan-publik>, accessed on 12 May 2023.

policy formulation, existing policies can better represent the needs and interests of the wider society.⁴⁷⁰

Empowering communities and enhancing community capacity will help individuals become more aware of their rights as citizens to engage in political aspects by participating in policy formulation.⁴⁷¹ Furthermore, community involvement enhances transparency and efficiency in government decision-making processes and helps identify the needs, aspirations, and views of the community regarding important issues. Community participation also increases the level of acceptance and commitment to policy outcomes because of the knowledge and input from various groups that shape and create inclusive solutions. This, in turn, contributes to an increased level of public trust in the government.⁴⁷²



What are the forms of activities, methods, and/or strategies applied by the community in advocating for policy reforms to ensure access to justice for women in conflict with the law?

Advocacy is a strategic series of actions, whether carried out by an individual or a group, aimed at pushing an issue/problem onto the policy agenda, compelling policymakers to address the issue, and garnering support for public policies aimed at resolving the problem.⁴⁷³ Advocacy activities can be initiated by individuals or community groups who are victims of a legal issue, with support from various parties such as politicians, lawyers, and individuals from diverse backgrounds who share the same advocacy foundation.⁴⁷⁴ Forms of advocacy activities carried out by CSOs may encompass efforts to lobby for policy changes, engage in public education, and conduct field research.⁴⁷⁵ The following will outline the types of activities, methods, and/or strategies employed by CSOs in advancing policy advocacy, particularly those that ensure justice for women.

⁴⁷⁰ Sopian Hadi, "Menumbuhkan Partisipasi Masyarakat Dalam Pengawasan Pelayanan Publik", <https://ombudsman.go.id/artikel/r/artikel--menumbuhkan-partisipasi-masyarakat-dalam-pengawasan-pelayanan-publik>, accessed on 12 May 2023.

⁴⁷¹ Wisnu Hendrianto, "Improving the Effectiveness of Community Participation in Village Fund Program", *Bappenas Working Papers Volume II No. 2*, (Mei, 2019), p. 220.

⁴⁷² Granicus, "Why is Community Engagement Important?", <https://granicus.com/blog/why-is-community-engagement-important/>, accessed on 12 May 2023.

⁴⁷³ Sheila Espine- Villaluz dalam Mahardhani, *Op.Cit.*, p. 58.

⁴⁷⁴ Wahyudi in *Ibid.*

⁴⁷⁵ Lucy P Jordan, et al. Child welfare NGOs in Hong Kong: Does Advocacy work?, May 2018, *International Social Work*, Vol. 63, p. 2
<https://journals.sagepub.com/doi/10.1177/0020872818774109>

The activities carried out by civil society organizations in Jakarta and Yogyakarta are essential elements in conducting policy advocacy. According to Kristy Evans, there are four main elements required for legislative advocacy, namely: (a) Conducting research and packaging issues in an appropriate manner, (b) Building broader networks and coalitions to mobilize support, (c) Disseminating information and public education, and (d) Engaging in lobbying and monitoring the policies being advocated for.⁴⁷⁶

Communities in Jakarta

The Civil Society Organization (CSO) in Jakarta engages in various activities related to policy advocacy, including:

1. **Research and Data Collection:** Representatives from LBH APIK Jakarta explains that one form of policy reform advocacy they engage in is the collection of client support data, particularly related to Electronic-Based Sexual Violence (E-BSV). This data is now included in the UU TPKS (Sexual Violence Criminal Act) as an effort to protect victims of sexual violence from criminalization.

“

The UU TPKS (Sexual Violence Law) is also one of our leading advocacies. Back then, there wasn't any input regarding GBVO (Gender-Based Violence Online) or E-BSV (Electronic-Based Sexual Violence). It was overlooked previously, but since we have a lot of data related to E-BSV and it's actually regulated in the UU ITE (Electronic Information and Transactions Law) and Pornography Law, those regulations tend to criminalize the victims inadvertently. That's why we set it out more rigidly in the UU TPKS. (Result of FGD with a representative from LBH APIK Jakarta, February 2, 2023)

The use of factual data by CSOs significantly impacts policy formulation, leading to the emergence of policies and improved practices. This result stems from using strong and systematic factual data in the policy design process.⁴⁷⁷ Currently, through the UU TPKS, the government has the authority to remove and/or restrict access to any form of media (images or videos) with nuances of E-BSV.⁴⁷⁸ Nevertheless, the implementation of

⁴⁷⁶ Elizabeth Kristi Poerwandari, Ratna Batara Munti & Jackie Viemilawati (2018), Pro-women's policy advocacy movements in Indonesia: Struggles and reflections, *Asian Journal of Women's Studies*, 24:4, 489-509, p.492

⁴⁷⁷ Mine Pabari, et al., "Evidence-informed policy and practice: The role and potential of civil society," *African Evaluation Journal* 8, (2020), p. 3.

⁴⁷⁸ Indonesia, Law on Sexual Violence Criminal Acts, Law No. 12 of 2022, Article 46.

content removal still needs further regulation through government regulations derived from the UU TPKS.

Representatives from PBHI also explained that they are currently conducting research on Human Trafficking Crimes (TPPO). This research is based on the consideration that the No. 21 of 2007 Law on the Eradication of Human Trafficking Crimes (UU TPPO) needs to place a greater obligation on the state to be responsible through a restitution and compensation scheme. PBHI plans to package the research findings into policy advocacy, given that TPPO is a crime often experienced by migrant workers, including seafarers, female laborers, and women and children in general.

A representative from JIP explained that one of the policy advocacy methods they employ is mapping issues within the legal framework, including existing laws, newly enacted legislation, and draft legislation. As a community involved in addressing issues related to People Living with HIV/AIDS (ODHA), JIP has identified issues in the No. 1 of 2023 Law on the Criminal Code⁴⁷⁹ (hereinafter referred to as the New Criminal Code or KUHP Baru):

“

After looking at the articles, our colleagues at JIP realized that this could have an impact on HIV prevention efforts in Indonesia. Because it's stated there, if I'm not mistaken, in relation to providing reproductive health information, it should be given by authorized personnel who have the proper certification. Now, the question is, who are these authorized personnel? Until today, there is uncertainty about that. So, there's a concern that when providing education, there might be such findings, potentially violating the law, creating a new issue. (Result of FGD with a representative from JIP, February 2, 2023)

The issue of HIV and ODHA is closely linked to reproductive health issues. This includes access to contraception, which is closely connected to preventing the spread of HIV infections. However, the provisions in the New Criminal Code limit the scope of education and the dissemination of

⁴⁷⁹ On December 6, 2022, the Indonesian People's Consultative Assembly (DPR RI) passed a new criminal code through Law No. 1 of 2023 concerning the Criminal Code. This regulation updates Indonesia's criminal code, which originated during the Dutch colonial era under Law No. 1 of 1946 concerning the Criminal Code. However, some provisions in this law have been criticized for violating the rights of vulnerable groups, including women, gender and sexual minorities, religious minorities, as well as restricting freedom of speech and association. See : "Indonesia: New Criminal Code Disastrous for Rights" at <https://www.hrw.org/news/2022/12/08/indonesia-new-criminal-code-disastrous-rights>, accessed on July 15, 2023.

information about pregnancy prevention, particularly on contraceptive uses as it mandates that it should be carried out by authorized officials. Representatives from JIP also emphasize the need for clarity on this matter.

“

We are advocating for the issuance of government regulations (PP) for this law. It needs to specify who the authorized individuals are, whether it should be the nearest Health Office, the Ministry of Health, or elsewhere. Once again, if this is implemented strictly according to the law, it will have an impact on our female friends living with HIV. It won't be easy for us to provide reproductive health education if we don't have the required certification. (Result of FGD with a representative from JIP, February 2, 2023)

2. **Involvement in Memorandum of Understanding (MoUs) and Working Groups with government institutions,** KPI (Koalisi Perempuan Indonesia/Indonesian Women Coalition) also engages in various advocacy activities, including lobbying, meetings, and the establishment of MoUs on issues being advocated for policy reform. For instance, KPI has entered into MoUs with Religious Courts in several regions to advocate for issues related to child marriage.

This program is implemented in various regions across Indonesia through the respective KPI branches in those areas. For example, KPI in South Sulawesi has entered into a cooperation agreement with the Religious Court of Pangkep Regency concerning child marriage issues. The agreement aims to tighten the use of marriage dispensation, particularly through communication, information, and education, as well as applying a child protection perspective in resolving dispensation cases.⁴⁸⁰ Similarly, KPI branches in East Java have undertaken similar initiatives with the Religious Court in Ponorogo,⁴⁸¹ while KPI in the West Nusa Tenggara (NTB)

⁴⁸⁰ Bacapesan, "KPI Pangkep Gandeng Pengadilan Agama, Sepakat Perketat Dispensasi Nikah," <https://bacapesan.fajar.co.id/2023/08/04/kpi-pangkep-gandeng-pengadilan-agama-sepakat-perketat-dispensasi-nikah/>, accessed on 15 August 2023.

⁴⁸¹ Pengadilan Agama Ponorogo, "PA Ponorogo Hadir dalam Regular Meeting Pencegahan Perkawinan Anak Koalisi Perempuan Indonesia (KPI) Wilayah Jawa Timur," <http://pa-ponorogo.go.id/berita-seputar-peradilan/724-pa-ponorogo-hadir-dalam-regular-meeting-pencegahan-perkawinan-anak-koalisi-perempuan-indonesia-kpi-wilayah-jawa-timur>, accessed on 15 August 2023.

region, as of July 31, 2023, has signed an MoU for supporting child marriage dispensation in the jurisdiction of the Religious Court in Mataram.⁴⁸²

The Directorate General of Human Rights of the Ministry of Law and Human Rights of the Republic of Indonesia, in collaboration with Perhimpunan Jiwa Sehat and LBH Masyarakat, has joined forces through the Working Group (Pokja) for the Respect, Protection, Fulfillment, Enforcement, and Advancement of Human Rights for Persons with Mental Disabilities (P5HAM). This Working Group was established based on the Decision of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-01.HA.04.02 of 2021 concerning P5HAM Pokja, with the following objectives:⁴⁸³

1. To achieve the goals of P5HAM for persons with mental disabilities in Indonesia, enabling them to live inclusively in society as mandated by the Human Rights Law and the Disabilities Law;
2. To develop a collaborative strategy between Ministries/Agencies, local governments, disability organizations, and civil society organizations (CSOs) to promote P5HAM for persons with mental disabilities in Indonesia, facilitating their inclusive participation in society;
3. To formulate various forms of support to enable persons with mental disabilities to live independently within the community;
To end violence and human rights violations against persons with mental disabilities in rehabilitation facilities;

Mr. YO, as a representative of the Community Legal Aid Institute (LBH Masyarakat), also outlined during the validation meeting that one of the initiatives for developing the P5HAM Working Group stemmed from civil society's findings regarding the conditions in social and rehabilitation institutions.

“

It also started with our findings from analyzing social institutions. This has implications for guardianship as well. We've observed many cases where individuals are not placed under guardianship through a court order, like a court-appointed guardianship. Still, rather, families unilaterally place their children, spouses, or others in these institutions. However, we still can't ascertain whether these institutions are legally valid, whether they have

⁴⁸² Duta Selaparang, "KPI NTB dan Pengadilan Agama Mataram MoU Pendampingan Perkawinan Usia Anak," <https://dutaselaparang.com/kpi-ntb-dan-pengadilan-agama-mataram-mou-pendampingan-perkawinan-usia-anak/>, accessed on 15 August 2023.

⁴⁸³The Decision of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-01.HA.04.02 Year 2021 regarding the P5HAM Working Group, page 5.

legal status, legality, accountability, and so on. (Result of the Validation Meeting with YO from LBH Masyarakat, June 23, 2023)

In Indonesian civil law, "pengampuan" (curatele) is a legal measure used to place an adult under a status similar to that of a minor.⁴⁸⁴ According to Articles 433–462 of the Civil Code (Kitab Undang-Undang Hukum Perdata or KUH Perdata), an individual can be placed under "pengampuan" due to conditions of incapacity, mental illness, prodigality, or inability to think clearly (losing their senses).

However, over time, particularly in the disability advocacy movement, criticisms have emerged regarding these articles. This is because terms like "stupid," "crazy," or "losing their senses" are considered outdated, derogatory, not in line with modern healthcare terminology, and perpetuate negative stigma associated with individuals with mental disabilities.

