

# The Role of Advocates as Law Enforcement in Providing Legal Aid to Clients

Evita Isretno Israhadi<sup>1</sup>, Anak Agung Kompiang Gede<sup>2</sup>

{[evita\\_isretno@borobudur.ac.id](mailto:evita_isretno@borobudur.ac.id)<sup>1</sup>, aristokrat.bali18@gmail.com<sup>2</sup>}

Universitas Borobudur<sup>1,2</sup>

**Abstract.** Security of essential opportunities (HAM) is one of the essential pillars of a democratic state, beside the supreme nature of guideline which is reflected in the norm of The rule of law. In Indonesia, there is a legal institution or organization that is often called an advocate, which is a forum for someone who works as an advocate/lawyer. There is a law that regulates the profession of lawyer or advocate, specifically Law No. 18 of 2003 on Advocates. The family as the smallest unit of society does not escape the rules and/or laws set by the State or society and religion. Violence is very close to children's lives, children's experiences of violence are very diverse in violence, perpetrators of violence, places where violence occurs, and causes of violence. In discussing the problems contained in this research, the author took 2 (two) approaches, namely a normative juridical approach and an empirical juridical approach. The role of advocates in accompanying and protecting women victims of domestic violence is essential so that children receive equal justice under the laws in force in Indonesia so that children receive guarantees for their welfare.

**Keywords:** Advocacy; Legal Assistance; Crime

## 1 Background

On a basic level, policing give benefits or be valuable to the overall population. Aside from that, individuals are additionally trusting that policing get equity. Yet, it can't be rejected that what is thought of as helpful (social science) isn't really evident or fair, nor is the opposite of what is true perception (philosophy), not necessarily beneficial for society. Law enforcement can be performed correctly if elements of society and elements of law enforcement continuously respect the principles and objectives of the law. Talking about duties and authority which are closely related to the rights and obligations of a particular position or agency, duties and authority are often combined into one sentence, which shows that the two cannot be separated so that they are mutually interconnected with each other.

Advocate is a term used to refer to a legal institution or organization in Indonesia that functions as a forum for legal practitioners or acts as an advocate. Law Number 18 of 2003 concerning Advocates is a law that regulates the profession of advocates or lawyers. The

definition of an advocacy organization in Law Number 18 of 2003 is contained in Article 28 which reads as follows:

- a. The Advocates' Organization is the only free and independent forum for the legal profession. It was established by this law with the intention of raising the professional standard of the legal profession.
- b. Provisions regarding the structure of the Advocate organization are determined by the advocates in the articles of association and bylaws.
- c. The leadership of an Advocate organization cannot be held concurrently with the leadership of a political party either at the central or regional level.

According to data from the Strengthening Organization for the Assurance of Women, Children, and Family Arranging (BP3AKB) of Focal Java Area, which consists of 35 locations, the number of instances of abusive behavior at home in Indonesia continues to rise. In 2012, there were 1,234 instances of abusive behavior at home in Focal Java, and in 2013, there were 1,311 cases and in 2014 it showed up at 1,436 cases. The number of cases of domestic violence rises annually, as shown by this data.

The majority of victims of domestic violence (KDRT) are women and children, and the perpetrator is typically the husband or father of the family's children. Domestic violence can happen to people who are related by blood, marriage, or both, parents, guardianship of husbands, children, or even household servants. Domestic violence is nothing new. Violence is usually a form of crime, and depending on the situation, violence can be carried out using real force, threats of violence, or other means. This behavior can happen to anyone, both men and women, children or adults, especially if it occurs inside the house. This violence is often referred to as a hidden crime because both the perpetrator and the victim try to hide their actions. public confidentiality also referred to as domestic violence.[1]

The development in the amount of forceful way of behaving at home cases is associated with the rising level of public legitimate care so the mates of losses who experienced forceful way of behaving at home who as of late wouldn't actually come near detailing it presently set out to report the demonstrations of savagery they encountered. Previously, survivors of abusive behavior at home wouldn't even play with the possibility of detailing it, as they believed that no one else had to be aware of the issue because it was a family matter that should be resolved by the family alone. Nevertheless, after the approval of Guideline No. 23 of 2004 concerning the Finish of Forceful way of behaving at home, shows of harmful way of behaving at home are a matter for wedded couples as well as have transformed into a public matter. Families and organizations can participate in thwarting and noticing violence against mates and children in the family. Overcomers of forceful way of behaving at home are not constantly companions and children, they can moreover be spouses, housemaids, and others in the family, however it generally influences wives and youngsters. So practically all relatives in an individual's family become casualties of aggressive behavior at home.

