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

A Study in Jakarta and Yogyakarta





Canada

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

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The **Stories from the field: Overcoming access to justice barriers through grassroots communities' participation and collective action** project aims to generate knowledge and evidence on key legal empowerment approaches and their contribution to empowering and strengthening grassroots communities' participation and collective action to bridge access to justice gaps.

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# Foreword

## International Development Research Centre

Over the last 3 years, ALG and IDRC collaborated to work with a network of organizations to capture experiences, learnings and strategies to improve safe participation of community voices in their future. This book emerges from this initiative to develop knowledge and strategies to strengthen civic space. A key element of these efforts was to support communities in producing the knowledge that they want. The result contributes knowledge that transcend geographic contexts and speak to challenges faced by communities working to improve access to justice in Southeast Asia, West Africa, and East and South Africa. The book captures experiences of practitioners from different stages of public engagements, as they navigate risks and strategies to represent their communities on issues like forced migration, climate justice, and indigenous rights, for example. The contributions within this volume foster the exchange of knowledge regarding evidence and practices beneficial to community-based organizations and legal empowerment initiatives focused on enhancing community participation.

IJRS is delighted to contribute and participate in the research project titled: "**Stories from the Field: Overcoming Access to Justice Barriers through Grassroots Communities' Participation and Collective Action.**" This research project is consistent with our mission to empower grassroots communities and guarantee their voices are heard by figuring out the root causes of problems and working closely with them—especially the most vulnerable members of the community—to develop workable solutions. Issues concerning women's rights and the part grassroots communities play in guaranteeing these rights are closely related.

Accessing justice presents particular difficulties for women in many communities, which are frequently exacerbated by a lack of legal knowledge, cultural norms, and socioeconomic barriers. In order to give women who might otherwise be marginalized and voiceless resources, advocacy, and support, grassroots communities are essential in closing these gaps. We are grateful for the opportunity to be part of this important research project.

We look forward to the insights and progress that will emerge from this collaboration. Thank you for your support and dedication to creating a more just and equitable society for all.



**Arsa Ilmi Budiarti**

Executive Director  
Indonesia Judicial Research Society (IJRS)

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# Chapter I

## Introduction



## BACKGROUND

The deeply rooted gender bias<sup>1</sup> within Indonesian society often places women in a position inferior, or at a disadvantage compared, to men. Aside from matters pertaining to daily life, women also often face difficulties in protecting and promoting their rights and accessing justice. Women frequently encounter various problems involving 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 to approximate because there is intersectionality that adds layered vulnerabilities for women<sup>2</sup>. Poor or low-educated women will have a harder time accessing justice than those who are educated and economically affluent. The same goes for people with ethnic and racial minority backgrounds, migrants, and indigenous peoples<sup>3</sup> as well as other vulnerable groups such as people with disabilities, the elderly, and children, who are vulnerable to experiencing excessive discrimination in the application of the law<sup>4</sup>. 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<sup>5</sup>.

The Indonesian Constitution guarantees that everyone has the right to recognition, guarantees, protection, fairness, and equal treatment before the law.<sup>6</sup> 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.<sup>7</sup>

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1 Gender bias refers to a situation when people receive different treatment based on their gender identity. In terms of access to justice and legal empowerment, it was observed 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* 144, (1989) 8.

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\\_ePfrQix8qJ1oofORDpAUqNvxsrAKXVFej0xmXCD-6-2EaoJXdTluRoCp8oQAvD\\_BwE](https://www.un.org/en/fight-racism/vulnerable-groups?gclid=CjwKCAjwu5yYBhAjEiwAKXk_ePfrQix8qJ1oofORDpAUqNvxsrAKXVFej0xmXCD-6-2EaoJXdTluRoCp8oQAvD_BwE), diakses 25 Agustus 2022.

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.

In modern and egalitarian legal systems, effective access to justice is also a fundamental human rights requirement to realize everyone's legal rights.<sup>8</sup> Modern societies have moved beyond *laissez-faire*<sup>9</sup> individualistic views to recognize the social rights and corresponding obligations of governments, communities, associations, and individuals.<sup>10</sup> Access to justice, as another human right similar to 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.<sup>11</sup>

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.<sup>12</sup>

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.<sup>13</sup> Although de jure discrimination can be repealed through laws, eliminating de facto discrimination requires additional positive strategies.<sup>14</sup>

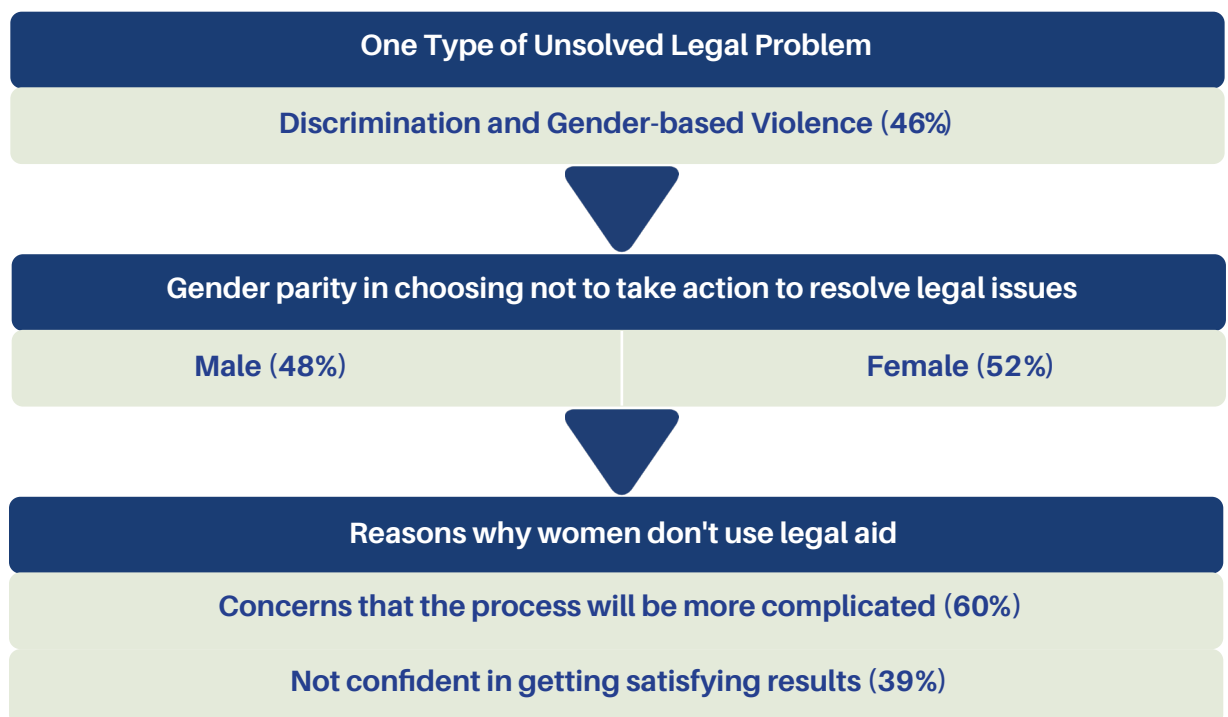


Chart 2019 . 1 Access to Justice Index in Indonesia survey concerning Gender Based Violence

8 Mauro Cappelletti dan Bryant Garth, "Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective", *Buffalo Law Review* 1978) 181), 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.

