INDONESIAN JOURNAL OF ADVOCACY AND LEGAL SERVICES VOL. 1 ISSUE 2, 2020

ISSN (Online) 2686-2611

ISSN (Print) 2686-2085

ISSN (Online) 2686-2611 ISSN (Print) 2686-2085

Indonesian Journal of Advocacy & Legal Services

An International Peer-Reviewed Journal, Published Bianually

VOLUME 1 ISSUE 2 JANUARY 2020

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journal.unnes.ac.id/sju/index.php/ijals/index

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Indonesian Journal of Advocacy and Legal Services is a double blind peer reviewed journal published by the Faculty of Law, Universitas Negeri Semarang. Indonesian Journal of Advocacy and Legal Servicesis published twice a year (biannual), every March and September and has been registered as Scientific Journal on LIPI with Special ISSN Number (ISSN Print 2686-2085, ISSN Online 2686-2611). Indonesian Journal of Advocacy and Legal Services is a Scientific Journal of Law that has specialized in the fields of Legal Services, Community Engagement of Law Sector, Legal Aid, and Advocacy. Indonesian Journal of Advocacy and Legal Services publishes articles exclusively in English and uses the Open Access Journal (OJS) system. Indonesian Journal of Advocacy and Legal Services also has been indexed by several national and international indexer, such as GARUDA Ristekdikti and Google Scholars.

Editorial Board

Indonesian Journal *of* Advocacy and Legal Services
ISSN: 2686-2085 (Print) ISSN: 2686-2611(Online)
Vol. 1 No. 2 (2020): 169-192 DOI: 10.15294/ijals.v1i2.33961

Submitted: 9 November 2019 **Revised**: 29 November 2019 **Accepted**: 6 December 2019

RESEARCH ARTICLE

Advanced Training of Intellectual Property Documents of Industrial Designs for Goyor Sarong Craftsman in Pemalang District

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Abstract: Intellectual property is used to increase economic value while providing legal protection for innovative inventions. Goyor Glove, typical of Pemalang, in fact, does not yet have legal protection on Intellectual Property, especially Industrial Design, so that the protection is low and many industrial designs of Goyor sarong are used by others without permission. The methods used to solve the problems in this service program are: (1) Training (workshop), which aims to provide knowledge and skills in quality improvement and product development (2) Product development and application management of the Goyor motif motif to be a description of IP Industrial Design; (3) Assisting and facilitating IP registration of Industrial Designs to be able to increase the economic value of the product; and (4) Monitoring and Evaluation for follow-up plans. Partners in this program, namely the Goyor Sarong Craftsmen in Pemalang District, were given the opportunity to play an active role, from the time of training to mentoring, facilitation and monitoring and evaluation especially during registration and acceleration of obtaining IP Industrial Design certificates craftsmen are given the opportunity to actively provide ideas, criticism in product development and application of management to obtain IP protection. Thus this activity is centered on partners based on the basic needs of partners to develop by increasing the economic value and welfare of the Goyor Gloves craftsman in particular.

Keywords: accompaniment; community services; Goyor sarong craftsmen; industrial design documents

How to cite:
Waspiah, W., Rodiyah, R., Latifiani, D., & Setiaji, D.A. (2020). Advanced Training of Intellectual Property Documents of Industrial Designs for Goyor Sarong Craftsman in Pemalang District. *Indonesian Journal of Advocacy and Legal Services,* 1(2), 169-192. DOI: 10.15294/ijals.v1i2.33961

A. Introduction

The aspects of Intellectual Property Rights (IPR) which are now changing to being called Intellectual Property (IP) are very closely related to the development of the potential dynamics of the results of human intellect, namely from work, intentions and creative power. The work in the form of human intellectual work that has a very high economic value should get adequate legal protection supported by a sense of justice and as an appreciation of his intellectual results. This legal protection is very important, because people who find good works in the form of products or goods have to spend a lot of cost and sacrifice. Efforts to protect Intellectual Property also encourage people to create new works that can improve the welfare of the community.[1]

Intellectual Property is a right that comes from the work, initiative and creativity of human intellectual abilities that have benefits and are useful in supporting human life and have economic value. The real form of the work, intentions and creativity of human intellect can be in the form of science, technology, art and literature. Referring to the definition of IP, the nature of IP is: (1) has a limited period of time, meaning that after the period of protection of innovation has expired, then there can be extended (brand rights), but there is also after the protection period has expired to become public property (patent), (2) is exclusive and absolute, meaning that the right can be defended against anyone, and the owner has a monopoly right, that is, the inventor can use his rights by prohibiting anyone without his permission to make a creation or use the technology he has, and (3) it is an absolute right that is not material.[2]

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[1] Rodiyah, Waspiah, & Andri Setiawan, Acceleration Model in Obtaining Intellectual Property Rights (IPR) on Micro, Small and Medium Enterprises (SMEs) in Semarang City Central Java, *Proceeding - Kuala Lumpur International Business, Economics and Law Conference,* Vol 6 No. 4, April 18 – 19, 2015. Hotel Putra, Kuala Lumpur, Malaysia, pp. 47-57.

[2] Waspiah, *Teori dan Perkembangan Hukum Kekayaan Intelektual (Dinamika Nasional dan Internasiona*l, BPFH UNNES, Semarang, 2019, pp. 27-28; Waspiah, Dian Latifiani, & Andry Setiawan, The Mechanism Model of the Simplepatent Registration (A Case Study in the Environmental Small Industries Semarang), *South East Asia Journal of Contemporary Business, Economics and Law*, Vol. 6, Issue 4, 2015, pp. 20-27. Budi Santoso, Inge Widya Pangestika Pratomo, Nida Nur Hidayah, Sabri Banna, Rindia Fanny Kusumaningtyas, Brand Registration as a Marketing Strategy and Customer Loyalty of Natural Color Batik in Kampung Alam Malon Village, *Indonesian Journal of Advocacy and Legal Services*, Vol. 1 No.1, 2019, pp. 79-96; Martitah, Dewi Sulistianingsih, Saru Arifin, Urgency of Legal Aspects in Management of Featured Products as an Effort to Empower Communities in the Circle Campus Area, *Indonesian Journal of Advocacy and Legal Services*, Vol. 1 No.1, 2019, pp. 97-106.

Legal protection is any effort that can guarantee legal certainty, so that it can provide legal protection to the parties concerned or who take legal action Legal protection can be done publicly or privately.[3]

Industrial Design is a creation of a shape, configuration, or composition of lines or colors, or lines and colors, or a combination thereof in the form of three dimensions or two dimensions that gives an aesthetic impression and can be realized in three-dimensional or two-dimensional patterns and can be used to produce a product, goods, industrial commodity or handicraft (Article 1 Paragraph 1).[4]

Based on the sound of Article 1 paragraph 1, it can be concluded that the motif of the goyor goyor is included in the legal protection regime of Intellectual Property Industrial Design, which includes fulfilling the elements based on WIPO, namely visibility (can be seen by eye), special appearance (special appearance shows differences with other products so attractive to buyers or users of the product), non-technical aspects (only protects the aesthetic aspects of the product and does not protect the technical function aspects of the product), embodiment in a utilitarian article (applied to goods that have uses)

Industrial Design is a right that must be protected and in this case the regulation relating to Industrial Design is Industrial Design Law Number 31 of 2000. There should be regulations that are already regulated, apparently not being applied properly and many cases appear on the surface with regard to Industrial Design and cyber-violations committed by irresponsible people.

Furthermore, as Friedman revealed in his book, that the legal system must have three important components, not just the legal substance, in this case, the laws and regulations, but balanced with the legal structure, namely the law enforcement officers who can enforce regulations and can carry out these regulations properly so that legal objectives can be created. Legal culture which is the third component in the legal system that has been faced by Friedman is in this case how the community can also cooperate in submitting and proper to the existing rules and not just the rules become the decoration only.[5]

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[3] Waspiah, *Op.cit,* p. 35

[4] Law Number 31 of 2002 concerning Indusrital Design, Article 1 paragraph 1. This article recognized that industrial design as an art product which has aesthetical impression. *See also* Waspiah, *Teori dan Perkembangan Hukum Kekayaan Intelektual (Dinamika Nasional dan Internasional*, BPFH UNNES, Semarang, 2019.

[5] Lawrence M Friedman, *The Legal System: A Social Science Perspective,* Russell Sage Foundation, US, 2015, pp. 115-117; Tamotsu Hozumi, Masri Maris (transl), *Asian Copyright Handbook Buku Panduan Hak Cipta Asia*, Asia/Pacific Cultural Centre for UNESCO, Japan, 2006, p. 11

Public protection is carried out by utilizing legal protection facilities provided by public provisions, such as domestic legislation and international, bilateral and universal agreements, as well as private protection, by careful contracting. Public protecion on IPR tiself as stated by Kimura, Chen, Iliuteanu, Yamamoto, & Ambashi (2016) that intellectual protection rights (IPR) protection is essential for economic growth, innovation, and competitiveness. As the global economy is increasingly organised within global value chains, disciplining and enforcing IPR in a coherent manner internationally has become a critical issue in the 21st century trade system.[6]

Some contemporary cases concerning to legal protection showed that laws and regulations plays an important role on the protection to provide a legal certainty.[7]

One of the characteristics and at the same time is the goal of the law is to provide protection to the community. Therefore, the legal protection of the community must be realized in the form of legal certainty.[8] An intellectual work is produced and developed on the basis of thinking that requires assessment with a variety of risks, therefore the protection of the designer, designer or inventor is seen as reasonable, because in order to produce a work and/or an invention with actions that carry a risk of violation. As well as legal protection for awards that will provide a stimulus for the parties to create new intellectual works, will be more creative, so that it will produce benefits.[9]

Therefore there is a need for community service activities in the form of Science and Technology for the Society (*Ipteks bagi Masyarakat,* IbM) on the

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[6] Fukunari Kimura, Lurong Chen, Maura Ada Iliuteanu, Shimpei Yamamoto, & Masahito Ambashi, TPP, IPR Protection, and Their Implications for Emerging Asian Economies, *Policy Brief Economic Research Institute for ASEAN and East Asia,* No. 2016-02, April 2016, pp.1-7.

[7] Khoirun Nissa, Protection of Industrial Design Law in the Enhancement of Economic Development in Indonesia, *Journal of Private and Commercial Law,* Vol. 3 No. 2, 2019, pp. 76-81; Ridwan Arifin, Indonesian Political Economic Policy and Economic Rights: An Analysis of Human Rights in the International Economic Law, *Journal of Private and Commercial Law,* Vol. 3 No. 1, 2019, pp. 38-49; Andry Setiawan, Dissemination of Copyright Law in Digital Products In Semarang City, *Journal of Private and Commercial Law,* Vol. 2 No. 1, 2018, pp. 47-54.

[8] Debashis Bandyopadhyay, *Emergence of IPR Regimes and Governance Frameworks*. In: Securing Our Natural Wealth: South Asia Economic and Policy Studies, Springer, Singapore, 2018, pp. 17-19; Shidarta, *Karakteristik Penalaran Hukum dalam Konteks Keindonesiaan*, Utomo, Bandung, 2005, p. 112.

[9] Johanna Gibson, *Community Resources: Intellectual Property, International Trade and Protection of Traditional Knowledge*, Routledge, London, 2016, pp. 214-215; Candra Irawan, Protection of Traditional Knowledge: A Perspective on Intellectual Property Law in Indonesia, *The Journal of World Intellectual Property*, Vol. 20 No. 1-2. 2017, pp.57-67.

Designers of the Goyor Gloves to be able to increase economic value and also legal protection of the Goyor Glove motifs whose designs.

Furthermore, based on prelimery research conducted by Authors, it was found that the problems faced by the Designers of the North Wanarejan Goyor Gloves are as follows:

1. Limitations of the type of design motif
2. There is no awareness of legal protection for the results of the Goyor Sarong Industrial Design in North Wanarejan.

The inevitability of registering works into IP in the form of copyrights, patents, brands, trade secrets and others as unlimited needs in the realization of legal protection for the design of the goyor glove industry. Based on the identification of these problems, it can be formulated the focus of the application of the skills in preparing the Industrial Design IP document as follows:

1. What is the concept of registering the Industrial Design IP that should be practiced in the design of the goyor glove in North Wanarejan?
2. How to model the application of the preparation of Industrial Design registration documents in the design of the goyor glove in North Wanarejan?
3. How to empower the potential of the IP invention to be an Industrial Design to support the achievement of legal protection of the Rights product in the SME designer of goyor gloves in North Wanarejan?
4. How to facilitate registration, acceleration of acquisition of IP- Industrial Design in the goyor glove designer SMEs in North Wanarejan so as to increase the economic value of the Goyor glove design industrial design in North Wanarejan?

B. Method

Based on the results of discussions with partners, namely the owner of the design of the goyor glove industry in North Wanarejan, it was agreed that the handling or problem solving is prioritized or focused on the problems of: (1) Improving the quality of human resources in terms of improving quality and product development and management application; (2) Development of the goyor glove industrial design products in North Wanarejan, and (3) Application of SME management, especially marketing. (4) Acquisition of IP for legal protection and increasing the economic value of the design of the goyor glove industry in North Wanarejan.

Therefore, the solutions that will be carried out to solve problems or achieve the targets of the application of science and technology are: *First*,

improve the quality of human resources to be able to: (1) Improve quality and develop products and motives that are unique and quality, and representative to be presented to buyers; and (2) Implement good management, which can support efforts to improve the quality of product packaging. *Second*, helping partners or SMEs in: (1) Improving the quality and developing products of the design of the goyor glove industry in North Wanarejan, by creating products and creativity that are distinctive and quality or representative; (2) Implement SME management. *Third*, improving legal awareness of product protection in the context of acquisition of IP for legal protection and enhancing economic value. As well as the ability to prepare IP documents for Industrial and Copyright Designs so that Acquisition of IP is for legal protection and enhancing the economic value of the design of the goyor glove industry in North Wanarejan.

C. Result and Discussion

1. Framework of Program: Intellectual Property for SMEs and Its Protection

1) Basic Framework of Intellectual Property

Intellectual property according to Bambang Kusumo as quoted by Saleh, that substantively as a right to wealth arising or born because of human intellectual abilities.[10] Another opinion states that intellectual property is the right to enjoy economically the results of intellectual creativity. Economic rights are the right to obtain economic benefits from creation in the form of royalties or awards.[11]

Intellectual Property Rights are rights that come from the work, intentions, and creativity of human intellectual abilities that have benefits and are useful in supporting human life and have economic value. The real form of the work, intentions, and creativity of human intellect can be in the form of science, technology, art and literature. Innovation or the creation of a work by using intellectual abilities is reasonable if the inventor or creator gets a reward.[12]

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[10] Ismail Saleh, *Hukum dan Ekonomi*, Gramedia Pustaka Utama, Jakarta, 1990, p.51; Kusumo Bambang, *Pengantar Umum Mengenai Hak Atas Kekayaan Intelektual (HAKI) di Indonesia*, Faculty of Law Universitas Gadjah Mada, Yogyakarta, 1995, p.51.

[11] Much. Nurachmad, *Segala Tentang HAKI Indonesia*, Buku Biru, Yogyakarta, 2012, p.22

[12] Christopher May, *The global Political Economy of Intellectual Property Rights: The New Enclosures*, Routledge, London, 2015, pp. 125-126; Graham Dutfield, *Intellectual Property Rights and The Life Science Industries: A Twentieth Century History*, Routledge, London, 2017, pp. 117-119; Andry Setyawan, Non-Traditional Trademarks in Indonesia: Protection under the Laws and Regulations (An Intellectual Property Law), *JILS (Journal of Indonesian Legal Studies),* Vol 2 No. 2, 2017, pp. 123-130.

Intellectual Property Rights (IPRs) are generally divided into two main categories as emphasized by Senewe[13], namely: Copyright and the Right to Industrial Property consisting of:

a. Patent.
b. Brand rights.
c. Industrial Product Rights.
d. Rights to Plant Varieties.
e. Right to Layout Design of Integrated Circuits.

Furthermore, concerning to principle of intellectual property rights protection, the law provides guarantees for every authority to enjoy their products and creations with the help of the state. Legal protection guarantees that the interests of the owner are maintained. To balance interests, the intellectual property rights system must be based on the principle:

a. The Principle of Natural Justice

Based on this principle, the law gives protection to the creator in the form of a power to act in the framework of interests called rights. A creator who produces a work based on his intellectual ability is reasonable if his work is recognized.

b. Economic Principles (the Economic Argument)

Based on this principle IPR has economic benefits and value and is useful for human life. The economic value of IPR is a form of wealth for the owner. The creator benefits from ownership of his work such as in the form of royalty payments for music and song compositions.

c. Cultural Principles (the Cultural Argument)

Based on this principle, recognition of literary creations from human creations is expected to be able to arouse enthusiasm and interest to encourage the birth of new creations. This is because the growth and development of science, art and literature are very useful for improving the standard of life, civilization and human dignity. In addition, IPR will also provide benefits for the community, nation and state.

d. Social Principles (the Social Argument)

Based on this principle, the IPR system provides protection to the creator not only to meet the interests of individuals, partnerships or unity, but is based on the balance of individuals and society. This form of balance

[13] Emma Valentina Teresha Senewe, Efektivitas Pengaturan Hukum Hak Cipta dalam Melindungi Karya Seni Tradisional Daerah, *Jurnal LPPM Bidang Ekososbudkum,* Vol. 2 No. 2, 2015, pp. 12-23.

can be seen in the provisions of social functions and compulsory licenses in the Indonesian Copyright Act[14].

2) Industrial Design and Its Protection for SMEs

Industrial Design is a creation of a shape, configuration, or composition of lines or colors, or lines and colors, or a combination thereof in the form of three dimensions or two dimensions that gives an aesthetic impression and can be realized in three-dimensional or two-dimensional patterns and can be used to produce a product, goods, industrial commodity or handicraft. Article 1 paragraph 1).

Simanjuntak[15] based on the understanding in the Act there are several elements of the Industrial Design, namely:

a. There is a creation about the shape, configuration, or composition of lines, colors, or lines and colors or combinations thereof in the form of three dimensions or two dimensions.
a. Give aesthetic impression.
b. Can be realized in three-dimensional or two-dimensional patterns.
c. The pattern can be translated into products, goods, industrial commodities or handicrafts.

While the designer is the designer is a person or several people who produce industrial designs. Article 1 paragraph 5 further stated that the Right to Industrial Design is an exclusive right granted by the state of the Republic of Indonesia to the Designer for his creation for a certain period of time to implement himself or give his approval to other parties to carry out that right.

Furthermore, it is said that not all Industrial Designs produced by designers can be protected as the right to Industrial Designs. Only new industrial designs can be given to the designer. According to Saidin[16] that limitation on the new Industrial Design by the Industrial Design Law states that Industrial Design is considered new if on the date of receipt, the Industrial Design is not the same as the previous disclosure. Previous disclosures are disclosures of Industrial Designs before:

a. Receipt date;
b. Priority date if the application was submitted with priority rights, it has been announced or used in Indonesia or outside Indonesia.

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[14] R. Djubaedillah and Muhammad Djumhana, *Hak Milik Intelektual*, PT.Citra Aditya Bakti, Bandung, 1993, pp. 25-26.

[15] W. Simanjuntak, *Perlindungan Hak Cipta di Indonesia*, Dirjen HKI, Jakarta, 2006, pp. 34-36.

[16] O.K. Saidin, *Aspek Hukum Hak Kekayaan Intelektual (Intelectual Property Rights),* Raja Grafindo Persada, Jakarta, 2013, p. 274.

An Industrial Design cannot be considered to have been announced if within a period of a month prior to the date of receipt, the Industrial Design;

a. Has been demonstrated in a national or international exhibition in Indonesia or abroad that is official or recognized as official;
b. Has been used for educational, research or development purposes. The right to industrial design cannot be granted if the industrial design is contrary to the applicable laws and regulations, public order, religion, or decency.

Then furthermore, who is the legal subject in this case? According to Mertokusumo the subject of law is anything that can obtain rights and obligations and which can obtain rights and obligations is human. So humans are recognized by law as rights and obligations as legal subjects or as people.[17] The subjects of industrial design according to Article 6-8 of Law Number 31 of 2000 are:

a. The designer or who receives the rights from the designer.
a. In the case of designing several people together, the right of Industrial Design is given to them jointly, unless agreed otherwise
b. If an Industrial Design is made in an official relationship with another party in the environment, the right holder of the Industrial Design is the party for and/or in his office the Industrial Design is carried out, unless there is another agreement between the two parties without prejudice to the right of designer if the use of the Design The industry expanded beyond official relations.
c. If an Industrial Design is made in a work relationship or on an order basis, the person making the Industrial Design is considered as the designer and right holder of the Industrial Design, unless otherwise agreed between the two parties. The aforementioned provisions do not nullify the designer's right to remain listed in the Industrial Design Certificate, General Register of Industrial Designs, and the Official Gazette of Industrial Designs.

Application for Industrial Design The right to industrial design is granted by the state. Of course the state will not give it away, not necessarily without registration as is the case with Copyright because later the Industrial Design Right will be granted by the state with the issuance of an Industrial Design Certificate. As it is known that the procedure for registration of industrial designs must go through constitutive principles. The right to industrial design is granted by the state as long as there is a

[17] Sudikno Mertokusumo, *Mengenal Hukum Suatu Pengantar*, Liberty, Yogyakarta, 2005, pp. 25-28; *See also* Geoffrey Samuel, *Epistemology and Method in Law*, Routledge, London, 2016, pp. 117-119.

requesting party. Normatively it is required that the birth of these rights must be carried out in certain ways and procedures.[18]

Application for registration of Industrial Designs is regulated in Article 10-19 of Law Number 31 of 2000 concerning Industrial Designs, including the following conditions:

a. An application shall be submitted in writing in the Indonesian language to the Directorate General with payment of fees as regulated in this Law.
b. The application referred to in paragraph (1) is signed by the Applicant or his Proxy.
c. The application must contain:
    a) date, month and year of application;
    b) the name, full address, and nationality of the Designer;
    c) name, complete address, and nationality of the Applicant;
    d) full name and address of the Power of Attorney if the Application is filed through a Proxy; and
    e) the name of the country and the date of receipt of the first application, if the application is filed with priority rights.
d. The application referred to is enclosed with:
    a) physical samples or drawings or photographs and descriptions of Industrial Designs being applied for registration;
    b) a special power of attorney, if the Application is filed through a Proxy;
    c) a statement that the industrial design being applied for registration is the property of the applicant or the property of the designer.
e. In the case that an Application is jointly filed by more than one Applicant, the Application is signed by one of the Applicants by attaching written approval from the other Applicants.
f. In the case that an Application is submitted by a non-Designer, the Application must be accompanied by a statement that is accompanied by sufficient evidence that the Applicant is entitled to the Design Industry in question.
g. Provisions regarding the procedure for application shall be regulated further by a Government Regulation. The party who first submits the Application is deemed to be the holder of the Right to Industrial Design, unless proven otherwise.