Complaints from grassroots communities about the conditions in social and rehabilitation institutions that violate human rights have also been documented, as highlighted by Mr. YO:

“

We understand that there are many complaints from grassroots communities about the improper implementation of these institutions. Many of them have experienced violations such as forced haircuts, being restrained, and not being provided with adequate clothing. (Result of FGD with YO from LBH Masyarakat, February 2, 2023)

Additionally, during the validation meeting, Mr. YO, representing LBH Masyarakat, explained that one of the initiatives behind the development of the P5HAM Working Group stemmed from civil society's findings about the conditions in social and rehabilitation institutions:

“

Now, this is what we presented to the Ministry of Law and Human Rights, in the sense of making them aware of the other side of the issue with these institutions... At the same time, it serves as a reminder to the government, especially the Ministry of Law and Human Rights. The first objective is to establish human rights standards within an institution, and the second is that if, for example, it's found in the future that some institutions are violating human rights procedures, the Ministry of Law and Human Rights

⁴⁸⁴ P. N. H. Simanjuntak, *Hukum Perdata Indonesia* (Jakarta: Kencana, 2017), p. 24.

can take action, such as closing them down or revoking their permits if they are legitimate. That's actually the purpose of P5HAM itself. (Result of the Validation Meeting with YO from LBH Masyarakat, June 23, 2023)

Communities in Yogyakarta

Meanwhile, for Civil Society Organizations (CSOs) in Yogyakarta, various activities carried out in policy advocacy include:

1. **Data Collection:** This includes conducting assessments or mapping the current situation regarding gender-based violence, identifying the types, categories, and needs of victims of violence, and identifying obstacles or challenges faced by victims and their supporters. Data collection serves as the basis for understanding the current conditions related to a specific issue, such as gender-based violence data in a particular area. Various methods can be used for data collection, such as organizing Focus Group Discussions (FGDs) involving different communities, CSOs, the public, and relevant authorities. According to the results of the validation meeting, data collection can involve paralegals, and the data or studies are used as advocacy materials for meetings and discussions with policymakers. The data or studies are also published in document form or as films to make them more accessible and understandable to the public.⁴⁸⁵

Data collection is one of the fundamental elements of policy advocacy.⁴⁸⁶ Several advantages of evidence-based public policy-making include ensuring that policies align with current public issues and meet public needs while minimizing errors in policy development by prioritizing the selection of the best problem-solving alternatives for the policies being formulated.⁴⁸⁷ According to LBH Apik Jakarta, evidence-based advocacy is crucial as it helps acknowledge victims that their cases are not just statistics but contribute meaningfully to policy advocacy. The experiences of victims serve as a valuable resource for conducting studies, creating policy briefs, policy papers, and even academic writings.

2. **Engaging in Civil Society Networks or Coalitions.** For example, in Yogyakarta, the Victim Protection Forum (Forum Perlindungan Korban Kekerasan or FPKK) serves as a platform for various organizations to network, advocate, and coordinate their efforts. In addition to service

⁴⁸⁵ SAPDA and Jala PRT during the Validation Meeting on June 15, 2023.

⁴⁸⁶ Mahardhani, *Op.Cit.*, p. 59.

⁴⁸⁷ *Ibid.*, p. 83.

providers, FPKK includes government agencies such as the Women's Empowerment and Child Protection Office, Social Services Office, Health Office, Education and Culture Office, Religious Affairs Office, and representatives from law enforcement agencies such as the Police (Women and Children's Protection Unit) and the Prosecutor's Office.⁴⁸⁸ This forum is involved in advocacy efforts to fulfill victims' rights. For instance, they push for the establishment of dedicated spaces for women and child victims of violence in hospitals (such as Sardjito Hospital and Panti Rapih Hospital in Jogja). Currently, the forum is also advocating for victims of violence in Yogyakarta to receive counseling services from psychologists and psychiatrists.

“

Currently, what we are advocating for is how victims can access both psychological and psychiatric services together. Right now, it's a choice, and we're advocating to have both options available. Both are needed; people need counseling with a psychologist, and they also need medication. But this isn't happening yet, so we are advocating together to make both of these services accessible. (Participant in the Focus Group Discussion, Yogyakarta, February 16, 2023)

In addition to the FPKK forum, there is also a network of Legal Aid Organizations in Yogyakarta that collaboratively advocates with local governments. In addition to advocacy efforts, participants in this network collaborate with other organizations to conduct workshops involving various CSOs and communities, organize awareness campaigns and gather public input, hold regular meetings, consultations, and engage in academic research.

Advocacy through building networks is also known as mezzo advocacy, which involves creating networks or coalitions with various groups, organizations, industries, and influential figures in society who share common interests. The purpose of mezzo advocacy is to coordinate efforts and promote social services.⁴⁸⁹ The formation of coalitions is one of the elements that strengthens policy advocacy. Coalitions that involve different groups from various backgrounds or organizations representing different interests can provide security for advocacy efforts and build

⁴⁸⁸ SAPDA and Rifka Annisa during the Validation Meeting on June 15, 2023.

⁴⁸⁹ Sulistyary Ardiyantika, *Strategi Advokasi Perempuan Difabel Korban Kekerasan di SAPDA*, INKLUSI: Journal of Disability Studies Vol. 3 No. 2, July-December 2016, p. 206

political support.⁴⁹⁰ Additionally, by forming alliances and a united movement, activists can pool resources, including expertise and credibility, to make advocacy activities more effective.⁴⁹¹

- 3. Multi-Sector Collaboration between CSOs and Government.** For instance, when PEKKA advocated for the KLIK program (Information and Consultation Service Clinic) regulated under Bantul Regency Regulation No. 31 of 2019, they collaborated with the national secretariat responsible for the integrated service system under the Ministry of Social Affairs.⁴⁹² Collaboration with the government is also conducted by several CSOs in partnership with the National Commission on Violence Against Women (Komnas Perempuan). One example is Jala PRT, which advocated alongside Komnas Perempuan in cases of violence against domestic workers. Over the past few years, Jala PRT, in collaboration with Komnas Perempuan, has also been involved in advocating for the Domestic Workers Protection Bill. Activities include conducting awareness-raising sessions on the draft law with various stakeholders, including government agencies such as the Ministry of Social Affairs and the Ministry of Manpower and civil society.

These various collaborations demonstrate the interrelated and synergistic relationships between actors in policy advocacy. The formation of both formal and informal strategic alliances across sectors is a crucial strategy in advocacy. Collaborative efforts serve as a means for CSOs to enhance their engagement in driving policy advocacy. Coalitions also provide a platform to communicate desires or ideas and leverage various stakeholders' strength to bolster advocacy efforts.⁴⁹³

- 4. Developing Campaign Materials.** For example, in the advocacy for RUU TPKS, Jala PRT created campaign tools such as t-shirts, posters, and calendars. Meanwhile, Komnas Perempuan created campaign tools, including goodie bags, notebooks, tumblers, jackets, and umbrellas. Creating campaign materials is one way to develop persuasive presentations aimed at influencing the advocacy target. According to a Commissioner from Komnas Perempuan, these campaign tools are typically created for activities during the 16 Days of Activism Against

⁴⁹⁰ Mahardhani, *Op.Cit.*, p. 60.

⁴⁹¹ Amy Risley, *Civil Society Organizations, Advocacy, and Policy Making in Latin American Democracies*, (New York, Palgrave Macmillan, 2015),p.11

⁴⁹² Representative from PEKKA in the Focus Group Discussion (FGD) in Yogyakarta on February 16, 2023..

⁴⁹³ Jordan, *et al.*, *Op.Cit.*,p. 5

Gender-Based Violence.⁴⁹⁴ Other organizations, like SAPDA, also produce campaign materials. During the RUU TPKS advocacy, SAPDA created items such as t-shirts, keychains, pins, or other souvenirs that served as advocacy and campaign materials.

What are the Challenges Faced and the Adaptations and/or Innovations Implemented by the Community in Dealing with Advocacy Challenges Related to Policy Reform to Ensure Access to Justice for Women in Conflict with the Law?

Communities in Jakarta

In general, the group discussion results during the Jakarta FGD found that the main obstacles sometimes come from within civil society itself. For example, in the advocacy for the passage of RUU TPKS, there was resistance in the form of a black campaign by civil society organizations (CSOs) with conservative ideological leanings that questioned the appropriateness of the concept of consent in sexual relationships. In response to this situation, communities strengthened their campaign strategies and supporting data to emphasize the urgency of passing the RUU TPKS. Although it has now been enacted, FGD participants stated that UU TPKS still has significant "unfinished business" in terms of drafting and passing the implementing regulations mandated by the law. FGD participants explained that the absence of implementing or derivative regulations in the form of government regulations (PP) and presidential decrees is a barrier to enforcing victims' rights. Therefore, policy advocacy for sexual violence issues through consultations with relevant stakeholders must continue.

Another obstacle encountered is the difficulty in reaching victims of gender-based violence, which is necessary to support advocacy activities related to policies that affect women victims, such as providing input on policies based on victims' experiences. This difficulty is also related to the sensitive issues faced by women victims of gender-based violence. However, FGD participants expressed that this can be overcome by strengthening networks with local communities, especially those consisting of CSOs specializing in legal and non-legal assistance to vulnerable groups, such as people with disabilities, the LGBT community, and people living with HIV/AIDS. Strengthening these networks can provide a sense of security and a support

⁴⁹⁴ The validation meeting with the Commissioner of the National Commission on Violence Against Women (Komnas Perempuan) on June 5, 2023.

system within the group, making it easier to discuss the issues they face daily regarding access to justice.

Furthermore, the KPI found that advocacy at the regional level should align with the national level. A speaker from the KPI explained that sometimes community members at the regional level are more aware of changes in national regulations, but not at the local level as local regulations in their areas.

“

Now we're trying to encourage members to find out what changes are happening in their respective local areas. Sometimes there are Village Regulations (Perdes) or Regional Regulations (Perda) that are not known by our friends, and as a result, they can't participate in the drafting process. (Result of FGD with EE from KPI, February 2, 2023)

LBH Masyarakat also found that sometimes obstacles come from the government's side. For example, when advocating for the creation of regulations related to people with disabilities, such as Presidential Regulation No. 39 of 2020 on Adequate Accommodation for People with Disabilities in the Judicial Process, the government was very passive and seemed to prioritize other issues over the one being pushed. To address this situation, the community adapted by organizing meetings between people with disabilities and the government to ensure that their perspectives as parties involved in the judicial process were directly heard.

“

The obstacle we saw then was that the government, as the working group, was very passive. They didn't seem too concerned about this urgency and so on. The innovation we made was that before we contributed data, we included the victims (people with disabilities who experienced injustice) in the process (meeting with the government), meaning we included them so that they could hear statements directly from them. This way, it could be seen that this is an urgent matter, and once again (Presidential Regulation 30/2020) was passed. (Result of FGD with YO from LBH Masyarakat, February 2, 2023)

The involvement of communities in policy development has several benefits. It not only promotes the principles of accountability and transparency but also broadens the arguments and perspectives needed to create quality policies. The level of acceptance and resistance from the public will automatically decrease because they have been engaged from the early stages of

development.⁴⁹⁵ It has been found that community participation is hindered because, among other reasons, people are not aware that there are opportunities to participate, they do not know the procedures for participation, and the government does not open opportunities for the public to participate. Furthermore, there is still a stigma that community participation will slow down policymakers, and existing policies do not favor the interests of the public.⁴⁹⁶ However, with contributions from the community, formulated policies become more realistic and effective because they align with the needs of the people.

Communities in Yogyakarta

In the FGD with the Yogyakarta community, the first obstacle encountered in the policy advocacy process is when the public rejects the issues being advocated. For example, there is resistance to gender-based violence (GBV) issues, where there is still a prevalent negative stigma and discrimination against women living with HIV/AIDS and people with disabilities. Additionally, in domestic violence (DV) issues, some people still consider family issues as private matters that should not be reported or brought into the public domain.

“

Then, there's the issue of the community not yet accepting the issues we advocate for, especially in the case of GBV. Particularly when it comes to women who are victims of HIV, there's this perception that it's the woman's fault, or she must be changing partners frequently. However, according to the data, most women living with HIV are actually housewives. Then there's the issue of disabilities, especially when it involves women with intellectual disabilities or individuals with psychosocial disabilities. As for DV, some people still view it as a private matter that doesn't need to be reported because it's considered a personal issue that doesn't need to be publicized. (Results of FGD with NPA from IPPI Yogyakarta on February 16, 2023)

In some specific issues or cases, the values advocated by CSOs may not align with the values understood by the public, leading to resistance from the community. CSOs need to adjust their advocacy strategies to persuade the public in such cases.⁴⁹⁷ First, they can engage in personal outreach to resistant individuals or groups. Second, organizations conduct various forms of

⁴⁹⁵ The Secretariat of the Cabinet of the Republic of Indonesia., "Transformasi Partisipasi Publik dalam Perumusan Kebijakan di Era Reformasi", <https://setkab.go.id/transformasi-partisipasi-publik-dalam-perumusan-kebijakan-di-era-reformasi/>, accessed on 12 May 2023.