13 Ibid., page. 16.

14 Ibid.

The 2019 Access to Justice Index in Indonesia found that 46% of people experiencing problems related to gender-based discrimination and violence chose to do nothing about the issues they faced.<sup>15</sup> Additionally, 52% of women were reluctant to take legal action to resolve their problems.<sup>16</sup> Sixty 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.<sup>17</sup> These data points highlight why it is essential for women to pursue legal empowerment through three pillars of individual and community action: knowing the law, using the law, and shaping the law.<sup>18</sup>

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.<sup>19</sup> 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 issuances and policies such as Law No. 23 of 2004 concerning the Elimination of Domestic Violence.<sup>20</sup> 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.<sup>21</sup>

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 and academic institutions, 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

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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.

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.

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 (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, has been aiming to examine further the experiences and practices in the field - namely, every legal aid service, service provider, the 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 advocacies for policy reform related to access to justice for PBH. The current

## RESEARCH QUESTIONS

Based on the background above, the research team proposed 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 was conducted empirically using a qualitative approach. This approach is crucial for exploring the experiences of the community as regards legal empowerment and its participation in policy reform processes related to access to justice for PBH. The research was conducted in two cities, Jakarta and Yogyakarta, which are strategic as regards social movements and are home to legal aid organizations, service providers, civil society organizations, women's crisis centers, and other 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 gather their experiences, expertise, and contributions in the field of legal empowerment in Indonesia, both state and non-state actors, and to map the community of legal empowerment organizers and advocates for policy reform related to access to justice for PBH. For this purpose, the Research Team 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 researchers also conducted focus group discussions in both cities to explore the 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 participants are listed below:

FGD Jakarta	FGD Yogyakarta
1. Perhimpunan Bantuan Hukum dan Hak Asasi Manusia Indonesia (PBHI)	1. Rifka Annisa Women’s Crisis Center
2. LBH Masyarakat	2. Jaringan Nasional Advokasi Pekerja Rumah Tangga (JALA PRT)
3. LBH Jakarta	3. Sentra Advokasi Perempuan, Difabel dan Anak (SAPDA)
4. LBH APIK Jakarta	4. LBH Yogyakarta
5. Himpunan Wanita Disabilitas Indonesia (HWDI)	5. LBH APIK Yogyakarta
6. Koalisi Perempuan Indonesia	6. Pemberdayaan Perempuan Kepala Keluarga Bantul (PEKKA Bantul)
7. Perempuan Mahardhika Ikatan Perempuan Positif Indonesia - Jakarta (IPPI Jakarta)	7. Ikatan Perempuan Positif Indonesia - Yogyakarta (IPPI Yogyakarta)
8. Jaringan Indonesia Positif (JIP)	

Table 1. List of FGD participants

The weakness of the FGD method is the limited number of participants due to 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 II

## Literature Review



## CONCEPTUAL FRAMEWORK ON ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW

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 improving access to justice.<sup>22</sup> 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.”<sup>23</sup>

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.<sup>24</sup> Furthermore, the international community has agreed through the Universal Declaration of Human Rights (UDHR) that access to justice is fundamental to realizing human rights.<sup>25</sup> 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.<sup>26</sup>

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.<sup>27</sup> 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.<sup>28</sup>

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 2024-2020 [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.

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.

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.<sup>29</sup> 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:<sup>30</sup>

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 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.<sup>31</sup> 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),<sup>32</sup> 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 in relation to understanding the law, legal processes, and navigating legal issues.

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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 2019-2016 (Jakarta: Ministry of PPN/Bappenas, 2016), p. 4.

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 52-39.

## 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. These should never prevent individuals from receiving equal treatment under the law and having equal access to justice.<sup>33</sup> 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.<sup>34</sup> They (men, women, and children) do not receive the protection and fulfilment of their rights that should be guaranteed by the state.<sup>35</sup>

According to data from the Access to Justice Index in Indonesia 2019, women are one of the groups vulnerable to facing legal issues.<sup>36</sup> The common problems experienced by women are often related to family and children, such as divorce, accounting for 57% of cases, issues related to social security or assistance at 57%, and administrative issues regarding population registration at 52%.<sup>37</sup> Other findings indicate that 52% of women, of which 34% are homemakers, tend not to pursue legal remedies when encountering legal problems in Indonesia.<sup>38</sup> 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.<sup>39</sup>

Women still face limitations in obtaining their rights, such as access to healthcare, higher education, opportunities in the economic field, decent and well-paying 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.<sup>40</sup> 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%, were female, with 72.1% of them being children aged 6-18 years old.<sup>41</sup> 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,<sup>42</sup> and the state's protection, especially for children, is still not ideal or sufficient.

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* Vo. 1: Report of the Commission on Legal Empowerment of the Poor (New York: s.n., 2008), p. 2-1.

35 Ibid.

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

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. 82-81.

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

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.<sup>43</sup> Komnas Perempuan also monitored cases of femicide and found 237 cases with various motives, including revenge, rape, jealousy, theft, unwanted pregnancy, and other reasons. These femicides were predominantly committed by husbands, boyfriends, and neighbors of the victims.<sup>44</sup> 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.<sup>45</sup> Most respondents (33.5 percent) who experienced sexual violence did not report their cases due to fear and not knowing where to report (23.5 percent). As a result, most respondents did not find a resolution to their issues.<sup>46</sup>

It is important to recognize that justice for women is among 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. In Indonesia, 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. The neglect of women from justice can be both a cause and a consequence of violence and conflict, poverty, inequality, and marginalization or exclusion.

It is important to recognize that justice for women is among 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.<sup>47</sup> In Indonesia, 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

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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 2023, 4, p. 1..

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.

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.<sup>48</sup> The neglect of women from justice can be both a cause and a consequence of violence and conflict, poverty, inequality, and marginalization or exclusion.<sup>49</sup>

Indeed, women victims still face various barriers when attempting to access justice. For example, they are often asked to present additional 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.<sup>50</sup> 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.<sup>51</sup> 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.<sup>52</sup>

On the other hand, there are substantive barriers where the law enforcement paradigm and mechanisms still focus primarily on punishment and fail 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 or predicament 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.<sup>53</sup> 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.<sup>54</sup>

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

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

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. 14-8.