And each Application can only be filed for one Industrial Design or several Industrial Designs which are a unity of Industrial Designs or which have the same class. An application using Priority Rights must be submitted

[18] Muchtar A Hamid Labetubun, Perlindungan Hukum Desain Industri Di Dunia Maya (Kajian Overlaping Antara Hak Cipta Dengan Hak Desain Industri), *Jurnal Sasi*, Vol. 17 No. 4, 2011, pp. 8-19.

no later than 6 (six) counts from the date of receipt of the application which was first received in another country that is a member of the Paris Convention or a member of the Agreement on the Establishment of the World Trade Organization. Requests with Priority Rights must also be completed with priority documents that are approved by the office conducting registration of Industrial Designs accompanied by their translation in Indonesian within a maximum period of 3 (three) months after the end of the period for filing Applications with Priority Rights. If these conditions are not fulfilled, the Application is deemed filed without using Priority Rights.

In addition to the copy of the Application as referred to in the description above, the Directorate General can request that the Application using Priority Rights be completed with:

a. A complete copy of the Right to Industrial Design that has been granted in connection with the registration which was first submitted in another country
b. Legitimate copies of other documents needed to facilitate an assessment that the Industrial Design is new. The date of receipt of the Application is also very important because it is related to the starting point of protection of the proposed Industrial Design Right. The date of receipt of the Application on condition that the Applicant has:
    a) Fill in the Application form
    b) Attach physical samples or drawings or photographs and a description of the Industrial Design being applied for registration
    c) Pay the Application fee.

If there is a deficiency in fulfilling the requirements and completeness of the Application, the Directorate General shall notify the Applicant or his Proxy that the deficiency be fulfilled within 3 (three) months from the date of sending the notice of the shortage. The period can be extended for a maximum of 1 (one) month at the request of the Applicant.

Furthermore, if deficiencies cannot be met, the Directorate General shall notify the Applicant or his Proxy in writing that the Application is deemed withdrawn. In the event that an Application is deemed withdrawn, all costs that have been paid to the Directorate General cannot be withdrawn. Requests for withdrawal of applications can be submitted in writing to the Directorate General by the Applicant or his Proxy as long as the Application has not yet been granted a decision.

2. Improvement of Legal Capacity for Preparing Legal Documents of IPR for Goyor Sarung Craftsmen

1) Realization of Programs

The form of problem solving realization is reported as follows. The activity began with 1 July 2019, the Team made communication with the North Wanarejan Village as the giver of the service of the Goyor sarong craftsman in North Wanarejan Pemalang Regency. The team communicated with the North Wanarejan Village Chief, Mr. Mahmud, who then communicated intensely to the craftsmen of the Goyor Gloves, which at that time also made an invitation letter for the craftsmen totaling 100 craftsmen. Basically the North Wanarejan Village Head did not object and stated that he could go ahead and coordinate with the Team to prepare for the activity.

Furthermore, the service team coordinates the material that must be delivered as well as the personnel who are prepared. Coordination is carried out primarily to make the material relevance of the Training of Preparation of Intellectual Property Documents of Industrial Designs in the Craftsmen of Pemalang Typical Goyor Gloves in Pemalang District

The arrangement of the Skills Training for the Development of Intellectual Property Documents of Industrial Design in the Pemalang Typical Goyor Craftsmen in Pemalang Regency is as on Table 1.

Table 1 Skills Training Agenda for Development of IP Document

No	Time	Agenda
1	13.00-13.30	Participant preparation
2	13.30-13.40	The opening of the program was begun with a prayer and the purpose of the activity was carried out by the Head of the Team - Waspiah, SH.,MH.
3	13.40-14.40	Skills Training of Intellectual Property Document Preparation of Industrial Design in Pemalang Typical Goyor Craftsmen In Pemalang District, power point material in very simple language was delivered by the Unnes Community Service Team (Waspiah, SH., MH, and Dian Latifiani, SH.,MH)
4	14.40-15.30	Discussion and question and answer
5	15.30-17.00	Assistance in the preparation of Intellectual Property documents for Industrial Designs to Craftsmen of Goyor Gloves in North Wanarejan
6	17.00-17.15	Closing

Source: Authors's document

The implementation of giving material in a simple way with language that is easily understood by the participants is to jointly examine the

material presented using LCD tools that are facilitated with powerpoints, which contain matters relating to knowledge of Industrial Design in general and then provide Proficiency Training The Preparation of Intellectual Property Documents of Industrial Design in Pemalang Typical Permanent Goyor Craftsmen in Pemalang District can provide the importance of legal protection to the designer of the importance of design registration in the interest of protecting moral rights and economic rights for Designers and Village Heads in order to motivate their citizens, 75% of whom there is a Goyor Sarong designer to carry out an inventory and registration of the Goyor Sarong Design for legal protection related to economic and moral rights, and can advance the welfare of the designer in Desa Wanarejan Utara. Legal protection also needs to avoid using the design of the goyor holster without permission to the designer.

Provision of material by way of sharing using material clarity will make it easier for participants to understand the material, carry out and then make an appeal to the designer of the goyor glove in Wanarejan Village. Especially other designers so that they are motivated to register the design of the goyor glove for legal protection from irresponsible parties by plagiarizing designs that are impacted by the lack of protection of moral rights and economic rights which cause one of them is the welfare of the designer and especially attention to the Pemalang Regency government as a regional asset.

The discussion and question and answer were enthusiastically welcomed by the participants, especially the designers, with a number of questions about how to do the registration and how it relates to the design registration with the welfare of the designers because all this time they did not know that the designs they created with high intellectualness were protected by the state. One important thing is when giving the next material questions and answers are many questions that arise not only about how to protect industrial design but also questions about Intellectual Property and how the relationship of registration of intellectual property specifically Industrial design and brand can improve the level and welfare designer As well as what actions should be done by designers so that their designs are protected and how to register.

In this question and answer session showed that the designers were very enthusiastic about the Training of Proficiency Preparation of Intellectual Property Documents of Industrial Design in Pemalang Typical Goyor Craftsmen in Pemalang District. This kind of activity is the first time there so that the curiosity of the designer is very high, things related to intellectual property, according to them are very new, even that is the first

thing they hear. So far, their designers only know the brands and patents. Related to industrial design is the smell of the designer, especially how to prepare documents for registration.

Designers feel difficulties related to what they prepare and what to do. Therefore, the Training of Proficiency in Preparation of Intellectual Property Documents of Industrial Design in Pemalang Typical Goyor Craftsmen in Pemalang Regency needs to be carried out continuously, so that the results are in accordance with what is expected. Because training in the skill of preparing industrial design Intellectual Property Documents which is only done once is less helpful in how designers know and understand and apply Intellectual Property Documents. In the context of this application, the Faculty of Law UNNES Community Services Team communicates with the Head of North Wanarejan Village and works closely with the Pemalang district government with the Department of Education to work together on how to provide Intellectual Property Documents and other matters relating to one's intellectual property in this case are the designer and how designers give their goyor gloves a brand name. It turns out that all this time they only make goyor gloves based on orders, without brands. Eventhough the buyer who gives the brand sells the price twice the purchase price. Designers and craftsmen reasoned that when the goods they gave the brand, if long sold, goyor gloves will become quality goods 2 and inevitably they sell at low prices. This happened because they did not use the old sales method, word of mouth. In a time that is growing so rapidly, sellers and buyers don't have to meet using online sales. Even with online sales, the goyor glove can be better known in the world. With so the welfare of craftsmen and designers more remembered, given the goyor gloves have existed since 1942 since the Japanese occupation.

In the final session of affirmation by the team with the same material for the Training of Preparation of Intellectual Property Documents Industrial Design in the Craftsmen of Pemalang Typical Goyor Crafts Industries and Brands, whose hopes the design of the Pemalang goyor holster get legal protection, so that there is no imitation of the design and then claim that it is theirs. This legal protection is also related to the welfare of the designers and craftsmen and the recognition of their products is not only national but also international.

In general, the results of the Skills Development Training on Intellectual Property Document Design of Industrial Design in Pemalang Typical Goyor Craftsmen in Pemalang District showed positive results with activities that took place as planned and were enthusiastic about the

participants with high levels of benefit. The delivery method is felt to be more realistic and pragmatic.

The Skill Training of Intellectual Property Document Preparation of Industrial Design in Pemalang Typical Goyor Craftsmen in Pemalang District can be achieved as follows: Criteria used to mark the success of this activity are as follows:

a. The seriousness of the participants (Craftsmen and designers of the Pemalang goyor gloves) in following the material explanation of the Training on the Preparation of Intellectual Property Documents of Industrial Design in Pemalang Typical Goyor Craftsmen In Pemalang, seen from the presence, enthusiasm at the meeting.
b. Active involvement in the Training of Proficiency in the Preparation of Intellectual Property Documents of Industrial Design in Pemalang Typical Goyor Craftsmen in Pemalang District.
c. Willingness and implementation of the activities of the Training of Preparation of Intellectual Property Documents Industrial Design in Craftsmen of Pemalang Typical Goyor Gloves In Pemalang District and want to do the same knowledge to the craftsmen and designers in their environment, especially in the North Wanarejan Village, 75% of the people are working in Pemalang District the production of the Pemalang Goyor sarong.
d. Increased knowledge about the rights of industrial design, especially the Training of Preparation of Intellectual Property Documents for Industrial Design in Pemalang Typical Goyor Craftsmen In Pemalang District so that craftsmen and designers strive to protect their intellectual work by registering for legal protection, so that the design results they are not used by claimed by irresponsible parties, because their intellectual work is protected by law and there are inherent primary rights namely moral rights and economic rights. These economic rights play a very important role.
e. The establishment of the ability to provide knowledge of industrial design Training in the Development of Intellectual Property Documents of Industrial Design in Pemalang Typical Goyor Craftsmen in Pemalang District. How a legal protection is given by the state to the designer through registration of industrial design.

2) Analysis of the Programs

In terms of attendance, the number of participants participating in the Training on the Preparation of Intellectual Property Documents for Industrial Design in the Craftsmen of Pemalang Typical Goyor Gloves in

Pemalang Regency is quite a lot, namely more than 50 participants. Participants consisted of craftsmen and designer of goyor gloves both men and women. Skills Training on Intellectual Property Document Preparation of Industrial Design in Pemalang Typical Goyor Craftsmen in Pemalang District, many participants and their enthusiasm for community service were chosen among the craftsmen and designers because they had not been informed at all about the importance of design registration for legal protection. , so far they only know the brand, and even then do not know the importance of trademark registration and industrial design. The words industrial design are new to them, so far they do not know that what they have created gets legal protection by registering. Knowledge of intellectual property for them is very minimal, this is reasonable given that all they know is that they only design and make orders, even though their gloor glove has been circulating in many countries.

Skills Training for the Development of Intellectual Property Documents of Industrial Design in Pemalang Typical Goyor Craftsmen In Pemalang Regency does not only focus on industrial design, because in practice it turns out that many craftsmen do not know what intellectual property is. Even the design of the goyor cover is not only protected by industrial design but also by another intellectual property regime, namely Copyright, and some Intellectual Property regimes that protect the intellectual property of craftsmen and designers, such as the Brand, Copyright and Design industries. The initial purpose of a legal protection is to protect the results of human intentions and inventions as outlined in tangible form and all of that based on statutory regulations is through registration. That is the importance of how the preparation of intellectual property documents in this case the industrial design for registration submitted. All of these things cannot be realized by themselves, but the need for collaboration with several parties, namely *kelurahan*, and Pemalang District Government in this case is the related department. Providing assistance in compiling documents of intellectual property is not only biased directly to the craftsmen and designers but there must be continuous assistance. Usually this assistance is constrained by many factors, both internal and external.

Some rules and regulations have provided many facilities, especially if related to SMEs, from funding to the time for examination. Usually the obstacle arises from the district government itself, such as the Pemalang District Government based on the results of the study that does not yet have a regulation or regulation related to intellectual property protection or traditional cultural expression, whereas in Pemalang district there is a lot of intellectual property that can be an asset of the local government, such as

Pineapple Honey Belik, bromyang batik motifs, and Goyor sarong. These constraints arise related to inadequate funding and human resources, because for some people that the management of intellectual property requires skills and a deep understanding.

In this understanding and knowledge activity, Craftsmen and Designers are given an understanding of matters relating to Copyright, industrial and brand design as well as forms and infringement of copyright, brand and industrial design as well as its legal consequences. Industrial design is a creation of a shape, configuration, or composition of lines or colors, or lines and colors, or a combination thereof in the form of three dimensions or two dimensions that gives an aesthetic impression and can be realized in three-dimensional or two-dimensional patterns and can be used to produce a product, goods, industrial commodity or handicraft. Article 1 paragraph 1).

While the designer is the designer is a person or several people who produce industrial designs. Article 1 paragraph 5 further states that the Right to Industrial Design is an exclusive right granted by the state of the Republic of Indonesia to the Designer for his creation for a certain period of time to carry out by himself, or give his approval to another party to carry out that right.

Registration of intellectual property through a long process and there is no exception with the registration of industrial designs. So that the government in this case the Ministry of Law and Human Rights provides an alternative to cut the length of the bureaucracy through online registration where registrants do not have to come alone to the Director General of Intellectual Property but only need to pass through online registration. The direct registration is done directly with the files that have been mentioned in the law. Application for Industrial Design The right to industrial design is granted by the state. Of course the state will not give it away, not necessarily without registration as is the case with Copyright because later the Industrial Design Right will be granted by the state with the issuance of an Industrial Design Certificate. As it is known that the procedure for registration of industrial designs must go through constitutive principles. The right to industrial design is granted by the state as long as there is a requesting party. Normatively it is required that the birth of these rights must be carried out in certain ways and procedures.[19]

Application for registration of Industrial Designs is regulated in Article 10-19 of Law Number 31 of 2000 concerning Industrial Designs, including the following conditions:

[19] *Ibid.*

a. An application shall be submitted in writing in the Indonesian language to the Directorate General with payment of fees as regulated in this Law.
b. The application referred to in paragraph (1) is signed by the Applicant or his Proxy.
c. The application must contain:
    a) date, month and year of application;
    b) the name, full address, and nationality of the Designer;
    c) name, complete address, and nationality of the Applicant;
    d) full name and address of the Power of Attorney if the Application is filed through a Proxy; and
    e) the name of the country and the date of receipt of the first application, if the application is filed with priority rights.
d. The application referred to is enclosed with:
    a) physical samples or drawings or photographs and descriptions of Industrial Designs being applied for registration;
    b) a special power of attorney, if the Application is filed through a Proxy;
    c) a statement that the industrial design being applied for registration is the property of the applicant or the property of the designer.
e. In the case that an Application is jointly filed by more than one Applicant, the Application is signed by one of the Applicants by attaching written approval from the other Applicants.
f. In the case that an Application is submitted by a non-Designer, the Application must be accompanied by a statement that is accompanied by sufficient evidence that the Applicant is entitled to the Design Industry in question.
g. Provisions regarding the procedure for application shall be regulated further by a Government Regulation. The party who first submits the Application is deemed to be the holder of the Right to Industrial Design, unless proven otherwise.

And each Application can only be filed for one Industrial Design or several Industrial Designs which are a unity of Industrial Designs or which have the same class. An application using Priority Rights must be submitted no later than 6 (six) counts from the date of receipt of the application which was first received in another country that is a member of the Paris Convention or a member of the Agreement on the Establishment of the World Trade Organization. Requests with Priority Rights must also be completed with priority documents that are approved by the office conducting registration of Industrial Designs accompanied by their translation in Indonesian within a maximum period of 3 (three) months after the end of the period for filing Applications with Priority Rights. If

these conditions are not fulfilled, the Application is deemed filed without using Priority Rights.

In addition to the copy of the Application as referred to in the description above, the Directorate General can request that the Application using Priority Rights be completed with:

a. A complete copy of the Right to Industrial Design that has been granted in connection with the registration which was first submitted in another country
b. Legitimate copies of other documents needed to facilitate an assessment that the Industrial Design is new.

The date of receipt of the Application is also very important because it is related to the starting point of protection of the proposed Industrial Design Right. The date of receipt of the Application on condition that the Applicant has:

a. Fill out the Application form
b. Attach physical samples or drawings or photographs and a description of the Industrial Design being applied for registration
c. Pay the Application fee.

If there is a deficiency in fulfilling the requirements and completeness of the Application, the Directorate General shall notify the Applicant or his Proxy that the deficiency be fulfilled within 3 (three) months from the date of sending the notification of the shortage. The period can be extended for a maximum of 1 (one) month at the request of the Applicant.

And if deficiencies cannot be met, the Directorate General shall notify the Applicant or his Proxy in writing that the Application is deemed withdrawn. In the event that an Application is deemed withdrawn, all costs that have been paid to the Directorate General cannot be withdrawn. Requests for withdrawal of applications can be submitted in writing to the Directorate General by the Applicant or his Proxy as long as the Application has not yet been granted a decision.

3) Follow-up Plan of Programs

The next stage of the plan is to monitor and evaluate the craftsmen and the design of the goyor glove, and then follow up on the monev activities by analyzing the extent of the understanding of the craftsmen and designers related to industrial design. So that craftsmen and designers can understand and know that their intellectual work can be protected by law from irresponsible parties, the legal protection through registration. He hopes that with this protection, craftsmen and designers can be even more

eager to explore better design results and meet market demands without fearing that their work will be used by irresponsible parties.

The main scourers of the existence of legal awareness for registration of insutri designs, brands and even aspirations are the Government of Pemalang Regency, related agencies and the North Wanarejan Kelurahan. Why do urban village officials, because the craftsmen and designers make up 75% of the total population of North Wanarejan, do not have a community, so things related to craftsmen and designers must go through the kelurahan. It also needs the support and cooperation of the Ministry of Law and Human Rights as an institution that can play an important role in the protection and understanding of the law related to intellectual property. As the main pillar that deals with the field of law Intellectual property must be concerned to be the Main Pengerak creation of early understanding of craftsmen and designers so that the craftsmen and designers can create better motives and designs to meet market desires both national and international.

D. Conclusion

Based on observations during the stages of the community service craftsmanship of this Pemalang Goyor craftsman, the Authors concluded that the participants of the activity paid considerable attention to the Training of Proficiency in Intellectual Property Document Development Industrial Design in the Craftsmen of Pemalang Typical Goyor Crafts in the District Pemalang. This can be seen from the enthusiastic craftsmen and designers during the training. During the training there were many questions about knowledge about Intellectual Property not only industrial design but also other intellectual property regimes such as brands and copyrights. In particular, industrial designs, craftsmen and new designers know that what they design has legal protection to avoid the use of irresponsible parties.

E. Acknowledgments

Thank to all faculty members of Faculty of Law, Universitas Negeri Semarang (UNNES), Indonesia. Authors also would like to express a great thankfulness for all parties involved on the program, especially to Sarong Goyor Craftsmen in Pemalang, Ministry of Law and Human Rights Central Java Headquaters, and All North Wanureja Village Official.

F. Declaration of Conflicting Interests

The authors state that there is no potential conflict of interest in the research, authorship, and / or publication / publication of this article.

G. Funding

Program of the community services and research funded by Community Service Program Grant, Research and Community Service Institute, Universitas Negeri Semarang, Indonesia, 2019.

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QUOTE

Patents are not forever, but inventions are

Kalyan C. Kankanala
***on* Fun IP, Fundamentals of Intellectual Property**

Indonesian Journal *of* Advocacy and Legal Services
ISSN: 2686-2085 (Print) ISSN: 2686-2611(Online)
Vol. 1 No. 2 (2020): 193-204 DOI: 10.15294/ijals.v1i2.33808

Submitted: 29 August 2019 **Revised**: 17 December 2019 **Accepted**: 26 December 2019

RESEARCH ARTICLE

Optimization of Legal Education for Drugs Abuse Prevention in Tegalrejo District Yogyakarta

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Abstract: Drug abuse as an extraordinary crime is carried out by involving many countries and a very large network, including Indonesia and especially in the province of D.I. Yogyakarta, known as a student city. However, the predicate city of students cannot make the province of D.I. Yogyakarta free from the dangers of drugs, instead it is ranked as the first province in Indonesia with the most users. Thus the need for education and understanding provided to the community, especially in the Tegalrejo sub-district region, is expected to reduce the number of drug users. The educational activities carried out received enthusiasm from the residents of Tegalrejo, which was attended by many residents from various backgrounds, starting from community leaders, village officials and attended by local youth or youth. From legal education activities to the dangers of drugs, participants who participate in these activities can understand all kinds of forms and types of drugs, apart from that, they also get knowledge of the effects of the dangers of drugs and can find out the characteristics of users to be more aware of in social relations with others. The advice given is to collect suspicious migrant data and strengthen positive activities from village officials and youth organizations so that Tegalrejo sub-district is free from drug threats.

Keywords: Drugs Abuse, Narcotics, Crime, Legal Education

How to cite:
Ramadhan, M., Ariyanti, D.O., & Arifin, R. (2020). Optimization of Legal Education for Drugs Abuse Prevention in Tegalrejo District Yogyakarta. *Indonesian Journal of Advocacy and Legal Services,* 1(2), 193-204. DOI: 10.15294/ijals.v1i2.33808

A. Introduction

Indonesia is currently a country that has become the target of drug dealers. Various types of drugs are often smuggled by foreign citizens to enter Indonesia and make Indonesia a haven for dealers because of the high number of drug users in the country of Indonesia. Drug trafficking in Indonesia continues to increase every year, based on data obtained from the National Narcotics Agency (BNN) stating that there is an increase in drug abuse, especially among adolescents, where an increase of 24 to 28 percent of adolescent drug addicts in 2017-2018, which a few years ago was only 20 percent.[1]

Narcotics itself is an extension of Narcotics, Psychotropics and Additives, or another term known as drugs. Narcotics itself is a substance or drug that comes from plants or not plants, both synthetic and semisynthetic, which can cause a decrease or change of consciousness, loss of taste, reduce to eliminate pain, and can cause dependence.[2] As well as psychotropic substances or drugs, both natural and synthetic non-narcotics, which have psychoactive properties through selective influences on the central nervous system that cause changes in mental activity and behaviour.[3] Basically narcotics, psychotropic substances or additives are hard drugs used in the medical world intended for treatment, therefore their use must be with the right prescription and monitored by medical personnel, because the effects of narcotics are very dangerous.

