

THE ROLE OF LEGAL ASSISTANCE INSTITUTIONS IN PROVIDING LEGAL ASSISTANCE TO WOMEN AS VICTIMS OF SEXUAL VIOLENCE

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The purpose of this study was to determine the legal assistance provided by LBH APIK to victims of sexual violence and the obstacles faced by LBH APIK in providing legal assistance to women victims of sexual violence. This research is a field research where data collection is carried out by interviewing parties related to the research topic. The results of the study show that: 1) The legal basis of the Indonesian Women's Association for Justice Legal Aid Institute or LBH APIK in providing legal assistance to women victims of violence is based on Law no. 16 of 2011 concerning Legal Aid, Law no. 18 of 2003 concerning Advocates and Standard Operating Procedures, hereinafter abbreviated as SOP. The role in providing legal assistance to women as victims is litigation and non-litigation. Litigation is a process of mentoring from the beginning of handling a case to a verdict in court, non-litigation is a process outside the court that is up to the mediation stage. In addition, LBH APIK carries out other legal reinforcements such as conducting legal counseling and legal seminars held in the Makassar city area. 2) The obstacles faced by LBH APIK in handling their cases are victims who are reluctant to tell their cases and the police who think that if there is sexual violence against women it is based on consensual factors, not coercion. LBH APIK carried out other legal reinforcements such as conducting legal counseling and legal seminars held in the Makassar city area. 2) The obstacles faced by LBH APIK in handling their cases are victims who are reluctant to tell their cases and the police who think that if there is sexual violence against women it is based on consensual factors, not coercion.

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1. INTRODUCTION

Indonesia is a state of law that applies in its entirety. The legal system is a tool for the credibility of the Indonesian nation. The current legal system in Indonesia is a Dutch-oriented legal system, namely European Continental or Civil Law. Evidence of the existence of this legal system is the Criminal Code (KUHP) and the Civil Code (KUHPer), which are still in effect. This is stated in the transitional rules for the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which reads: "All existing statutory regulations are considered to remain valid as long as new ones have not been enacted according to the 1945 Constitution." [1].

Progress in law enforcement has the support of all nations in the world. This progress can be seen from the many national and international legal instruments used to support the creation of legal goals in the form of peace and order in society. The goal to be achieved by the law is expected to provide legal protection for individual rights and community rights. This includes protecting women's rights. The law must be formed democratically and contain the substance of human rights. If not, the law will lose its essence, even become a tool of oppression solely to legitimize, justify all unilateral actions of the authorities. The law must refer to Human Rights (HAM) because the law must protect the rights of the people, [2].

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Violence against women is increasingly prevalent in society, especially sexual violence, namely rape experienced by a woman. Sexual violence against women is one form of action that is contrary to the human side. Whereas women have the right to get their rights as women who have priority in social life. Among them, women are the heirs who cannot be replaced by men and women are mothers, which is one of the basic reasons why women need special attention to protect and respect their rights.[3], [4]

Sexual violence/harassment that occurs to a woman is due to a value system that places women as weak and inferior beings compared to men; women are still placed in subordinated and marginalized positions that must be controlled, exploited and enslaved by men, also because women are still seen as second class citizens. Convention On The Elimination Of All Forms Of Discrimination Against Women (hereinafter abbreviated as CEDAW) convention on all forms of elimination of discrimination against women approved by the UN general assembly on December 18, 1979 which was ratified by Indonesia into Law no. 7 of 1984 concerning the ratification of the convention on the elimination of all forms of discrimination against women, in part I Article 8 states:[5], [6].

With the existence of national and international legal instruments that form the basis of the rules, women raise their awareness by protecting their rights as women by forming various Legal Aid Institutions, especially for women and children who are blind to the law and become victims of violent crimes. The birth of the Indonesian Women's Association for Justice Legal Aid Institute (hereinafter abbreviated as LBH APIK) is one proof of women's awareness to defend their rights. That way every woman who is a victim of a criminal act of violence can report her case to a legal aid institution that has been established by women who have the initiative to uphold the rights of victims, especially women.[7], [8].