⁴⁹⁶ Kompas, "Partisipasi Masyarakat dalam Kebijakan Publik", <https://nasional.kompas.com/read/2022/03/15/04000011/partisipasi-masyarakat-dalam-kebijakan-publik>, accessed on 12 May 2023.

⁴⁹⁷ Jordan, *et al.*, *Op.Cit.*,p. 9

socialization or create spaces for discussions with stakeholders to help them better understand the issues being advocated for. Third, training and engagement efforts are carried out with relevant authorities to foster a perspective that supports women victims.⁴⁹⁸ For example, when LBH Apik Jakarta faced resistance in advocating for RUU TPKS, they strategically involved religious figures who shared a similar perspective. Additionally, they sought to secure public spaces for speeches and aimed to gain public sympathy. Conducting socialization on women's issues to various parties is essential to change paradigms and ensure that policymakers do not ignore public opinion and pay significant attention to public discourse. An active political role played by the public, especially in advocating for women's rights, and the involvement of mass media, are crucial in acting as pressure groups in legislative advocacy work.⁴⁹⁹

Another challenge is resistance or even rejection from the government, both at the central and regional levels. In such cases, as demonstrated by the Jakarta community, it's necessary to conduct consultations with the central or provincial governments. Political apathy or a lack of concern from government officials regarding gender equality issues is also a barrier in policy advocacy. One example of government rejection was during the drafting of RUU TPKS, where several factions in the DPR (People's Consultative Assembly) did not support the inclusion of the RUU PKS in the National Legislation Program. Even up to the moment of the law's enactment, there were factions in the DPR that opposed it. The reasons for rejection included concerns that the bill was seen as permitting sexual relations outside of marriage and objections to certain articles, such as those related to forced abortions and forced marriages.⁵⁰⁰

Furthermore, issues related to women and gender constructs, including women's health, women's leadership, marriage, marital rape, abortion, child marriage, and other women-related issues, are considered sensitive subjects. These issues can easily be linked to religious texts or doctrines. Those who oppose women's empowerment may use religious texts and teachings to reject these issues. Therefore, advocacy efforts must affiliate with religious groups that share perspectives and interpretations aligned with the advocated issues.⁵⁰¹ In essence, driving policy change is a complex process, especially when considering the involved actors. The diversity of actors with

⁴⁹⁸ FGD in Yogyakarta on February 16, 2023..

⁴⁹⁹ Poerwandari, *Op.Cit.*, p. 501.

⁵⁰⁰BBC News Indonesia, "RUU TPKS disahkan setelah berbagai penolakan selama enam tahun, apa saja poin pentingnya?" <https://www.bbc.com/indonesia/indonesia-61077691> accessed on 26 May 2023

⁵⁰¹ Poerwandari, *Op.Cit.*,p.505

various interests, perspectives, and ideologies will undoubtedly influence the advocacy strategies. Building alliances with various stakeholders to garner broader support is one approach.⁵⁰² Aligning perspectives and perceptions among different community organizations is also fundamental to ensure that advocacy efforts stay on course and do not falter along the way.⁵⁰³

Another potential barrier that may arise is excessive donor intervention. For example, the experience of one organization during advocacy for Law No. 18 of 2016 on Persons with Disabilities (the Disability Law) and its implementing regulations involved strong donor intervention in policy substance. This situation can be challenging because the funding often depends on whether the advocated issue aligns with the donor's preferences. Another issue is that some donors may be reluctant to engage in co-funding with other organizations, even though advocacy activities require significant financial resources. In this regard, the adaptation made by the community is to negotiate how advocacy efforts can be mutually beneficial.

“

There is an issue related to donors, where their focus lies... they also participate in our discussions with the government... sometimes they insist, 'This issue must be included, it must be this way.' That can be frustrating for us because sometimes it's like, 'If this isn't included, we won't fund it.' I think that's sometimes impolite because it's really about the interests of our friends, of us, the disability organizations... But sometimes, there are situations where they will support it if this issue is included. So, I think the intervention can be excessive, actually. (FGD results with NS from SAPDA on February 16, 2023)

Undeniably, donor organizations' commitment also determines the success of gender equality programs. In many cases, programs related to women's issues tend to be aligned with donor initiatives. As a result, when a program is donor-driven, it may limit or reduce the autonomy of an organization in determining its own programs and advocacy goals.⁵⁰⁴ This creates a dilemma because donor organizations are currently key actors for the sustainability of civil society organizations in Indonesia, placing donors in a position of significant influence.⁵⁰⁵

⁵⁰² Sri Wiyanti Eddyono, et.al., (2016) When and Why the State Responds to Women's Demands: Understanding Gender Equality Policy Change in Indonesia, Research Report, Geneva: UNRISD, p. 17

⁵⁰³ Ardiyantika, *Op.Cit.*, p. 219

⁵⁰⁴ Nur Azizah, *Advokasi Kuota Perempuan di Indonesia*, (Yogyakarta: LP3M UMY & Jurusan Ilmu Hubungan Internasional, 2014) p.60

⁵⁰⁵ Jemler Kamstra and Lau Schulpen, Worlds Apart But Much Alike: Donor Funding and The Homogenization of NGOs in Ghana and Indonesia, *St Comp Int Dev* 50, 331–357 (2015), p.341

Another obstacle encountered is related to policy substance that is not comprehensive, partial, or constantly changing. For example, the difficulties faced by people living with HIV/AIDS (ODHA) in accessing healthcare services, especially through government health insurance. Existing policies and programs for ODHA are considered to be insufficient in providing services to ODHA, including women infected with HIV/AIDS.⁵⁰⁶ Ms. NI pointed out that complaints of violence by women living with HIV/AIDS against the Department of Social Affairs do not yet have specific Standard Operating Procedures (SOP) for handling ODHA as a vulnerable group. The readiness of government institutions to respond to the needs of women living with HIV/AIDS is still limited. Ms. NI also found gaps in the understanding of services provided by healthcare workers for women living with HIV/AIDS, such as detecting whether they have experienced violence. Some healthcare workers still focus on whether ODHA are taking ARV medication or not. Still, there is no mitigation in terms of identifying or monitoring the well-being of ODHA, especially if they have experienced violence.

The limitations of human resources within organizations are also a barrier to advocacy work. Most CSOs, especially those focused on providing services, have limited resources to conduct advocacy work because they are already burdened with service work or case support.⁵⁰⁷ According to LBH Yogyakarta, the limitation of human resources also occurs because the organization has a wide range of tasks, from assisting victims in both litigation and non-litigation cases, consolidating networks, conducting campaigns, to conducting research. Based on the validation meeting, this human resource issue is adapted by IPPI DIY by conducting advocacy on a voluntary basis and joining existing advocacy networks in the region. Meanwhile, SAPDA addresses the human resource constraints by mentoring new staff with experienced staff, and LBH Apik Yogyakarta empowers paralegals and interns in the organization's activities, including case support. Rifka Annisa maximizes the role of networks and referral systems in handling cases.

⁵⁰⁶ As one of the participants in the FGD from IPPI (Indonesian Positive Women's Association) pointed out, one of the challenges faced by people living with HIV/AIDS (ODHA) when accessing healthcare through government-provided social insurance, especially at the regional level, is that healthcare services can only be accessed by individuals who have identification cards specific to that city. This creates difficulties for students or people who come from other cities and wish to access healthcare services. Additionally, there have been instances of policy changes that have been detrimental to ODHA. For example, last year, almost all opportunistic infections were covered by health insurance, but the policy changed in the following year. Consequently, the government's commitment to fully support and prioritize ODHA remains uncertain and may not be consistently implemented.

⁵⁰⁷ Jordan, *et al.*, *Op.Cit.*,p. 9

Finally, participants in the FGDs felt that there was still a lack of socialization for new policies. Even when there are good policies or programs in place, village governments and other stakeholders, including the public, may not necessarily receive information about them or understand their existence. For example, many impoverished individuals are still unaware of free legal aid services. Additionally, based on PEKKA's experience, there are village governments or communities that have not received information about the KLIK (Klinik Layanan Informasi dan Konsultasi-Information and Consultation Services Clinic) program, which provides various information and referrals for handling domestic violence cases, divorce and marriage annulment assistance, civil registration administration, social security, and various other services. In response to this, the adaptation made was to organize various socialization activities for village governments and communities, such as holding village discussions and stakeholder forums, and advocating within religious courts.⁵⁰⁸

It's important to note that PEKKA, is not only involved in advocating for policies or programs but also in ensuring the implementation of these policies. Based on the validation meeting, this approach is also adopted by other organizations, such as Jala PRT, Rifka Annisa, and LBH Yogyakarta. For instance, Jala PRT conducts awareness campaigns about the UU TPKS for domestic workers and local communities, including women and housewives.⁵⁰⁹ Rifka Annisa organizes seminars with networks of service-providing organizations and approaches law enforcement authorities to encourage the use of the law. According to LBH Yogyakarta, to ensure the implementation of a policy, CSOs (Civil Society Organizations) can also consolidate efforts to gather data and facts about the obstacles and challenges in policy implementation, which can then be used to provide input to the government. Thus, CSOs work not only to advocate for policies but also to facilitate their implementation.

Meanwhile, to ensure the implementation of the policies they advocate for, SAPDA provides assistance to relevant institutions. For instance, when the Disability Law was enacted, the Supreme Court formulated internal policies regarding the handling of persons with disabilities within the general courts, religious courts, and administrative courts.⁵¹⁰ However, when these regulations were established, the Supreme Court didn't know how to train officers and

⁵⁰⁸ A representative from PEKKA at the FGD in Yogyakarta on February 16, 2023.

⁵⁰⁹ Jala PRT during the Validation Meeting on June 15, 2023

⁵¹⁰ The internal policy formulated by the Supreme Court is exemplified by the General Court Body (Badilum) Decree No. 1692/DJU/SK/PS.00/12/2020 concerning Guidelines for the Implementation of Services for Persons with Disabilities in High Courts and District Courts.

judges or ensure that the courts were accessible. Therefore, the courts required support to implement these policies effectively. SAPDA then provided assistance to the courts, both through online and offline training, by helping them develop programs and training staff on providing services to persons with disabilities. This assistance was carried out to ensure that all processes align with the policies that had been formulated. Additionally, SAPDA also conducted monitoring and evaluation to assess whether the implementation of the Supreme Court's policies complied with the mandates outlined in the regulations. The results of this monitoring and evaluation serve as the basis for reporting to the Supreme Court.⁵¹¹

Regarding public participation in policy advocacy, the public can essentially oversee the policy process from policy formulation to implementation and evaluation.⁵¹² The current government emphasizes a participatory approach and partnerships in policy implementation at the local level, where the community is regarded as the subject and determinant of more significant policy processes. This approach underscores the strengthening of the relationship between human rights and public policies within the development framework.⁵¹³

Ultimately, the process of driving policy reform is a lengthy one, comprising various advocacy strategies and involving a range of actors, including state actors, CSOs, women's organizations, religious groups, and others, along with the broader community. The various obstacles encountered during the advocacy process present challenges to CSOs, requiring them to adapt and strategize to achieve their advocacy goals continually.

⁵¹¹ SAPDA in the Validation Meeting on June 15, 2023

⁵¹² Mahardhani, *Op.Cit.*, p. 52.

⁵¹³ *Ibid.*

CHAPTER 7

THE IMPACT OF LEGAL
EMPOWERMENT AND POLICY
REFORM ON ACCESS TO
JUSTICE FOR WOMEN IN
CONFLICT WITH THE LAW BY
STATE AND NON-STATE
ACTORS FROM A
RESEARCHER'S PERSPECTIVE.



07

CHAPTER 7

THE IMPACT OF LEGAL EMPOWERMENT AND POLICY REFORM ON ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW BY STATE AND NON-STATE ACTORS FROM A RESEARCHER'S PERSPECTIVE

Evidence-Based Policy: The Role of Non-State Actors in Evidence-Based Policy Advocacy

Non-state actors have opportunities to promote evidence-based policy formation, which involves creating policies based on credible facts and evidence.⁵¹⁴ Organizations like CSOs and legal aid organizations, as non-state actors, play a role in monitoring and reviewing public policies for actions taken or not taken by the government. This mechanism supports policy implementation and provides feedback for policy improvement.⁵¹⁵ For example, in the Strategic Plan of the Ministry of Women's Empowerment and Child Protection for 2020-2024 under Regulation No. 2 of 2020, the government is required to enhance the protection of women's rights. One of the strategies is to encourage all provinces and districts/cities to establish Technical Implementation Units for Women and Child Protection (Unit Pelaksana Teknis Daerah Perlindungan Perempuan dan Anak/UPTD PPA) and strengthen these UPTD PPA institutions through accreditation. Additionally, there is a need to develop service standards for UPTD PPA and certification for personnel handling women victims of violence and Trafficking in person. By being aware of this policy, monitoring and evaluation can be carried out to determine whether the central and regional governments are implementing this national policy by establishing UPTD PPA in areas where they do not exist and conducting personnel certification during 2020-2024.