Drug abuse in the Yogjakarta province, especially among adolescents, ranks first as a drug user in Indonesia. This makes it very sad that Jogjakarta is known as a student city, a city filled with educated teenagers and even more teenagers are the next generation and the future of the Indonesian nation. Distribution of drugs itself in several regions in the

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1 BNN PUSLIDATIN, *Penggunaan Narkotika di Kalangan Remaja Meningkat,* 12 August 2019, https://bnn.go.id/penggunaan-narkotika-kalangan-remaja-meningkat/

2 Law Number 35 of 2009 concerning Narcotics.

3 Law Number 5 of 1997 concerning Psychotropics. Psychotropic drugs are not designed to work instantly. For some, the medications can begin working in several weeks while others may need to try several different medications before finding the right one. For more comprehensive insight, *see* Kristalyn Salters-Pedneault, *Understanding Psychotropic Drugs*, 25 September 2019, https://www.verywellmind.com/psychotropic-drugs-425321. Some drugs in addition to having a positive effect in the medical world, but also has a negative impact, erama associated with emotional and psychological changes in a person. So that in many countries, including Indonesia, the misuse of drugs becomes one of the criminal offenses that is threatened with crime, *see* T. S. Sathyanarayana Rao & Chittaranjan Andrade, Classification of psychotropic drugs: Problems, solutions, and more problems, *Indian J Psychiatry*, 2016 Apr-Jun; 58(2), pp, 111–113. doi: 10.4103/0019-5545.183771

Province of Yogjakarta by BNNP get a division of drug-prone areas including drug-prone level I and level II drug prone. In the distribution of drug-prone areas, Tegalrejo sub-district is an area that is ranked second-level drug prone. Therefore, residents who live in Tegalrejo sub-district need education on the dangers of drugs as well as teenagers as the next generation of the nation must be saved from the dangers of drugs. The purpose of this community service activity is to provide education and knowledge about the effects caused by drugs.

B. Method

The method used in the implementation of these community service activities is by providing education to the community of Tegalrejo sub-district to the dangers posed by drug abuse especially among adolescents. The education provided is in the form of material exposure regarding types, modus operandi, the impact of misuse, the characteristics of drug users and the sanctions provided if they violate the provisions of the laws and regulations.

Apart from providing education about the dangers of drugs, there is also a discussion or question and answer session between Tegalrejo residents and presenters so that citizens can better understand the dangers of drugs. In this session, every citizen is given the freedom to ask questions about the dangers of drugs and solutions to be done if there are citizens who become drug addicts.

C. Result and Discussion

1. Legal Education Concept for Preventing Crimes

Legal education, as used here, refers to experiences and training which help different kinds of people to understand and use law in society. Our primary focus is upon university institutions which provide intensive, structured education in law, but we think a report on legal education addressed to development should adopt a much broader perspective of needs for legal education. A citizen, to be effective in enjoyment of his civic capacities, needs a basic knowledge of at least some aspects of law. Officials and others who perform important law roles—e.g., as policemen, businessmen or politicians-need an understanding of parts of the law and its underlying policies and values. The proliferation and specialization of various new activities may call for particularized kinds of legal education.[4]

[4] Jorge Avendafio, et al, Legal Education in a Changing: World Report of the Committee on Legal Education in the Developing Countries, New York, International Legal Center,

Furthermore, Avendafio et.al also emphasized that historically, in many different societies, law has been one of the pre-eminent fields of higher learning and a route to positions of importance. The tendency of lawtrained persons to gravitate to significant centers of decision-making exists in many different societies today. It is, of course, not inevitable, but where it exists, it is a fact to be taken into account in evaluating the importance of legal education. Therefore, Legal Education recognized as an Avenue to the World of Affairs.[5]

It is also highlighted that, typically, the discipline of law is regarded as part of the humanities. This is so because: (*a*) law covers so many human activities and relationships; but (*b*) it also deals with much of the same phenomena as the social sciences, and is increasingly informed by them; and (c) it is intellectually demanding-requiring abilities to draw from a variety of sources in analyzing problems, evidence and arguments to make careful distinctions and to handle abstract concepts; and (*d*) it is directly related to the world of concrete practical problems; and (*e*) it is concerned, as perhaps no other subject is concerned, with the practical operation of processes and procedures; and (*f*) it has a rich heritage of literature, philosophy and historical experience.[6]

Popkewitz, Olsson, and Petersson concerning to legal education on preventing crimes, emphasized that the '*learning society*' expresses principles of a universal humanity and a promise of progress that seem to transcend the nation. They highlighted how the society is governed in the name of a cosmopolitan ideal that despite its universal pretensions embodies particular inclusions and exclusions. These occur through inscribing distinctions and differentiations between the characteristics of those who embody a cosmopolitan reason that brings social progress and personal fulfilment and those who do not embody the cosmopolitan principles of civility and normalcy. Mapping the circulation of the notion of the 'learning society' in arenas of Swedish health and criminal justice, and Swedish and US school reforms is to examine the mode of life of the citizen of this society, the learner, as an 'unfinished cosmopolitanism' and also directs attention to its 'other(s)'—those that are outside.[7]

1975, p. 26.; Dwi Oktafia Ariyanti & Muhammad Ramadhan, Legal Education against the Impact of Social Media in the Era of Information Disclosure for Pringgokusuman Residents in Yogyakarta, *Indonesian Journal of Advocacy and Legal Services*, Vol. 1 No. 1, pp. 129-134. https://doi.org/10.15294/ijals.v1i1.33768

5 Jorge Avendafio, et al*, Ibid.*, p. 38.

6 *Ibid.*

7 Thomas S. Popkewitz, Ulf Olsson, and Kenneth Petersson. "The learning society, the unfinished cosmopolitan, and governing education, public health and crime prevention

Moreover, in the context of crimes prevention, Reid highlighted the concept of crimes it self, that according to him, crime formulates the basis for a study of criminal behaviour. In the further context, he said crime as *deviant behaviour*.[8] Therefore, some crimes are needed a special treatment, especially if the crimes involved the juveniles or insignificant crimes, such as penal mediation.[9]

2. Implementation of Legal Education to Prevent Drugs Abuse

Innovation, resistance and conformity have been the hall marks of legal education in global South. One of the recent paradigms has given a clarion call to alter legal education into justice education[10], including in Indonesia. Drugs abuse has become a serious problem, especially nowadays. Previous research showed that initial 430 potential studies identified, nine quantitative studies met the inclusion criteria. Studies evaluated compulsory treatment options including drug detention facilities, short (i.e., 21-day) and long-term (i.e., 6 months) inpatient treatment, community-based treatment, group-based outpatient treatment, and prison-based treatment. Three studies (33%) reported no significant impacts of

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at the beginning of the twenty-first century." *Contesting Governing Ideologies*, Routledge, London, 2017, pp. 68-87.

8 Sue Titus Reid, *Crime and criminology*. Wolters Kluwer Law & Business, London, 2015, pp. 56-57.

9 Sri Hartanto, Indah Sri Utari, Ridwan Arifin, Implementation of Penal Mediation in The Perspective of Progressive Law (Study at The Semarang City Police Department), *IJCLS (Indonesian Journal of Criminal Law Studies),* Vol. 4 No. 2, 2019, pp. 161-188. DOI: https://doi.org/10.15294/ijcls.v4i2.21494; Ridwan Arifin, How to advocate for people who have problems with the law? A Book Review Communication in Legal Advocacy, Richard Ricke & Randall K. Stutman, South Carolina University Press, *Indonesian Journal of Advocacy and Legal Services,* Vol. 1 No. 1, 2019, pp. 153-160. https://doi.org/10.15294/ijals.v1i1.33807. Concerning o punishment for juveniles, It is emphasized that enalty imposed on children in their enforcement must see various considerations in binding human rights and the role of the community itself within the scope of society for that social system is very instrumental in the guidance of children who are deemed to have violated the rules in force at that time and in the rules that were set from the beginning with the initial thus the community plays an active role compared to the established criminal penalties such as prison and confinement. But basically the sentence has an educational nature to it in the thinking of a figure taken from M.J. Langeveld in his book *Beknopte Theorishe Paedagogiek* argues that punishment is an act in which we consciously even intentionally impose misery on someone both physically and spiritually, having various weaknesses and impacts both for children who are given sanctions or punishment and for the community, *see* Ria Juliana & Ridwan Arifin, Anak dan Kejahatan (Faktor Penyebab dan Perlindungan Hukum), *Jurnal Selat*, Vol. 6 No. 2, 2019, pp. 225-234. https://ojs.umrah.ac.id/index.php/selat/article/view/1019.

10 Shashikala Gurpur & Rupal Rautdesai, Revisiting Legal Education for Human Development: Best Practices in South Asia, *Procedia - Social and Behavioral Sciences* Volume 157, 27 November 2014, pp. 254-265, https://doi.org/10.1016/j.sbspro.2014.11.028

compulsory treatment compared with control interventions. Two studies (22%) found equivocal results but did not compare against a control condition. Two studies (22%) observed negative impacts of compulsory treatment on criminal recidivism. Two studies (22%) observed positive impacts of compulsory inpatient treatment on criminal recidivism and drug use.[11]

Another researches, in the same context, showed that student knowledge and views regarding government versus private rehabilitation centers, as well as their exposure to, and views about, school-based drug-prevention education is very variatives. It is also emphasized that drug users, in other words, were portrayed as from lower socioeconomic strata, often resorting to crime to fund their habit. Recent reports, however, suggest that drug users come from many different backgrounds, with white collar workers, civil servants, college students, and adolescents all represented in significant numbers.[12]

Furthermore, to prevent drugs abuse, education as well as socialization recognized as the most effective ways. It is as highlighted by Maharg, that in the legal education is need to be cautious about the place of theory in discussion of legal education for two reasons. *Firstly*, in education (and particularly educational psychology) there are strong positivist traditions of empirical theory and research that hold to what might loosely be termed a 'black box' view of human learning. The tradition is most closely associated with laboratory research paradigms, and adheres to a pre-test, test and post-test model of research. *Second*, and related to the first point, it is often the case in education that an openness to alternatives in theory is essential. Legal education rarely tolerates theoretical absolutes.[13]

In the same context, it is also emphasized that implementation of supervisory duty on illicit drug trafficking is needed joint effort between law enforcement apparatus and all societyelememt. The large amount of drugs

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[11] D.Werb, A. Kamarulzaman, M. C. Meacham, C. Rafful, B. Fischer, S. A. Strathdee, & E. Wood, The Effectiveness of Compulsory Drug Treatment: A Systematic Review. *International Journal of Drug Policy*, Volume 28, 2016, pp.1-9. https://doi.org/10.1016/j.drugpo.2015.12.005

[12] Qiu Ting Chie, Cai Lian Tam, Gregory Bonn, Chee Piau Wong, Hoang Minh Dang and Rozainee Khairuddin, Drug abuse, relapse, and prevention education in Malaysia: perspective of university students through a mixed methods approach, *Frontiers in Psychiatry,* Vol. 6(65), 2015, pp. 1-13. https://doi.org/10.3389/fpsyt.2015.00065.

[13] Paul Maharg, *Transforming Legal Education Learning and Teaching the Law in the Early Twenty-first Century*, Routledge, London, 2016, pp. 17-18; Restiana Pasaribu, Fight Narcotics with Community Strengthening: Crime Control Management by Community Policing, *JILS (Journal of Indonesian Legal Studies),* Vol. 3 No. 2, 2018, pp. 237-252. https://doi.org/10.15294/jils.v3i02.27533

abuse needs to get more attention, especially in the case of drug abuse prevention. The number of drugs abuse must be minimized so that the problem of drugs abuse is not widespread. Efforts to overcome the abuse of drug trafficking is a shared responsibility between family, community and government.[14]

Moreover, the problem of drugs abuse as well as illegal drugs trafficking beside need the integrated cooperation between stakeholders, also need to formulate a good laws and regulations to responds the problems,[15] as well o prevent the drugs abuse through education and community empowernment

In Yogyakarta, legal education to prevent drugs abuse, held in the district of Tegalrejo D.I. Yogyakarta runs smoothly, while the participants who attend the education consist of community leaders, village residents and youth groups. Throughout the activity the participants were enthusiastic and this was indicated by the number of participants who attended more than 50 people and the tranquility throughout the activity.

This activity is carried out in 2 stages, in the first stage educational activities on the substance of the drug are carried out with 2 (two) speakers conducted in a language that is straightforward and easy to understand, with the first speaker giving material to the drug itself, namely the origin of the drug, the utilization drugs that are appropriate for their use, recognize the types of drugs in circulation, their effects, the modus operandi of dealers and the characteristics of drug users.[16]

Here the residents are explained about the origin of opium which was first used by the Sumerians as a plant of happiness which was further used in the past as a medicine for pain relief during medical operations, with this information residents can know that basically the use of drugs is permitted as long as it is carried out for medical world in terms of treatment carried out by prescription and proper supervision. Apart from that the residents were also informed of the types of drugs and their inheritance, including Marijuana, Methamphetamine, Opium, Heroin, Cocaine and Ecstasy, the introduction of these types of citizens is expected to be able to understand

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[14] Restiana Pasaribu, Fight Narcotics with Community Strengthening: Crime Control Management by Community Policing, *JILS (Journal of Indonesian Legal Studies),* Vol. 3 No. 2, 2018, p. 239.

[15] Indah Sri Utari & Ridwan Arifin, Law Enforcement and Legal Reform in Indonesia and Global Context: How the Law Responds to Community Development?, *Journal of Law and Legal Reform*, Vol. 1 No. 1, 2019, pp. 1-4. https://doi.org/10.15294/jllr.v1i1.35772

[16] Romli Atmasasmita, *Tindak Pidana Narkotika Transnasional dalam Sistem Hukum Pidana Indonesia*, Citra Aditya Bakti, Bandung, 2013, pp. 64-66.

the shape of these prohibited objects in order to avoid and report to the authorities if they know the existence drugs.[17]

The modus operandi presented by the speaker is with the aim of citizens being able to anticipate the dealers who are around, especially the migrants in Tegalrejo, as many of the modus operandi by the dealer include being distorted in a workshop or in books and other objects which are then circulated. Besides that the speaker also explained the characteristics of drug users in the hope that residents could know if one of the Tegalrejo residents were users so that further treatment could be done in the hope that the drug users could be rehabilitated.[18]

The second speaker explained about the sanctions in effect from the provisions of the law, as for acts that can be ensnared by law if carrying out activities related to drugs without proper supervision, such as the threat of punishment for those who own, store, plant, produce, sell and sell buying as well as drug abuse. By providing information on legal sanctions, it is expected that Tegalrejo residents will supervise each other, especially teenagers, so that they do not engage in drug-related activities.

In the final stage of the drug dangers, a question and answer session was held between residents and presenters, here seemed enthusiastic about the public asking questions about the presentations that had been delivered by the speakers. Activities that last for approximately 3 hours can run smoothly without any obstacles or obstacles. At the end of the activity conclusions can be drawn to residents of Tegalrejo including more supervision of adolescents, data collection on migrants who are in Tegalrejo and holding positive activities to avoid the dangers of drugs.

D. Conclusion

The knowledge of Tegalrejo residents is increasingly on the dangers of drugs. Education provided is a step to convey information about the dangers and legal sanctions for drug abuse. The awareness of residents to keep Tegalrejo free from drugs is higher with increased supervision and siskamling activities around the Tegalrejo area.

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[17] Hari Sasangka, *Narkotika dan Psikotropika dalam Hukum Pidana*, Mandar Maju, Bandung, 2011, pp. 25-29; Kusno Adi, *Kebijakan Kriminal dalam Penanggulangan Tindak Pidana Narkotika oleh Anak*, UMM Press, Malang, 2014, pp. 54-57.

[18] Supreme Court Circular No. 3 of 2011 concerning the Placement of Victims of Drug Abuse in the Institute for Medical Rehabilitation and Social Rehabilitation

E. Acknowledgments

These remarks were conveyed to the University of Janabadra, Tegalrejo Sub-District Head, village head, community leaders, Karang Taruna Tegalrejo Chairperson and all the organizers of the legal hazard education activities.

F. Declaration of Conflicting Interests

The authors state that there is no potential conflict of interest in the research, authorship, and / or publication / publication of this article.

G. Funding

Program of the community services and research funded by Research Program Grant, Research and Community Service Institute, Universitas Janabadra Yogyakara, Indonesia, 2019.

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QUOTE

Strength does not come from physical capacity. It comes from an indomitable will.

Mahatma Gandhi

Indonesian Journal *of* Advocacy and Legal Services
ISSN: 2686-2085 (Print) ISSN: 2686-2611(Online)
Vol. 1 No. 2 (2020): 205-222 DOI: 10.15294/ijals.v1i2.36094

Submitted: 9 November 2019 **Revised**: 24 December 2019 **Accepted**: 26 December 2019

RESEARCH ARTICLE

Criminal Acts Performed by Children in the Perspective of Criminology (Case Study in Gorontalo City on 2008-2012)

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Abstract: This study aims to determine the factors that lead to criminal offenses committed by children in the city of Gorontalo and how the response to the occurrence of criminal offenses committed by children in the city of Gorontalo. Data were collected through interviews, questionnaires. Analysis of the data used is data analysis that seeks to provide a clear and concrete description of the object that are discussed qualitatively and then the data is presented in descriptive technique that uses a frequency distribution test with the formula P = F / N x 100%. The results showed that the root causes of criminal offenses committed by children in the city of Gorontalo is the environmental factor family and social environment, socio-economic condition factor, factor the low level of education, liquor as psychological factors, and factors that are less religious knowledge. Efforts to control criminal offenses committed by children in the city of Gorontalo there are three forms: preventive countermeasures (prevention), attempts repressive and rehabilitation efforts

Keywords: Juvenile Crime, Criminology, Children, Crime Prevention

How to cite:
Sarson, M.T.Z. (2020). Criminal Acts Performed by Children in the Perspective of Criminology (Case Study in Gorontalo City on 2008-2012). *Indonesian Journal of Advocacy and Legal Services,* 1(2), 205-222. DOI: 10.15294/ijals.v1i2.36094

A. Introduction

Crime is an act that has been perpetually carried out by humans from the past until today. Humans do bad deeds both to themselves and to others. Evil behavior is carried out by anyone, both women and men, can take place in children and adults. Evil is a name or stamp given by people to judge certain actions, as evil deeds. Thus the offender is called a criminal. This understanding comes from the realm of values, so it has a very relative understanding, that is, it depends on the human being who gives that judgment. So what is called a crime by someone is not necessarily recognized by other parties as a crime anyway. Even if for example all groups can accept something that is a crime but the severity of the act still causes differences of opinion.[1]

Children are an inseparable part of human survival and the survival of a nation and state, in the Indonesian constitution, children have a strategic role, this is expressly stated that the State guarantees every child the right to survival, growth, and development as well as the right to protection from violence and discrimination. Children are a mandate from God Almighty which is inherently inherent in their dignity and as a whole human being. Every child has dignity and worth that is upheld and every child born must get his rights without the child asking. This is in accordance with the provisions of the Convention on the Rights of the Child ratified by the Indonesian government through Presidential Decree Number 36 of 1990, then also set forth in Law Number 4 of 1979 concerning Child Welfare and Law Number 23 of 2002 on Child Protection all of which revealed general principles of child protection, namely non-discrimination, the best interests of children, survival and development, and respect for children's participation.[2]

The problem of children today, is still a very actual problem where almost all countries in the world in general and Indonesia in particular,

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[1] Anggie Rizqita Herda Putri & Ridwan Arifin, Perlindungan Hukum Bagi Korban Tindak Pidana Perdagangan Orang Di Indonesia (Legal Protection for Victims of Human Trafficking Crimes in Indonesia), Res Judicata, Vol. 2 No. 1, 2019, pp. 170-185. DOI: http://dx.doi.org/10.29406/rj.v2i1.1340; Ridwan Arifin, Democracy on Indonesian Legal Reform: How Can People Participate on Laws and Regulations Establishment Process, *JILS (Journal of Indonesian Legal Studies)*, 2(2), 2017, pp. 155-158. DOI: https://doi.org/10.15294/jils.v2i02.19439. Even for crimes conducted by children or juveniles have been negative steroypes, *see* Ria Juliana & Ridwan Arifin, Anak dan Kejahatan (Faktor Penyebab dan Perlindungan Hukum), *Jurnal Selat*, Vol. 6 No. 2, 2019, pp. 225-234. DOI: https://doi.org/10.31629/selat.v6i2.1019

[2] Law Number 4 of 1979 concerning Child Welfare and Law Number 23 of 2002 on Child Protection (State Gazette of The Republic of Indonesia of 2002 Number 109, Supplement to State Gazette of The Republic of Indonesia Number 4235).

attention to the problem of child delinquency has been widely discussed among the public, seminars that have been conducted by several institutions and women's and children's observer organizations, as well as government agencies that are closely related to the problem of delinquency in these children.[3]

Juvenile delinquency is an act committed by a child that is not in accordance with applicable regulations in the community, a child's mischief can be divided into ordinary delinquency and delinquency which is a criminal offense. Habits such as gathering together late into the night, scribbling on walls, speeding with vehicles on public roads are common delinquency, while juvenile delinquency which is a criminal offense is that his actions are threatened with the threat of criminal penalties, such as stealing, carrying out persecution, carrying weapons sharp, brawl, fighting with friends.[4]

The existence of children in our environment really needs attention, especially regarding their behavior. In the development towards adulthood, sometimes a child does something out of control and he/she does an act that is not good, so that it harms oneself and even others. The birth of Law Number 12 of 1995 concerning Corrections and Law Number 3 of 1997 concerning Juvenile Court which has been amended by Law Number 11 of 2012 concerning the Juvenile Justice System has provided a strong legal basis for discriminating treatment of children involved in a crime. Before the enactment of the Act, it was still very minimal legal regulations concerning the juvenile court.[5]

Facts that have shown about child delinquency problems, both spread through print and electronic media such as a junior high school student who committed theft at a stall near his school[6], acts of rape committed by high

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[3] Ria Juliana & Ridwan Arifin, *Loc.cit;* also see W.A. Bonger, *Pengantar Tentang Kriminologi*, Ghalia Indonesia, Jakarta, 1982, pp. 25-27.