The rights of recipients of assistance are stated in Law no. 11 of 2016 concerning Legal Aid Institutions, Article 4 states that legal aid is given to legal aid recipients who are facing legal problems[9], [10]. Legal aid as stated in paragraph (1) covers civil, criminal, and state administrative law issues, both litigation and non-litigation. Legal aid as referred to in paragraph (1) includes exercising power of attorney, accompanying, representing, defending, and/or taking other legal actions for the legal interest of the recipient of legal aid. With the implementation of Law no. 16 of 2011, every legal aid institution in Indonesia has the right to help fight for the rights of victims[11], [12].

2. METHOD

To obtain relevant data, the author conducts research on an agency related to the reason for choosing the place as the research location because from that agency the author can search for data and information with the title of the study.

Sources of data used in this study consisted of several categories, namely primary data and secondary data. Primary data is data obtained directly from sources at the research location related to the research title. Secondary data is data obtained through literature study, namely reviewing literature, articles, coverage, papers and legislation related to the title.

The method of data collection is done in two ways, namely library research and field research. Library research, where the author collects data by reading relevant literature with the title, either through books or via the internet, as well as normative materials in the form of legal products. Field Research (Field Research) consists of Observation (observation), namely the author visited the research location and then made direct and careful observations of the object of research in order to determine the factors that influence. And interview (Interview) where the author conducted several questions and answers to all competent sources such as agency employees.

Research data is processed and analyzed qualitatively, namely analyzing data based on its quality and then described using words so that language or exposure is obtained in the form of systematic and understandable sentences.

3. RESULT AND DISCUSSION

General Role LBH APIK Makassar in Providing Legal Aid to Victims

The role of the APIK Legal Aid Institute in providing legal assistance to victims is very important, since its establishment on 15 December 2001 and legalized on 4 January 2002, LBH APIK

has helped a lot, especially for women and children who are unfamiliar with the law and are underprivileged. Siti Nur Faidah, SH as the coordinator of the Legal Aid Service and Legal Aid Division of the APIK Makassar Legal Aid Institute in her interview said "before the enactment of the Law on Legal Aid, APIK had been doing legal aid work for a long time, so there used to be sharing between clients who could afford it and those who couldn't. With the enactment of the Law on Legal Aid or the existence of free legal aid with the government seeking justice, clients who can't afford it can be accommodated even more". Regarding funds for clients who can't afford there is a budget for assistance law from the government through the office the territory of the Ministry of Law and Human Rights with several requirements that must be met such as an ID card, family card, certificate of incapacity, and a letter of request for legal assistance from the client. Assistance based on the author's research in interviews conducted with LBH APIK there are two roles of LBH APIK including:

1. Litigation

In accordance with the duties and functions of LBH APIK that have been described previously, that the legal basis for providing legal assistance to LBH APIK is based on Law no. 16 of 2011 concerning Legal Aid and SOPs, which are tasked with advocating, providing legal assistance and carrying out prevention regarding the function of legal defense against women. In carrying out the litigation process, LBH APIK performs several procedures in providing legal assistance, namely constantly widening the network with several legal institutions and social institutions in the Makassar area such as the Makassar Legal Aid Institute or LBH Makassar, the Integrated Service Center for the Empowerment of Women and Children, hereinafter abbreviated as P2TP2A, The Wind Mammiri community and legal staff in several sub-districts of Makassar, a network of psychologists, social services, health services and the police. In addition, LBH APIK often gets cases from newspapers and victims or families of victims who come to LBH APIK to report cases. By performing a mentoring function, LBH APIK starts from the initial stage until the case is handed over to the competent authorities. In court, LBH APIK still carries out mentoring functions, including information that is deemed necessary to be added until a verdict is issued by the court. Regarding lawyers, LBH APIK has its own lawyers who work at LBH APIK and become partner lawyers or clients of LBH APIK itself and there are several interns and legal lawyers.