54 Ibid.

The execution of verdicts by judges in cases of violence against women has been predominantly 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.<sup>55</sup>

Women face greater challenges when it comes to issues related to family law, children, and social welfare. For example, 40% of women experience more legal problems related to domestic violence than men, and 75% of women face more issues related to child support or alimony.<sup>56</sup> There are cases of divorce initiated by husbands which were cancelled when they realized 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.<sup>57</sup> In many cases, former husbands do not perform their obligations to provide child support even after a court orders them to pay.<sup>58</sup> 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.<sup>59</sup> Furthermore, victims often cannot access legal assistance or representation and frequently must represent themselves.<sup>60</sup>

Women with low income or belonging to marginalized groups face more cultural and structural barriers in accessing justice.<sup>61</sup> According to research conducted by PEKKA, out of 601 women who are members of PEKKA, 50% live below the poverty line, and one in three of these women, who are heads of households, cannot access government assistance programs.<sup>62</sup> 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 are among the challenges for the poor in accessing justice.<sup>63</sup> Transportation costs pose a significant barrier to attending court hearings for impoverished communities residing in rural, and hard to reach, areas far from the courts. The farther someone's residence is from the court, the higher the transportation expenses required.<sup>64</sup>

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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.

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. 58-56.

63 *Ibid.*, p. 59.

64 *Ibid.*, p. 60.

Many women remain 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.<sup>65</sup> Therefore, it is crucial to empower poor and marginalized women to build critical awareness of their rights through education and skills development.<sup>66</sup> This helps them realize that the harm or problems they face may also be the responsibility of other duty bearers and stakeholders who could 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.<sup>67</sup>

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, domestic complications, 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.<sup>68</sup>

## **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.<sup>69</sup> The indicator components of 'legal capability' include identifying legal issues, understanding legal services and processes, and addressing legal problems.<sup>70</sup>

The Access to Justice Index 2019 found that 46% of individuals who experienced discrimination and gender-based violence chose not to act on their issues.<sup>71</sup> Furthermore, when it comes to choosing a resolution for their problems, majority of the women, or 52% of respondents, tend to be reluctant to take any action when facing legal issues.<sup>72</sup>

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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

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.

This is alarming because women often face issues related to family and children (such as divorce), social security and assistance, and administrative/civil registration matters.<sup>73</sup>

It is important to acknowledge that there is social and legal discrimination or de-prioritization as regards 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.<sup>74</sup> There are many ways in which the law sidelines marginalized groups based on their identities,<sup>75</sup> treating them as inferior, less important, or forcing them into and/or maintaining positions of powerlessness.<sup>76</sup>

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

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.<sup>79</sup> 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 with 2,210 respondents, shows that majority of respondents (93.4%) are aware of where to report incidents of sexual violence.<sup>80</sup> However, among those who know where to report, 43.8% choose to report to the police as their first point of contact, 41.6% report to their family, 4.9% report to their local neighborhood association (Rukun Tetangga or Rukun Warga/RT or RW), and 4.6% report to other entities such as legal aid organizations or other service providers.<sup>81</sup>

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.

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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.

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

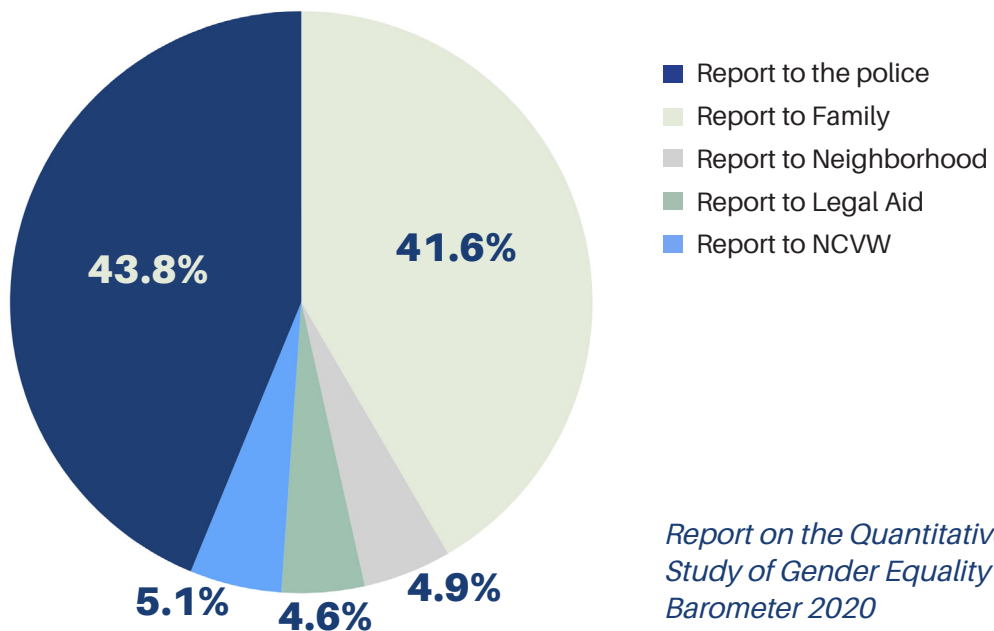
78 Ibid.

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.

## Options for Reporting Sexual Violence



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%, while the access to non-state actor institutions was significantly lower, such as NGOs at 35.8% and community-based services<sup>82</sup> at 13.9%.<sup>83</sup>

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.<sup>84</sup> 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.<sup>85</sup>

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

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.

development to enhance the control of disadvantaged communities over their lives.<sup>86</sup> In its development, legal empowerment is not only integrated into the global fight against poverty<sup>87</sup> 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, which addresses collective, systemic, and perennial failures to protect and defend the rights of vulnerable and marginalized individuals and communities.<sup>88</sup>

Goodwin and Maru have found that the most common legal empowerment strategies, besides legal literacy, are community mobilization and advocacy.<sup>89</sup> These methods are expected to embody the three pillars of individual and community action: knowing the law, using the law, and shaping the law.<sup>90</sup> Legal empowerment is both an approach and an ultimate goal.<sup>91</sup> As an approach, it aims to enhance individuals' and communities' knowledge of the law and design better paths to justice.<sup>92</sup> As a result, individuals and communities are empowered to use the law to advance their interests and rights.<sup>93</sup> 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.<sup>94</sup>

## **LEGAL AND POLICY REFORMS FOR ACCESS TO JUSTICE FOR WOMEN IN CONFLICT WITH THE LAW**

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

1. Repealing existing laws;
2. Enactment of new laws;
3. Consolidation: This method involves merging or combining multiple laws into a single comprehensive law
4. Codification: It refers to the systematic collection and organization of laws within a state or country based on subject matter

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<sup>86</sup> 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.

<sup>87</sup> 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.

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

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

<sup>90</sup> Open Society Foundations, *Making The Law Work for People*, p. 4.

<sup>91</sup> *Ibid.*, p. 5.

<sup>92</sup> *Ibid.*

<sup>93</sup> *Ibid.*

<sup>94</sup> *Ibid.*

<sup>95</sup> *Ibid.*

<sup>96</sup> 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.

<sup>97</sup> *Ibid.*

Legal reform to improve the well-being of women can begin by critiquing laws through perspectives and arguments based on women's experiences.<sup>98</sup> 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.<sup>99</sup> 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.<sup>100</sup> 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.<sup>101</sup>

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.<sup>102</sup> These organizations can significantly contribute by providing pathways and entry points for women to participate in legal reform.<sup>103</sup> Additionally, they can sustain the reform momentum and advocate for continued investment in implementing laws.<sup>104</sup>

## 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 governmental and non-governmental organizations.<sup>105</sup> 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).<sup>106</sup>

In the Philippines, for example, the Free Legal Assistance Group (FLAG) deployed community paralegals to respond to the repression under Marcos during the 1970s.<sup>107</sup>

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 33-32.