[4] Kartini Kartono, *Pathologi Sosial Kenakalan Remaja*, Rajawali Pers, Jakarta, 1992, pp. 37-39.

[5] *See* Law Number 12 of 1995 concerning Corrections (State Gazette of The Republic of Indonesia of 1995 Number 77, Supplement To State Gazette of The Republic of Indonesia Number 3614); Law Number 3 of 1997 Concerning Juvenile Court (State Gazette of The Republic of Indonesia of 1997 Number 3, Supplement To State Gazette of The Republic of Indonesia Number 3668); Law Number 11 of 2012 Concerning The Juvenile Justice System (State Gazette of The Republic of Indonesia Year 2012 Number 153, Supplement To State Gazette of The Republic of Indonesia Number 5332).

[6] Sandhi Nurhartanto, Mencuri 11 Kali, Seorang Pelajar SMP Diamankan, *jatimnow,* December 3, 2019, https://jatimnow.com/baca-21750-mencuri-11-kali-seorang-pelajar-smp-diamankan; Anonym, Curi HP, Siswi SMP ini Dihukum Minta Maaf Saat Upacara dan Fotonya Dipajang, *detikNews,* January 28, 2015,

school children against their female friends[7], fights between children High school resulting in one student seriously injured in the city of Gorontalo, child abuse that started from illegal racing on the streets[8], a child who could kill his father by stabbing twice, because it was suspected that his father had an affair[9], and the seniors who mistreated younger classmates resulting in death, all of which are still elementary school children.[10]

The problem of children themselves, in Indonesia is a matter that really needs to be considered in the context of coaching young people. Regarding the punishment of children, this has been determined and formulated in Law Number 3 of 1997 concerning juvenile court and has been amended by Law Number 11 of 2012 concerning the Criminal Justice System for Children.

Based on 2008-2010 data, around 30 children were involved in delinquency. Among the delinquency cases of 17 children who committed offenses of abuse, the remainder was divided into cases of theft, molestation, embezzlement, etc.[11] The phenomenon of criminal acts committed by children in various major cities in Indonesia has reached a chronic stage. In the city of Gorontalo, for example, the phenomenon of criminal acts committed by children has become a frequent thing in society and is very unsettling, many children commit acts of abuse, theft, molestation and various other things that cause children to come into contact with the law. The city of Gorontalo, where the community still upholds the customs, must deal with the behavior of children today where most of the children's behavior has crossed the line even children often commit criminal acts.

Although various efforts have been made by the local authorities to overcome this problem, the facts in the field show the increasing symptoms.

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8 Ajis Halid, Diduga Dianiaya di Sekolah, Siswa SMA di Gorontalo Luka Lebam, *detikNew*s, August 20, 2019, https://news.detik.com/berita/d-4673397/diduga-dianiaya-di-sekolah-siswa-sma-di-gorontalo-luka-lebam; Christopel Paino, Siswa SMA dan SMK di Gorontalo Tawuran, *Tempo,* October 11, 2010, https://nasional.tempo.co/read/283941/siswa-sma-dan-smk-di-gorontalo-tawuran

9 Muhammad Gustirha Yunas, Diduga Selingkuh, Anak Tega Habisi Nyawa Ayahnya, *Liputan 6,* October 30, 2019, https://www.liputan6.com/news/read/4098659/diduga-selingkuh-anak-tega-habisi-nyawa-ayahnya.

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11 Data from Gorontalo City Police Resort, 2010

From the background description of the problem above and to focus more on this writing, the formulation of the problem raised is as follows: (1). what are the factors that cause a crime committed by a child in the Gorontalo city area?, and (2) what are the efforts made to reduce or overcome the occurrence of criminal acts committed by children in the city of Gorontalo?

B. Method

The location of this research is in Gorontalo City, Gorontalo Province, with a focus of study in the Gorontalo City Police Office, Gorontalo District Court, Gorontalo State Prosecutor's Office, and Class II B Penitentiary in Gorontalo City. The main consideration for the authors choosing the city of Gorontalo as a research location is because the city of Gorontalo is the capital of the Gorontalo province and is one of the developing commercial cities whose people are still diverse, there are aspects of differences among the population, starting from cultural background, socioeconomic level and people's behavior. All of these are very prone to cause crimes committed by children.

The population in this research are including Children as perpetrators of crime (prisoners), all cases of violence committed by children, police officers, prosecutors, Judges and State Detention Center employees. The sample of the parties relating to criminal offenses committed by children, drawn samples using probability sampling and non probability sampling techniques. The samples for the police, prosecutors, judges, and officials of the State Class IIA Gorontalo detention center were carried out using probability sampling techniques. Gorontalo) 2 people, Judges (Gorontalo District Court) 2 people, Children of Criminal Actors (Gorontalo City Penitentiary) 30 people, As well as those who are competent in the Class II A State Detention House of Gorontalo who are considered to understand and know about things that are be the object of research.

The types of data used in this study are: Primary data, is data obtained through field research with related parties in connection with this research. Secondary data, is data obtained through literature studies, namely by examining the literature, articles, and legislation in force.

The data obtained are primary data and secondary data will be processed and analyzed based on the formulation of the problem that has been applied so that it is expected to obtain a clear picture of violence against children. Analysis of the data used is data analysis that seeks to provide a clear and concrete picture of the object that is discussed qualitatively and subsequently the data is presented descriptively that is

explaining, describing, and describing in accordance with the problems that are closely related to research that uses frequency distribution test techniques with formula:

$$P = \frac{F}{N} X\ 100\%$$

Explanation:
P = Percentage
F = Frequency
N = Number of Respondents
100% = Multiplier Number

The location of the study was conducted in the city of Gorontalo in the province of Gorontalo. Gorontalo City is one of the regions which is directly bordered by Gorontalo regency and Bonebolango Regency. Gorontalo City is divided into 6 subdistricts and consists of 49 villages / wards. The population according to Gorontalo City Statistics data for the period 2008-2012 detailed according to the total area population and population density as on Table 1

Table 1 Total population area and population density on 2008-2012

Year	Total population (person)	Area (km²)	Population density (person / km²)
2008	165.175	67,,79	2.594
2009	181.102	67,79	2.795
2010	184.185	67,79	2.842
2011	186.193	67,79	2.924
2012	190.176	67,79	3.014

Source: Gorontalo City Central Statistics Agency

Table 1 showed that until 2012 the population in Gorontalo City increased, but the area of Gorontalo City never increased, making it very easy for social insecurity to occur in the community. Most of Gorontalo residents work as civil servants, both civil servants and private employees, because there are still many job vacancies in Gorontalo, but there are also many Gorontalo residents who work as farmers, fishermen, and bearers of bentor or as entrepreneurs, in general all types the work in the city of Gorontalo is evenly distributed to each resident.

C. Result and Discussion

1. Criminal Acts Conducted by Children in Gorontalo City on 2008-2012

a. Gorontalo City Police Data

To find out the level of development of criminal offenses committed by children in the city of Gorontalo in 2008 to 2012, the study was conducted at the Gorontalo City police station, for more details presented in the form of as on Table 2.

Table 2 forms of criminal acts committed by children in the city of Gorontalo from 2008-2012

No	Types of criminal acts committed by children	2008	2009	2010	2011	2012
1	Persecution and violence	2	1	3	3	4
2	Theft	1	-	2	2	3
3	Murder	-	-	-	-	-
4	Sexual abuse	2	1	2	3	3
5	Rape	-	-	-	-	-

Source: Gorontalo City Police of 2008-2012

Based on the results of an interview with AKP Nenank Sulistianita who must as the protection of women and children, he said that the association of children today is very worrying, many children are wrong to get along so that children can take actions that cause the child to come into contact with the law, child association becomes very uncontrolled, especially the role of parents in the child's association is very minimal, parents do not know their children associate with who and what is done by the child when hanging out in their environment, children also do not understand the consequences of the actions they do.

Not all cases that exist in Gorontalo city police are delegated to the prosecutor's office for further processing, because the police can now take actions where children who commit a crime are returned to their parents, or reconciled with victims, commonly referred to as police diversity. However, for acts of diversion the police are only in the form of minor criminal offenses such as minor maltreatment, theft carried out within the scope of the family.

b. Gorontalo District Prosecutors' Data

The data obtained from the Gorontalo District Prosecutors' Office are slightly different from the data obtained at the Gorontalo City Police Precinct because criminal cases committed by children handed over to the Prosecutor's Office are not only cases contained in the Gorontalo City Police

Precinct, but there are also a number of cases that are bestowed on prosecutors through the precincts in the city of Gorontalo, as on Table 3.

Table 3 Crimes committed by children in the city of Gorontalo from 2008-2012

No	Types of criminal acts committed by children	2008	2009	2010	2011	2012
1	Persecution and violence	2	9	5	8	8
2	Theft	2	10	4	5	4
3	Murder	-	-	-	-	-
4	Sexual abuse	-	5	-	1	3
5	Rape	-	-	-	-	-

Source: Gorontalo District Prosecutor's Office

Based on data obtained from the Gorontalo District Attorney's Office there are many cases of criminal acts committed by children, especially in the abuse and theft. According to Buchari Taslim Tuasikal, SH Head of General Crime Office of the Gorontalo District Prosecutor's Office, that for many cases of child abuse that have been delegated to the prosecutor's office, many children commit acts of abuse because children do not know the consequences that will be received. When carrying out these actions, the factors of association and upbringing from the family which makes it easy for children to commit acts of abuse, usually the children do the abuse to their peers or peers, but there are also children who commit acts of mistreatment to older people but are carried out jointly with her friend.

c. Data of Gorontalo Class II Correctional Institution

To obtain primary data about the causes of the crime committed by children in the city of Gorontalo, the data is directly obtained from the perpetrators in the Correctional Institution Class IIA of Gorontalo, while the number of perpetrators of criminal acts committed by children as shown on Table 4.

Table 4 Crimes committed by children in the city of Gorontalo in 2008-2012

No	Types of criminal offenses	Amount	Age	Sex
1	Persecution and violence	12	14-17	Men
2	Theft	14	12-17	Men
3	Murder	-	-	-
4	Sexual abuse	4	13-17	Men
5	Rape	-	-	-

Source: Class IIA Correctional Institution of Gorontalo

Table 4 emphasizes that the crime committed by children of age interval is between 13 years to 17 years. A person's age is very influential in the maturity of thinking, especially the maturity in distinguishing deeds that are proper and inappropriate. They have realized and felt the meaning and responsibility for fulfilling the needs of life itself. Age in certain respects still allows one to become deeper into the dynamics of the psyche.

Humans when viewed as objects in a wave of crime, it is related to the level of age, first he commits crimes against property, then commits violent offenses such as persecution and murder, after that he tends to commit crimes of forgery, as well as crime decency is often done by people who reach adulthood. As a problem that has an influence on a person's attitude, the age factor is considered to be very important in influencing someone to take an action, especially an act against the law.

2. Factors Causing the Occurrence of Crimes committed by Children in Gorontalo City

Based on the results of research obtained in the field by using several approaches including Questionnaires, Interviews, and Documentation, there are several factors that influence children to commit criminal acts, while those factors as follows.

a. Family Social Environments Factors

The family environment is one of the special groups that first affect a child"s life. The family is the beginning of life from the life of a newborn child. In the family, a child learns to play a role as a social creature that has certain norms and skills in association in the midst of society. The experiences gained in the family really determine the ways of behaving of a child with an environment outside the family, namely the community environment.

Factors that also influence the occurrence of crimes committed by children are social factors. A bad environment, where there is a lot of unemployment, many places where liquor is a potential for the birth of delinquency and leads to criminal offenses of children and adults in general.

b. Socio-Economic Conditions Factors

Economic influence is often carried out research by criminology disciplines to study the relationship between socio-economic conditions and crime rates, arguing that indeed as long as the socio-economic condition is

an aspect of social behaviour and it certainly cannot be excluded against the emergence of various kinds of crime.[12]

Socioeconomic conditions have a close relationship with employment status. With someone's erratic work, it's rather difficult to pay for their daily needs, if if someone is married/has a family and already has children, then the possibility of pressure will always be there.[13]

Thus, the socio-economic condition of the offender's parents has proved to have an important role in supporting a child to be neglected, naughty and evil. Therefore basically poverty will cause great danger to the human soul. In connection with this to see the low socioeconomic status of the perpetrators of crime is the work of the perpetrators' parents. It turns out that many of them have parents who work as motorbike pedicab drivers (*becak motor*, or bentor), unskilled laborers and some even have erratic jobs.

Thus it can be qualified that the low income of their parents can lead to criminal acts. This is possible because the condition of parents who are busy making a living so that there is no attention to children. In addition, parents are also not able to meet all the needs that children want, so children tend to no longer listen to the advice of their parents. These children then become wild and can no longer be controlled. Weakening of the control function causes social ties with parents and the community to be broken.

c. Factors of Low Education Level

Formal education is the second educational tool or facility after the family environment for a child. Where major cities in Indonesia today, especially in the city of Gorontalo, adolescence is still a period of school, especially in the early days, where the period is generally children are still in junior high school or the equivalent. However, this fact cannot be denied that a child who has dropped out of school is not the least caused by various factors that can hinder the educational process of the child concerned.

The lack of school facilities and infrastructure is one of the factors causing children to drop out of school, in addition to other factors such as the ability of children's parents to be unable to pay for their children to a higher level of education. High and low formal education of a child or society

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[12] Topo Santoso & Eva Achjani Zulva, *Kriminologi*, Raja Grafindo Persada, Jakarta, 2002, pp. 78-79; Romli Atmasasmita, *Teori dan Kapita Selekta Kriminologi*, Eresco, Jakarta, 1992, p. 37; J.E. Sahetapy, *Pisau Analisa Kriminologi*, Armico, Bandung, 1983, p. 45; B. Simanjuntak, *Pengantar Kriminologi*, Tarsito Bandung, 1981, p. 59.

[13] Kartini Kartono, *Pathologi Sosial Kenakalan Remaja*, Rajawali Pers, Jakarta, 1992, pp. 66-69

in general, is very decisive in every attitude and behavior in daily life in the community.

Therefore it seems to play an important role in human life, when compared with other institutions. Thus, a low education can also be said to be narrow-minded so that it is easily influenced by bad behavior through actions that can harm others. One thing that needs to be pointed out here, that the low level of education is not absolutely a major cause of crime, especially those committed by children in the city of Gorontalo. But this cannot be denied, because many cases of crimes committed by children of educational level are very low.

d. Alcohol as a Psychological Factor

One psychological factor for children is alcoholism. Most of them think that consuming alcoholic drinks can increase energy, increase self-confidence, or as a remedy for feelings of disappointment, mental stress, anxiety and tension due to the problems being faced. Children often also assume that after consuming alcoholic drinks there is a feeling of loss of fear, feeling himself the most great so that children are free to do something without having to think about others. Most of them consume alcohol because of a complex background, fad or want to adjust to the group of friends.

So children who often consume liquor will be easier to commit a crime compared to those who have never consumed liquor, this is due to liquor can make a child's psychological damage so that all actions and behavior can not be controlled which results in children dealing with the law.

e. Religious Factors

Religious factors are very important in controlling one's personality, especially children. Children who are devout worship will avoid deviant behavior let alone commit a crime. Children must be taught early on matters of religion so that children know what he must do and can control all actions that he will do.

3. The Effort for Juvenile Crimes Prevention in Gorontalo

Efforts to deal with criminal acts committed by children are basically carried out by:

a. Preventive Efforts

Preventive efforts undertaken or taken in the context of improving, controlling and monitoring the behavior of children and their environment include, among others:

1) *Guidance and Counseling*

Efforts to tackle crimes committed by children in the form of counseling is an effort to prevent crime in an effort to prevent the occurrence of crime for the first time, meaning that this effort is a basic effort given to potential perpetrators of crime in order to gain an understanding of the impact and consequences that will be obtained if committing a crime. Efforts in the form of counseling can be done alone by the police who work directly with related parties in the crime prevention effort.

2) *Involving Communities in Positive Organizations*

The formation of well-coordinated associations or clubs such as the formation of youth clubs, the formation of youth mosques, sports clubs and so on will channel the talents and aspirations of the younger generation. The talent that is channeled is more beneficial when it can be used as a source of income and at the same time opening new jobs, thereby reducing unemployment in the city of Gorontalo.

3) *Role of the Family*

The family provides an important role in the development of children even as a foundation for the personality of a child. Therefore parents who are responsible for looking after their children should be able to give full love so that the child feels as if he has never lost his father and mother. Besides that, the physical needs of the child must also be met as appropriate so that the child is protected from unlawful acts. In dealing with child crime and delinquency, parents should be able to provide the following actions:

a) The importance of a close relationship between parent and child;
b) Instill good mental character in children;
c) Provide supervision and protection of children;
d) Instill discipline in children, and teach religious values to children from an early age.

Efforts to overcome crimes committed by children in the city of Gorontalo in a preventive manner, the municipal police of Gorontalo take actions such as raiding places and goods that can be used as places and tools for committing crimes by children, organizing control of children's ganks which disrupt public order, control of illegal races, control of sharp objects carried by children, and tighten supervision of crime-prone areas.

b. Repressive Efforts

This repressive effort is an attempt made to deal with criminal offenses committed by children that have already occurred. In principle, every action

when dealing with forms of delinquency and crime in children in any process must be educating and helping children to be aware of their actions, and return to the family and community well.[14] This also includes assisting officers to find ways or ways of appropriate solutions to problems of crime committed by children. As for the repressive efforts carried out as follows:

1) Investigation

In carrying out this action, Gorontalo City Police first considered and considered what was considered necessary, including:

a) In conducting an interrogation conducted in a family atmosphere in a calm atmosphere, so that the child feels safe and is not afraid
b) In the examination of children suspected of committing criminal offenses, parents/guardians must be accompanied if this is deemed necessary.
c) The examiner is authorized to present an expert and listen to the expert's information, regarding the actions committed by the child who committed the crime, which can later be used as a consideration in the examination.

2) Detention

The principle of detention carried out by Gorontalo municipal police of children who commit crimes is required to be the same as the principles of adult detention, but there are exceptions in certain matters that are deemed necessary in order to maintain the stability and security of a child who commits a crime, including:

a) Detention of the child is interpreted as an effort to protect the child
b) During detention, the child is allowed to keep in contact with parents or guardians and their families, besides that the child still gets his right to study.
c) While in detention, the child is given services such as health services, food and neat clothes.
d) The children are detained only as necessary, and most of them are returned to their parents or guardians, in the sense that they are detained outside (at home only), but remain under surveillance.

3) Prosecution

In prosecuting cases of children who commit a crime is to pay attention to the age of the child, because it relates to a shorter child detention time, the file handed over by the police has been equipped with

[14] Andi Zainal Abidin Farid, *Bunga Rampai Hukum Pidana*, Pradnya Paramita, Jakarta, 1983, p. 57; *see also* Andi Zainal Abidin Farid, *Hukum Pidana I*, Sinar Grafika, Jakarta, 1995, pp. 77-79; A.S. Alam, *Pengantar Kriminologi*, Pustaka Refleksi, Makassar, 2010, pp. 21-23; Moeljatno, *Asas-Asas Hukum Pidana*, Bina Aksara, Jakarta, 1987, pp. 30-32.

a social research report on a child suspect by Penitentiary (*Balai Pemasyarakatan,* or BAPAS) and also investigated whether the offense committed by the child done with an adult, the case file must be separated (*splitzing*). After that, it can be determined whether the case file meets the requirements or not to proceed to the court stage.

4) Trial *Examination*

The principles that must be considered by every judge in passing the verdict on children who commit a crime include:

a) The trial is held separately from the trial and the court procedures involving parents
b) Child trials are conducted in private, which aims to protect children, because if the trial is witnessed by the community there will be an assumption that the child is a bad person and guilty even though in this case they are not necessarily guilty because they are still in the process of examination, and this certainly alone is bad for the child's mental development.
c) The trial was attended by the parents or guardians concerned, with no permission of the press to attend the hearing
d) Judges appointed to preside over hearings are judges appointed specifically for this matter and represent their knowledge and special attention to children's problems
e) Judges are obliged to work on Diversity no later than 7 days after being determined by the head of the district court as a judge
f) The child has the right to be accompanied by a parent/guardian or guardian, legal counsel or other legal aid provider, and social counselor to assist the child.
g) The judge's decision must consider the social research report and the social counselor and is based on case studies, case reports and the views of expert witnesses
h) Judges' decisions are not burdensome, but help and protect so that the child can regret and be aware of the deeds and will not repeat the crimes that have been committed
i) The decision taken by the judge is the final decision which determines the fate of the child, so in making a decision, the judge must be careful to pay attention to many factors that affect the child, so the provision of imprisonment is the final decision to be taken.

c. Rehabilitation Efforts

Basically, bad children must be improved their attitude, behavior and mental condition, therefore the purpose of this rehabilitation is to prioritize the future interests of children who have committed a crime.

In principle, special coaching is done wherever possible at the parents' home or wallinya, and if it turns out according to the judge's consideration that the child cannot be returned to the parent or guardian, the State is responsible for fostering the child through a job training or coaching institute held both by the government and the private sector. Actions that can be taken on bad children are:

1) Returning to parents / guardians;
2) Submission to someone;
3) Treatment in a mental hospital;
4) Treatment at LPKS (Institute for Social Welfare);
5) Obligation to attend formal education and / or training provided by the government or private bodies;
6) Revocation of driving license;
7) Repairs due to criminal acts.