2. Non-Litigation

In the non-litigation process LBH APIK performs its duties outside the court such as mediation and other legal activities including legal counseling, seminars, and being a presenter at certain events and in these activities LBH APIK campaigns for the prevention of violence against women and children. Regarding the role of LBH APIK, it is not only providing legal assistance and defense but also conducting a study of publication of information and documentation on the legal system that affects gender relations, enforcement of women's rights and legal information on ways to solve women's problems and policy changes. Currently, several areas from South Sulawesi have been the place for legal counseling, such as Gowa, Makassar and Maros.

The Role of LBH APIK Makassar in Providing Legal Aid to Women as Victims of Sexual Violence

Judging from the number of sexual violence is decreasing. LBH APIK in handling cases of sexual violence in the city of Makassar has played an important role by conducting discussions on the importance of upholding women's rights and equal rights between men and women. The following table shows the number of sexual violence against women from 2018 to 2020.

Table 1 Total Violence Against Women in 2018

No	Violence Against Women	SEXUAL VIOLENCE		Number of Cases
		Girl	Woman	
1.	7 Cases	8 Case	5 Case	20 Cases

Table 2 Total Violence against women in 2016

NO	Violence Against Women	SEXUAL VIOLENCE		Number of Cases
		Girl	Woman	

1.	3 Case	9 Cases	4 Case	16 Cases
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Table 3 Total Violence against women in 2017

NO	Violence Against Women	SEXUAL VIOLENCE		Number of Cases
		Girl	Woman	
1.	4 Case	5 Case	5 Case	14 Cases

The data above proves that cases of violence against women in the Makassar jurisdiction have decreased in the last three years. Seen from 2018 cases of violence against women 7 cases and cases of sexual violence against women 13 cases with a total of 20 cases. Then in 2016 there were 3 cases of violence against women and 13 cases of sexual violence against women and with a total of 16 cases, in 2020 there were 4 cases of violence against women and 10 cases of sexual violence against women with a total of 14 cases. . Seen from the decreasing number of sexual violence.

Obstacles Faced by LBH APIK in Providing Legal Aid to Women as Victims of Sexual Violence

In handling cases carried out by LBH APIK, it does not always run smoothly, there are several obstacles it faces in carrying out its role as an institution that upholds women's rights. Siti Nur Faidah explained: "The obstacle in cases of sexual violence is the openness of the victim, it is very difficult to make the victim of sexual violence believe and be able to talk to us about the case, but every time this happens we have our own tricks and ways to get the victim to believe in us, including referring to psychologist". Then Siti Nur Faidah added: "The rights of victims in handling the LBH APIK case are to maintain the confidentiality of victims, carry out legal reinforcements and get assistance, in our opinion the rights of victims are very important and must be upheld"

In addition to getting assistance, one thing that must be considered by LBH APIK is the victim's right, namely the confidentiality of identity which has been legally listed in the LBH APIK SOP. the case to the LBH APIK. There are also families or relatives who know about the victim's case but are reluctant to discuss the case because they are embarrassed if many know that their family is a victim of sexual violence.

As for other obstacles faced, Siti Nur Faidah again added, "the obstacle we face is the perspective of law enforcement, especially the police on cases of sexual violence, especially in the context of adult women, they usually think if something like that happens it means consensual". According to the judge, it requires violence or threats of violence to be able to punish the perpetrators of rape under Article 285 of the Criminal Code. If sexual intercourse occurs because of "consensus" between the victim and the perpetrator, the element of "coercion" will disappear. If referring to the laws in force in Indonesia, among others, it says that crime is not only physical but also psychological, then the context that occurs here is violence,

4. CONCLUSION

Based on the discussion, it can be concluded that the role of LBH APIK in providing legal assistance to victims of sexual violence is not only in the form of assistance carried out from the initial stage to the sentencing of the court but in the form of prevention by conducting several studies, seminars and legal counseling to the community, especially for women, then conduct mediation if it is considered that the case does not need to go to trial, receive case reports from several legal persons in Makassar's jurisdiction, or through the mass media. The obstacles faced by LBH APIK in providing legal assistance to women victims of sexual violence are victims who are still reluctant to discuss their cases with LBH APIK and the police who still think that sexual violence against women is based on consensual behavior. make party LBH APIK neglected in handling cases handled.

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