Issues that affect society as a whole are classified as social problems. One individual cannot solve such problems alone; therefore, collectively formed policies are needed to address them. Formulating these policies requires resources and cooperation from other actors, and the problems that arise from these policies can result from other actors. For example, the issue of child marriage prevalent in various regions is not solely resolved by changes in

⁵¹⁴ University of Oxford, "A Guide to Evidence-Based Policy," <https://onlinecourses.bsg.ox.ac.uk/blog/guide-to-evidence-based-policy#::~:~:text=What%20is%20evidence%20based%20policy,over%20political%20opinion%20or%20theory>, accessed on 19 June 2023.

⁵¹⁵ Independent Research Forum, "Role of Non-State Actors in Monitoring and Review for Effective Implementation of the Post-2015 Agenda: A Case Study Analysis," <https://www.iiied.org/sites/default/files/pdfs/migrate/G04365.pdf>, accessed 19 June 2023, p. 6.

marriage laws that, on one hand, equalize the minimum marriage age for women and men but also include provisions for marriage dispensations. The policy of marriage dispensations and the permissive attitudes of judges towards child marriage are additional problems that arise from this law, making it challenging to reduce the incidence of child marriages, even when they go through the process of marriage dispensation.

This also applies to the issue of access to justice for vulnerable populations, given that the root of the problem stems from gender-based violence within social realities and the limitations of law enforcement and judicial institutions. Despite significant progress in protecting women's rights, disparities and discrimination that hinder their access to a fair justice system and the protection of their rights as victims, witnesses, or defendants are still frequently encountered. The quality gap in access to justice is increasingly felt by women with intersecting vulnerabilities, such as HIV-positive, LGBTQ, and/or persons with disabilities.

Equal access to justice for women is crucial to ensuring justice and equality. This involves empowering women to seek solutions and legal protection, regardless of their background or circumstances. By promoting an accessible and inclusive justice system, we can work to address gender-based discrimination, violence, and other injustices faced by women. Advocating for a society that provides equal space and opportunities for women and men to seek justice and uphold their rights is essential.

The formation of evidence-based policy has two main objectives: to use existing knowledge to shape policies and to build a knowledge bank that will lead to better decision-making in the future.⁵¹⁶ To ensure these objectives are met, policymakers require accurate and reliable information. However, such information is not always readily available when making decisions, such as in policy formation. The contribution of civil society in promoting evidence-based policies can play a significant role in providing accurate and reliable information for affected communities, for example, policies that can improve access to justice for women in conflict with the law and other marginalized groups.

Various findings in this research have shown that evidence-based policy advocacy can lead to positive changes in improving access to justice for women in conflict with the law. This is evident when various studies address

⁵¹⁶ Urban Institute, "Principles of Evidence-Based Policymaking," accessed 19 June 2023 https://www.urban.org/sites/default/files/publication/99739/principles_of_evidence-based_policy_making.pdf, p. 2.

strategic issues in society as they contribute to developing, modifying, and/or improving policies. For instance, when organizations like LBH APIK Jakarta, which often handles cases of gender-based violence against women, identified policy issues hindering access to justice for female victims of gender-based violence and exploitation (KSBE), they found that existing legislation such as the Electronic Information and Transactions Law (UU ITE) and the Pornography Law exposed victims to potential criminalization related to sexually explicit digital content distributed without their consent. In response to this problem, the Sexual Violence Law (UU TPKS) was enacted, providing provisions related to sexual violence with a KSBE perspective, which is expected to offer better protection for victims. One of the activities undertaken by LBH APIK to advocate for this policy change was the publication of a policy brief titled "The Urgency of Regulating Online-Based Sexual Violence Crimes and Protecting Victims in the Sexual Violence Bill Draft (RUU TPKS)" based on an analysis of the data collected from their case assistance. Evidence-based advocacy, whether through studies, policy briefs, and/or academic papers on a legislative regulation, also affirms that the experiences of victims are not just statistical figures but can also contribute to creating positive changes.

Just like LBH APIK Jakarta, LBH APIK Yogyakarta also emphasizes that CSOs should contribute through policy briefs as one of the leading advocacy tools to push for the development of regulations that align with the needs of affected communities. Komnas Perempuan also advocates for monitoring and evaluating policy implementation by developing Monitoring and Evaluation Instruments for Implementing Law No. 23 of 2004 on the Elimination of Domestic Violence (UU PKDRT). This instrument is used to assess the state's compliance with the mandate of the UU PKDRT. It can also be utilized by government authorities, law enforcement agencies, and non-governmental organizations to convey data, written documents, and challenges encountered in implementing related policies.⁵¹⁷

However, the birth of evidence-based policy needs to be supported by advocacy to ensure that the practices stemming from the policy are implemented as effectively as possible. Advocacy is a series of actions or processes that support a goal, principle, social or political change, or the creation of policy initiatives.⁵¹⁸ The role of CSOs, as observed in this research,

⁵¹⁷ Komnas Perempuan, "Instrumen Monitoring dan Evaluasi Implementasi UU PKDRT: Aspek Penanganan," https://perpustakaan.komnasperempuan.go.id/web/index.php?p=show_detail&id=4951, accessed on 29 July 2023.

⁵¹⁸ Amanda Cats-Baril, "A Guide to Being an Effective Advocate for Gender Equality," *Constitution Assessment for Women's Equality Series 1* (February 2022), p. 1.

is crucial in overseeing policy implementation, both in the planning stages and for long-established policies, through monitoring and evaluation. CSOs also influence how the community perceives a policy, as they often communicate closely with grassroots communities.⁵¹⁹ Moreover, CSOs can serve as intermediaries to bridge the needs and issues of grassroots communities with policymakers, especially when CSOs are part of a network with various other civil society entities.⁵²⁰

Amanda Cats-Baril mentions eight elements that support effective advocacy, particularly in promoting gender equality, and based on this research, it appears that CSOs have implemented these elements to a significant extent. The eight elements are as follows:

1. Know the issue.
2. Articulate the gains and harms.
3. Connect your issue or concern to a constitutional provision or principle.
4. Develop plans with clear goals and objectives.
5. Build your case carefully.
6. Stakeholder awareness.
7. Build coalitions.
8. Understanding different tones and advocacy styles.

Therefore, when accompanied by effective and widespread advocacy, evidence-based policies can become an ongoing discourse in legal empowerment as part of community empowerment. Legal empowerment, closely linked with policy reform over time, can influence and strengthen the community's ability to interpret and understand the emerging issues on the public policy agenda. With increased awareness among the public regarding these issues and policy agendas, the community's bargaining position can become stronger when dealing with the state as the policymaker, especially if the community is directly affected by policy issues, as is the case with vulnerable groups in this research.

The Role of Multi-Sectoral Collaboration

To advance the agenda of justice for women, collaboration between the government, private sector, civil society organizations (CSOs), and various other stakeholders is crucial. Many good examples come from women's

⁵¹⁹ Cecilia Oppenheim, "Pengetahuan, Kebijakan, dan Kekuasaan: Enam Dimensi dari Titik Temu Antara Pengetahuan dan Kebijakan Pembangunan," *Newsletter* (2011), p. 15.

⁵²⁰ *Ibid.*

movements carried out with CSOs, academics, and development partners.⁵²¹ Based on the findings in this research, various collaborations in legal empowerment and advocacy to drive policy reform are conducted by state and non-state actors. These collaborations involve the government working with CSOs, as well as between CSOs and other entities such as labor unions, religious groups, students and youth groups, academics, research institutions, universities, community leaders, religious figures, actresses, mass media, comedians, and even influencers.

Advocacy activities to promote policy reform require the involvement of multiple actors or stakeholders. Some act as initiators or leaders, those who organize the masses, those who provide data or research, those who provide funding, those who participate in the policy development process, those who serve as spokespeople, and those who build advocacy networks.⁵²² LBH APIK Jakarta emphasizes that to promote a policy, the involvement of various parties is necessary to drive and support change efforts. Collaboration efforts are a critical strategy to enhance the engagement of civil society organizations so they can participate in policy advocacy. No CSO is powerful enough to bring about political change on its own. Still, none is so weak that it cannot contribute to the reform process.⁵²³

According to Komnas Perempuan during the validation meeting, collaboration with civil society organizations is one of their working methods. In the feminist approach, such collaboration is related to one of the values in feminist leadership, which is sharing power and roles with victims and victim advocates. For example, one collaborative activity conducted by Komnas Perempuan involves monitoring by local service organizations that are their partners. The monitoring instruments are jointly developed with these service organizations.⁵²⁴ Komnas Perempuan's commissioners state that this collaboration is beneficial in providing the energy needed to drive change and enhance the capacity of network organizations or service organizations at the local level.

According to Rifka Annisa and Jala PRT also shared their collaboration experiences within the Victim Protection Forum (Forum Perlindungan Korban Kekerasan or FPKK) in the Yogyakarta region. This collaboration was felt in

⁵²¹ Jeni Klugman, *Justice for Women*, High-level Group Report, published by UN Women, IDLO, World Bank and Taskforce on Justice, March 2019, p. 84.

⁵²² Nur Azizah, *Advokasi Kuota di Indonesia Perempuan* (Yogyakarta: LP3M UMY dan Jurusan Hubungan Internasional Universitas Muhammadiyah Yogyakarta, 2014) pl.18

⁵²³ Amy Riskey, *Civil Society Organizations, Advocacy, and Policy Making in Latin American Democracies: Pathways to Participation*, (New York: Palgrave Macmillan, 2015), p. 10

⁵²⁴ Validation meeting with Komnas Perempuan on June 5, 2023

handling cases and in preventive efforts within the community, such as addressing child marriage issues and preventing sexual violence.⁵²⁵ A KPI representative explained that the process becomes smoother by engaging in networking activities when organizations lobby or hold consultations with government agencies. Additionally, the government trusts CSOs and is open to creating space for and listening to input from the community.⁵²⁶ The formation of collaborations, such as alliances or networks/forums, can assist CSOs in overcoming the barriers that most limit their political power, such as limited human resources or fragmentation among various CSOs due to diverse perspectives.⁵²⁷

Based on this research, cross-sectoral collaborations can occur in various activities, including providing paralegal training, advocating for cases, conducting awareness campaigns, conducting academic research, policy advocacy (including lobbying), policy brief development, providing input to parliaments, fundraising, campaign material preparation, and policy monitoring and evaluation. For example, BPHN, as a government actor, collaborates with CSOs to provide training to the community, especially legal aid volunteers, and develop paralegal training modules. Furthermore, LBH Apik Jakarta also involves academics in developing policy briefs to ensure that the presented documents are acceptable to policymakers. The collaboration among these actors in legal empowerment and advocacy aims to support and strengthen these organizations' work mutually.

Collaboration or networking is also used to navigate or address CSOs' challenges, such as budget constraints, resistance to specific issues, or limited human resources. Through collaboration, CSOs can pool various organizational resources, including sharing expertise and capabilities, credibility, experience, and even political contacts and media outreach. This allows them to overcome resource-related challenges effectively.⁵²⁸

One of the best practices highlighted in this research is the successful advocacy of laws such as UU PKDRT, UU TPKS, and other regulations, which is important evidence of the significance of collaboration and support from various parties. For instance, with the enactment of the UU PKDRT, LBH Apik Jakarta argues that female victims can understand their rights and become empowered because they have increased awareness of the forms of criminal acts they may encounter. Meanwhile, according to Komnas Perempuan, the

⁵²⁵ Rifka Annisa and Jala PRT in the Validation Meeting on June 15, 2023.

⁵²⁶ KPI in the Validation Meeting on June 8, 2023.

⁵²⁷ Amy Risley, *Op.Cit.*, p.10-11

⁵²⁸ *Ibid.*

existence of UU PKDRT opens access for victims to file complaints and advocate for their rights to seek case resolution, ultimately providing women with access to justice. Cross-sectoral collaboration ultimately strengthens sources of power, amplifies the voices, and enhances the work and impact of legal empowerment and advocacy in driving policy reform.

Legal Capabilities of Women in Conflict with the Law ---

Several critical elements in promoting legal empowerment include raising awareness among the community, using appropriate empowerment strategies, and peer support. Based on the interviews and focus group discussions (FGDs) conducted, it was found that the goal of legal empowerment is to build an individual's legal capability in empowering themselves and others. One key element to achieve this is raising awareness because achieving empowerment begins with efforts to raise awareness among the community about their rights. It is important to emphasize that an individual's rights awareness takes time but requires various efforts to build awareness, such as through legal education and awareness campaigns.