D. Conclusion

This research concludes that criminal offenses committed by children in Gorontalo city are influenced by several factors including: family and social environment factors, economic conditions, factors of the low level of education of perpetrators of crime, factors that often consume liquor and factors that lack knowledge The religion of the child who committed the crime. How to cope with criminal acts committed by children in the city of Gorontalo in broad outlines carried out three efforts, namely: (*1*) preventive efforts (prevention), (*2*) repressive efforts (repression), and efforts to repair and guidance (rehabilitation/curative).

E. Acknowledgments

These remarks were conveyed to the University of Janabadra, Tegalrejo Sub-District Head, village head, community leaders, Karang Taruna Tegalrejo Chairperson and all the organizers of the legal hazard education activities.

F. Declaration of Conflicting Interests

The authors state that there is no potential conflict of interest in the research, authorship, and / or publication / publication of this article.

G. Funding

None

H. References

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QUOTE

Strength does not come from physical capacity. It comes from an indomitable will.

Mahatma Gandhi

Indonesian Journal *of* Advocacy and Legal Services
ISSN: 2686-2085 (Print) ISSN: 2686-2611(Online)
Vol. 1 No. 2 (2020): 223-242 DOI: 10.15294/ijals.v1i2.36069

Submitted: 9 November 2019 **Revised**: 20 December 2019 **Accepted**: 2 January 2020

RESEARCH ARTICLE

Unraveling the Authority of Coal Mining Management by the Regional Government and Its Implications for Regional Autonomy

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Abstract: The region has the authority to manage and regulate its territory independently based on the mandate of Article 18 paragraph (2) of the 1945 Constitution. One such authority is to manage natural resources in this case conducting coal mining. The management of coal mining under the Minerba Act places the district/city government in authority in its management. Meanwhile, the Local Government Law places the provincial government also in possession of this management authority. This gave birth to the dualism of regulation in terms of the authority to manage coal, giving rise to a contradiction between one rule and another. The problem in this study is First, how is the condition of coal mining management by local governments in the perspective of regional autonomy? Second, what are the implications of the current coal mining arrangements by the regional government? The results of the study showed that coal mining authority from the district/municipal government under the Minerba Act then was transferred to the provincial government based on the Regional Government Law was reasonable because of various problems that arose from the authority of the district/city government. However, this fact puts the authority of coal mining management in dualism and disharmony in its regulation. This dualism has implications for the disruption of the pattern of authority relations between the central and regional governments, financial management between the central and regional governments, and the division of supervisory authorities between the central and regional governments.

Keywords: Authority; Regional government; Coal Mining; Implication

How to cite:
Bakung, D.A. (2020). Unraveling the Authority of Coal Mining Management by the Regional Government and Its Implications for Regional Autonomy. *Indonesian Journal of Advocacy and Legal Services,* 1(2), 223-242. DOI: 10.15294/ijals.v1i2.36069

A. Introduction

The region has the authority to independently manage and manage the region and its government. This is clearly mandated by Article 18 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution), which states that "*Provincial, Regency and City Regional Governments regulate and administer their own government affairs according to the Autonomy Principle and duties assistance*". The granting of authority to local governments aims to encourage efforts to improve people's welfare, equitable development and justice in the form of regional autonomy to the greatest extent.[1]

Affairs that can be managed by local governments include the management of natural resources included in the territory of an area. The implementation of the task of managing and utilizing natural resources by the regional government will be directly related to the principle of authority in the form of regional autonomy. Basically, the management of natural resources by regional governments must not be carried out without considering various factors, one of which is not in conflict with the policies or legal rules set by the central government.[2]

Affairs that are the authority of the regions in the principle of regional autonomy are divided into compulsory matters that are closely related to basic community services, including basic health education, public works and spatial planning, public housing and residential areas, peace, public order, and community protection, and social.[3] In addition, there are regional government affairs that are optional that relate to the utilization and management of superior potentials and specificities of the region concerned. Selected governmental affairs include marine and fisheries, tourism,

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1 Ridwan Arifin & Lilis Eka Lestari, Penegakan Dan Perlindungan Hak Asasi Manusia Di Indonesia Dalam Konteks Implementasi Sila Kemanusiaan Yang Adil Dan Beradab, *Jurnal Komunikasi Hukum (JKH),* Vol. 5 No. 2, 2019, pp. 12-25; Kania Dewi Andhika Putri & Ridwan Arifin, Tinjauan Teoritis Keadilan Dan Kepastian Dalam Hukum Di Indonesia (The Theoretical Review of Justice and Legal Certainty in Indonesia), *MIMBAR YUSTITIA*, Vol. 2 No. 2, 2019, pp. 142-58.

2 Julyatika Fitriyaningrum & Ridwan Arifin, The Regulatory Model for Eradication Corruption in Infrastructure Funding, *Varia Justicia*, Vol. 15 No. 1, 2019, pp. 36-42; Ridwan Arifin & Devanda Prastiyo, Korupsi Kolektif (Korupsi Berjamaah) Di Indonesia: Antara Faktor Penyebab Dan Penegakan Hukum, *Jurnal Hukum Respublica*, Vol. 18 No.1, 2018, pp. 1-13.

3 Article 12 paragraph (1) of Law Number 23 of 2014 concerning Regional Government as amended by Law No. 9 of 2015 the second amendment to Law No. 23 of 2014 concerning Local Government.

agriculture, forestry, energy and mineral resources, trade, industry, and transmigration.[4]

One of the natural resources that can be managed by local governments is the coal mining sector. The exercise of regional government authority in the coal mining business was handed over to the provincial government as an extension of the central government in the regions. This is clearly seen in the mandate of Law No. 23 of 2014 as amended by Law No. 9 of 2015 concerning Regional Government (Local Government Law).[5]

Based on the latest Local Government Law, the authority of the regency or city government in the administration of government affairs in the mineral and coal mining sector is eliminated again. Whereas previously based on Law No. 4 of 2009 concerning Mineral and Coal Mining (Minerba Law), regency/city local governments have authority in terms of coal mining management, starting from the granting of Mining Business Permits (*Izin Usaha Pertambangan,* hereafter called as IUP) to the development and supervision of post-land mine.[6]

The management and utilization of coal mining is related to regional own-source revenue and is directly correlated with the division of authority at the level of government in carrying out regional government based on the principle of decentralization. Therefore, the dualism of regulation in terms of the authority to manage coal creates a contradiction between one rule and another. On one hand the government is delegating authority to manage natural resources in the field of coal mining to the district / city government in the form of decentralization with legal umbrella under the Minerba Law, on the other hand the government through the latest Regional Government Law transfers the authority to manage the mining to the provincial government.[7]

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4 Article 12 paragraph (3) of the Local Government Law

5 *See* Articles 14 and 15 (Attachment) of the Local Government Law

6 *See* Article 8 of the Coal Mineral Law, also see Rodiyah, *Membangun Politik Hukum Sumber Daya Alam (Politik hukum pengelolaan SDA Indoesia (Perspektif UU No. 23 Tahun 2014 Berbasis pada Efektifitas Pemerintahan yang Mensejahterakan),* Thafamedia, Yogyakarta, 2016, pp. 155-142.

7 For further reading, *see* Nabbilah Amir, Lady Grace Natalia Mintia, Tasya Maulina Kharis, Responsibilities of Mining Entrepreneurs for Losses from Mining Activities in Indonesia (Case Study in Samarinda Province of East Kalimantan), *Advances in Social Science, Education and Humanities Research Proceedings of the 2nd International Conference on Indonesian Legal Studies (ICILS 2019),* Vol. 363, pp. 133-139; Rodiyah, Reformation of the Administration of Village Government in Indonesia Based on Law Number 6 of 2014 on Villages (Comparing Normative and Empirical Facts on Villagers Participation), *Advances in Social Science, Education and Humanities Research Proceedings of the 1st International Conference on Indonesian Legal Studies (ICILS 2018),* Vol. 192, pp. 264-269.

Starting from the description of the above thought, the problems raised are: First, how is the condition of coal mining management by the regional government in the perspective of regional autonomy? Second, what are the implications of the current local coal mining arrangements?

B. Method

This research is a juridical-normative research using the statutory approach, case approach and historical approach. Through these three approaches, problems can be seen that the implications of the management of coal mining are based on existing arrangements, as well as from the perspective of regional autonomy.

C. Result and Discussion

1. Management of Coal Mining in the Regional Autonomy Perspective

Regional autonomy is the right of authority, and the obligation of autonomous regions to regulate and manage their own government affairs and the interests of local communities in accordance with statutory regulations.[8] Regional autonomy is held not only to ensure the efficiency of governance, but also a way to maintain a unitary state.[9] Referring to the unitary state institutions, in autonomy there is an element of supervision (*toetzicht*).[10] Therefore, the implementation of regional autonomy cannot be separated from the process of supervision by the central government within the framework of a unitary state.

Regional autonomy in a unitary country like Indonesia was born from decentralization or the distribution of authority from the central government to regional governments. The decentralization model adopted in the concept of a unitary state will ultimately also affect relations between the central and regional governments, especially those relating to the distribution of regulatory authority over government affairs, and therefore, the existence of a multi-layered and multi-level government unit whose purpose is to prevent the domination of higher government authority.[11]

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8 Article 1 paragraph (5) of the Local Government Law

9 Bagir Manan, *Menyongsong Fajar Otonomi Daerah*, Pusat Studi Hukum (PSH) Hukum UII, Yogyakarta, 2001, p. 3.

10 Bagir Manan, *Hubungan Antara Pusat dan Daerah Menurut UUD 1945*, Pustaka Sinar Harapan, Jakarta, 1994, pp. 22-29.

11 Muhammad Fauzan, *Hukum Pemerintahan Daerah Kajian Tentang Hubungan Keuangan Antara Pusat dan Daerah*, UII Press, Yogyakarta, 2006, p. 80.

The regional autonomy regime is currently contained in the Regional Government Law. In the current practice of regional autonomy, in addition to the decentralization model, the Regional Government Law also provides the authority to grant authority from the central government to the provincial government based on the principle of deconcentration. Even though the Regional Government Law regulates such principles as the principle of division of authority based on the principles of decentralization and deconcentration, in the Regional Government Law it also still carries problems related to the relationship between the center and the regions, these problems in practice have led to spanning interests between the two government units, especially in a unitary state, the efforts of the central government to always be in control of various government affairs are very clear.[12]

In a unitary state, all governmental power is in the hands of the central government. The central government can delegate its power to constituent units but what is delegated may also be withdrawn. One of the authorities that can be given by the central government to local governments is the process of natural resource management, in this case specifically coal mining.

Coal mining in the Indonesian jurisdiction, is a non-renewable natural wealth, plays a very important role in fulfilling the lives of many people. The mining sector also plays a role in providing an economic multiplier effect. Mining business has a positive impact which is to increase the country's foreign exchange and local original income.[13] In the field of manpower, mining businesses absorb a lot of labor both nationally and internationally. Apart from the positive impact, the mining business should be managed by taking into account the principles of environmental management as stipulated by the law.[14]

Mining companies have a very significant role in the regional economy, both in increasing the economic income of the community, employment, and the development of education. With regard to the national economy, the mining business contributes to increased exports in the mining sector.[15] Meanwhile, coal mining is specifically expected to grow the regional economy through local tax revenue, employment which has an impact on

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12 Dudung Abdullah, Hubungan Pemerintah Pusat Dengan Pemerintah Daerah, *Jurnal Hukum Positum*, Vol. 1, No. 1, 2016, p 83.

13 Fenti U. Puluhulawa, *Pertambangan Mineral Batubara Dalam Perspektif Hukum*, Interpena, Yogyakarta, 2014, p. 15.

14 *Ibid.,* p. 16

15 Irwandy Arif, *Permasalahan dan Tantangan Industri Pertambangan di Masa Yang Akan Datang*, Presented at National Seminar of Mineral and Coal Mining, Geology Students Union, Universitas Hassanuddin, 20 April 2009, p. 2.

local community income. Its presence greatly contributes greatly to the local economy and community acceptance.[16]

As a state that adheres to the principle of a unitary state, where the holder of state power is carried out centrally by the central government, so that all state affairs become the rights, authority, and obligations of the central government. However, through the concept of decentralization or autonomy, the government delegates as its authority to be implemented by the regions. The delegation of authority of this region is in order to provide opportunities for regions to participate in improving the welfare of the community.

In this regard, the process of managing coal mining whose authority is given to local governments is a form of implementing regional autonomy in accordance with the mandate of the Regional Government Law. In addition, the authority to manage coal mining by local governments is also contained in the Minerba Law. Therefore, the main idea of conducting a mining business is in the context of the implementation of decentralization and regional autonomy, the management of coal mineral mining is carried out based on the principle of externality and efficiency involving the government and regional governments.[17]

Constructively the mining management authority is handed over directly by the central government to the regional government in the form of regional autonomy so that the utilization of natural resources in the field of coal mining in the form of exploration must be carried out in a sustainable manner and based on good planning so that it will bring prosperity and prosperity to all existing communities in the area.

2. Problems in Management of Coal Mining by Regency or City Region

The authority of regency or city management of coal mining which was born from regional autonomy creates problems in the process of granting permits. The authority of the regency or city regional head who carelessly and carelessly abolishes mining permits without a clear environmental impact analysis procedure thereby damaging the ecosystem of the area. In addition to the environment, it is not uncommon for people in the environment around mining to also experience social friction with mining owners.

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[16] Teuku Adi Pahlevi, et.al, Dampak dan EvaluasiPertambangan Batubara di Kecamatan Mereubo, *Risalah Kebijakan Pertanian dan Lingkungan*, Vol. 2 No. 2, 2015, p. 176.

[17] Fenti U. Puluhulawa, *Op.cit*. p. 169

Salim emphasized that a result of the mining business in Indonesia is the emergence of negative impacts in the mining of minerals as a result of the mining business. The negative impacts of the existence of the mining business such as: the destruction of the forest area in the area around the mine, pollution of the sea, disease outbreaks for residents who live in the mining area, as well as conflicts between communities around the mine and the mining company.[18]

The environmental problem is the first thing that is felt from the issuance of a coal mining permit. Data releases from Kompas Research and Development state that mining activities in East Kalimantan currently have an impact on environmental damage and eviction of residents. Damage to the environmental function includes erosion of the former mining area to form large holes resembling artificial lakes, landslides, and pollution of river water that has been consumed by residents. Whereas mining activities in this area are mostly based on 33 coal mining concession agreements (PKP2B) from the central government and 1,212 mining authorities from districts or cities (867 mining contract[19] of which are in Kutai Negara Regency, 138 in West Kutai Regency, and 76 in Samarinda).[20]

The cause of environmental cases according to Hartiwiningsih is partly sourced from policies that do not favor environmental interests, not exactly the type of sanctions at the application stage, there is no common perception among law enforcement regarding environmental cases, the low legality of employers regarding the importance of preserving environmental functions, the absence of synchronization vertical and horizontal in general environmental law and sectoral environmental law, there is no synchronization, synchronization, and harmony.[21]

In terms of licensing, data from the East Kalimantan Mining and Energy Office stated that a total of 1,180 mining authorization permits had been issued. Based on that number, an area of 391 thousand hectares originated from mining authorization permits that have entered the exploitation stage. Judging from the number of mining authorization permits, Kutai Kartanegara Regency ranks highest with 271 KP licenses followed by West Kutai with 138 KP permits and 73 permits districts, and then other regencies or cities. The largest coal mining area in East

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18 H. Salim HS, *Hukum Pertambangan Indonesia*, PT.Raja Grafindo Persada, Jakarta, 2008, p.6.

19 Hereinafter referred as KP (*kontrak pertambangan*)

20 Kompas, 28 July 2010, *Mahakam Pun Sudah di Kapling;* Kompas, 29 July 2010*, Bumi Tak Berona.*

21 Hartiwiningsih, *Penegakan Hukum Pidana Lingkungan*, Professor Inaugural Speech on Universitas Sebelas Maret, 2009, p.3.

Kalimantan Province is Kutai Kartanegara with an area of 1.2 million hectare, East Kutai with 670 hectares, and West Kutai with an area of 395 thousand hectare. The coal mining area above is the mining authority whose permit is issued by the regency or city government.[22]

Mining exploration that starts from land clearing or forest, stripping the soil layer and up to scouring soil at a certain depth directly results in the disruption of the ecosystem and environment in the area. In addition, the issuance of Law No. 19 of 2004 concerning Establishment of Government Regulations in lieu of Law Number 1 of 2004 concerning Amendment to Law Number 41 of 1999 concerning Forestry into a law allowing mining in protected forests is a disaster in environmental Conservation.[23]

The surge in mineral and coal mining licenses has increasingly pushed the acceleration of environmental damage. Changes in the landscape caused by mining activities increase the risk of disaster and vulnerability of an area. Drought, landslides, floods, and pollution caused by waste from mining activities. This environmental damage can be seen in Samarinda where the coal mining concession area which covers 71% of Samarinda City causes more and more regular flooding. Up to 2015, 35 flood points were recorded, up from 29 flood points in 2011. Not only crippling residents' activities, Samarinda floods have also undermined the State's finance amounting to Rp 600 billion taken from the East Kalimantan Regional Budget (APBD) each year.[24]

This explosion of licensing in a relatively short time has caused many problems, both administrative and field problems. Findings of the Corruption Eradication Commission (KPK) in the Coordination and Supervision of the Mineral and Coal Sector conducted since 2014, recorded: as many as 4,843 licenses that do not have a Taxpayer Identification Number; 4,563 licenses for the status of Non Clear and Clean; only 2,304 or 29% permits are obedient in paying taxes; as many as 25.8 million Ha of mining concessions out of 6,163 permits are in Conservation Forests, Protected Forests and Production Forests, but only 441,000 Ha or 517 permits have a Forest Area Borrowing Permit (*Izin Pinjam Pakai Kawasan Hutan* or IPPKH).[25]

The issuance of various mining authorization permits by the regional head indicates that there has been a sale in terms of mining licensing in the

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[22] www.kaltimpost, 4 June 2009

[23] Suparto Wijoyo, *Sketsa Lingkungan dan Wajah Hukumnya,* Airlangga University Press, Surabaya, 2005, p.28.

[24] Artikel 33, *Kilas Balik UU Pertambangan dan UU Pemda*, p.2, accessed on www.artikel33.co.id.

[25] *Ibid.*

region. This raises another problem, namely the regional head who flirted with the owner of the mining company so that a criminal bribery case ensnared in order to smooth a mining permit. Some regional heads such as the former Governor of North Sulawesi, Regent of Kutai Kartanegara, Regent of North Konawe, were caught in a arrest operation by the Corruption Eradication Commission in the case of coal mining licensing involving mining entrepreneurs.

In the case of mining business supervision, the region has only one technical supervision instrument, namely the mine inspector. Other issues related to mine inspectors also vary, ranging from the lack of number and quality of mining inspectors owned by the region, the extent of the mining area that must be monitored by the mine inspector, to the skewed view that the presence of mining inspectors is only a formality solely by mining companies and by regional officials. Therefore, any results resulting from the work of the mine inspector are merely administrative matters, so the resolution is carried out outside the court. Another problem related to the mine inspector is that when reporting on irregularities committed by a mining company, the party will get a transfer to another regional government unit, this is due to the anxiety of the mining company that has been previously reported to the regional head, resulting in practice which is not healthy under mine supervision in the area.

The number of permits issued by the local government indicates that there has been excessive use of regional authority in the management of natural resources in the field of coal mining. In addition, in its application in the field it also shows the transparency of the licensing process from the submission to the issuance of permits. There is almost no open information about who makes the permit application, who gets the permit, and what the process is. All forms of mining sector information have never been made accessible by the district government.

With the protracted mining conflicts that cannot be completely resolved by the local government, it is very natural that the coal mining permit implementation process will be withdrawn by the central government and given to the provincial government in the form of deconcentration through the Regional Government Law No. 23 of 2014.

3. Authority of Coal Mining Management by Local Governments

The birth of the Law on Mining is a form of fragmentation of natural resource arrangements that had previously been regulated in the Basic Agrarian Law. In general, the initial regulatory arrangements in the mining sector had begun during the Dutch East Indies through the Indische

Mijnwet Staatsblad of 1899 Number 214. The Staatsblad regulates the classification of minerals and mining operations. After the Staatsblad, the Netherlands Indies Government subsequently issued several other regulations related to mining, namely Mijnordonnantie 1907 which regulates work safety supervision, Mijnordonnantie 1930 which revoked Mijnordonnatie 1907 which in Mijnordonnatie 1930 the work supervision regulation was abolished.[26]

Regulations regarding mining regulations have gone through various phases, starting with Law No. 10 of 1959 concerning the Cancellation of Mining Rights, Law No. 37 of 1960 concerning Mining, Law No. 11 of 1967 Concerning Mining Principles to the last phase is Law Number 4 of 2009 concerning Mineral and Coal Mining.

Based on the Minerba law, the exploitation of mining activities, particularly related to management authority and the granting of mining authorization business permits, is also the authority of the regional government, in this case the provincial and district or city governments. This is clearly seen in Article 7 and Article 8 of the Minerba Law.

Article 7 stated that: Provincial authorities in the management of mineral and coal mining, *inter alia*, are:

a. Making regional legislation
b. Granting Mining business permit (*izin usaha pertambangan,* or IUP), fostering, resolving community conflicts and supervising mining businesses in cross regency/city and/or sea areas 4 (four) miles up to 12 (twelve) miles
c. Provision of IUP, guidance, resolution of community conflicts and supervision of mining operations in production operations whose activities are in crossing regency or city areas and/or sea areas 4 (four) miles up to 12 (twelve) miles
d. Provision of IUP, guidance, resolution of community conflicts and supervision of mining businesses that have direct environmental impacts across regencies /cities and/or sea areas 4 (four) miles up to 12 (twelve) miles
e. Inventory, investigation and research and exploration in order to obtain mineral and coal data and information in accordance with their authority
f. Management of geological information, information on potential mineral and coal resources, as well as mining information in provincial areas / regions

[26] Ahmad Redi, *Hukum Pertambangan Indonesia*, Gramata Publishing, Bekasi, 2014, pp. 40-41.

g. Preparation of mineral and coal resource balance in provincial areas / regions
h. Development and increase of added value of mining business activities in the province
i. Development and improvement of community participation in businessmining with regard to environmental sustainability
j. Coordinating permits and supervising the use of explosives in the mining area in accordance with their authority
k. Submitting information on the results of an inventory, general investigation, andresearch and exploration to the Minister and regents / mayors
l. Submitting information on the results of production, domestic sales, and exports to the Minister and regents/mayors
m. Guidance and supervision of post-mining land reclamation

Article 8 stated that: The authority of Regency/City Governments is regulated in the management of Mineral and Coal mining, including but not limited to:

a. Making regional legislation
b. Provision of IUP and IPR, guidance, resolution of community conflicts, and supervision of mining businesses in the regency/city area and/or sea area up to 4 (four) miles
c. Provision of IUP and IPR, guidance, resolution of community conflicts and supervising mining operations in production operations located in the district/city area and / or sea area for up to 4 (four) miles
d. Inventory, investigation and research, and exploration in order to obtain mineral and coal data and information
e. Management of geological information, mineral and coal potential information, and mining information in the regency/city area
f. Preparation of mineral and coal resource balance in the region district/city
g. Development and empowerment of local communities in mining operations by paying attention to environmental sustainability
h. Development and improvement of added value and benefits of activities mining operations optimally
i. Submitting information on the results of inventory, general investigation and research, as well as exploration and exploitation to the Minister and Governor
j. Submitting information on the results of production, domestic sales, and exports to the Minister and the Governor

k. Guidance and supervision of post-mining land reclamation
l. Increasing the ability of the district/city government apparatus in managing mining business
m. Enhancing the capacity of the provincial and district/city government apparatus in managing mining business.