Common liberties security (HAM) is one of the crucial standards of a vote based state, alongside the matchless quality of regulation, which is exemplified in the idea of Law and order. Indonesia might incorporate arrangements with respect to the safeguarding of common liberties (HAM) in its constitution as a majority rule country in view of the matchless quality of regulation (rechtstaat). Everyone has the right to human rights protection (HAM), even those who have been found guilty of a crime. Individuals who are associated with perpetrating a crook go about (as a suspect or respondent) need to be aware of their human rights because they will

be subject to various measures that limit these rights because of their status as a suspect or defendant.[2]

The Indonesian people's struggle to create a national criminal procedure law in order to fight for the rights of suspects and defendants and make them more humane culminated on December 31, 1981, with the passing of Law No. 8 of 1981, known as the Criminal Strategy Code (KUHAP).[3] In the Criminal Methodology Code, there are guidelines in regards to the security of extremely enormous common liberties (HAM), and there are likewise guidelines with respect to the freedoms of suspects or litigants that are claimed and gotten during the continuous case examination process.

Policemen offer legitimate types of assistance to the local area meaning to regard and give altruistic legitimate insurance in regards to the privileges supported by regulation for all Indonesian individuals without recognizing the rich and poor people. It shows that although the law is considered to be understood and known by those who have legal problems, not all of them understand and know this. Therefore, to provide services in the form of consultation and legal assistance, a legal advisor or advocate is needed.[4]

As to can help a suspect or respondent in confronting the law enforcement process with the goal that the security of their legitimate privileges can be more ensured, in Article 1 of Regulation No. 18 of 2003 contain a number of provisions pertaining to advocates, including:[5]

Point 1:

"Advocate is both inside and outside the court who meets the requirements under the provisions of this Law"

Point 2:

"Legitimate Administrations are administrations given by Backers through giving lawful counsels, legitimate help, practicing legal authority, addressing, helping, protecting and completing other legitimate activities for the client's lawful advantages "

Due to the rise in domestic violence, especially violence against children, The problems that occur in society are quite worrying. We are currently in a period of very rapid globalization, which has a huge impact on the existence of the sovereignty of the Republic of Indonesia. Therefore, many cases of criminal acts often occur in society, as well as criminal acts that often occur within communities, especially friendship groups, and only a few people are aware of how to convey this incident to interested parties. Many of them are also eagerly looking for opportunities to sell themselves. In this case, the presence of a lawyer or other legal representative as a professional witness is necessary to protect their rights and quell their much-needed ambitions.

## **2 Method**

This exploration utilizes a Standardizing Juridical methodology.[6] This approach is helpful for moving toward the issue being concentrated on utilizing the essential regulations that apply in Indonesia, one of which is with respect to advocates in light of Regulation Number 18 of 2003 and furthermore the Criminal System Code as well as a methodology that is completed straightforwardly in the field to perceive how execution of existing principles or guidelines.

### **3 Results and Discussion**

#### **3.1 Rights and Obligations of Advocates**

A legal advisor or lawyer is a person who carries out his duties and functions, for example, accompanying a suspect/defendant in a criminal case and accompanying a plaintiff/defendant in a civil case in defending himself in court.

Advocates play a significant part in the judicial process and are treated equally to other law enforcement personnel. As expressed in Article 5 Passage (1) of Regulation no. 18 of 2003 concerning Promoters, Backers are free, autonomous regulation masters ensured by legal guidelines.

Article 14 to Article 20 of Law no. 18 of 2003 concerning Advocates regulates the Rights and Obligations of Advocates, as follows:

##### Article 14

"Advocates are allowed to offer viewpoints or proclamations in protecting cases for which they are mindful in court while complying with the expert set of rules and legal guidelines."

##### Article 15

"Advocates are allowed to complete their expert obligations to shield cases for which they are dependable while complying with the expert set of rules and legal guidelines."

##### Article 16

"Advocates can't be arraigned either commonly or criminally for completing their expert obligations sincerely to help clients' protection in trials."