Some Legal Aid Organizations make efforts to raise awareness through legal education so that the community can empower themselves when encountering legal issues. One example is the approach taken by Perempuan Mahardhika. They address the issues faced by seekers of justice, particularly victims of violence who tend to blame themselves. The initial step taken by Perempuan Mahardhika is to raise awareness among victims so that they have confidence and the courage to report incidents. Rifka Annisa makes similar efforts by providing comprehensive information or a complete picture of a case and its legal process. This is done to ensure that clients understand the consequences of every decision made or action taken. LBH APIK Jakarta also shares a similar goal in raising awareness during the legal assistance process, which is to inform victims about their rights so that they can learn about legal processes and anticipate what will happen when they go through them.

The importance of raising awareness as an initial step in legal empowerment is closely related to the community's understanding of their rights. This understanding is what can ultimately empower them when they encounter legal issues. In some cases, raising awareness benefits knowledge about rights and provides an understanding of the general overview of the legal process. For example, when there are legal and administrative provisions that impose

disproportionate burdens on the community⁵²⁹, raising awareness enables the community to mitigate issues that may arise during the legal process.

Raising awareness also helps build the community's confidence when dealing with the law. This aligns with the findings of the "Legal Capability for Everyday Life Project," a project based in London, UK, aimed at enhancing individuals' legal capabilities to navigate legal issues and situations in their everyday lives.⁵³⁰ This is achieved through a six-week public legal education course that includes legal education and community engagement activities on various legal-related issues.⁵³¹ The results showed that participants who completed the legal education program significantly improved their legal capabilities. They felt more confident in understanding their rights and obligations when seeking legal assistance and the legal dimensions of social issues in their community.⁵³² In this context, the key elements sought to be promoted in raising community awareness include knowledge, capacity, and capability, which, when instilled in individuals, benefit not only their empowerment but also that of others.⁵³³

Furthermore, to find the appropriate approach to resolving an issue, specific strategies need to be considered. For instance, considerations related to the vulnerability of a particular group in legal empowerment efforts. This is exemplified by LBH Masyarakat when assisting sex worker communities. In this context, LBH Masyarakat recognizes that sex workers are vulnerable to criminalization under the pretext of regulation. Here, the role of community paralegals becomes crucial as they act as 'advocates' for their community. To facilitate this, community paralegals are provided with education and training to understand how to advocate for themselves and others when assisting sex workers or when they themselves are apprehended.

Other CSOs also recognize the importance of the role of community paralegals. For instance, SAPDA sees opportunities to gain support from groups in every effort to resolve a case. Therefore, SAPDA has developed peer counseling services to optimize group support in the case resolution process. Similarly, PEKKA initiates empowerment with the support of peers. The determination of paralegals in advocating for a case is also an indicator of

⁵²⁹ Anuradha Joshi, et. al., "The Use of Legal Empowerment to Improve Access to Quality Health Services: A Scoping Review," *International Journal for Equity in Health* (2022) 21:136, p. 13, <https://doi.org/10.1186/s12939-022-01731-3>

⁵³⁰ Jacinta Maloney, *I feel Empowered, I Know My Rights: Communities Empowered by Peer Educators and Paralegals*, (Melbourne: The Victoria Law Foundation, 2014), p. 27

⁵³¹ *Ibid.*

⁵³² *Ibid.*

⁵³³ *Ibid.*

the success of legal empowerment. This means that paralegals are no longer advocating for themselves alone but also for the interests of others.

The concept of 'peer paralegals' or 'community paralegals' plays a crucial role in supporting and resolving legal issues communities face. According to Vivek Maru and Varun Gauri, some of the advantages of peer peers in legal empowerment include:⁵³⁴

a. Empowerment

In assisting individuals seeking justice, community paralegals prioritize collaboration by considering justice seekers as partners in mutual empowerment and growth to help them become more self-reliant. This is a distinct advantage compared to conventional legal aid approaches, which tend to view victims as parties in need of technical services solely for problem resolution.

b. Diversity of Methods

The methods employed by community paralegals in case assistance tend to be diverse, including advocacy, mediation, monitoring, and education. Therefore, the solutions provided are creative solutions tailored to the needs and characteristics of each case.

c. Institutional Mapping

The institutions accessed by community paralegals in assisting justice seekers to resolve their issues are not limited to the judicial system alone. Community paralegals also seek resolutions through other institutions such as administrative bodies, local governments, the Ombudsman, the National Human Rights Commission, parliament, customary justice institutions, etc. Therefore, in this regard, community paralegals can map out institutions that can provide effective issue resolution and redress for justice seekers.

d. Scale and Cost Effectiveness

One of the challenges in accessing legal aid through lawyers is the high cost and limited access in some areas. This can be overcome by the presence of community paralegals who are more accessible to the public.

In the context of policy reform, CSOs are one of the actors involved in shaping public policy and play a role in advocating, designing, and monitoring policy reforms. Therefore, the participation and findings of CSOs are crucial in formulating evidence-based policies. Collaboration between CSOs and community engagement is also necessary in policy formulation and discussion. Involving the community in policy development adds different perspectives

⁵³⁴ Vivek Maru and Varun Gauri, *Community Paralegals and the Pursuit of Justice*, (Cambridge: Cambridge University Press, 2018), p. 5

and arguments, ultimately leading to higher-quality policies that are more likely to be accepted by the public because they align with the issues and needs of the community.

In the policy reform process, especially concerning legal empowerment, it is essential to use appropriate strategies that consider the characteristics of the issues being addressed to make the empowerment process more effective, efficient, and targeted. One of the strategies CSOs use to drive policy reform while simultaneously promoting legal empowerment is the concept of strategic litigation. Strategic litigation is an effort to litigate for public interest to bring about significant changes in the broader legal interests. Typically, strategic litigation focuses on a case experienced by an individual to serve as a starting point for driving systemic changes for a community or society.⁵³⁵ The importance of strategic litigation lies in empowering victims or communities to address the issues they face and serving as documentation for a community or society to map out specific areas. For example, this could involve land use, communal boundaries, or crucial locations within a region, and the local community can use the documented results to resolve disputes.⁵³⁶ Similarly, when mapping the issues in a community, such documentation can be valuable for developing effective strategies to drive change.

Moreover, policies driven by societal issues tend to have a more positive impact because they align with the community's needs and help victims empower themselves in addressing their problems. For example, consider efforts to drive changes in the Marriage Law. In this case, the urgency to modify provisions related to the minimum marriage age arose from the experiences of child marriage survivors. However, considering the resources and effort required to change the Marriage Law as a whole, CSOs chose a more effective and efficient strategy, which involved challenging the constitutionality of the marriage age requirement in the Constitutional Court. This strategy ultimately led to a positive change for the community, specifically increasing the minimum marriage age to 19 years for both men and women.

The involvement of victims in the advocacy process is also crucial. This demonstrates that victims can empower themselves and effect change from the issues they have experienced. Take, for example, the formation of the

⁵³⁵ TAP Network, "Pursuing Law Reforms, Strategic Litigation and Legal Empowerment", accessed on 1 August 2023, <https://sdgaccountability.org/wp-content/uploads/2019/05/Pursuing-Law-Reforms.pdf>

⁵³⁶ Jérémie Gilbert, "Indigenous Peoples and Litigation: Strategies for Legal Empowerment", *Journal of Human Rights Practice* (2020) Vol. 2 (2): 301-320, doi:10.1093/jhuman/huaa028, p. 9

Domestic Violence Law (UU PKDRT), which was initiated by CSOs based on the problems faced by victims of marital rape. CSOs monitored the number of domestic violence cases to use as advocacy material, emphasizing the urgency of enacting a law based on data. This means that the role of CSOs in policy formation is quite significant through issue mapping and the determination of policy formation strategies in response to community issues. When involving the community, especially victims, such policy formation is more effective, addressing the urgency to drive the policy-making process and ensuring the quality of the policy content aligns with the community's needs.

One of the benefits of legal empowerment for policy reform is that it can empower communities to be heard during the policy-making and law-making processes.⁵³⁷ This is because the legal empowerment process involves engaging communities, especially victims, to become empowered. Therefore, the government needs to encourage meaningful participation from vulnerable groups in the policy-making or law-making processes through transparency regarding the development of policies. This way, the public can understand their involvement opportunities. Additionally, the government should actively create opportunities for the public participation by organizing FGDs, opening access to public comments on draft policies or laws, and providing transparent updates on the progress of policy or law drafts to the public.⁵³⁸

Community Resilience

Individuals and communities often face challenges or obstacles in their work or activities, so resilience is needed to overcome these challenges. Reivich and Shatte define resilience as an individual's ability to cope with, overcome, and return to their original state after experiencing difficulties.⁵³⁹ A resilient community, on the other hand, is one that can respond positively to the dynamics of change or pressure and can maintain its core functions as a community despite being under pressure.⁵⁴⁰

⁵³⁷ Rachael Knight, "Legal Empowerment to Promote Legitimate Tenure Rights", Food and Agriculture Organization of the United Nations, Legal Brief 4 (July 2021), p. 9, <https://www.fao.org/3/cb5953en/cb5953en.pdf>

⁵³⁸ *Ibid.*

⁵³⁹ K. Reivich and A. Shatte, 'The Resilience Factor: 7 Essential Skills for Overcoming Life's Inevitable Obstacles' (New York: Broadway Books, 2002), cited in Antonina Pantja Juni Wulandari, 'Mengenali Resiliensi dalam Ilmu Psikologi,' <https://psychology.binus.ac.id/2020/03/31/mengenali-resiliensi-dalam-ilmu-psikologi/>, accessed on May 25, 2023

⁵⁴⁰ B. Maguire and Cartwright S, 'Assessing A Community's Capacity to Manage Change: A Resilience Approach to Social Assessment' (Australia: Bureau of Rural Sciences, 2008), p. 3, cited in

S. J. Wolin and S. Wolin explained in their book "The Resilient Self: How Survivors of Troubled Families Arise above Adversity" that there are seven main aspects that support resilience. These aspects include:⁵⁴¹

- a. *Insight*: The ability to sense, know, and understand one's situation in order to learn more appropriate behavior.;
- b. *Independence*: The ability to take distance, either emotionally or physically, from a problematic environment or situation.;
- c. *Relationships*: The ability to develop supportive and quality relationships.;
- d. *Initiative*: The ability to take responsibility for one's life.;
- e. *Creativity*: The ability to make choices, assess consequences, and consider alternatives when facing life's challenges.;
- f. *Humor*: The ability to reduce life's burdens and find happiness.;
- g. *Morality*: The ability to behave based on one's conscience.

In this research, it was found that participants, whether they were state actors or non-state actors, continue to work towards achieving resilience. They remain consistent in their commitment to the issues they work on and maintain institutional values to enhance the quality of their organizations. These actors also take various steps to build or enhance the resilience of their communities in the face of challenges, particularly in the context of legal empowerment and policy reform.⁵⁴² As discussed in previous sections, participants faced several obstacles and challenges, such as budget constraints, limited human resources, lack of public and law enforcement authorities knowledge, the COVID-19 pandemic, and more. Therefore, how the resilience of these actors and communities is developed and maintained is essential within the context of legal empowerment and policy reform.

First, in the context of legal empowerment, state and non-state actors have tried to achieve resilience. For example, in response to the challenge of budget limitations, as explained by LBH Yogyakarta, SAPDA, JALA PRT, and Komnas Perempuan, efforts include fundraising, member contributions, or using internal funds, negotiating with donor organizations, conducting paralegal training to assist the community's work, and more. Through these initiatives that support resilience, these communities or organizations can continue their legal empowerment work as per their roles and responsibilities.

Subari, et al., 'Resiliensi Komunitas dalam Merespons Perubahan Iklim Melalui Strategi Nafkah,' J. Sosek KP Vol. 9 No. 1, (Year 2014), p. 83

⁵⁴¹ S. J. Wolin and S. Wolin in their book, 'The Resilient Self: How Survivors of Troubled Families Arise above Adversity' (New York: Villard Books, 1993), cited in Wulandari."

⁵⁴² Validation meeting with speakers from Rifka Annisa, IPPI, LBH Yogyakarta, LBH APIK Yogyakarta, SAPDA, Jala PRT, and PEKKA, June 16, 2023.