The difference in authority is only in the jurisdiction of government alone. The intended difference is that the central government has the authority to cover management of the entire national territory, or across provinces, or if it is more than 12 miles from the coastline. Meanwhile, for the authority of the provincial and district/city governments, it is only up to 12 miles and four miles. In addition there are also forms of natural resource management which are carried out by monopolies by district/city governments, namely the granting of community mining permits.

Holistically, the Minerba Law clearly shows the spirit of decentralization within the framework of regional autonomy by regional governments. Therefore, through this Minerba Law, the Regency/City regional government is the government unit that receives the most benefits in managing coal mining. These benefits, for example, can be seen from the increase in local revenue. If the local government usually gets a smaller portion of the mining results, then given the authority, the opposite happens, where the district/city local government has a larger portion than the central government.

The granting of authority to the regions in the management of mining and coal shows that the Minerba Law is a response to the spirit of decentralized natural resource management. This attribution authority has never been given in the previous mining laws. The granting of the authority of the government to the regency/city is in line with the sting of regional autonomy in the principle of implementing decentralization. This is clearly illustrated in the general explanation of the Minerba Law which states that in the framework of the implementation of decentralization and regional autonomy, the management of mineral and coal mining is carried out based on the principles of externality, accountability and efficiency involving the government and regional governments. In addition, the authority possessed by the regency/city is very appropriate, because the regency/city government best understands the conditions of the potential natural resources contained in its area.

The birth of the Minerba Law which gives authority to government units other than the central government has been in line with legal

considerations. The Constitutional Court Decision[27] which states the meaning of "controlled by the state" must be interpreted to include the meaning of control by the State in the broad sense derived from the conception of sovereignty of the Indonesian people over all sources of wealth "Earth and water and natural resources contained therein, including the notion of public ownership by the collectivity of the people over the intended sources of wealth. The people collectively constructed by the 1945 Constitution of the Republic of Indonesia gave a mandate to the state to carry out its functions in carrying out policies (*beleid*) and management measures (*bestuursdaad*), regulation (*regelendaad*), management (*beheersdaad*), and supervision (*toezichthoudensdaad*) by the State.

Based on Minerba, the regency/city government is the level of government that has the authority to regulate authority and is responsible for all coal mining utilization and management activities. However, this is inversely proportional to the birth of the latest Local Government Law. In this Local Government Law, the authority for mineral and coal mining permits lies with the central and provincial government.

District/city government does not have the authority to determine whether or not mining licenses are issued. Considering that the regions are not producing natural resources for minerals and coal and have no income, the regional original income, this law is expected to equalize the general allocation fund (DAU) and the Special Allocation Fund (DAK).[28] Therefore, the granting of mining licenses is more focused on the central government, so that other regions do not feel abandoned or disadvantaged, but also in the context of the unitary state of Indonesia, it is hoped that all regions can develop.

The birth of this Local Government Law directly resulted in disharmony of the authority to manage coal mining by regencies/cities. The principle of regional autonomy that puts district/city as a government unit that can receive benefits directly from the management of coal mining places the district/city government in a weak position and will not benefit from a coal mining process carried out in its area.

4. Implications of Dualism Authority of Coal Mining Management

The problem that often arises in countries where the law is the foundation of state administration as in Indonesia is the number of

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[27] Decision of the Constitutional Court Number 002 / PUU-I / 2003 concerning the Testing of Law Number 22 of 2001 concerning Oil and Gas against the 1945 Constitution of the Republic of Indonesia, December 15, 2004, pp. 208-209.

[28] DAU (*Dana Alokasi Umum*), DAK (*Dana Alokasi Khusus*), *see* Minutes of the Draft Bill on Regional Government, 12 April 2012

regulations that are born from state government units, both horizontally and vertically. With so many existing regulations, it is not uncommon for disharmony between one regulation and another. This will result in the non-maximum regulation which becomes the legal umbrella of a policy. Disharmonization of regulations that occur directly affects the life of the state administration in Indonesia, namely the relationship between the composition of government (central government and provincial government).

With regard to the authority of coal mining management currently experiencing disharmony in the implementation of governmental tasks between the provincial government in the form of deconcentration from the central government and district/city governments mandated by two different laws, according to the authors, it has implications for three things, namely as follows.

1) The pattern of authority relations between the central and regional governments

The absence of district/city government authority in managing coal mining will affect coordination between the center and the regions. This pattern of authority has the potential to make the relationship between the Central Government and District/City Governments less mutually supportive as a whole. This is of course caused by the regency / city area which still feels heavy giving its authority to the provincial government.

In addition to disrupting the constitutional mandate in the implementation of regional autonomy, the Regional Government Law will also create other problems, for example the Governor will need a long time to review and take solutions related to mining problems that occur. At the beginning of the governor must be swift to make changes in the form of placement/transfer of competent employees in the field of mineral and coal mining to be placed in the province. If the state civil apparatus does have a mining background it will certainly make it easier for the governor. However, if the province does not or even has employees with a mining background, this will certainly cause other problems in the form of the governor recklessly appointing employees in line with his security to occupy that position. With the opening of the provincial authority, it is not impossible that the practice of Corruption and Collusion and Nepotism which previously undermined mining management issues in the district/city will also occur to the provincial government.

2) Financial management between the central and regional governments

Since the beginning of decentralization, it has been intended to support the achievement of the objectives of regional autonomy in order to improve people's welfare. To support this condition, the implementation of regional autonomy accompanied by fiscal decentralization, which includes the General Allocation Fund (DAU), Revenue Sharing Funds (*Dana Bagi Hasil,* or DBH) and Special Allocation Funds (DAK). In addition to the three fiscal instruments as a balancing fund, the government also allocates expenditure within the framework of the principle of deconcentration and co-administration tasks that are directly to the regions without going through the APBD.

Based on Law No.33 of 2004 concerning Fiscal Balance between the Central Government and Regional Governments, financial balance is defined as a system of financial sharing that is fair, proportional, democratic, transparent, and efficient in the framework of funding the implementation of decentralization by considering the potential, conditions, and needs of the region and the amount of funding for the implementation of deconcentration and co-administration tasks.[29] The policy of financial balance between the Center and the Regions is carried out by following the division of authority or money follows function. This means that the financial relationship between the Center and the Regions needs to be regulated in such a way that the expenditure needs that will be the responsibility of the Region can be financed from existing revenue sources.[30] Basically, it can be said that related to central-regional financial balance, that is, the money provided follows decentralized functions.

The implementation of fiscal decentralization follows the legal umbrella of implementing regional autonomy. Changes in legal instruments regarding regional authority in managing their regions will affect each of the fiscal decentralization policies. This can be seen in the change of authority in the financial pattern of coal mining management as a result of changes in the Regional Government Law.

With the current Local Government Law, the municipal district government will lose one source of Regional Original Revenue (PAD) due to

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[29] Article 1 paragraph (3) of Law No.33 of 2004

[30] Machfud Sidik, *Format Hubungan Pemerintah Pusat dan Daerah yang Mengacu pada Pencapaian Tujuan Nasional,* Paper on National Seminar "*Public Sector Scorecard*", Directorate General of Central and Regional Balance of the Ministry of Finance of the Republic of Indonesia, 2002.

the loss of authority in the field of mineral and coal mining.[31] In addition, another thing that has changed is about the provision of profit sharing funds. The 2014 Local Government Law only provides for elaboration and not nominal related to revenue sharing between the center and the regions.[32] This is different from Law Number 33 of 2004 which details the distribution of revenue sharing funds between the center and the regions. The absence of a clear division of the Regional Government Law according to the authors is odd, because between the two Acts accommodate the same financial principles. This will also have implications for the regulation of the Financial Balance Act between the Central Government and the Regions if there is a change in substance in the future.

3) Distribution of supervisory authority between the central and regional governments

The authority of the regency/city government is not given, so it is not only in terms of supervision that the regency/city government loses its authority but also in terms of the research process, the determination of coal mining areas. With the loss of district / city government authority in regard to the authority to exploit coal mining, it will affect many things. As it is known that mineral and coal mining is a type of non-renewable natural resources and its destructive nature is very high, so however, mining activities will be very detrimental to the environment and people who are in the mining area. Meanwhile, mining areas are always located within the regency/city. Therefore, according to the researchers, it becomes ambiguous when an area that should be managed by a local government is instead transferred to another government. By removing the authority of the district /city government indirectly, the supervision process cannot be carried out by the district/city government anymore, so this will certainly affect the environmental area and increase the consequences of damage to the ecosystem in the district/city.

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[31] Article 285 paragraph (1) of the 2014 Regional Government Law specifies that regional own-source revenues include: (1) local taxes; (2) local user fees; (3) results of the management of separated regional assets; and (4) others legitimate regional original income. Meanwhile, based on Article 2 paragraph (2) letter f of Law Number 28 Year 2009 concerning Regional Taxes and Regional Levies, it states that the PAD Component relating to the control of the Regency/City Regional Government in the field of mineral mining is the regional tax and the results of the management of regional assets that are separated.

[32] According to Law Number 33 of 2004 concerning Fiscal Balance between the Central Government and Regional Governments, DBH is 20% for the Central Government and 80% for Regional Governments (with details 16% for provinces and 64% for producing districts/cities). This is stated in Article 17 of Law Number 33 of 2004 concerning Financial Balance between the Central Government and Regional Governments.

With the negative impacts that always arise from an exploration and exploitation of natural resources, the supervision process will not be effective without involving local government structures. The absence of authority involving the district or city government in assisting the provincial government, will directly the process of integration and harmonization of policies will not run effectively. In addition, with a wide range of work, the provincial government in this case the Governor cannot intensively monitor, foster, and supervise if there are problems in the coal mining area.

D. Conclusion

The authority to manage coal mining owned by the regency /city government as contained in the Minerba Law has been in line with the spirit of regional autonomy mandated by the 1945 Constitution. However, with various kinds of problems that occur after the authority has been granted, it is very reasonable for the central government to withdraw the authority. The step of the central government through the legislators who then transferred the authority to the provincial government in the form of deconcentration actually gave birth to dualism and disharmony in the regulation of coal mining management authority. In addition to the loss of authority of district / city governments, the dualism also has implications for: the pattern of authority relations between the central and regional governments, financial management between the central and regional governments, and the division of supervisory authority between the central and regional governments.

E. Acknowledgments

Thanks to Universitas Negeri Goronatalo, Faculty of Law. Author also would like o express great thankfulness to Editorial Team Journal of Advocacy and Legal Services, Faculty of Law, Universitas Negeri Semarang, Indonesia.

F. Declaration of Conflicting Interests

The authors state that there is no potential conflict of interest in the research, authorship, and / or publication / publication of this article.

G. Funding

None

H. References

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QUOTE

Strength does not come from physical capacity. It comes from an indomitable will.

Mahatma Gandhi

Indonesian Journal *of* Advocacy and Legal Services
ISSN: 2686-2085 (Print) ISSN: 2686-2611(Online)
Vol. 1 No. 2 (2020): 243-258 DOI: 10.15294/ijals.v1i2.36093

Submitted: 28 November 2019 **Revised**: 3 January 2020 **Accepted**: 6 January 2020

RESEARCH ARTICLE

Legal Protection of Women as Victim of Domestic Violence

Case Study of Women and Children Service Units, Criminal Unit of Gorontalo City Police

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Abstract: This study aims to determine the extent of legal protection by the Women and Children Service Unit (PPA) of the Gorontalo City Resort Police Criminal Investigation Unit against women as victims of domestic violence and to find out what factors are obstacles to the efforts of the PPA Unit of the Criminal Investigation Unit Gorontalo Resort Police in tackling violence against women victims of Domestic Violence. Data collected through interviews and library research. Analysis of the data used is the data obtained will be analysed descriptively qualitatively describing the data obtained from field research (primary data), tested the truth then linked and analysed qualitatively with data obtained from library research (secondary). The results showed a form of legal protection by the PPA Unit of the Gorontalo Police Resort Criminal Investigation Unit against women as victims of domestic violence, namely preventive efforts by holding legal counselling in collaboration with the local government and further optimizing the performance of the Gorontalo City Resort Police Especially the PPA unit, repressive efforts that are in accordance with the rules of the Domestic Violence Protection Act. What factors hinder the efforts of the PPA Unit of the Gorontalo District Police Resort Criminal Investigation Unit in tackling violence against women victims of Domestic Violence, among others: legal factors themselves, law enforcement officer factors, factors or facilities that support law lnforcement, and society and culture factors.

Keywords: Domestic Violence, Women, Children, Legal Proection

How to cite:
Wantu, F.M., & Sarson, M.T.Z (2020). Legal Protection of Women as Victim of Domestic Violence. *Indonesian Journal of Advocacy and Legal Services,* 1(2), 243-258. DOI: 10.15294/ijals.v1i2.36093

A. Introduction

Marriage as a legal act between husband and wife, not only to realize worship to Allah SWT, but at the same time cause the legal consequences of civil law between the two. However, because the purpose of such a noble marriage is to foster a happy, everlasting, eternal family based on the Godhead, it is necessary to regulate the rights and obligations between each husband and wife. If their rights and obligations are fulfilled, then the desire of marriage based on love and affection will be realized.[1]

The concept of "family" is usually inseparable from the following four perspectives: (1) nuclear family; that the family institution consists of three main components, husband, wife and children, (2) a harmonious family, (3) the family is a continuation of generations (4) the family is the integrity of marriage. From these four perspectives it can be concluded that the family institution (household) is a unit consisting of father, mother (who is bound in marriage), children who are closely related to the elements of grandparents and other siblings, all showing their unity through harmony and a clear division of roles.[2]

The household should be a safe place for its members, because the family is built by husband and wife on the basis of the inner and outer bonds between the two. According to Article 33 of Law No. 1 of 1974 concerning marriage (Marriage Law) that: "Between husband and wife have an obligation to love, love, respect, and give assistance to one another physically and mentally."[3] However, in reality many households have become places of suffering and torture due to violence.

Violence against a wife in a household is often considered a hidden crime by criminologists. Even though it has taken quite a number of victims from various sections of the community, domestic violence (hereinafter abbreviated as domestic violence), is still a serious social problem that does not receive the attention of the community, because: (1) Domestic violence has a relatively closed (private) scope and privacy is maintained because the problem occurs in the household (family). (2) Domestic violence is often considered reasonable because of the belief that treating the wife as he

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1 Ahmad Rofiq, *Hukum Islam di Indonesia*, PT Raja Grafindo Persada, Jakarta,1998, p. 181.

2 Elli Nurh Ayati, *Tantangan keluarga pada Mellenium ke-3,* on Lusi Margiani & Muh. Yasir Alimi (ed.), *Sosialisasi Menjinakkan "Taqdir"Mendidik Anak Secara Adil,* LSPPA, Yogyakarta, 1999, pp. 229-230; Choirunnisa Nur Novitasari, Dian Latifiani, Ridwan Arifin, Analisis Hukum Islam terhadap Faktor Putusnya Tali Perkawinan, *SAMAAH: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 3 No. 2, 2019, pp. 322-341.

3 Law Number 1 of 1974 concerning Marriage (Marriage Law)

wishes is the husband's right as the leader and head of the household. (2) Domestic violence occurs in legal institutions, namely marriages.

Acts of violence on wives in the household is a serious social problem, but it does not get a response from the community and law enforcement for several reasons, first: the absence of accurate criminal statistics, second: acts of violence on wives in the household have a very scope privacy and privacy related to the sanctity of the home, third: acts of violence on wives are considered reasonable because the husband's rights as leaders and heads of families, fourth: acts of violence on wives in the household occur in legal institutions, namely marriages.[4]

The issue of domestic violence is one of the phenomena of various types of violence that occur today. As with other cases of violence that continue to increase, domestic violence is increasing from year to year. The phenomenon of violence against families can occur at anytime, anywhere, and under any circumstances. This violence includes physical and non-physical violence, sexual and economic violence.

Legal protection for women from violence, especially violence has been regulated in various national legal instruments. Legal substance related to violence against women can be seen in the Criminal Code (KUHP). At the Criminal Code there are several Articles that are directly related and can be qualified as acts of physical violence against women, namely, Article 351 of the Criminal Code up to Article 356 of the Criminal Code. Acts that fulfil the element of offense in these articles can be categorized as committing acts of violence in part in general nature. In addition to the Criminal Code which provides legal protection for female victims of physical violence also regulated in Article 6 states that: "Physical violence as intended in Article 5 letter a is an act that results in pain, illness, or serious injury". Then in Article 16 regarding the protection of victims states that: (1) within 1x24 (one time twenty-four) hours from knowing or receiving reports of domestic violence, the police must immediately provide temporary protection to victims. (2) Temporary protection as referred to in paragraph (1) is given no later than 7 (seven) days after the victim is received or handled. (3) Within 1x24 (once twenty-four) hours from the date of granting protection as referred to in paragraph (1), the police must request a letter establishing the protective order from the court.

Legal protection for women from violence, especially violence has been regulated in various national legal instruments. Legal substance related to

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[4] Hasbianto, Elli N, *Kekerasan Dalam Rumah Tangga*, Mizan Khasanah Ilmu-Ilmu Islam, Jakarta, 1996, p. 31; Khisbiyah Mohamad, *Melawan Kekerasan Tanpa Kekerasan*, The Asia Foundation–Pustaka Pelajar, Yogyakarta, 2000, pp. 45-47.

violence against women can be seen in the Criminal Code (KUHP). At the Criminal Code there are several Articles that are directly related and can be qualified as acts of physical violence against women, namely, Article 351 of the Criminal Code up to Article 356 of the Criminal Code. Acts that fulfill the element of offense in these articles can be categorized as committing acts of violence in part in general nature. In addition to the Criminal Code which provides legal protection for female victims of physical violence also regulated in Article 6 states that: "Physical violence as intended in Article 5 letter a is an act that results in pain, illness, or serious injury". Then in Article 16 regarding victim protection states that: (1). within 1x24 (one time twenty-four) hours from knowing or receiving reports of domestic violence, the police must immediately provide temporary protection to victims. (2). Temporary protection as referred to in paragraph (1) is given no later than 7 (seven) days after the victim is received or handled. (3). Within 1x24 (one time twenty-four) hours from the date of granting protection as referred to in paragraph (1), the police are required to request a letter stipulating a protection order from the court.

The Domestic Violence Protection Law was made in order to eliminate discrimination against women. The enactment of several laws and regulations as a legal instrument to protect women from violence, but in practice it cannot guarantee the legal protection of women from physical violence. Legal instruments have not been able to be the basis for guaranteeing legal protection for women.

Protection that is expected by the victim is protection that can provide a sense of justice for the victim. Domestic violence where the majority of victims are women is, in principle, one of the phenomena of human rights violations so that this problem is a form of discrimination, especially against women and is a crime whose victims need protection from both government officials and the community. Legal protection for women victims of domestic violence still causes problems, especially in recognizing provisions in criminal law that require a criminal act to be prosecuted only because of a complaint.[5]

In fact, law enforcement officials, namely the Indonesian National Police, have tried to minimize the problem of domestic violence through

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[5] Andi Hamzah, *Perlindungan Hak-Hak Asasi Manusia dalam KUHAP,* Bina Cipta, . Bandung, 1986, p. 112; Andi Zainal Abidin Farid, *Bunga Rampai Hukum Pidana,* Pradnya Paramita, Jakarta, 1983, pp. 27-30; Andi Zainal Abidin Farid, *Hukum Pidana I,* Sinar Grafika, Jakarta, 1995, pp. 35-36; Ridwan Arifin & Lilis Eka Lestari, Penegakan Dan Perlindungan Hak Asasi Manusia Di Indonesia Dalam Konteks Implementasi Sila Kemanusiaan Yang Adil Dan Beradab, *Jurnal Komunikasi Hukum (JKH),* Vol. 5 No. 2, 2019, pp. 12-25.

KAPOLRI Regulation No. 10 of 2007 concerning Organization and Work Procedures. Based on these regulations, a unit was formed to provide services, protection for women and children, which is called the Women's and Children's Service Unit (PPA Unit). The PPA Unit is located under the Criminal Investigation Unit (Sat Reskrim) of the Resort Police. The main task of the PPA Unit is to provide services in the form of protection of women and children who are victims of crime or violence and enforce the law against perpetrators. In carrying out its duties, the PPA Unit carries out functions as the organization of services and legal protection, the conduct of investigations and criminal investigations, the implementation of cooperation and coordination with related agencies. In carrying out their duties, the PPA Unit is led by Kanit (Unit Head) in organizing the protection of women and children who are victims of crime and law enforcement against perpetrators. With the establishment of the PPA Unit, it is expected to be able to support the realization and protection of domestic violence against women.

B. Method

Based on the background of the above problems, the problems in writing this research are: What is the form of legal protection by the PPA Unit of Reskrim Police of Gorontalo City against women as victims of domestic violence and what factors are hampering the efforts of the Sat Reskrim PPA Unit Gorontalo city police in tackling violence against women victims of domestic violence?