103 Ibid.

104 Ibid.

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.

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'.<sup>108</sup> 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.<sup>109</sup>

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 dispute processing, especially within the village-level justice system (barangay);<sup>110</sup> (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.<sup>111</sup> 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.<sup>112</sup>

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.<sup>113</sup> 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.<sup>114</sup> At the policy level, HLAF takes initiatives to lobby

108 The Alternative Law Groups, [www.alternativelawgroups.org/about.asp?sec=history](http://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 9-8, 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. 2019, 1): p. 19.

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 1997, 13 at [http://www.lawphil.net/courts/bm/bm\\_1997\\_730.html](http://www.lawphil.net/courts/bm/bm_1997_730.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. 96-109 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. 2019, 1): p. 21

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

against the passage of bills that would lower the age of criminal responsibility to 12 years,<sup>115</sup> hold meetings with government officials to advocate for more humane detention conditions,<sup>116</sup> and host consultations on implementing the Juvenile Justice and Welfare Act.<sup>117</sup>

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.<sup>118</sup>

## → 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.<sup>119</sup> 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 and protection for most of the population, who are largely poor, minorities, women, persons with disabilities, and other marginalized groups.<sup>120</sup> 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

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>.

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/-3053legal-empowerment-for-persons-with-disabilities-sustainable-options-for-marginalized-vulnerable-communities-in-nigeria/>.

lawyers.<sup>121</sup> In Nigeria, paralegals engage in work related to criminal justice reform, both in legal aid organizations and university clinics.<sup>122</sup> 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.<sup>123</sup> 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.<sup>124</sup>

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.<sup>125</sup> The 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.<sup>126</sup>

Secondly, the Community Lawyering model is driven by lawyers as a tool for social change and has proven effective for impoverished communities.<sup>127</sup> 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.<sup>128</sup>

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.<sup>129</sup> 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).<sup>130</sup> JEI paralegals are trained to employ traditional paralegal methods and innovative and proactive community mobilization techniques, including mediation

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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/16597/10986> (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/03/2015/Nigeria\\_Paralegal\\_Manual\\_14-11-2011.pdf](https://namati.org/wpcontent/uploads/03/2015/Nigeria_Paralegal_Manual_14-11-2011.pdf), cited by Adaobi Egboka, *Legal Empowerment...*, p.29.

124 Legal Aid Council of Nigeria, *Annual Report to the Nigerian Bar Association*, hlm. 2017), 5), <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.

126 *Ibid.*

127 *Ibid.*, p. 27.

128 *Ibid.*, p. 30.

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

130 *Ibid.*

and negotiation, rights and options, litigation support and accompaniment, community education, collective action, documentation, and media advocacy.<sup>131</sup>

## 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.<sup>132</sup> 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.<sup>133</sup> These CSOs play important roles such as raising awareness, policy advocacy, institution development, and capacity building.<sup>134</sup>

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.<sup>135</sup> Furthermore, as institutional entities, NGOs are not bound and/or under the control of state organs.

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 to purposively advocate 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.<sup>136</sup> In Indonesia itself, political liberalization began after the New Order era, marked by the growth of NGOs within the framework

131 Ibid.

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 2023 ,7, [https://www.academia.edu/44078651/PERAN\\_LEMBAGA\\_SWADAYA\\_MASYARAKAT\\_LSM\\_DALAM\\_MEMBANGUN\\_PERADABAN\\_DEMOKRASI](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 2023 ,7, [https://www.academia.edu/44078651/PERAN\\_LEMBAGA\\_SWADAYA\\_MASYARAKAT\\_LSM\\_DALAM\\_MEMBANGUN\\_PERADABAN\\_DEMOKRASI](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, 62-59 :(2020, accessed February 2023 ,9, DOI: 10.26740/jpsi.v4n2.p62-59.

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

136 David Lewis, «Non-governmental Organizations, Definition and History,» January 2010, p.3, accessed February 2023 ,7, [https://www.researchgate.net/publication/302391474\\_Nongovernmental\\_Organizations\\_Definition\\_and\\_History/link/5687ec6d08ae1e63f1f72278/download](https://www.researchgate.net/publication/302391474_Nongovernmental_Organizations_Definition_and_History/link/5687ec6d08ae1e63f1f72278/download).

of civil society development.<sup>137</sup> 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.<sup>138</sup>

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.<sup>139</sup> 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.<sup>140</sup>

Furthermore, David Lewis (2007) also mentions three roles of NGOs: implementers, catalysts, and partners.<sup>141</sup> 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.<sup>142</sup>

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.<sup>143</sup> This aligns with Agenda 21 of the UN Documents Cooperation Circles: Gathering a Body of Global Agreements:

***“Governments will need to promulgate or strengthen, subject to country-specific conditions, any legislative measures necessary***

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137 Muhammad Ali Azhar, «Peran Lembaga Swadaya Masyarakat (LSM) dalam Membangun Peradaban Demokrasi,» p. 1, accessed February 2023, [https://www.academia.edu/44078651/PERAN\\_LEMBAGA\\_SWADAYA\\_MASYARAKAT\\_LSM\\_DALAM\\_MEMBANGUN\\_PERADABAN\\_DEMOKRASI](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 2023, <https://repository.uinjkt.ac.id/dspace/bitstream/1/43599/123456789/SUCI20%FITRIAH20%TANJUNG-FISIP.pdf>.

140 Bridget Hutter, “The Role of Non-State Actors in Regulation”, (The London School of Economics and Political Science, Mei 2006), p. 8-7, accessed 11 February 2023, [https://www.researchgate.net/publication/30528175\\_The\\_Role\\_of\\_Non-State\\_Actors\\_in\\_Regulation](https://www.researchgate.net/publication/30528175_The_Role_of_Non-State_Actors_in_Regulation).

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. 3-2.

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.

***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”.*<sup>144</sup>**

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.<sup>145</sup> In this regard, NGOs strengthen participatory democracy by empowering social groups to influence political decisions.<sup>146</sup> NGOs can also mobilize significant funding for specific policies, enabling them to formulate, finance, and implement initiatives independently of government seals.<sup>147</sup> Therefore, driving policy change is not solely the monopoly of activists or experts.<sup>148</sup>

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.<sup>149</sup> 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.<sup>150</sup> 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.<sup>151</sup> Monitoring is defined as an internal activity of program management aimed at determining whether a project's program has been implemented according to plan.<sup>152</sup> In the context of regulation, monitoring provides relevant knowledge about the consequences of previously taken policies (Dunn, 2003:28).<sup>153</sup> 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.<sup>154</sup> NGOs often adopt an approach in monitoring and evaluation that is based on the belief that the primary goal of social and economic development is to assist local communities or vulnerable groups (such

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.