The next challenge frequently encountered is the limitation of human resources, as found by JIP, HWDI, Rifka Annisa, LBH Yogyakarta, and SAPDA. In this regard, efforts are made to ensure these communities can survive and maintain their core functions. These efforts include networking with other organizations, establishing paralegals with diverse genders and disabilities, providing case advocacy according to the organization's capacity, referring cases to other legal aid organizations, strengthening community law, documenting individuals with the necessary skills needed by the community or organization, and undertaking membership regeneration. Legal empowerment and legal needs can still be met through these various steps despite limited resources. This is closely related to the relationship aspect applied by these communities, which involves building mutually beneficial relationships, and the creativity aspect, which entails finding alternative solutions to meet human resource needs.

Such networking efforts, for example, have a positive impact both on the internal community and on the needy society. For instance, IPPI collaborates with Rifka Annisa to share the responsibilities of assisting women with HIV/AIDS who are victims of violence. Through these networking efforts, IPPI can still empower women with HIV/AIDS in health, social services, education, law, and economics, even though it is not mandated to provide case assistance. Similarly, KPI also engages in networking activities that have a positive impact on facilitating lobbying or meetings with government agencies.

Furthermore, in addition to the limitation of human resources, another constraint lies in the context of knowledge, understanding, or perspectives on specific issues (gender, sexual violence, etc.), both within the community, law enforcement agencies, or other actors - as observed by HWDI, LBH APIK, and PEKKA. Socialization and training are conducted to ensure legal empowerment tasks progress. This innovation illustrates that the community is building insight as a means of resilience by understanding knowledge limitations and then conducting socialization or training to enable individuals to comprehend and utilize the law correctly. These challenges and improvement steps also simultaneously depict the functioning of empowerment, defined as an 'approach' to enhancing the knowledge of individuals and communities and as a 'result' in the form of individuals and communities capable of using the law to advance their interests and rights.

The next challenge faced by non-state actors, such as communities and state institutions as government actors, was the situation of the COVID-19 pandemic since the beginning of 2020. However, all actors ultimately overcame these challenges through several adjustments: shifting in-person

activities to online activities, educating communities about the necessary technology or applications, adjusting working hours, and policy awareness campaigns. These efforts demonstrate the creativity aspect of both state and non-state actors in achieving resilience, even though there were still challenges in conducting online activities, such as limited internet access or restricted mobility. In this regard, the encountered challenges require further creativity and solutions to be addressed by the community and the government.

With the ability to persevere and face challenges and changes, the actors in this research ultimately remained capable of conducting legal empowerment despite limitations. The legal empowerment efforts undertaken eventually positively impacted the resilience of the related communities. For instance, PEKKA gained the trust of the surrounding community, leading to increased recognition and respect from community leaders. Positive impacts stemming from such trust were also observed in the experiences of empowerment by the Red de Defensoras Comunitarias (Community Defenders Network) in Bolivia when they received support from the Sub Central de Campesinos de Mizque in their efforts to combat all forms of gender-based violence.⁵⁴³

Secondly, in the context of policy reform, many participant groups encountered challenges or obstacles. For example, there was resistance to specific issues or policies, such as the RUU TPKS, as described by Komnas Perempuan, LBH APIK, PEKKA, and other actors. Community resistance to these issues was addressed by engaging with those showing resistance, conducting awareness campaigns, and creating spaces for dialogue with stakeholders. Outreach and awareness efforts were also made to address resistance from law enforcement agencies (APH) and central and regional governments.

Based on the analysis of the challenges mentioned above, these actors have developed several aspects supporting resilience, namely insight, independence, relationship, and creativity. Insight is evident in how these actors understand the resistance within the advocacy environment. They can approach both those who resist and those who support their cause in a specific and informed manner. Independence is illustrated by the example of PEKKA's paralegal community, which independently advocates for policy changes at the village level. This demonstrates their commitment to legal

⁵⁴³ Fundación Construir, Community Defenders Organized for the Right to a Life Free of Violence, in *Legal Empowerment Experiences from Latin America*, NAMATI (Innovation in Legal Empowerment), (January, 2018): 10, accessed on 29 April 2023, <https://namati.org/resources/legal-empowerment-experiences-latin-america/>.

development, which goes beyond policy formation to create supporting policies to implement the established ones. Relationship: These actors are committed to building good relationships with both the government and the community to ensure that the issues or policies they advocate for are effectively communicated and addressed. Creativity is reflected in the various strategies employed to effectively address the resistance to issues or policies within the community or government.

Challenges in policy reform efforts are often encountered, such as budget limitations and donor interventions, as emphasized by SAPDA. In response to these challenges and to maintain resilience in advocating for policies, SAPDA engages in mutually beneficial negotiations with donors. This effort illustrates that SAPDA is building the initiative aspect because SAPDA has a responsibility to advocate for issues or policies that support protecting and fulfilling the rights of people with disabilities. SAPDA must continue to champion these issues/policies as part of its responsibilities, even in the face of budget constraints or donor interventions in the form of 'request issues' or restrictions on other donor organizations.

From the above description, it can be understood that a community's ability to respond and rise when facing challenges is a fundamental aspect of sustainable development. This research found various efforts by state and non-state actors to adapt, persevere, and thrive in the face of difficulties, such as building collaborative work or networking with other communities, leveraging community and paralegal resources, empowering communities and paralegal groups, promoting inclusive and non-discriminatory policies, and so on.

CHAPTER 8

NATIONAL CONSULTATION ON
RESEARCH ON THE ROLE OF
LEGAL EMPOWERMENT BY
COMMUNITIES IN
STRENGTHENING ACCESS TO
JUSTICE FOR WOMEN IN
CONFLICT WITH THE LAW IN
INDONESIA (A STUDY IN
JAKARTA AND YOGYAKARTA)



08

CHAPTER 8

NATIONAL CONSULTATION ON RESEARCH ON THE ROLE OF LEGAL EMPOWERMENT BY COMMUNITIES IN STRENGTHENING ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW IN INDONESIA (A STUDY IN JAKARTA AND YOGYAKARTA)

On June 27, 2023, the research team from IJRS conducted a national consultation, held in a hybrid format (both online and offline), involving various Legal Aid Organizations (LBH), Civil Society Organizations (OMS), legal empowerment practitioners, academics, and the National Legal Reform Agency (BPHN). During this event, the research team presented the findings of their research conducted in 2022–2023 on the role, methods, activities, and adaptations made in response to the challenges faced by OMS in providing legal empowerment and policy reform to enhance access to justice for women in conflict with the law.

This National Consultation featured one academician, two legal empowerment/policy reform practitioners, and one representative from a state institution, namely BPHN, who served as a respondent in this event:

1. Dr. Lidwina Inge Nurtjahyo, S.H., M.Si., as an academic from the Faculty of Law, University of Indonesia;
2. Eka Ernawati, as a policy reform practitioner from the Advocacy Policy Division of KPI;
3. Lisa Oktavia, as a legal counselor and legal empowerment practitioner from Rifka Annisa;
4. Masan Nurpian, S.H., M.H., as the Legal Assistance Coordinator at BPHN.

Additionally, the Legal Aid Organizations (Lembaga Bantuan Hukum/LBH) and Civil Society Organizations participating in the national consultation are:

Offline	Online
Himpunan Wanita Disabilitas Indonesia (HWDI)	IPPI DIY
Kolektif Advokat untuk Keadilan Gender (KAKG)	Badan Pembinaan Hukum Nasional
LBH APIK Jakarta	IPPI
HopeHelps UI	LBH APIK Sulawesi Selatan
Rutgers	YLBHI
Indonesia AIDS Coalition (IAC)	GerkatIn Pusat

Offline	Online
Perhimpunan Bantuan Hukum dan Hak Asasi Manusia (PBHI)	Asosiasi LBH Apik Indonesia
Koalisi Perempuan Indonesia (KPI)	LBH Apik Medan
Yayasan PEKKA	LBH Manado
Posbakum 'Aisyiyah	
SUAKA	
Jaringan Indonesia Positif (JIP)	
YAPPIKA-ActionAid	
PAHAM Jakarta	
LBH Mawar Saron Jakarta	
LBH Keadilan	
PKBI Nasional	

Here is the response from the respondents to the research conducted by the IJRS research team:

Academics - Dr. Lidwina Inge Nurtjahyo, S.H., M.Si.

Dr. Lidwina argues that legal empowerment is often considered 'complete' when only legal education is provided. However, the methods used in legal empowerment are also crucial so that the public knows the laws and regulations and understands their rights and how to access them. Moreover, legal information dissemination, including reporting mechanisms, already exists, but they often miss the mark. This occurs because those who design the reporting mechanisms are usually individuals with access to the internet and gadgets, which may not necessarily be possessed by vulnerable groups seeking access to reporting channels. Therefore, it is essential for institutions providing legal education and information to pay attention to and prepare the methods and content of their educational programs.

According to Dr. Lidwina, this research can be a step towards policy reform, particularly in advocating for a revision of the Legal Aid Law, as there are still regions that feel they don't need to allocate a budget for

legal aid. Some collaborations that CSOs can undertake in the context of legal empowerment and policy reform, especially with educational institutions like universities, include:

- a. Collaboration in community engagement between service providers and universities.
- b. Internship programs enable students to understand field practices and gain insights not typically obtained in the classroom. Additionally, students can provide feedback based on their academic learnings to service institutions, creating a mutually beneficial relationship.
- c. Integration of curriculum (particularly in law faculties) for developing human rights-based policies, ensuring that legal products have a human rights-based foundation.
- d. Collaborative research on gender-based violence issues. One challenge to anticipate in addressing this is the sometimes insufficient gender sensitivity perspective among academics. Feudalistic culture, which may still exist in academia, can hinder initiatives. Another challenge is related to the time constraints and heavy workload experienced by professors.

Legal Empowerment Practitioner - Lisa Oktavia

From a practitioner's perspective, Ms. Lisa confirms the research findings that, indeed, in the field, there are still women who are victims and are reluctant to pursue legal action because they believe that legal proceedings will only complicate their problems further. When their rights are explained to them, many women who are victims of domestic violence choose the path of divorce over pursuing criminal charges.

“

It is indeed found in the field that when women who are victims come to us, they often say, 'Oh, I think it's too much trouble, ma'am.' At that point, we haven't provided any information yet. It's only later that the women become aware of their rights. Our hope is that by providing information, they realize that they can actually obtain their rights through the various stages they choose. From there, many women who are victims of domestic violence choose to pursue civil proceedings. According to them, this is safer than pursuing criminal proceedings because if I were to pursue a criminal case, what about the stigma within my family when I report my husband... (Results of the National Consultation with LO from Rifka Annisa, June 27, 2023)

According to female victims, divorce is safer than other processes. Even if they have already chosen the divorce process and are aware of their rights, these women are reluctant to request or demand their rights during the divorce proceedings. The most important thing for these female victims is to be able to divorce their husbands and not experience domestic violence.

Legal empowerment for individuals and communities will not be optimal if law enforcement agencies do not share the same perspective. The absence of a perspective that supports victims can be one factor that makes victims reluctant to pursue legal action. Therefore, in addition to building legal empowerment within communities, advocacy with law enforcement agencies is also essential to develop a perspective ensuring victims' rights fulfillment.

Collaboration in legal empowerment can be established between civil society organizations, universities, and government agencies. For example, the FPKK (Forum Perlindungan Korban Kekerasan- Forum for the Protection of Violence Victims) in the Yogyakarta region comprises 75 member organizations from civil society organizations, law enforcement agencies, hospitals, local government, and other stakeholders. Collaborative forums involving various parties and stakeholders like this are among the best practices and highly strategic for promoting legal reform.

Policy Reform Practitioner - Eka Ernawati

Policy reform can start at the grassroots level, such as at the village or neighborhood (Rukun Tetangga/RT) level. However, from the research, there is still a lack of information about the experiences and challenges faced when advocating for policies at these levels. Additionally, it's important to provide an overview of whether the advocacy process involving CSOs has engaged young people and their role in driving policy reform, as this group is often overlooked and excluded. Furthermore, it is crucial to build the capacity of policymakers to ensure that policies developed have a gender perspective, protect children's rights, support marginalized groups, and align with the needs of the community.

When discussing legal empowerment, it involves raising critical awareness that communities have rights guaranteed by the state. When facing legal issues or becoming victims of criminal acts, they have a strong position in front of law enforcement agencies, especially in front of

their partners, in cases such as domestic violence, when they are aware of their rights. Furthermore, legal empowerment should also target women from various groups, such as women with disabilities, young girls, elderly women, and indigenous women.

Policy reform cannot be accomplished alone but requires collaboration with CSOs and academics. Additionally, monitoring and advocating for policy reform should be conducted continuously. For example, in the context of the recently passed UU TPKS (a specific law), CSOs are currently monitoring the development of implementing regulations for the law to ensure that they align with the values they advocate for and, more importantly, are promptly issued.