The location of the research will be carried out in Gorontalo City, Gorontalo Province more precisely in the jurisdiction of Gorontalo Municipal Police, Gorontalo Province. Specifically, the Women's and Children's Protection Unit of Gorontalo City Police

Population is all objects or all individuals or all symptoms or all occurrences or all units to be examined.[6] The population in this study are those who are related to legal protection against women as victims of domestic violence "(study in the Women's and Children's Services unit of the Gorontalo City Police Criminal Investigation Unit), by using this population accurate data will be obtained and appropriate in this research.

The sampling method used by the author in this study is a non random sampling technique. In using this technique, certain characteristics or characteristics which are the main characteristics of the population are

[6] Ronny Hanitijo Soemitro, *Metode Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, 1988, p. 44.

determined, then the subjects taken as samples must really be subjects that contain many of the main characteristics of the population.

The sampling technique used in this research is Non Random Sampling, with Purposive Sampling, which is withdrawal of the sample by taking subjects based on specific objectives. The reason the author uses this sampling technique is because the respondent is considered to really know about legal protection against women as victims of domestic violence"(study in the Women's and Children's Services unit of the Gorontalo City Police Criminal Investigation Unit), thus the sample selected later Respondents in this study were as follows: (1) Society or women victims of Gorontalo city domestic violence, (2) Gorontalo City Police Particularly in Gorontalo City Women's and Children's Services Unit, (3) Lecturers / Teaching Staff of the Faculty of Law, Gorontalo State University.

Data collection techniques used in this study are divided into two, including (1) Field Research In conducting field research, the writer takes two ways, namely Observation and Interviewing (2) Research Library (Research Library) Research library research through library research data collection techniques (Library Research) is done by collecting various data from relevant literature.

In accordance with the problems to be answered and the objectives to be achieved in this study, the data obtained will be analyzed descriptively qualitatively that is describing the data obtained from field research (primary data), tested the truth then linked and analyzed qualitatively with data obtained from library research (secondary)

C. Result and Discussion

1. Legal Protection for Victim of Crime

The concept of legal protection is given to legal subjects in the form of instruments both preventive and repressive, both oral and written. In other words it can be said that legal protection as a separate description of the function of the law itself, which has the concept that the law provides for justice, order, certainty, usefulness and peace.[7]

In carrying out and providing legal protection the need for a place or container in its implementation which is often referred to as legal protection means, means of legal protection are divided into two types that can be understood, as follows: (1) Means of Preventive Legal Protection, In this preventive legal protection, legal subjects are given the opportunity to raise

[7] Indah Sri Utari & Ridwan Arifin, Law Enforcement and Legal Reform in Indonesia and Global Context: How the Law Responds to Community Development?, *Journal of Law and Legal Reform*, Vol. 1 No. 1, 2019, pp. 1-4.

their objections or opinions before a government decision gets a definitive form. The aim is to prevent disputes. Preventive legal protection means a great deal of governmental action based on freedom of action because with preventive legal protection the government is driven to be careful in making decisions based on discretion. In Indonesia there are no specific arrangements regarding preventive legal protection. (2) Means of Repressive Legal Protection, repressive legal protection aims to resolve disputes. The handling of legal protection by the General Courts and Administrative Courts in Indonesia falls into this category of legal protection. The principle of legal protection against government actions rests and stems from the concept of the recognition and protection of human rights.[8]

Law Enforcement Theory can also be interpreted by law enforcement officers and by anyone who has an interest in accordance with their respective authorities according to applicable law. Criminal law enforcement is a unified process that begins with the investigation, arrest, detention, trial of the accused and ends with the conviction of the convicted person.[9]

Criminal law enforcement is the concrete application of criminal law by law enforcement officials. In other words, the enforcement of criminal law is the implementation of criminal regulations. Thus, law enforcement is a system that involves harmonizing the values with the rules and real human behavior. These rules then become guidelines or benchmarks for behavior or actions that are considered appropriate or appropriate. The behavior or attitude of the action aims to create, maintain, and maintain peace.

2. Form of Legal Protection by PPA Unit of Gorontalo City Resort Police Criminal Investigation Unit against Women as Victims of Domestic Violence

According to the results of the research in the field factors that influence the number of acts of violence against women in the household are: (1) Economic Factors Women who come from households with lower welfare levels tend to have a higher risk of experiencing physical and/or sexual violence by a partner . Women who come from households in the poorest 25% have a 1.4 times greater risk of experiencing physical and/or sexual violence by a partner than the richest 25%. The economic aspect is the more

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[8] Hasbianto, Elli N. *Op.Cit.,* p. 102

[9] Harun M. Husen, *Kejahatan dan Penegakan Hukum Di Indonesia*, Rineka Cipta, Jakarta, 1990, p. 58; CST. Kansil, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia*, Balai Pustaka, Jakarta, 1989, pp. 57-59.

dominant aspect being a factor of violence against women compared to the education aspect. (2) Sub-standard Communication Factors between husband and wife in solving problems in the household, so that disputes between husband and wife often occur due to misunderstanding between the two parties. (3) The low understanding of religion in the household is one of the factors that causes many acts of violence against women, the husband who should be a good household leader should educate women based on religious teachings, not by committing violence so that the wife obeys all orders husband (4) Parent factor is one of the factors causing violence, parents are too meddling in their children's household affairs so that in many marriages there are fights caused by too many parents interfering in various things in the household. (5) Husbands often consume alcohol as a factor causing violence against women, many cases of husbands beating their wives in an unconscious or drunken state. (6) The existence of a third person in the household is also a factor causing a lot of violence against women. The third person triggers quarrels in the household, the household becomes out of harmony, the neglect in the household due to a third person.[10]

Seeing that acts of violence often occur, then as victims of crime, victims are obliged to get protection for the acts they experienced. As law enforcers, the Women's and Children's Services Unit (PPA) contained in Gorontalo City Police is expected to make it easier for victims of domestic violence to obtain protection. In terms of how the forms of protection for women victims of domestic violence are carried out by the Unti PPA Sat Reskrim Gorontalo District Police Precinct based on interviews conducted there are several kinds of ways including:

Based on the Domestic Violence Protection Law contained in article 16 namely temporary protection which states that: (1) Within 1 x 24 (one time twenty-four) hours from knowing or receiving reports of domestic violence, the police must immediately provide temporary protection to victim. (2) Temporary protection as referred to in paragraph (1) is given no later than 7 (seven) days after the victim is received or handled. (3) Within 1 x 24 (one time twenty-four) hours from the date of granting protection as referred to in paragraph (1), the police are required to request a letter stipulating a protection order from the court.

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[10] Alycia Sandra Dina Andhini & Ridwan Arifin, Analisis Perlindungan Hukum Terhadap Tindak Kekerasan pada Anak di Indonesia, *Ajudikasi: Jurnal Ilmu Hukum*, Vol. 3 No. 1, 2019, pp. 41-52; Meita Agustin Nurdiana & Ridwan Arifin, tindak Pidana Pemerkosaan: Realitas Kasus Dan Penegakan Hukumnya Di Indonesia (Crime of Rape: Case Reality and Law Enforcement in Indonesia), *Literasi Hukum*, Vol. 3 No. 1, 2019, pp. 52-63.

Temporary protection, namely protection directly provided by the police, namely by cooperating with health workers, one of which is from health workers checking the victim's condition. Then from the police conduct an investigation after knowing and receiving reports that there has been domestic violence. Furthermore, the protection provided by the police is also in the form of notification of the progress of the case being handled by the police to the victim or the victim's family.[11]

In providing temporary protection, the police can work together with health workers, social workers, volunteer assistants, and/or spiritual mentors to assist victims.[12] In addition, the police are required to provide information to victims about the right of victims to receive services and assistance.[13] The police also immediately told the victims about: the identity of officers for the introduction of victims of domestic violence as crimes against human dignity, and the obligation of the police to protect victims.[14] In order for this temporary protection to be upgraded to protection, within 1 x 24 hours from the time the temporary protection is granted, the police must request a letter of protection order from the court.

In addition to temporary protection from the police, and permanent protection by the court, as well as assistance for the process of spiritual guidance and advocacy for victims in the legal process, other efforts that are part of the protection of victims of domestic violence are punishing perpetrators in accordance with forms of domestic violence that he committed the victim, because the act of domestic violence was a crime.[15]

Law enforcement against acts of domestic violence is carried out by arresting and detaining perpetrators (husbands) who are allegedly violating the protection order for victims (wives), without waiting for arrest and arrest warrants. It is feared that the victim will get further acts of violence from the perpetrators if they have to wait for an arrest warrant. To fulfil the procedure of criminal procedure, a warrant for arrest and detention can be given after 1 x 24 hours. The rigid nature of the rule of law is sometimes less protective of victims. Thus the existence of the provisions of Article 35 of this Law is essentially paying attention to the reality of legal protection

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11 Nur Moh. Kasim, Sri Nanang Meiske Kamba, Implementation of Assistance for Victims of Domestic Violence, *Indonesian Journal of Advocacy and Legal Services*, Vol. 1 No.1, 2019, pp.147-156. DOI: https://doi.org/10.15294/ijals.v1i1.33801

12 Article 17 of Law Number 23 of 2004

13 Article 18 of Law Number 23 of 2004

14 Article 20 of Law Number 23 of 2004

15 Moerti Hadiati Soeroso, *Kekerasan Dalam Rumah Tangga dalam Perspektif Yuridis-Viktimologis,* Sinar Grafika, Jakarta, 2010, pp. 25-26; Nursyahbani Katjasungkana, *Kasus–Kasus Hukum Kekerasan Terhadap Perempuan*, Galang Printika, Yogyakarta, 2002, pp. 45-46.

for victims of crime so far. Because of the law provides more protection to the perpetrators of crime as regulated in criminal procedure law.[16]

Thus this law is very concerned about the fate of victims without ignoring the rights of husband and wife in domestic relations. Because victims who receive temporary protection and court protection are intended to provide a sense of "security" to the victim, without having to separate the victim (wife) from the perpetrator (husband) if the perpetrator is believed to obey the protective order from the court.[17]

Protection of victims of domestic violence according to Indonesian criminal law in accordance with Law Number 23 of 2004, there are several stages, namely the preventive stage through temporary protection from the police and or court protection, placement of victims in "safe houses," and curative stages both physical and psychological health, and actions repressive towards perpetrators of domestic violence.

Preventive measures (prevention) are intended as an attempt to make changes that are positive towards the possibility of disturbances in order and security (legal stability). This preventive action is one of the most appropriate ways to be done by the police, government, and the community. This is due to the previous efforts so that it can reduce cases of domestic violence in the future. Preventive efforts can be made by (1) holding legal counseling in collaboration with local governments that can be done in various ways and forms, such as through the media, or directly holding lectures to the public that contain the legal consequences that will be experienced if someone is involved in a criminal case and there are also moral sanctions that will be given to offenders. (2) Optimizing the performance of the Gorontalo City Police Precinct in particular the PPA unit in serving, protecting and protecting the community.

Repressive measures (enforcement) are carried out at the time of the crime. In this case, the party most entitled and authorized to make this effort is the authorities, especially the police. In making this effort the police must be serious in taking action in the event of a domestic violence case. But before taking action against the perpetrators, the police must consider the severity of domestic violence committed by the perpetrators.

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[16] Abraham Abraham, Muhammad Ade Mirza Kurniawan, Andrew Mario Ernesto Ataupah, & Ridwan Arifin, The Fallen of Justice: How Indonesia Survive With A Violation of Human Rights?, *Kuala Lumpur International Multidisciplinary Academic Conference (KLIMAC 2019),* 2019, pp. 229-235.

[17] Leden Marpaung, *Asas-Teori-Praktik Hukum Pidana,* Sinar Grafika, Jakarta, 2008, p. 34; Moeljatno, *Asas-asas Hukum Pidana*, Bina Aksara, Jakarta, 1987, pp. 28-29.

3. Factors Hampered the Efforts of the PPA Unit of the Gorontalo District Police Resort Criminal Investigation Unit in Addressing Violence Against Women Victims of Domestic Violence

Other factors which become obstacles in the legal protection of women victims of domestic violence include: (1) Legal Factors, Physical violence in the household is regulated in article 6 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, which referred to as physical violence is an act that results in pain, illness, or serious injury.[18] The crime of physical violence is a complaint offense. Therefore physical violence cases can be tried in court if there is a complaint first. With the culture of the community, it seems the community will be thousands of times to bring the domestic violence case to court. There is a slight problem in this matter, because it turns out that in Law Number 23 of 2004 concerning the Elimination of Domestic Violence, no juridical understanding of pain, illness, or serious injury is found, even though this understanding is most important for determining and proving the type of acts committed by the perpetrators/suspects/defendants, therefore these understandings must be sought in the Criminal Code and Jurisprudence.[19] The crime of physical violence is a complaint offense. Therefore physical violence cases can be tried in court if there is a complaint first. The still lack of socialization of Law Number 23 of 2004 concerning Domestic Violence Protection especially in Gorontalo City causes the community at large not to understand the meaning of eliminating violence in the household. Socialization is needed in order to internalize the new values brought by the Domestic Violence Protection Law. So far, the socialization has only been carried out in urban communities and tends to be elitist and still has not touched many ordinary people and grassroots, which often has the potential for domestic violence.

Meanwhile it is also unclear which agency is most responsible for internalizing the Domestic Violence Protection Law. In addition, Article 44 paragraph (4) of the Domestic Violence Protection Law allows a complaint offense to be revoked. (2) Many Law Enforcement Officers (police, prosecutors, judges) are still gender biased, often using victim blaming and victim participating approaches in responding to violence cases. Victims of violence have doubts, worries, and fears to report what happened. Victims are afraid of the legal process that will be undertaken. The gender

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[18] Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, CV. Agung Semarang, Jakarta, 1987, p. 68.

[19] PAF Lamintang, *Hukum Pidana Indonesia*, Bina Cipta, Bandung, 1990, pp. 37-38; R.Soesilo, *Kitab Undang-undang Hukum Pidana Serta Komentar-komentarnya Lengkap Pasal Demi Pasal*, Politeae, Bogor, 1993, pp. 54-59.

awareness and sensitivity of law enforcers is still lacking, so that sometimes victims become objects. The Integrated Criminal Justice System that is Gender Equitable in Handling Cases of Violence against Women (SPPT-PKKTP) is an integrated system that shows the process of linkages between agencies/parties authorized to handle cases of violence against women and access to services that are easy and affordable for victims in each Court for case process violence against women.[20] SPPT-PKKTP demands law enforcers who have gender equality vision and are not gender biased. Domestic violence cases are sometimes difficult to process. Usually having difficulty in proving evidence (witnesses are usually absent), the case is revoked by the victim himself (because of love/because of a livelihood case). In the police, there was a lack of readiness in handling domestic violence cases with its Special Service Room (RPK). Ideally cases of domestic violence are handled by female police. However, currently the number of policewomen is still very limited.

On the other hand, investigators themselves often face obstacles in handling domestic violence cases related to the absence of witnesses, making it difficult for the filing process and the weakness of the case if it reaches the court.[21] (3) Facilities or Facilities Factors that Support Law Enforcement include, among others, educated and skilled human resources, good organization, adequate equipment, adequate finance and so on. In terms of facilities and facilities, in the jurisdiction of Gorontalo City Police there are NGOs engaged in the field of womanhood. However, it has not been able to be maximal in providing assistance, especially the vast area. In addition, there is no victim assistance by NGOs to provide assistance to victims in litigation and non-litigation.[22] This assistance is important, because it can restore the victim's confidence, and also to restore trauma. (4) Community and Cultural Factors. The legal awareness of citizens to comply with the Domestic Violence Act is still very minimal.[23]

Some people do not want to realize that there is a law that prohibits violence against fellow family members. Even though some community members already know that the threat of imprisonment for perpetrators of domestic violence, it is still influenced by patriarchal culture or has power that exceeds the limits in the family. The level of legal awareness from the

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[20] Rika Saraswati, *Perempuan dan Penyelesaian Kekerasan Dalam Rumah Tangga*, Citra Aditya Bakti, Bandung, 2009, pp. 16-19.

[21] Satjipto Rahardjo, *Hukum dan Masyarakat*, Angkasa, Jakarta, 1980, p. 45.

[22] Sri Hartanto, Indah Sri Utari, & Ridwan Arifin, Implementation of Penal Mediation in The Perspective of Progressive Law (Study at The Semarang City Police Department), *IJCLS (Indonesian Journal of Criminal Law Studies),* Vol. 4 No. 2, 2019, pp. 161-188.

[23] S.R. Sianturi, *Asas-asas Hukum Pidana di Indonesia Dan Penerapannya*, Alumni Ahaem-Petehaem, Jakarta, 1996, pp. 23-24.

community is still far from the expectation to eliminate domestic violence. So that many victims of domestic violence prefer divorce to end the domestic violence problem rather than expect a protracted investigation process with a high enough cost. Moreover, if we look at the practice in the field, how victims of domestic violence have not received adequate protection as regulated in laws and government regulations on domestic violence.

D. Conclusion

The form of legal protection by the PPA Sat Reskrim Unit of Gorontalo City Police for women as victims of domestic violence is preventive measures intended as an effort to make positive changes to the possibility of disturbances in order and security (legal stability). Preventive efforts can be done by holding legal counseling in collaboration with local governments that can be done in various ways and forms, such as through the media, or directly holding lectures to the public that contain the legal consequences that will be experienced if someone is involved in a criminal case and there are also moral sanctions that will be given to the perpetrators and more optimize the performance of the Gorontalo City Police Police in particular the PPA unit in serving, protecting and protecting the community. Then Repressive Efforts (Enforcement) are carried out at the time of the crime. In this case, the party most entitled and authorized to make this effort is the authorities, especially the police. In making this effort the police must be serious in taking action in the event of a domestic violence case. But before taking action against the perpetrators, the police must consider the severity of domestic violence committed by the perpetrators. What factors hinder the efforts of the PPA Sat Reskrim Unit of Gorontalo City Police in tackling violence against women victims of Domestic Violence, among others, the Legal Factor itself, Law Enforcement Officials Factors, Facilities That Support Law Enforcement, Community and Cultural Factors.

Based on the conclusions above, the authors provide some suggestions for the PPA Unit of Gorontalo City Police to make more efforts to improve the protection of victims of domestic violence by submitting a request for protection to the court for victims because even though the PPA Unit has sought several ways to provide protection to victims, the reality is still there are victims who experience repeated violence. Secondly, so that the police are more alert, responsive and friendly in handling cases of women and children it is necessary to increase knowledge and skills to handle cases of women and children through education and training. Third, in the face of limited human resources and police infrastructure to further enhance and

expand the network of cooperation with networked institutions that deal with victims of violence. Then all parties, both the police, the attorney's office, the court, the central government, the regional government and the people who understand the law should be more socializing Law Number 23 of 2004 concerning the Elimination of Domestic Violence to the public, especially specifically to the police organizing a socialization regarding legal protection on the rights of victims of domestic violence so that as victims they do not need to feel afraid or pressured to report the crimes they experienced For the community to participate in preventing domestic violence, for example as neighbors if they know bickering / violence between husband and wife or other people in the household so attempt to prevent the quarrel, or report to the authorities if they know of domestic violence. As victims of domestic violence, victims should be quicker to report the crime they experienced so that as a law enforcement officer they act faster and get protection from the police.

E. Acknowledgments

Thanks to Universitas Negeri Goronatalo, Faculty of Law, and the Women and Children Service Unit (PPA) of the Gorontalo City Resort Police Criminal Investigation Unit for unvaluable inputs and suggestions, as well as data support for this research. Author also would like o express great thankfulness to Editorial Team Journal of Advocacy and Legal Services, Faculty of Law, Universitas Negeri Semarang, Indonesia.

F. Declaration of Conflicting Interests

The authors state that there is no potential conflict of interest in the research, authorship, and / or publication / publication of this article.

G. Funding

None

H. References

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Indonesian Journal *of* Advocacy and Legal Services
ISSN: 2686-2085 (Print) ISSN: 2686-2611(Online)
Vol. 1 No. 2 (2020): 259-274 DOI: 10.15294/ijals.v1i2.35986
Submitted: 7 December 2019 **Revised**: 18 December 2019 **Accepted**: 19 December 2019

REVIEW ARTICLE

Code of Ethics and the Role of Advocates in Providing Legal Aid to the Poor

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Abstract: Law No. 18 of 2003 concerning Advocates emphasizes the status of Advocates as one of the law enforcers who have roles and functions that are equal to the Police, Prosecutor's Office and Judicial Power as law enforcement officers, but there is specialness given by the law to lawyers, namely the independence of advocates in carrying out their duties and profession. The independence of advocates aims to support the implementation of a justice system that is free from power and political intervention in law enforcement, and with that independence the Advocate Profession is said to be a very noble profession (offiicium nobile). As a noble profession, of course, advocates are bound by ethical values that become the guidelines in the implementation of their duties and authorities, where those values are posited as a Professional Code of Ethics. Talking about advocates, of course it cannot be separated from law enforcement, talking about law certainly cannot be separated from the state system or the political colors of certain countries and so on. This article wants to explain how the code of ethics of the advocate profession in upholding the law is how the role of advocates in providing justice to society based on applicable law. In conclusion, this article wants to explain that the code of ethics can compensate for the negative aspects of the profession and with the existence of a code of ethics, community trust in a profession can be strengthened, because every client has the assurance that his interests will be guaranteed, and the implementation of legal aid must be in line with the breath that becomes the goal is protection human rights and ideals of justice.