##### Article 17

"In completing their calling, advocates reserve the privilege to acquire data, information, and different reports, both from government organizations and different gatherings connected with these interests, which are important to represent the interests of their clients by legal guidelines."

##### Article 18

- (1) "Advocates in doing their expert obligations are denied from separating treatment of clients in light of orientation, religion, legislative issues, plunge, race or socio-social foundation.
- (2) Advocates can't be related to their clients in supporting their clients' cases by the specialists as well as the general population."

##### Article 19

- (3) (Advocates are obliged to keep secret all that is known or acquired from their clients on account of their expert relationship except not set in stone by regulation.
- (4) Advocates reserve the option to secrecy of associations with clients, including security of their report documents against seizure or assessment and insurance against capture attempt of the backer's electronic interchanges."

#### Article 20

- (1) Advocates are restricted from standing firm on different footings that contention with the interests of their obligations and the respect of their calling
- (2) Advocates are restricted from standing firm on different footings that require administration so as to hurt the supporter calling or diminish opportunity and freedom in doing their expert obligations."
- (3) Advocates who are state authorities don't complete the obligations of the promoter calling while at the same time standing firm on that situation

### 3.2 Domestic Violence (KDRT)

In essence, violent crimes are not only limited to forms of crime that involve physical violence alone. If we look further, the terminology of violence can also be translated as a form of behavior that causes physical or psychological suffering to the victim. The significance of physical and mental has been obliged in Article 1 number 1 of the PKDRT Regulation.

Forceful way of behaving at home, according to Article 1 point 1 of Rule Number 23 of 2004 concerning the Completion of Intense approach to acting at home (PKDRT), is any demonstration carried out against somebody, particularly ladies, which causes enduring whether profound, physical, sexual, or clairvoyant, or fierceness in the home, for example, loss of opportunity in the home or dangers to carry out a wrongdoing.

According to Article 5 UUPKDRT, every individual is denied from committing oppressive way of behaving at home against people inside their loved ones, by:

#### a. Physical violence

Article 6 UUPKDRT, Genuine seriousness as suggested in Article 5 letter an is a show that outcomes in torment, disorder, or serious injury. Guidelines with respect to actual brutality in the UUPKDRT itself are directed all the more explicitly in Article 44 sections (1) to passages (4).

#### (1) Ordinary physical violence

In light of the arrangement of Article 44 entry (1) UUPKDRT, for the fulfillment of this article the parts ought to be met (a) every person; who commits showings of real violence, (c) inside the local circle.

Article 44 (1) undermines activities that disregard Article 5 letter a, explicitly any individual who utilizes "genuine violence" to commit homegrown hostility against relatives. As per Article 6 UUPKDRT, it is

imparted that genuine viciousness as suggested in Article 5 letter An is a show that outcomes in "torment, becoming cleared out or serious injury".

(2) Mild physical violence

Article 44 entry (4) UUPKDRT: A spouse will be punished with a maximum fine of IDR 5,000,000.00 (five million rupiah) or a maximum detention period of four months if the act mentioned in paragraph (1) is committed against his spouse or the other way around and causes illness or hinders work, career, or day-to-day activities.

According to the plan of the article above, there are components:

- i. husband or spouse;
- ii. who commits demonstrations of actual savagery in section (1);
- iii. which doesn't make sickness or deterrents completing work or vocation or day to day exercises.

Physical brutality that makes the casualty become sick or truly harmed

Article 44 section (2) UUPKDRT states:

The elements of this criminal act that must be fulfilled are (a) Every person; (b) Those who commit acts of physical violence in paragraph (1); (c) Within the household scope; (d) Result in the victim becoming ill or seriously injured.

(3) Physical violence that causes the death of the victim

Article 44 passage (4) that's what UUPKDRT states in the event that the go about as alluded to in section (2) brings about the casualty's demise, sickness, or serious injury, he/she will be rebuffed with a greatest detainment of 15 (fifteen) years or a most extreme fine of IDR 45,000,000.00 (45 million).

For this article to be fulfilled, the following elements must be met: (a) every person; (b) who commits acts of physical violence in paragraph (2); (c) within the household scope; (d) resulting in the death of the victim.

b. Physical Violence

The importance of mental violence, according to Article 7 UUPKDRT, is outlined in paragraph (b) of Article 5, which coordinates various criminal manifestations of mental hostility. Mental savagery as organized in Article 5 letter (b) is a presentation that outcomes in dread, loss of fearlessness, loss of capacity to showing, an energy of absence of security or conceivably ridiculous mental experiencing in an individual.