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. 188-179, 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, 163-157 :2004, accessed February 2023 ,12, <https://media.neliti.com/media/publications/-75069ID-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/1/639/Buku20%Manajemen20%Pemberdayaan20%Masyarakat20%PDF.pdf>.

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

as children, women, laborers, etc.), develop organizational/group capacity and knowledge needed to identify and meet their needs.<sup>155</sup>

An example of a policy reform process by NGOs is the situation where 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.<sup>156</sup> 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.<sup>157</sup> 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.<sup>158</sup>

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.<sup>159</sup> In the context of empowering grassroots communities in legal matters, CSOs are positioned as key actors, both as non-state actors and as elites within a community.<sup>160</sup> Placing the community as the main actor implies that all decisions are not made by external parties but by the community themselves.<sup>161</sup> The role of non-governmental institutions is more of a learning partner and provider of necessary supporting information.<sup>162</sup> Furthermore, the goal of legal empowerment goes beyond assistance in litigation; it aims to enable grassroots communities to become self-reliant in advocating for and driving policy change.<sup>163</sup>

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155 Ibid.

156 Ardhanawara 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, 256-200, (1999).

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=Pemberdayaan20%Hukum20%adalah20%meningkatkan20%kapasitas,sebagai20%anggota20%dari20%komunitas20%Fmasyarakat>, September 2022, 21.

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.<sup>164</sup> 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.<sup>165</sup> If the plan created by the facilitator is well-tested based on experience and relevance, it will likely align with the participants' expectations.<sup>166</sup> Furthermore, it is important to identify the experiences, knowledge, and skillsets of the participants so that they can also become resources for other participants in the future (the concept of training of trainers).<sup>167</sup>

### **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 or to institutionalize practices and processes which are not yet formally adopted, as well as engaging in systematic and organized change.<sup>168</sup> 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.<sup>169</sup> 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.<sup>170</sup>

### **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.<sup>171</sup> Therefore, another important element to be understood is public policy itself, including

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

165 *Ibid.*, p.1.

166 *Ibid.*

167 *Ibid.*, p.2.

168 *Ibid.*, p.7.

169 *Ibid.*, p.8.

170 *Ibid.*

171 *Ibid.*

its formulation, implementation, and control over decisions that affect the wider society and governance.<sup>172</sup>

#### **4. Building a 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.<sup>173</sup> 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.<sup>174</sup> 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.<sup>175</sup>

#### **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 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.<sup>176</sup> Besides the factor of timeliness, an issue can be considered strategic if it meets the following criteria:<sup>177</sup> 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.<sup>178</sup> Therefore, when formulating objectives, they should remain aligned with or refer to the goals of the advocated issue.<sup>179</sup> Advocacy does not employ violent means but operates within the existing democratic frameworks.<sup>180</sup> 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.<sup>181</sup>

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172 Ibid., p.36.

173 Ibid., p. 63.

174 Ibid., p. 64.

175 Ibid.

176 Ibid., p.75.

177 Ibid.

178 Ibid., p.93.

179 Ibid.

180 Ibid.

181 Ibid., p.94-93.

## 7. Processing data and packaging information

Research in connection with 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 other forms of intervention.<sup>182</sup> 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<sup>183</sup> and points for emphasis and highlights will be adopted to the audience and receiver of such data.

## 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.<sup>184</sup> Allies can be individuals or other groups that possess resources such as networks, influence, logistics, access, information, infrastructure, facilities, and funding.<sup>185</sup> 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.<sup>186</sup> The first avenue includes activities such as drafting legislation, including the preparation of counterproposals or drafts and engaging in judicial review.<sup>187</sup> 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.<sup>188</sup> The submission of counter drafts involves not only experts and activists but, most importantly, the main subjects of advocacy, which are grassroots communities and sectors.<sup>189</sup>

## 10. Influencing policy maker

After the advocacy avenue, the second pathway to be encountered cover the political and bureaucratic processes. Activities which may be

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182 Ibid., p.99.

183 Ibid.

184 Ibid., p.127

185 Ibid.

186 Ibid., p.137

187 Ibid.

188 Ibid.

189 Ibid.

undertaken include negotiation, mediation, collaboration, lobbying, and others which are directed towards two important actors: government bureaucrats and politicians.<sup>190</sup> In terms of lobbying, for example, it can be conducted in an informal (non-formal) and personal setting outside formal settings.<sup>191</sup>

## **11. Shaping public opinion**

On the third pathway, which involves the formation of public policy, the process is carried out through socialization and mobilization.<sup>192</sup> This pathway takes place within the community through various activities, including campaigning to garner public support, raising awareness and providing platforms for discourse among the community members, 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.<sup>193</sup>

## **12. Building the foundation of the movement**

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

## **13. Monitoring and evaluation programs**

In this section, an important activity is monitoring and evaluating programs. It is crucial to monitor and evaluate a program considering that advocacy plans may change along the way due to dynamic situations and circumstances, especially from external actors and events.<sup>197</sup> Without the monitoring component, advocacy efforts may not be effective<sup>198</sup> or sustainable. Additionally, gathering feedback from program beneficiaries is important to assess whether the set targets have been effectively

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190 Ibid.

191 Ibid.

192 Ibid.

193 Ibid.

194 Ibid.

195 Ibid., p.182-181.

196 Ibid.

197 Ibid.

198 Ibid.

achieved.<sup>199</sup>

#### **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.<sup>200</sup> The purpose of the evaluation is to provide feedback for improvement or refinement in future training sessions.<sup>201</sup> Various aspects can be evaluated, such as the content of the program, methodological processes, whether the objectives have been met and whether the resource persons and facilitators aligned with participants' expectations, participant engagement, facilitator delivery, and technical aspects of the event.<sup>202</sup> It's important to note that the evaluation process is not intended to assess graduation or «judge» the success or involvement of participants.<sup>203</sup> 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.<sup>204</sup> It should be emphasized that this training guide serves as a basic framework and can always be further developed and improved.

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199 Ibid.

200 Ibid.

201 Ibid.

202 Ibid., p.213

203 Ibid.

204 Ibid.

# Chapter III

**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 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 elaborating on the interview results, this section will briefly discuss the roles of each institution that served as key informants in order to establish 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).<sup>205</sup> Operating under the authority and accountability of the Minister of Law and Human Rights, BPHN carries out its functions through the following programs:<sup>206</sup>

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 counselling and assistance.
3. Monitoring, evaluation, and reporting on the implementation of legal planning, legal analysis and evaluation, legal documentation and information networks, and legal counselling 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 states that in terms of organizational structure, the National Law Development Agency

<sup>205</sup> 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

<sup>206</sup> Ibid., Article 361.

(Badan Pembinaan Hukum Nasional or BPHN) consists of 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, and
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 Counselling and Assistance Center are as follows:<sup>207</sup>

1. Formulation of technical policies, programs, and budgets for developing and enhancing the functional position of Legal Counselors, influencing legal culture, and augmenting 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.
4. Monitoring, evaluation, and reporting on the development and enhancement of the functional position of Legal Counselors, legal culture, and legal aid; and
5. 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 eradicate all forms of violence against women.<sup>208</sup> 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:<sup>209</sup>

1. Developing conducive conditions and environments for eradication of all forms of violence against women and enforcing women's human rights in Indonesia.