BPHN

BPHN has the authority to provide legal assistance, a part of access to justice. Concerning providing legal assistance for women and children, BPHN is aware of the issues related to the availability of legal aid organizations (OBH) that focus on women and children's issues in several regions. To address this, BPHN has established verification and accreditation programs for OBH. This aligns with BPHN's plan to revise the Legal Aid Law, aimed at expanding the coverage of legal aid recipients beyond just the economically disadvantaged groups. Through this revision, it is hoped that other vulnerable groups, including women, children, and people with disabilities, can be included as recipients of legal aid under the Legal Aid Law.

One of the policy reform activities carried out by BPHN is the establishment of Regulation of the Minister of Law and Human Rights No. 4 of 2021 on Legal Aid Service Standards, which was developed in collaboration with several CSOs, including LBH APIK, PBHI, YLBHI, and IJRS. This regulation was created to encourage all Legal Aid Organizations to have standardized operational procedures for legal aid services.

“

For instance, a female recipient of legal aid may feel more comfortable consulting with a female advocate or paralegal. It's different when they are victims of assault or rape, and they come to OBH (Organisasi Bantuan Hukum/Legal Aid Organizations) and are received by a male advocate with a male paralegal. They are more open with female paralegals. This is to further empower women in accessing justice through legal

assistance. (Results of the National Consultation with MN from BPHN, June 27, 2023)

Establishing Regulation of the Minister of Law and Human Rights No. 4 of 2021 represents an initial step in ensuring the provision of legal aid for women. BPHN believes it is still necessary to maintain coherence among government ministries/agencies in implementing similar programs. This is being pursued by revising the Legal Aid Law to strengthen the provision of legal aid, which should not be solely centered within the Ministry of Law and Human Rights but can also be carried out by other ministries/agencies.

“

This is not just for litigation but also for non-litigation, so both litigation and non-litigation. But what's most important is the linkage of programs. For instance, fee waivers for litigation are under the Supreme Court, victim protection is under LPSK, safe houses and shelters are located elsewhere, and translation services and sign language services are available in different places. What's needed are linked programs, as it's not feasible to have everything centralized in the Ministry of Law and Human Rights due to budget limitations and human resource constraints. Let the budget be in other Ministries/Agencies, but the key is how to synchronize them. (Results of the National Consultation with MN from BPHN, June 27, 2023)

In the national consultation, BPHN conveyed the need for support and assistance from CSOs and other organizations to strengthen legal aid, particularly in categorizing an individual's vulnerabilities in documents required for broader legal assistance.

Furthermore, the following is a presentation from participants in the national consultation during the sharing session on the situation of legal empowerment and policy reform for PBH (Women in Conflict with the Law/Perempuan Berhadapan dengan Hukum):

1. **YAPPIKA Action: The Role of the Women's Movement for Women Seeking Justice, Women Dealing with the Law, and LGBTQ as Perpetrators and Protection for PPHAM as Legal Advocates for PBH**
Participants from the Indonesian Foundation for Strengthening Participation, Initiatives, and Community Partnerships - Yayasan Penguatan Partisipasi, Inisiatif dan Kemitraan Masyarakat Indonesia

(YAPPIKA) Action Aid explained that various advocacies carried out by women activists have had an impact on the fate of women seeking justice.

“

...we know about the news of the girl in Jambi who was raped by her brother and had an abortion, and then she was dragged to court. However, because women activists demonstrated then, the judicial process was eventually halted. However, it also took extraordinary efforts first; if there were no efforts, she might have continued [to be prosecuted legally]. (Results of the National Consultation with DN from YAPPIKA Action Aid, June 27, 2023)

As context, this case refers to the incest case in Jambi in 2018, where a child victim who was raped by her brother was initially sentenced to six months in prison by the Muara Bulian District Court for having an abortion. However, in the subsequent development of the case, the judge at the appellate level in the Jambi High Court ruled that the abortion was performed under emergency circumstances.⁵⁴⁴ The initial verdict that had briefly imprisoned the victim sparked protests and triggered a series of demonstrations by civil society, including various NGOs and activists in the Justice Alliance for Rape Victims.⁵⁴⁵ Additionally, the case of the prosecution of a child rape victim garnered attention from the central government⁵⁴⁶ after the Jambi Women's Consortium circulated a petition titled "Child Rape Victims Are Not Worthy of Punishment" on Change.org, which was signed by 18,945 people, surpassing the target of 10,000 signatures.⁵⁴⁷

Representatives from YAPPIKA Action Aid also emphasized the need for special attention to be given to women who commit criminal acts

⁵⁴⁴ BBC News Indonesia, "Dibebaskan, anak 15 tahun di Jambi yang gugurkan bayi hasil perkosaan oleh abangnya- (Freed, a 15-year-old in Jambi, who terminated her pregnancy resulting from the rape by her older brother).," <https://www.bbc.com/indonesia/indonesia-45324342>, accessed on 18 July 2023..

⁵⁴⁵ BBC News Indonesia, "Korban pemerkosaan divonis bersalah karena aborsi, pegiat HAM protes- (Rape victim found guilty for abortion, human rights activists protest)," <https://www.bbc.com/indonesia/indonesia-45058277>, accessed on 18 July 2023..

⁵⁴⁶ Liputan 6, "Beredar Petisi Bebaskan Korban Pemerkosaan yang Dibui di Jambi(Petition Circulates to Free Rape Victim Jailed in Jambi)," <https://www.liputan6.com/regional/read/3606712/beredar-petisi-bebaskan-korban-pemerkosaan-yang-dibui-di-jambi>, accessed on 18 July 2023.

⁵⁴⁷ Change.org, "Anak Korban Perkosaan Tidak Layak Untuk Dihukum(Rape Victims' Children Should Not Be Punished)." <https://www.change.org/p/pemerintah-propinsi-jambi-anak-korban-perkosaan-tidak-layak-untuk-dihukum>, accessed on 18 July 2023.

in accessing rights related to criminal justice, such as the right to legal representation. This also applies to offenders from vulnerable groups, such as LGBTQ individuals:

“

...if there's a stereotype that offenders are inherently evil and so on, that hinders their rights as suspects. (Results of the National Consultation with DN from YAPPIKA Action Aid, June 27, 2023)

Regarding women as perpetrators of criminal acts, Lisa Oktavia, a legal counselor and legal empowerment practitioner from Rifka Annisa, pointed out that she often encounters the criminalization of domestic violence victims, particularly wives by their husbands. In cases she has handled, it is not uncommon for the criminalization of women victims to be based on the 'twisting' of the story by the perpetrators, making it appear that the female victims are the actual aggressors. For example, in one case handled by Rifka Annisa, they encountered a woman who was a victim of domestic violence involved in a physical altercation with her husband. This happened because the wife couldn't tolerate the years of abuse she had endured and finally resisted by biting her husband's hand. Unfortunately, her husband turned the tables and reported her for domestic violence (physical abuse).

Participants from YAPPIKA Action Aid also emphasized the importance of protecting activists and human rights defenders at the community or grassroots level, especially those who support women dealing with the law. This protection is necessary because, as individuals who directly engage with perpetrators in the community, they are also vulnerable to violence. The Safety Manual for Women Human Rights Defenders (PPHAM) in Indonesia, released by the National Commission on Violence Against Women, identifies the most common forms of violence experienced by PPHAM:⁵⁴⁸

1. Sexual violence and harassment;
2. Gender and sexual stereotypes, gender stigma, and smear campaigns;
3. Digital attacks;
4. Arbitrary arrests, legal demands, and/or criminalization;
5. Violence against PPHAM based on intersectionality.

⁵⁴⁸ Komnas Perempuan, *Manual Perlindungan Keamanan Perempuan Pembela HAM di Indonesia* (Jakarta: Komnas Perempuan, 2022), p. 16-24.

2. LBH APIK Jakarta: Involvement of Youth, Challenges for Advocates, and Legal Empowerment for Law Enforcement Agencies

Participants from LBH APIK Jakarta explained that they have been involved in legal empowerment efforts, engaging with law enforcement agencies, housewives' communities in the Greater Jakarta Area, and youth communities. Throughout the year 2023, LBH APIK Jakarta has been actively conducting regular outreach to women's communities, including women detainees in detention centers and prisons, to provide education on women's rights. These rights encompass what they should receive while being held in detention centers and prisons, such as adequate facilities for female detainees who are menstruating or pregnant.

Additionally, LBH APIK Jakarta also mentioned that they have established MoU with several Community Health Centers (Puskesmas)⁵⁴⁹ in the Jakarta Special Capital Region (DKI Jakarta). This is crucial because Community Health Centers are one of the service providers for women in conflict with the law.

“

So far, we know that women dealing with the law, especially cases of gender-based and sexual violence, especially cases of gender-based violence that are not within the household, such as dating violence, are very difficult to handle and have difficulty accessing healthcare assistance. (National Consultation, June 27, 2023)

Representatives from LBH APIK Jakarta also conveyed that the stigma attached to women who are victims of violence poses a significant barrier for them to access healthcare services. Therefore, the MoUs with service providers to facilitate access for women in conflict with the law are crucial.

Furthermore, representatives from LBH APIK Jakarta also highlighted the challenges in providing assistance to women dealing with the law due to the stigma associated with women as victims of gender-based violence.

⁵⁴⁹ Puskesmas is a community health clinic mandated by the government located throughout Indonesia.

“
...the victim is still in a state of uncertainty or indecision. Ultimately, this leads the victim to withdraw their report and choose a peaceful path. Because, again, there is a lot of stigma attached to the victim, such as being disobedient to their husband or possibly tarnishing the family's reputation. LBH APIK Jakarta often encounters this when assisting cases. (National Consultation, June 27, 2023)

This has an impact on the support provided, ranging from the withdrawal of reports to the victim disappearing and no longer communicating with their advocate. However, women and LGBT groups, as vulnerable populations, often experience layered violence, and there is a high potential for violence to persist when legal proceedings are not pursued.

“
Many times, in the middle of it all, the victim withdraws their report, and some even disappear without a trace because, as mentioned earlier, they have experienced layered violence. We must collectively acknowledge that, especially for female victims or LGBT individuals in society, the violence they face is not just one or two layers deep; it's multi-layered. This is because it's not just structural violence or physical violence that occurs. Still, there is also psychological violence in the form of intimidation and many other things that eventually become attached to the victim's body. (National Consultation, June 27, 2023)

Furthermore, youth involvement in legal empowerment and policy advocacy is also crucial for LBH APIK Jakarta.

“
Lately, many legal aid organizations or NGOs have realized that it is crucial to involve young people in policy advocacy within legal empowerment or movements that ultimately require initiatives or participation from the community. It's important to note that young people also have their own strengths and a natural enthusiasm for seeking knowledge. They have perspectives that need to be engaged in policy advocacy. (National Consultation, June 27, 2023)

In the context of involving young people, LBH APIK Jakarta is currently collaborating with HWDI in providing legal empowerment for the

youth community, where LBH APIK's paralegals serve as facilitators for training young people with disabilities. Regarding this matter, Dr. Lidwina Inge Nurtjahyo also stated that internship programs for students in various advocacy organizations or NGOs, especially in the case of LBH Apik, are highly beneficial.

“

If they encounter cases like that (domestic violence and/or sexual violence), and then they analyze the Marriage Law, the Law on Elimination of Domestic Violence, it becomes easier. There's an example... what form the violence takes, and then in the context of the Marriage Law, if there are problems with that law, they can see which aspects. On one hand, for our student friends, it makes it much easier for them to understand how the law applies in practice and, if I may say, not be clueless. (National Consultation, June 27, 2023)

LBH APIK Jakarta also emphasized that legal empowerment through outreach activities or training is important across various media platforms, especially through social media, which is accessible to a wide range of people, from young individuals to older age groups. This accessibility can also reach women who are victims and survivors, encouraging them to speak out and share stories that demonstrate that they are not alone and that assistance can always be accessed, even from their own mobile phones.

3. HWDI: The Need for an Inclusive Perspective of Law Enforcement Agencies towards Persons with Disabilities and Infrastructure Challenges in Handling Legal Cases Affecting Persons with Disabilities

During the sharing session, representatives from HWDI mentioned that HWDI empowers individuals through paralegal training, such as on the Convention on the Rights of Persons with Disabilities (CRPD), and community-based counseling through a women with disabilities consultation center program that is currently running in 27 provinces out of the total 32 provinces where HWDI communities exist. Participants from HWDI also emphasized the importance of appropriate accommodations for persons with disabilities involved in legal matters. These accommodations are modifications and adjustments that are necessary to ensure the enjoyment or exercise

of all human rights and fundamental freedoms for persons with disabilities on an equal basis.⁵⁵⁰

Ensuring proper accommodations is crucial, as advocates often face obstacles or challenges in assisting persons with disabilities. HWDI shared an example of when they assisted five deaf individuals who were victims of sexual violence. During the process, HWDI encountered difficulty gathering information from the victims due to their limited reading and writing abilities and proficiency in sign language. On the other hand, legal aid providers also have limitations in communicating with persons with disabilities, leading to hurried examinations that further distress the victims.