The type of crime "psychological violence" is a completely new crime because there is no equivalent in the Criminal Code, it is different from other forms of domestic violence crimes, namely physical violence (abuse), sexual violence (decency), and domestic negligence of people who need to be given a living.

c. Sexual Violence

The third kind of criminal exhibition of harmful way of behaving at home is sexual mercilessness, which is overseen in Article 5 letter c UUPKDRT, and got a handle on again in Article 8: Savage sexual direct, as characterized in Article 5, letter c, incorporates:

- (1) Forced sexual relations are finished on people who live inside the degree of the family;
- (2) Forced sexual encounters between members of the same family for business-related and other specific reasons.
- (3) Sex with force

Article 48 UUPKDRT explains:

"On the off chance that the activities as expected in Article 46 and Article 47 outcome in the casualty getting wounds that give no desire for recuperating by any stretch of the imagination, encountering mental or mental problems for something like 4 (four) ceaseless weeks or 1 (one) non-sequential year - Thusly, the cut short or passing of the embryo in the belly, or making the regenerative organs glitch, will be rebuffed with a base detainment of 5 (five) years and a greatest detainment of 20 (twenty) years or a fine of basically IDR 25,000,000.00 ( 25 million rupiah) and a most extreme fine of Rp. 500,000,000.00 (500,000,000 rupiah)"

### **3.3 The Role of Advocates in Legal Assistance for Clients Experiencing Domestic Violence**

In giving authentic advance notice help organizations to clients, the legal direction preceding acting ought to get information from the arranged client who will give the materials that will be at issue in the discussion. The client must provide accurate information about himself, but once the case is filed, the client will receive legal protection from the lead attorney. The information that will be provided to the legal advisor who will intervene must be accurate and complete, and it cannot be fabricated. [7]

In both common and criminal cases, advocates should bend over backward and think cautiously while helping clients. In common cases, a backer who has a client's trust has the privilege to give a summon or start intercession against the party who is wanting to document a claim in court first. If the opponent doesn't respect the solicitation and the mediation finished by the supporter is depended, then, the advertiser who has been blessed with the trust will record a case with the prepared court. Meanwhile, all things considered, in criminal cases, mediation can't be finished other than in unambiguous cases like forceful way of behaving at home.

In giving trust, a client to the chose advertiser ought to have a common relationship of giving trust in the typical work. There are commitments in the connection between a promoter and a client, in particular: [8]

For the agreed relationship to be implemented or carried out, the advocate and his client will build a sense of mutual trust. This will generate a sense of mutual trust and trust between both parties in building the current relationship. Clients will ultimately benefit from the quality and evaluation of the improvement of a solid and amicable helpful connection between the two players, in particular supporters and clients. The fact that clients must be honest, transparent, and free from manipulation when disclosing any material relating to the issues they face is increasingly important.

Relationships in cases inside and outside court, with your clients, with opposing parties, and with other law enforcement officials require that you, as an advocate, be aware of your responsibilities and act in such a way that you can protect yourself. You should also avoid irrational emotions by sticking to the advocate's code of ethics. Avoid taking emotional actions.

Beside the association between the advertiser and the client, there is similarly an ally for the circumstance. The occupation of legal aide workers is to offer kinds of help to occupants who need them, and give information to increase genuine care and for legitimate reform.[9] Isolated from the gig, there is moreover a capacity called an advertiser, explicitly monitoring the interests of the neighborhood their clients. Advocates are required when someone or more populace manage an issue or issue in the genuine field.[10]

Losses from harmful way of behaving at home hold the honor to security. Insurance is any action taken by the victim's family, advocates, social institutions, the police, the investigator's office, the court, or other parties to ensure that everything is okay, either temporarily or in response to a court request.

Section IV, which is about "Casualties' Freedoms," Part VI, which is about "Assurance," and Section VII, which is about "Recuperation of Casualties," all specify how survivors of abusive behavior at home will be protected. The opportunities, security, and recovery of setbacks, in the Harmful conduct at home Guideline, are normal for all overcomers of Oppressive way of behaving at home.