<sup>207</sup> Ibid., Article 389.

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

<sup>209</sup> Ibid., Article 2.

2. Enhancing efforts to prevent and address all forms of violence against women and protect women's human rights.

To achieve the afore-mentioned objectives, Komnas Perempuan carries out the following functions and tasks:<sup>210</sup>

1. Disseminating information on and promoting the 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 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 to 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.

## **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 increased to 16 and are spread throughout Indonesia. In 2010, the ten existing LBH APIK offices decided to join under the same umbrella organization, which was agreed to be called the Federation of LBH APIK

<sup>210</sup> Ibid., Article 4.

Indonesia. In 2012, the Federation of LBH APIK Indonesia changed its name to the Association of LBH APIK Indonesia.<sup>211</sup> 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.<sup>212</sup>

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 relevant to access to resources, overcoming economic difficulties, and recovering from their traumatic experiences through the District Development Program (PPK).<sup>213</sup>

PEKKA's activities began in 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.<sup>214</sup> 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.<sup>215</sup>

Currently, PEKKA is involved in organizing women-headed households through programs that strengthen the economic<sup>216</sup> and socio-cultural movements.<sup>217</sup> 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

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.

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.

movement alongside the Pekka Community.<sup>218</sup> 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).**

### Perspectives from BPHN<sup>219</sup>

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. As for legal 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. 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 conducted by BPHN to empower the community. Based on the confirmation with MN from BPHN, the implementation of legal education 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,***

<sup>218</sup> PEKKA, "Background."

<sup>219</sup> Interview with MN, BPHN employee on 30 November 2022.

***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 in case 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 afore-mentioned matter, it is important to underline that vulnerable

groups who face barriers to, inequalities in, or limitations on 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.<sup>220</sup> 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,<sup>221</sup> 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.

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/-/6506pembentukan-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 2023 ,5.

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.

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.<sup>222</sup> 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.<sup>223</sup>

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 aspect of the 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 and remain accessible.

## Komnas Perempuan Perspective<sup>224</sup>

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 but these activities specifically encourage and provide 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

<sup>222</sup> Circular Letter Number: PHN05-.HN.04.04 Year 2017 regarding the Amendment of Criteria for Assessing Legal Conscious Villages/Sub-districts.

<sup>223</sup> Validation Meeting Results with MN, an Employee of BPHN, on June 2023 ,5 also refers to Circular Letter Number: PHN05-.HN.04.04 Year 2017 regarding the Amendment of Criteria for Assessing Legal Conscious Villages/Sub-districts.

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

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 victims' well-being.

Considering that one of the roles of Komnas Perempuan is as a resource center for women's human rights,<sup>225</sup> Komnas Perempuan actively engages in campaigns and education on the issue of violence against women. In the process, the resource center is able to accomplish a widespread dissemination of knowledge and information regarding violence against women through various media platforms.<sup>226</sup> For example, the center taps social media platforms such as Twitter, Instagram, Facebook, and websites, as well as mass media, for the preparation of press releases or coverage and its personnel serve as Resource Persons and information sources for various media outlets.

One of the reasons why Komnas Perempuan conducts education and information

<sup>225</sup> National Commission on Violence Against Women (Komnas Perempuan). «Profile of Komnas Perempuan,» accessed on February 2023, 23.

<sup>226</sup> Ibid.

campaigns on women's issues is the limited legal literacy caused by the economic constraints faced by the community. In addition, the existing inequitable social structure is also a factor why the poor are more susceptible to intimidation by authorities and feel afraid to engage with the law enforcement agencies, especially if they lack legal awareness. This 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 know fully 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.<sup>227</sup> Legal empowerment occurs when the poor have the opportunity and capacity to use «law» or legal mechanisms to address their problems.<sup>228</sup> Even if an economically disadvantaged woman has full awareness of her rights, knowledge on how to access legal assistance, and the confidence to demand her rights, she may still face injustice and encounter bureaucratic, inefficient, and corrupt legal institutions. Therefore, social mobilization and organization are equally important aspects of legal empowerment.<sup>229</sup>

## Perspectives of legal empowerment practitioners

### ➔ Legal Empowerment Practitioner from LBH APIK Jakarta<sup>230</sup>

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

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* 2009) 1), p. 138

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

resources of the community.<sup>231</sup> 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 female, 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.)***

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

231 Association of LBH APIK Indonesia, «About Us,»

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.<sup>232</sup> 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.<sup>233</sup> 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.<sup>234</sup>

### 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.<sup>235</sup> 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 who has undergone paralegal training, is not a practicing lawyer, and does not independently accompany Legal Aid Recipients in court.<sup>236</sup>

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

1. Indonesian citizen;
2. Minimum age of 18 years;
3. Ability to read and write;
4. Not a member of the Indonesian National Armed Forces, Indonesian National Police, or Civil Servants; and
5. Other requirements determined by the Legal Aid Provider and not conflicting with the prevailing laws and regulations.

<sup>232</sup> 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.

<sup>233</sup> *Ibid.*

<sup>234</sup> *Ibid.*, p. 101.

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

<sup>236</sup> 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

<sup>237</sup> *Ibid.*, Article 4

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 PEKKA<sup>238</sup>

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 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).***

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

This is in line with the research findings by Anastasia Cahyaningrum regarding PEKKA's advocacy strategies in empowering women in Desa Batangan, Bangkalan Regency.<sup>239</sup> 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 children.<sup>240</sup> 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.<sup>241</sup>

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)<sup>242</sup> or commonly known as Surat Keterangan Tidak Mampu (SKTM). The challenge of

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

240 Ibid.

241 Ibid, p. 129.

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

accessing administrative requirements such as SKTM becomes a tangible barrier for women who are victims of impoverished backgrounds when seeking free legal aid.

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.<sup>243</sup> The law also specifies that legal aid recipients are individuals or groups in poverty.<sup>244</sup> 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.<sup>245</sup>

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 to further promote those who lack access to legal aid.

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.<sup>246</sup>

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 from non-poor households but are still generally considered vulnerable groups.<sup>247</sup>

Often, women and children cannot financially support themselves and rely on men as the household breadwinners, creating power dynamics and economic dependence.<sup>248</sup> 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.<sup>249</sup>

In the case of PEKKA, the economic empowerment program 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, refuting this misconception 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 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

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<sup>247</sup> Ibid.

<sup>248</sup> Ibid.

<sup>249</sup> Ibid.

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.<sup>250</sup>

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 fulfils 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.)

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***

250 UN Women, "Facts and Figures: Economic Empowerment", UN Women, Accessed on March 2023 26, <https://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures#:~:text=Women's20%economic20%empowerment20%includes20%women's,economic20%decision20%making20%at20%all>.

*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**

→ The perspective of BPHN<sup>251</sup>

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 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 set includes the government agencies with

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

legal education functions, such as BPHN and local government agencies or other government institutions. The second set of actors include 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.<sup>252</sup> 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 by community figures, 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 for 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 the one 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.***

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

***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, 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 which focus on these issues.