Another issue HWDI identified is the infrastructure limitations, particularly in handling legal cases involving persons with disabilities. Eka Ernawati and Dr. Lidwina Inge Nurtjahyo, S.H., M.Si, responded by emphasizing the need for specialized spaces for certain cases, such as sexual violence, considering that the needs of persons with disabilities differ from those without disabilities. Specifically, for sexual violence cases, Law Number 12 of 2022 on Sexual Violence Criminal Acts has regulated that UPTD PPA (technical implementation unit), technical implementation units at the regional level in the social field, and/or Community-Based Service Providers, including the police, should receive reports in specialized service rooms that ensure the safety and confidentiality of victims.⁵⁵¹ Similarly, during the investigation phase, examinations should also be conducted in specialized service rooms at the police station. However, in certain cases, examinations can be conducted at UPTD PPA or other locations.⁵⁵² At the prosecutor's level, the prosecution process must provide reasonable accommodations for persons with disabilities in the form of services, facilities, and infrastructure based on the diversity, levels, barriers, and needs of persons with disabilities.⁵⁵³ These provisions have been regulated in Guidelines Number 2 of 2023 on Reasonable Accommodations and Accessible and Inclusive Handling of Cases for Persons with Disabilities in the Legal Process.

⁵⁵⁰ Refer to Regulation Number 2 of 2023 on Adequate Accommodations and Accessible and Inclusive Case Handling for Persons with Disabilities in the Judicial Process

⁵⁵¹ Law Number 12 of 2022 on Sexual Violence Criminal Offenses, Article 41 paragraph (1) and (4)

⁵⁵² *Ibid*, Art. 53.

⁵⁵³ Refer to Guideline Number 2 of 2023 Regarding Adequate Accommodation and Accessible and Inclusive Case Handling for Persons with Disabilities in the Judicial Process."

Therefore, the draft regulations derived from UU TPKS through three Government Regulations (PP) and four Presidential Regulations (Perpres) are expected to accommodate the accessibility needs of persons with disabilities, including appropriate accommodations in the legal process. The development of suitable infrastructure in handling legal cases involving persons with disabilities, especially in cases of sexual violence, should also be a fundamental consideration in formulating these derivative regulations. Beyond infrastructure, law enforcement agencies' need for an inclusive perspective toward persons with disabilities is also expected to be fulfilled.

4. IPPI: Conditions and Challenges in Access to Justice for Women Living with HIV/AIDS

During this session, IPPI participants also mentioned that IPPI currently runs a program for reporting Gender-Based Violence (GBV) experienced by women with HIV. IPPI has trained 22 complaint-receiving officers in 10 provinces for this program. The goal is to empower women with HIV to speak out and report the violence they experience, at least to their fellow HIV-positive peers. Additionally, IPPI raises awareness about GBV issues faced by women living with HIV among the health departments and UPTD PPA in these ten provinces. The reason behind this effort is twofold. First, the handling of violence cases against women living with HIV by both of these entities is still partial. Second, the awareness campaign aims to prevent discrimination when government service institutions, including legal aid organizations, receive cases of violence against women with HIV.

However, IPPI still encounters challenges in assisting women with HIV who experience violence. For example, victims may still be afraid to report, there may be insufficient protection of the HIV status of the victim, and there may be threats from the perpetrators against complaint-receiving officers. According to the Legal Needs Survey for Vulnerable Groups in 2022, the issues faced by vulnerable groups related to Gender-Based Violence are still quite high, at 31%.⁵⁵⁴ If the challenges and obstacles encountered are not adequately addressed, the high prevalence of gender-based violence issues will undoubtedly impact the number of victims who struggle to access

⁵⁵⁴ Arsa Ilmi Budiarti, *et.al*, *Laporan Penelitian Survei Kebutuhan Hukum Bagi Kelompok Rentan 2022*, (Jakarta: Indonesia Judicial Research Society, 2022), p. 103.

justice, including women who are victims of violence and are also living with HIV.

5. Asosiasi LBH APIK: Community-Based Paralegals and the Revision of the Legal Aid Law

The effectiveness of legal empowerment activities is the starting point for achieving access to justice. Therefore, the LBH APIK Association sees it as crucial for communities to understand their rights and responsibilities and how legal processes work. LBH APIK carries out this mission by organizing training sessions for community-based paralegals, considering the various identities and backgrounds of women to ensure that legal empowerment aligns with the specific needs of each woman.

The LBH APIK Association also recognizes limitations in the Legal Aid Law, such as the definition of legal aid and budgetary constraints for litigation and non-litigation cases. Nevertheless, the existence of the Legal Aid Law itself represents progress in terms of access to justice, especially for marginalized groups. Therefore, in response to this, the LBH APIK Association supports the revision of the Legal Aid Law intending to ensure that women and other vulnerable groups facing legal issues can access legal aid, which is the state's obligation to provide to its citizens.

Another challenge related to PBH is the issue of providing support. In this regard, some individuals or figures still do not fully understand the importance and purpose of legal empowerment for women. Considering that these challenges often come from male-dominated groups, the LBH APIK Association further encourages men's involvement in legal empowerment to enhance understanding and facilitate access to justice for women. This step is taken to ensure that, in the future, when there are mechanisms for supporting victims, it can be a collaborative effort involving various groups, not just women, to broaden the fulfillment of rights and protection for victims within the community.

CHAPTER 9
CONCLUSION &
RECOMMENDATIONS



09

CHAPTER 9 CONCLUSION AND RECOMMENDATIONS



Conclusion

This research was conducted in Jakarta and Yogyakarta, involving 15 community groups as non-state actors and two government institutions as state actors. Data collection for this study took place throughout November–December 2022 for interviews, February 2023 for focus group discussions (FGD), and June 27, 2023, for the National Consultation. The research focused on how state and non-state actors actively engage in legal empowerment and policy reform efforts.

Legal Empowerment

1. Based on this research, CSOs play a significant role in the community-based legal empowerment scheme in Jakarta and Yogyakarta. CSOs, particularly those that serve as legal aid organizations (OBH), also have a legal assistance scheme as a form of legal empowerment to create community resilience so that individuals and communities can advocate for themselves independently (especially when individuals or communities are part of vulnerable groups such as people living with HIV/AIDS, sex workers, and people with disabilities).
2. To address the challenges of access to justice for PBH, CSOs can adapt through legal empowerment schemes, especially in providing legal and non-legal information and assistance services (such as access to physical and psychological health services for those affected by violence). Therefore, CSOs are creating an inclusive and supportive ecosystem for the needs of PBH, regardless of the path (litigation or non-litigation) they choose as victims.
3. Through legal empowerment schemes, CSOs contribute to evidence-based policy development. Through research, data processing, and monitoring and evaluating their cases, they can identify legal gaps and provide policy improvement recommendations. The pillars of legal empowerment, such as knowing the law, using the law, and shaping the law, serve as catalysts for innovation by CSOs in efforts to improve access to justice through monitoring and evaluation for PBH. The contribution of legal empowerment to inclusive policy reform that can respond to the realities within society, especially regarding access to justice for PBH, is closely intertwined.

Policy Reform

1. CSOs promote evidence-based policy reform derived from studies conducted based on the experiences of vulnerable populations or specific communities, aiming to create policies that align with their needs.
2. Using effective strategies is essential in responding to the conditions experienced by PBH (Perempuan Berhadapan dengan Hukum/Women in Conflict with the Law). In the case of policy reform, strategy selection is carried out by identifying the form of regulations and forms of intervention that will be used to answer a legal problem. Identification is carried out by considering the characteristics of the problem and the availability of resources in a community to find the most basic form of effective and efficient intervention in encouraging change in that community.
3. Legal empowerment and policy reform are interconnected. In this regard, the primary roles and functions of state actors (in this case, BPHN and Komnas Perempuan) have different focuses – BPHN plays a larger role in legal empowerment. At the same time, Komnas Perempuan is more focused on policy reform.
4. Collaboration between sectors in policy reform, specifically between state actors and non-state actors (especially CSOs and legal aid organizations in the context of this research), is a strategic step to promote policy changes with a gender perspective. CSOs play a significant role in advocating for the creation of policies, providing input in policy formulation, monitoring the implementation of policies, and monitoring emerging societal issues.

Recommendations

Based on the research, several recommendations are directed primarily to BPHN, Komnas Perempuan, CSOs, and the Government. These recommendations are made considering that BPHN, as a state actor, has a role in legal empowerment through legal counseling, legal literacy promotion, and legal aid. Similarly, Komnas Perempuan also plays a role in legal empowerment and policy reform, especially in preventing, mitigating, and eliminating all forms of violence against women. As a state actor, the government is a target of recommendations because it generally holds significant influence over policy decisions. Finally, CSOs are chosen as a target for recommendations because they are the primary actors involved in policy reform and legal empowerment activities in the field, both as advocates and

paralegals. It is expected that CSOs can keep up with the changing times, support each other, and grow together with their communities to remain responsive to policy changes and socio-economic challenges.

BPHN

1. BPHN needs to make policy reform efforts, such as revising the Legal Aid Law, to optimize the provision of guarantees and protection of the rights of victims and other vulnerable groups to access legal aid. The Legal Aid Law is perceived to have weaknesses, including limitations in the definition of legal aid recipients, which are currently limited to the poor, and budget allocation constraints for litigation and non-litigation legal aid.;
2. In addition to utilizing administrative data, BPHN should develop methods for determining the target and content of legal empowerment through the Legal Need Survey (LNS) method. This will make legal empowerment more effective, targeted, and aligned with community needs. BPHN can also use the results of the LNS in evidence-based policy reform efforts, such as revising the Legal Aid Law;
3. When conducting legal counseling, BPHN should provide affirmative action to vulnerable groups facing barriers, inequalities, or limitations in enjoying a decent standard of living. This ensures that they have equal opportunities in the same field as other groups;
4. BPHN should collaborate and synergize with various actors in legal empowerment efforts, especially non-state actors like legal aid organizations (OBH). Collaboration and synergy are also essential in policy reform efforts prioritizing the guarantees and protection of legal aid recipients, especially vulnerable populations.

Komnas Perempuan

1. Komnas Perempuan should continue to conduct regular monitoring and evaluation (e.g., every three years) of the policies it has advocated for while involving CSOs, universities, academics, and/or other human rights organizations;
2. Komnas Perempuan should collaborate with CSOs and continue to create advocacy opportunities in policy advocacy related to issues of justice for women.

The Government

1. The government needs to engage stakeholders in formulating or modifying policies to ensure that the policies are well-targeted, aligned with objectives, and meet the community's needs. For example, the Ministry of Social Affairs, the Ministry of Women's Empowerment and Child Protection, and the Ministry of Law and Human Rights should collaborate and synergize in policy reform efforts that enhance access to justice for PBH.
2. The government should periodically monitor and evaluate the implementation of policies that have been issued. The government can assess whether a policy aligns with its objectives and the community's needs through monitoring and evaluation. It can also minimize potential risks and measure the policy's positive and negative impact. Furthermore, the insights gained from monitoring and evaluation can inform the crafting of future policies to improve their effectiveness continually.

CSO

1. CSOs can encourage the government and law enforcement institutions to continuously enhance the capacity of law enforcement personnel, including judges, prosecutors, and police officers, regarding issues related to vulnerable groups such as women, children, and people with disabilities when facing the law. This is because advocated policies will not be effective without a change in the paradigms and perspectives of law enforcement personnel and other state officials;
2. In conducting legal empowerment and advocacy for policy reform, CSOs can involve young paralegals (such as youth from disability groups, indigenous youth, and youth with HIV) to promote meaningful youth participation. Empowerment can be carried out with youth-friendly approaches, including the utilization of technology and digitalization for information dissemination and empowerment activities;
3. CSOs should consistently conduct periodic monitoring and evaluation (e.g., every three years) of the policies they have advocated for. Monitoring and evaluation can be carried out through collaboration with other CSOs, universities, academics, and/or national human rights institutions;
4. CSOs can continue to promote evidence-based policy advocacy through enhanced research that consistently applies scientific methodologies and can be academically accountable.

ISBN 978-623-93444-8-1



**THE ROLE OF LEGAL EMPOWERMENT
BY THE COMMUNITY IN
STRENGTHENING ACCESS TO
JUSTICE FOR WOMEN IN CONFLICT
WITH THE LAW IN INDONESIA**

Study in Jakarta and Yogyakarta