Losses save the honor to get organizations for clinical necessities, remarkable treatment associated with setback mystery, help by agreeable workers, and authentic assistance at each level of the appraisal communication by lawful courses of action, and supernatural bearing organizations.

Police officers who receive complaints about violent crime are the first line of defense for women's rights, followed by protection for victims when they disclose their experiences of violence. Special Service Rooms have been provided in several areas to protect victims' sentiments and reduce their fear when reporting. When reporting, women victims of violence often feel afraid and embarrassed because some police officers treat them badly or strangely, thus making the victims feel harassed again. With the presence of an Phenomenal Assist Room, losses from hostility with willing feel significantly better considering the way that the cop who addressed was a woman (Polwan), making it more direct for the individual being referred to or columnist to portray what happened. After the enumerating framework, the police put forth a defense record which will then be submitted to the specialist's office. The charges and requests made by the examiner will then, at that point, be chosen by an appointed authority in court.



Sorts of authentic security for mates (as associated with the family) who experience exhibitions of violence in the Law on the Removal of Forceful way of behaving at home (UU No. 23 of 2004) include Articles 10 through 15, which deal with the obligations of the public authority and society to prevent aggressive behavior at home, Articles 16 through 38; types of protection for victims of domestic violence provided by the police, health care workers, social workers, volunteers, otherworldly aides, advocates, and the courts, Articles 39 to 43; the casualty's on the whole correct to get recuperation., Articles 44 to Article 49; is a lawbreaker arrangement that accommodates the danger of discipline for culprits of viciousness.

#### 4 Conclusion

Based on legal rules, where there are sanctions, legal protection is something that is guarded by legal subjects. Child and women protection laws are one of the best weapons to prevent violence against women. as a means of maintaining or maintaining the health and welfare of children and women in the long term. To ensure the survival of children and their unique growth and development in terms of physical, mental, and social well-being, women's protection can also be interpreted as all efforts to prevent, rehabilitate, and empower women who are victims of violence, exploitation, and neglect.

Legal protection for women is not only through laws that regulate the protection of women, but also real protection is given to women through legal aid, advocates, non-governmental organizations, and also open and friendly reception from the police when complaints are made, and what is even more important is the provision of justice whose rights are not respected. The role of advocates in implementing initiatives to treat women victims encourages the government to be active in providing support for the provision of services for women victims.

Prior to making any move to give lawful exhortation to a client, the legitimate guide should get data from the planned client who will give the material to be questioned. Clients are required to provide accurate information about themselves, but after the case is transferred, the client will be given legal protection by the advocate handling the case. The information that will be provided to the lawyer who will intervene must be accurate, comprehensive, and with definite data.

#### References

- [1] Moerti Hadiati Soeroso, *Kekerasan Dalam Rumah Tangga Dalam Perspektif Yuridis Viktimologis*. Jakarta: Sinar Grafika, 2010.
- [2] Shinta Agustina, *Makalah diangkat dari Laporan Penelitian BBI tahun 2001, dan disampaikan pada Seminar tentang "Demokrasi dan HAM: Tinjauan Hukum Hak Asasi Manusia dan Perlindungannya di Indonesia."* Padang: Genta Budaya, 2001.
- [3] "Law No. 8 of 1981 concerning the Criminal Procedure Code."
- [4] Artidjo Alkostar, *Peran Dan Tantangan Advokat Dalam Era Globalisasi*. Yogyakarta: UII

Press, 2010.

- [5] “Article 1 Law No.18 of 2003 concerning Advocates.” .
- [6] Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: PT Raja Grafindo Persada, 2007.
- [7] F. H. Winarta, *Bantuan Hukum Di Indonesia Hak Untuk Didampingi Penasehat Hukum Bagi Warga Negara*. Jakarta: PT. Elex Media Komputindo., 2011.
- [8] DR. Alaudin, *Hukum Advokat, Alternatif dispute Resolution (ADR) Dalam Perkara Pidana Sebagai Perwujudan Restoratif Justice*. Bandung: Vanda, 2018.
- [9] Abdurrahman, *Aspek-aspek Bantuan Hukum Di Indonesia*. Jakarta: Cendana Press, 2007.
- [10] Ropuan Rambe, *Teknik Praktik Advokat*. Jakarta: PT. Gramedia, 2013.