#### **→ Perspectives of Komnas Perempuan<sup>253</sup>**

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 upon 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

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

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 the services for victims of violence were still partial and required substantial resources. Thus, there was a need for activities designed for resource sharing among service institutions and collaboration with other service providers.<sup>254</sup>

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.<sup>255</sup> Komnas Perempuan often involves the FPL in various activities, such as providing inputs 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 and the learning opportunities therein, service institutions have gained confidence in handling cases they receive, including new cases such as Online Gender-Based Violence (KBGO) from other organizations. Komnas Perempuan had 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:

***"The experiences shared by victims through service providers are captured and transformed into women's knowledge, such***

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

<sup>255</sup> Ibid.

***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 women's knowledge repository 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.

## Perspectives of legal empowerment practitioners

→ Legal empowerment practitioners from LBH APIK Jakarta<sup>256</sup>

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:

***"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***

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

***(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,<sup>257</sup> particularly through the Internet and online platforms. Technology offers the potential to expand the geographical reach of legal advice providers and enables the individuals to help themselves more effectively.<sup>258</sup> The use of the internet serves as an accessible means of legal recourse for the general public to seek and gather information on the legal issues they are facing.<sup>259</sup>

LBH APIK Jakarta has also established a Memorandum of Understanding (MoU) with the Pondok Bambu Class I State Detention Center (Rumah Tahanan/Rutan)<sup>260</sup> 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.<sup>261</sup> 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.<sup>262</sup> 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.<sup>263</sup>

257 The Engine Room, Technology for Legal Empowerment: A Global Review (United States: The Engine Room, 8, (2009, <https://www.theengineroom.org/wp-content/uploads/01/2019/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. 413, (2016) 394, <https://ssrn.com/abstract=2942478>.

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, 37, (2019, [https://pdf.usaid.gov/pdf\\_docs/PA00XTS3.pdf](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.

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 practitioners from LBH APIK Jakarta<sup>264</sup>

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 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).***

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

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.<sup>265</sup> 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.<sup>266</sup>

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.<sup>267</sup> While the specific aim of self-help 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 and lack of efficacy in economic, social, and political spheres.<sup>268</sup>

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 their children as well.<sup>269</sup>

Programs based on the concept of self-help 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 which face similar life situations can help build social relationships and support groups that recognize the importance of relevant psychological processes.<sup>270</sup> In this context, group support activities can instill in team members the understanding that their actions have an impact not only on individuals

265 Biplab Kumar Dey, "A Study of Women Self-Help Group Members in North District of Tripura, India", *Socrates*, Vol. 2014) (1) 2), ISSN 6869-2347 (E) & ISSN 2146-2347 (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. 1) 2), July 118-112) 2021), p. 116, <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://media.neliti.com/media/publications/-359767women-empowerment-involvement-in-self-he1-d7c5488.pdf>

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

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. 1) 2), July 118-112) 2021), 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

but also on the group as a whole. This fosters a sense of collective action, motivating the group to work together toward empowerment.<sup>271</sup>

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.<sup>272</sup>

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, particularly 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.<sup>273</sup>

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 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 Tlomar, 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.<sup>274</sup>

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271 Ibid, p. 13

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

273 Ibid.

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

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.<sup>275</sup> 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.<sup>276</sup>

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 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

275 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. 1) 02, July 118-112) 2021), p. 116

276 Ibid.

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 the party 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 which possess 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 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 in their families, communities, and sectors:

***"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, ensuring and increasing the understanding of individual rights is the goal of legal empowerment, which aims to empower community organizations in availing or 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, increase self-confidence, and impart the necessary knowledge among said beneficiaries.<sup>277</sup>

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 the interpretation and implementation of said policies:

***"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).***

<sup>277</sup> Asian Development Bank dan The Asia Foundation, Legal Empowerment for Women and Disadvantaged Groups, (Mandaluyong City: Asian Development Bank, 2009), p. 18

PEKKA has implemented various innovations in its legal empowerment activities, both as a general approach and in response to 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.<sup>278</sup>

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.<sup>279</sup> 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.

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

279 Ibid.

# Chapter IV

## 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 (i) Indonesian Legal Aid and Human Rights Association (Perhimpunan Bantuan Hukum dan Hak Asasi Indonesia/PBHI), (ii) Community Legal Aid (Lembaga Bantuan Hukum Masyarakat/LBHM), (iii) LBH APIK, (iv) Indonesian Disabled Women's Association (Himpunan Wanita Disabilitas Indonesia/HWDI), (v) Indonesian Woman Coalition (Koalisi Perempuan Indonesia/KPI), (vi) Mahardhika Women, (vii) Indonesian Positive Women's Association (Ikatan Perempuan Positif Indonesia/IPPI), and (viii) Indonesian Positive Network (Jaringan Indonesia Positif/JIP).

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

### PBHI

PBHI is a legal aid organization that extensively applies international human rights principles and norms.<sup>280</sup> 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 religion, language, ethnicity, gender, sexual orientation, race, social status, career, profession, as well as political and ideological orientation.<sup>281</sup>

PBHI focuses on three main issues: judicial system reform, access to justice, and the protection, improvement, and formation of human rights defenders.<sup>282</sup> These issues are reflected in their implemented programs, including legal assistance

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

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

282 Ibid.

and advocacy, education and training, legal and policy studies, research and documentation, publications, public discussions and campaigns, lobbying, and advocacy and network-building efforts.<sup>283</sup>

## → 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.<sup>284</sup> 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.<sup>285</sup>

## → 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).<sup>286</sup> HWDI also runs a vocational training center called INCLUDIA, which aims to empower people with disabilities and enhance their skills for employment opportunities.<sup>287</sup> 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.

## → HWDI

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.<sup>288</sup> The groups of interest that KPI focuses on in its work include:<sup>289</sup>

1. Indigenous women
2. Elderly women and senior citizens
3. Professional women

283 Ibid.

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

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

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

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

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

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

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

## → 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.<sup>290</sup>

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.<sup>291</sup>

## → 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:<sup>292</sup>

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.

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

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

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

## COMMUNITIES IN YOGYAKARTA

The 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.

### → Rifka Annisa Women's Crisis Center

Rifka Annisa, which means 'Women's Friend,' is a non-governmental organization committed to eliminating violence against women.<sup>293</sup> Its existence is driven by deep concern over the patriarchal cultural tendencies that place women in a subordinate position to men.<sup>294</sup> 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.<sup>295</sup> 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.<sup>296</sup>

### → 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 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.<sup>297</sup> 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

293 Rifka Annisa Women's Crisis Center, "Sejarah Rifka Annisa", rifka-annisa.org, accessed on 15 March 2023, <https://www.rifka-annisa.org/id/57-06-07-04-10-2013/sejarah>.

294 Id.

295 Id.

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

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

with hazardous equipment, and in unsafe environments.<sup>298</sup>

## → **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.<sup>299</sup> 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.<sup>300</sup>

## → **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 freedoms.<sup>301</sup> 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.<sup>302</sup> 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 includes incorporating the values of justice and norms that are relevant and prevailing in society.

## → **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

298 As stated on <http://repository.umy.ac.id/bitstream/handle/20%529526/123456789BAB20%1.pdf?sequence=5&isAllowed=y>.

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

300 "Profil RCB SAPDA", [sapdajogja.org](https://sapdajogja.org), 8 March 2022, accessed on 12 May 2023, <https://sapdajogja.org/03/2022/profil-rcb-sapda/>.

301 Yogi Zul Fadhli, 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/18/02/2021/catatan-akhir-tahun-catahu-2020-lbh-yogyakarta/>.

302 Id.

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.<sup>303</sup>

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.»<sup>304</sup> The objectives of establishing IPPI Yogyakarta are as follows: <sup>305</sup>

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.

## 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:<sup>306</sup>

### **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.

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

304 Id.

305 Id.

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

### **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.

### **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 will be the main topic of discussion in a separate chapter.

## **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, among 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.<sup>307</sup> 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

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<sup>307</sup> Madina Kozhukhova and Miras Zhiyenbayev, "Conceptualizing Legal Culture and Legal Awareness: Meaning and Structural Components," SHS Web of Conferences 2018) 55), p. 4.

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 knowing the law pillar.

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 «Know 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 integrated the conduct of 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.<sup>308</sup> 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 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.<sup>309</sup> 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.<sup>310</sup> 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.<sup>311</sup> The approach used by JALA PRT reflects a form of women 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

308 Asosiasi LBH APIK Indonesia, "Tentang Kami."

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

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

311 Chapter II "Dinamika JALA PRT dan Afiliasi Organisasi JALA PRT", repository.umy.ac.id, accessed on 15 March 2023, <http://repository.umy.ac.id/bitstream/handle/20%6/29526/1/23456789BAB20%II.pdf?sequence=6&isAllowed=y>.

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.<sup>312</sup> 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.<sup>313</sup> 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.<sup>314</sup>

Within the context of legal empowerment, PEKKA Bantul also focuses on empowering women who are heads of households.<sup>315</sup> 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 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.

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312 Ikatan Perempuan Positif Indonesia, "Visi Misi", [ippi.or.id](https://www.ippi.or.id), accessed on 15 March 2023, [https://www.ippi.or.id/tentang\\_kami/](https://www.ippi.or.id/tentang_kami/).

313 Id.

314 Id.

315 Pemberdayaan Perempuan Kepala Keluarga, "Pemberdayaan hukum", [pekka.or.id](https://pekka.or.id), accessed on 15 March 2023, <https://pekka.or.id/kerangka-pemberdayaan/#>.

## 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 Masyarakat<sup>316</sup>

**Lawyering:** Providing comprehensive legal representation both inside and outside the court.

**Shadow Lawyering:** Providing shadow assistance, especially outside the court, aimed at empowering community groups, or families seeking legal aid.

**Consultation:** Offering legal advice to those seeking legal aid without direct involvement in the ongoing legal process.

**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 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

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

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, intellectual, mental, and sensory:

***"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 and secure 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 Mahardika 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 on 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.<sup>317</sup> 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.<sup>318</sup>

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:

317 Alih Usman, "Komunikasi Dialogis Penyuluhan Hukum Bagian Satu", [bpsdm.kemenkumham.go.id](https://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>.

318 Alih Usman, "Konsultasi Hukum dan Bantuan Hukum", [bpsdm.kemenkumham.go.id](https://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%20Dundangan%20yang%20berlaku>.

**"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 empowerment by Fundacion CONSTRUIR<sup>319</sup> 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.<sup>320</sup>

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.<sup>321</sup> JALA PRT also receives financial support from the National

319 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.

320 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, 5 :2018, accessed on 29 April 2023, <https://namati.org/resources/legal-empowerment-experiences-latin-america/>).

321 "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](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/presentation/wcms_617044.pdf).

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 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).<sup>322</sup>

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.<sup>323</sup> 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.<sup>324</sup> 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.<sup>325</sup>

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 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.

322 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

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

324 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/05/01/2022/pelanggaran-kekerasan-seksual-di-lembaga-pendidikan-keagamaan>.

325 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/02/2020/ksi1580491935-.pdf>.

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, employment, and economic independence.<sup>326</sup> 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.<sup>327</sup> 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.<sup>328</sup>

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 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***

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

327 Ibid.,

328 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).

***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.<sup>329</sup> 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.<sup>330</sup> 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.<sup>331</sup> The legal assistance activities aim to empower, and strengthen the legal rights of, 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 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,***

329 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

330 "Profil RCB SAPDA", [sapdajogja.org](https://sapdajogja.org), 8 March 2022, accessed on 12 May 2023, <https://sapdajogja.org/03/2022/profil-rcb-sapda/>.

331 Ibid.

***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.<sup>332</sup> 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.<sup>333</sup> 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.<sup>334</sup>

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332 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/18264541/09/02/2022/duduk-perkara-konflik-di-desa-wadas-yang-sebabkan-warga-dikepung-dan>, accessed on 30 May 2023.

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

334 Id.

## 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 consists 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), 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.<sup>335</sup> 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 six 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.<sup>336</sup>

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.<sup>337</sup> To address this issue, an innovation is carried out in the form of training

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

336 Ibid.

337 "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/11/2021/pengertian-sumber-daya-manusia-dan-peranannya-pada-organisasi/>

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)***

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 companion,<sup>338</sup> 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***

338 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-lgbtq/glosarium-istilah/>, accessed on 21 June 2023.

***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 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 a practitioner from Rifka Annisa, February 16, 2023).***

LBH Yogyakarta also faces limitations re the number of female lawyers.<sup>339</sup> 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:

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339 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 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.<sup>340</sup> 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.<sup>341</sup>

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 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***

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

341 Id.

***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.<sup>342</sup> 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 cases, where there is still a strong belief that a husband's violent behavior towards his wife is a private matter (a household affair).<sup>343</sup> 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.<sup>344</sup> 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.

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

343 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. I No. 2, (December, 2014), p. 256.

344 La Jamaa, *op.cit.*, p. 250.

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.<sup>345</sup> 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 and collective levels.<sup>346</sup> The learning cycle in Sekolah Wawasan includes in-class sessions, assignments, actions or realization, and evaluation.

**The impact of legal employment 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

345 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.

346 "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](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/presentation/wcms_617044.pdf), accessed on 2 June 2023.

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 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.<sup>347</sup> 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 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 continuously enhances 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."***

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<sup>347</sup> 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.

## **(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.<sup>348</sup> The complexity of the issues faced by domestic workers is due to their weak bargaining power. Domestic workers lack strength when dealing 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.<sup>349</sup> 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.

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348 Nienda Farras Athifah, "Data Kasus Kekerasan Terhadap PRT pada 2022-2017", <https://www.metrotvnews.com/play/NA0CX2eL-data-kasus-kekerasan-terhadap-prt-pada2022-2017->, accessed on 4 June 2023.

349 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.