Keywords: Code of Ethics, Role, Advocate, Legal Aid

How to cite:
Nuna, M., Kodai, D.A., & Moonti, R.M. (2020). Code of Ethics and the Role of Advocates in Providing Legal Aid to the Poor. *Indonesian Journal of Advocacy and Legal Services,* 1(2), 259-274. DOI: 10.15294/ijals.v1i2.35986

A. Introduction

A new rule of law State is created if there is recognition of democracy and human rights. However, not only that, the state and individuals are on equal footing which means that state power is limited by human rights so as not to violate the rights of these individuals. An example of a country based on law is Indonesia. Indonesia in running its government is based on law (*Rechstaat*) not based on mere power (*Machstaat*). This has a constitutional basis which is stated in article 1 paragraph 3 of the 1945 Constitution, which reads: "The State of Indonesia is a state of law". In general, law is a set of rules governing human behavior in society, nation and state that is coercive and strict sanctions so as to create safe, peaceful, just and prosperous human life. However, in reality what has happened up to now is that there are still many people who do not understand the law or in other words are blind to the law (law ignorance), and moreover, considered from the economic point of view, the condition of the average middle to lower class (poor) so that they need legal assistance. Therefore, for every community that requires legal assistance (legal aid) in addition to being a human right it is also the application of article 27 paragraph 1 of the 1945 Constitution, namely: "All citizens are at the same position in law and government and are obliged to uphold the law and government with no exception." is a real way to achieve a fair legal process, with the presence of advocates can prevent unfair treatment by the police, prosecutors or judges in the process of interrogation, investigation, examination, detention, trial, and punishment.[1]

History has proven that law and lawyers (law and lawyer) become the most important element for a society, in any part of the world where the community is located. The public is unlikely to be able to live well without the presence of law and lawyer. Advocates are a noble, noble and honorable profession (*officium nobile*), in carrying out their professional duties, advocates must hold fast to the laws and codes of ethics of advocates. Advocates as a profession that is free and independent and responsible, to provide legal justice for justice seekers. Advocates are needed in the implementation of criminal justice because advocates have a special role that is different from other law enforcers, namely for the legal interests of a suspect, defendant and parties seeking justice, in accordance with his profession as a person who provides legal services inside and outside the

[1] Adelita Lubis, Peran Advokad dalam Penegakkan Hukum di Organisasi Asosiasi Advokad Indonesia Cabang Medan, *Jurnal Ilmu Pemerintahan dan Sosial Politik*, Vol. 4 No. 1, 2016, pp. 176-192.

court. Advocates have the right to immunity in carrying out work as stated in Law Number 18 of 2003 concerning Advocates (State Gazette of the Republic of Indonesia of 2003 Number 49, Additional State Gazette Number 4288) then referred to (Advocate Law). Advocates in carrying out their duties and profession have the rights and obligations set out in the law of advocates and the advocate's code of ethics. These rights and obligations are regulated in Article 14 through Article 20 of the Advocate Law. Many cases of lawyers are punished for committing a crime.[2] The law of advocates makes it clear that advocates have the right to immunity. The right of immunity is that an advocate cannot be convicted or civil in Article 16 of the Advocate Law. Advocates are free to carry out their duties and profession to the extent of defending their clients. Defending his client also advocates must also have a basis of good faith, not only to the client, but also to colleagues and also to the other party.[3]

Furthermore, in the same context, Law Number 12 of 2005 concerning the International Covenant on Civil and Political Rights recognizes the right to legal aid and the right to Advocates and instructs the state to provide lawyers who provide effective legal assistance to the poor when the interests of justice require it.[4]

In order to meet the constitutional demands, Article 22 of Law Number 18 of2003 concerning Advocates hereinafter referred to as (Advocate Law) has accommodated it, that advocates are "*obliged*" to provide legal assistance free of charge to justice seekers who cannot afford it. The principle is derived from the rule of law (*rechtstaat*) and the principle of equality before the law in the 1945 Constitution, Article 27 paragraph (11) which states that every citizen is equal before the law with no exception, and Article 28D paragraph (1) which reads "Everyone has the right to recognition, guarantees, protection and legal certainty that is fair and equal treatment before the law".[5]

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[2] Law Number 18 of 2003 concerning Advocates (State Gazette of the Republic of Indonesia of 2003 Number 49, Additional State Gazette Number 4288)

[3] Meirza Aulia Chairani, Hak Imunitas Advokat Terkait Melecehkan Ahli, *Justitia Jurnal Hukum*, Vol. 2 No.1, 2018, pp.144-163.

[4] Angga & Ridwan Arifin, Penerapan Bantuan Hukum Bagi Masyarakat Kurang Mampu di Indonesia, *DIVERSI: Jurnal Hukum*, Vol. 4 No. 2, 2019, p. 220; Ridwan Arifin, Rasdi Rasdi, & Riska Alkadri, Tinjauan Atas Permasalahan Penegakan Hukum dan Pemenuhan Hak dalam Konteks Universalime dan Relativisme Hak Asasi Manusia di Indonesia, *Jurnal Ilmiah Hukum LEGALITY,* Vol. 26 No. 1, 2018, pp. 17-39; Kania Dewi Andhika Putri & Ridwan Arifin, Tinjauan Teoritis Keadilan dan Kepastian dalam Hukum di Indonesia (The Theoretical Review of Justice and Legal Certainty in Indonesia), *MIMBAR YUSTITIA*, Vol. 2 No. 2, 2019, pp. 142-158.

[5] Angga & Ridwan Arifin*, Ibid.,* p. 221.

In other words that, legal protection is all efforts to fulfill rights and provide assistance to provide security for witnesses and/or victims, legal protection for victims of crime as part of community protection, can be realized in various forms, such as through the provision of restitution, compensation, services medical and legal assistance. Legal protection is given to legal subjects in the form of instruments both preventive and repressive, both oral and written. In other words it can be said that legal protection as a separate description of the function of the law itself, which has the concept that the law provides for justice, order, certainty, usefulness and peace.[6]

B. Method

The research method used, in the form of normative juridical legal research which is a library research, namely research on primary legal materials and secondary legal materials consisting of legislation and related literature to solve legal issues or issues to be discussed.

C. Result and Discussion

1. Professional Ethics of the Advocate: A Philosophical Review

Ethics comes from the Greek word "*ethos*" which means habit or character, which refers to a special disposition, character or attitude of a person, culture or group of people who are special. In this sense, according to Solomon, ethics has two basic concerns, namely individual character, including what it means to be a "good person"; and social rules or norms that govern and limit our behaviour, especially ultimo regulations relating to "good" and "bad" or "wrong" and "morally right".

Ethics gives a normative orientation (ie about what should be) for one's decisions and actions so that the person's decisions and actions are called morally good. The profession comes from the Latin *professio* which has two meanings, first, the work carried out based on certain expertise; and second,

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[6] Leni Dwi Nurmala, Perlindungan Hukum Terhadap Tenaga Pendidik, *Gorontalo Law Review*, Vol. 1 No. 1, 2018, pp. 67-76; Nur Moh. Kasim, Sri Nanang Meiske Kamba, Implementation of Assistance for Victims of Domestic Violence, *Indonesian Journal of Advocacy and Legal Services*, Vol. 1 No. 1, 2019, pp. 147-156; Indah Sri Utari, Ridwan Arifin, Law Enforcement and Legal Reform in Indonesia and Global Context: How the Law Responds to Community Development?, *Journal of Law and Legal Reform*, Vol. 1 No. 1, 2019, pp. 1-4.

promises or pledges (commitments). In general the profession is understood as an activity based on expertise carried out to earn a living. Professions in this general sense, at least in principle, have no purpose in themselves; the goal lies outside the professional action itself, which is to get material rewards. In this sense, any activity that is carried out based on expertise may be called a profession.[7]

However, not all occupations can be said as a profession that is entitled and worthy of having its own code of ethics. There are three criteria that can be used to measure whether an occupation is said to be a profession or not. First, the profession is carried out on the basis of high expertise and can therefore only be entered by those who have undergone very advanced education and technical training. Secondly, the profession requires that the expertise used always develops reason and is developed in an orderly manner in line with the needs of the community who are asked to be served by a profession that masters the professionnal expertise, or in other words there are certain skill standards that are demanded to be mastered. Third, the profession always develops institutions and institutions to control so that professional skills are used responsibly, starting from sincere and devoted devotion, and all of that is thought to benefit the people.[8]

The term profession in the second sense implies a personal commitment in carrying out certain activities. The profession is seen as a free choice based on the attitude of involvement and total surrender to the activities carried out. The profession is a conscious choice of human beings whose implementation demands expertise and personal commitment. At a higher level, responsible commitment is reflected through the attitude of service and service to the interests of the community, here seen the social dimension of the profession, in other words, the profession is a social role and therefore contains in itself social responsibility.

Profession is a moral community that has shared ideals and values. They also form a profession united because of the same educational background and together have expertise that is closed to others. Thus, the profession becomes a group that has its own power and therefore has special responsibilities. Because of having a monopoly on a particular skill, there is always the danger of the profession closing itself on to people from outside and becoming an impenetrable society.[9]

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7 Andre Ata Ujan, Profesi: Sebuah Tinjauan Etis*, Studia Philosophica et Theologica*, Vol. 7 No. 2, 2007. pp 140-141.

8 Soetandyo Wignyosoebroto, *Hukum: Paradigma, Metode dan Dinamika Masalahnya*, ELSAM and HuMA, Jakarta, 2003, pp.316-317.

9 K Bertens, *Etika*, Gramedia Pustaka Utama, Jakarta, 2005, p.180

Professional ethics presupposes a precise distinction between general ethics or general ethics and norms of ethical behavior that typically apply to a profession (applied ethics). Professional ethics presupposes an understanding of general ethics (ie teaching how to live well as humans) as well as clarity about the morality of roles or positions (how to carry out the profession responsibly). Professional ethics is not just a reaffirmation of general moral norms (ie general norms that govern human behavior as human beings), professional ethical norms are related to the social role or function carried out by a professional in society. In its application, professional ethics has a sophisticated face in line with the diversity of the demands of the community's need for professional services, so that in society we are familiar with medical ethics, legal ethics, business ethics, which provide moral orientation for the responsible implementation of these activities.

Professional ethics basically provides moral parameters for various professions. Like general ethics, professional ethics helps a professional to understand and distinguish "good" from "bad", something "decent" from "indecent". Professional ethics thus gives a double orientation, namely orientation to the good and the bad; do good and avoid bad in professional activities. As an orientation, professional ethics is related to the praxis of human life that seeks to reflect the situation and its actions within the "good" and "bad" frame of reference.[10]

The code of conduct for profession holders is summarized in the Code of Ethics which contains ethical content, both descriptive, normative and metaethical ethics. So the code of ethics is related to certain professions so that each profession has its own code of ethics. The code of ethics can compensate for the negative aspects of the profession and with the existence of a code of ethics, people's trust in a profession can be strengthened, because every client has certainty that his interests will be guaranteed. A code of ethics is like compass that show the moral direction of a profession and at the same time also guarantee the moral quality of the profession in the eyes of the community. For a code of conduct to function properly, it must be a self-regulation of the profession. By making a code of ethics, the profession itself will determine the black and white of its intention to realize moral values that are considered essential, which have never been forced from the outside. Another requirement is that the implementation is monitored continuously.[11]

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[10] Andre Ata Ujan, *Loc.cit,* p. 139-140.
[11] K. Bertens, *Loc.cit,* pp. 180-182.

The advocate profession is said to be an honorable profession (*officium nobile*), which means that it contains an obligation to begin carrying out work. The expression nobleese obligee means the obligation to do the honorable, generous and responsible, only owned by those who are noble. This demand for the honor of the advocate profession has led to the behavior of an honest and moral moral advocate in order to gain public trust.

In the same context, Alkotsar emphasized that advocates have the task of upholding justice and increasing human dignity so that the work of advocates is said to be *officium nobile*, a noble work. As an elegant profession, advocates are required to be able to work in a professional manner, bound by professional ethics and scientific standard responsibilities. The image of an advocate as an elegant profession will be determined by the professional ethos in the sense of the extent to which the advocate community is able to apply ethical standards and professional technical skills.[12]

As a noble profession bearer, advocates in carrying out their duties are required to comply with professional standards set by the Indonesian Advocates Association (hereinafter Peradi) or the Advocate Association as well as the rights and obligations stipulated in the law. The ethical standard of advocates is divided into 4 (four) sections, namely those relating to the personality of the advocate itself, in relation to clients, in relationships with colleagues, and in relation to case handling. Some ethical standards that are included in relation to ethical standards of advocate personality are being devoted to God Almighty, being noble, honest in maintaining justice and truth based on high moral, noble and noble (Article 2); refusal to provide legal services if it is not in accordance with the expertise; does not aim solely for the acquisition of material and prioritizes the upholding of law, truth and justice; freedom and independence in carrying out his profession; solidarity among colleagues; may not do other work which can harm the freedom, degree and dignity of advocates; uphold the advocate profession as an honorable profession (*officium nobile*); be polite to all parties; willingness not to practice as an advocate if appointed / occupy a state position (Article 3).

The ethical standards of advocates in their relations with clients are found in Article 4. The intended ethical standards are as follows: prioritizing the settlement of a peaceful path; don't mislead the client about the case he is handling; do not guarantee victory; consider the client's ability in terms of honorariums; don't burden the client with unnecessary costs; give equal

[12] Artidjo Alkotsar, *Peran dan Tantangan Advokat dalam Era Globalisasi*, FH UII Press, Yogyakarta, 2010, p.151.

attention to all matters; reject the case according to belief there is no legal basis; keep the position secret from the start and after the end of the relationship with the client; do not relinquish assignments when the client's position is unprofitable; resign when taking care of the mutual interests of two disputing parties; and the presence of retention rights.

The ethical standards of advocates relating to peers are regulated in Article 5. The ethical standards referred to are as follows: mutual respect, respect and trust in relationships with colleagues; use polite words in conversation and in court hearings; raise objections if a colleague's actions are deemed to be contrary to the advocate's code of ethics; don't snatch clients from other advocates; accept clients from other advocates if accompanied by evidence of revocation of power of attorney; and advocates whose attorneys are revoked are required to provide all letters and information relating to cases that have been defended by new advocates.

Other ethical standards that are no less important are those related to ethics in handling cases. Article 7 provides signs for advocates if in handling cases they are not allowed to deal personally (personally) with a judge. Advocates can contact judges together with advocates from opposing parties (in civil cases) or public prosecutors (criminal cases). Advocates are not justified in teaching and or influencing witnesses presented by opposing parties in civil cases or by public prosecutors in criminal cases.

Every advocate is obliged to obey the advocate's code of ethics (Article 9 letter a). This happens because the Indonesian Advocate Code of Ethics is the highest law in carrying out the profession, which guarantees and protects but imposes an obligation on every Advocate to be honest and responsible in carrying out his profession both to the client, court, state or society and especially to himself. Some provisions in this code of conduct are repeated in several laws, such as Law no. 8 of 1981 concerning Criminal Procedure Law, Law No. 18 of 2003 concerning Advocates, and Law No. 16 of 2011 concerning Legal Aid which is categorized as an advocate's rights and obligations.

Although this code of conduct has been taught when advocates take formal education, professional advocacy training and role models from their seniors, there are still violations of the code of ethics that cause harm to clients, colleagues, and more widely the image of the judiciary. The real problem is not only the moral integrity of the advocate himself, but also the lack of maximum internal control from the Advocate Organization. This issue will be discussed in the section below.

2. The Role of Advocates in Providing Legal Aid to the Poor

Like the profession of judges, prosecutors and police regulated in the Law, the Advocate profession has also been regulated in Law Number 18 of 2003. In article 5 paragraph 1 of Law Number 18 of 2003 it is stated that: "Advocates have the status of law enforcement, free, independent guaranteed by laws and regulations". With the enactment of this Law, lawyers have been given status as law enforcers who have an equal position with other law enforcers in upholding law and justice.[13] In social life, humans are inseparable from their role as living things. Someone plays a role in doing something has a certain purpose. Soekanto explained that: "Role is a dynamic aspect of a position". If someone has carried out his rights and obligations according to his position, then he can be said to have carried out his role in that position. That position is an obligation for someone who has a position to be in the position they live or the position can be said to be the position of a profession.[14]

Poerwardarminta highlighted that a role is a part of or holds a leadership that is mainly in the event of a thing or event.[15] Levi as quoted by Soekanto stated that the role attached to individuals in society is important in several respects: Certain roles must be completed if the entire community is to be sustained. These roles should be attached to individuals who are considered capable of carrying out the community. They must first practice and have the desire to carry it out.[16] In society sometimes found individuals who are unable to carry out their role as expected by the community because the implementation may require too much sacrifice from his personal interests.

Based on the above opinion it can be concluded that the role is a concept of behavior or what can be done by individuals/groups of people or institutions in achieving certain goals according to their position.

Under the Act, it is clear that the work carried out by legal counsel, lawyers and legal consultations is included in the work of an Advocate. According to Winarta that the Advocate's duty is to devote himself to the community, so he is demanded to always participate in the enforcement of Human Rights, and in carrying out his profession he is free to defend anyone, not bound by the client's order and regardless of who his opponent is, whether he is from a strong group, the ruler, officials and even the poor

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13 Adelita Lubis, *Op.cit.*
14 Soekanto, *Rangkuman Intisari Ilmu Hukum,* Citra Aditya, Bandung, 1999, p.243.
15 Poerdarminta, *Kamus Lengkap Bahasa Indonesia,* Rineka Cipta, Jakarta, 2001, p.870.
16 Soekanto, *Loc.cit*, p.244.

people. Meanwhile, according to Otto Hasibuan in Silaban also said that in carrying out the Advocate profession there are two main assets that must be owned namely: ability and trustworthiness, and also the responsibility of serving clients as well as possible, thoroughly, and on time as well as carrying out the tasks of advocacy based on law.[17]

Based on the opinion above, the duty of an advocate in the legal process is to assist the judge in finding the truth of the law, then the interests of a client in using the services of an Advocate is an effort to protect their rights which must be protected by law. It is in the effort to protect the interests or rights of a client that the client needs an Advocate, because most of the Indonesian people are ordinary or law-blind communities. In reality like that, the existence of an Advocate is very important. This can be seen in the effort to uphold the image of the Advocate profession as an honorable profession (*officium nobile*). Advocates are not just making a living, but also must fight for the value of truth and justice because in it there is an idealism and morality. This means, an Advocate can not just fixate to the positive law (legal certainty) in defending his client.

Therefore, when there is a conflict between positive law (legal certainty) with truth and justice, what must be prioritized is truth and justice because the main purpose of the law is actually for the creation of truth and justice. Some explanations and definitions about legal aid are as follows:

1) Roberto Conception stated that legal aid is a common disclosure that is used to refer to any legal service offered or provided. This consists of providing information or opinions about rights, responsibilities in certain situations, disputes, litigation or legal processes which can be in the form of justice, semi-justice or others.[18]
2) C.A.J Crul explained that legal assistance is assistance given by experts to those who need the realization or realization of their rights and obtain legal protection.[19]
3) Based on Law Number 16 of 2011 concerning Legal Aid, it is stated that Legal Aid is legal services provided by the Provider of Legal Aid for free to Legal Aid Recipients.[20]

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17 Adelita Lubis, *Op.cit.*

18 Abdurrahman, *Aspek-Aspek Bantuan Hukum di Indonesia,* Cendana Press, Jakarta, 1983, p.31.

19 Soerjono Soekamto, *Bantuan Hukum, Suatu Tinjauan Sosio-Yuridis*, Ghalia Indah, Jakarta, 1983, p.23.

20 Law Number 16 of 2011 concerning Legal Aid

4) Law No. 18 of 2003 concerning Advocates emphasized that legal assistance is a service provided by advocates free of charge to clients who cannot afford it.

The implementation of legal aid must be in line with the breath of the goal is the protection of human rights and the ideals of justice should not be a meaningless activity, this is like what criticism of Todung Mulya Lubis who criticized traditional and individual forms of legal aid by stating a number of weaknesses, namely:[21]

1) Legal assistance that is traditional and individual in nature is only a "*cure*" but does not seek and cure the cause of the disease in which the community has previously been exiled from their own rights.
2) The existing legal system still supports traditional and individual forms of legal assistance, where the legal settlement process is still revolving around the court and the proceedings that are in it.
3) Urban, because legal experts providing legal aid services are in urban areas and are not easily accessible to rural communities and hard-to-reach areas.
4) It is passive, waiting for the poor to realize their rights and claim them.
5) Too attached to legal approaches, not how to help resolve quickly or resolve conflicts.
6) Still operating on it own, not cooperating with legal aid organizations, even though legal aid organizations are considered the most quickly resolve conflicts.
7) It has not yet led to the creation of a social movement, in which the legal aid movement is associated with power resources so that the position of the community will be stronger and accelerate the resolution of conflicts at the periphery center.

Based on the description above, it can be concluded that legal assistance is a legal service both litigation and non-litigation that is provided free of charge to the community carried out by professionals such as advocates or lawyers to assist the rights of the people who need legal aid services.

The poor are exceptions to the law which, according to them, are often unfair and close their opportunities to improve their standard of living and this happens in almost all developing and poor countries in the world. They work not in the corridors of law but outside the law itself, workers who work without contracts, unregistered businesses and inhabit land without legal documents. For this reason, they are the most vulnerable to be categorized

[21] Todung Mulya Lubis, *Bantuan Hukum dan Kemiskinan Struktural*, Cendana Press, Jakarta, 1983, pp.1-3.

as violators of the law and at the same time do not get any assistance from the state when their rights are violated.

Literally, Poerdarminta explained that poverty comes from the basic word poor which means not having assets. In a broader sense, poverty can be connoted as a condition of disability either individually, family, or group so that this condition is vulnerable to the emergence of other social problems. Poverty is seen as a condition of a person or group of people, men and women whose basic rights are not properly fulfilled to lead and develop a dignified life. Thus, poverty is no longer understood only to the extent of economic incapacity, but also the failure of the fulfillment of basic rights and differences in treatment for a person or group of people, in living life with dignity. Poor life does not only mean living in conditions of lack of food and clothing and shelter.[22]

However, poverty also means low access to productive resources and assets to obtain the necessities of life, including: science, information, technology, and capital. Therefore with reality like that will makes powerless and the range of getting good treatment in all respects. So, there is a need for a social security system including the law in order to protect its rights and interests economically, legally, culturally and so on.[23]

D. Conclusion

Based on the discussion, it can be concluded that the code of ethics can compensate for the negative aspects of the profession and with the existence of a code of ethics, community trust in a profession can be strengthened, because each client has the certainty that his interests will be guaranteed, and the implementation of legal aid must be in line with the breath that is the goal is protection of human rights and the ideals of justice, while legal assistance is a legal service both litigation and non-litigation provided free of charge to the community carried out by professionals such as advocates or

[22] In the further context, poverty is a situation of complete deprivation of the population that is manifested in and caused by limited capital, low knowledge and skills, low productivity, low income, weak exchange rates of poor people's products, and limited opportunities to participate in development. The low income of the poor results in low education and health which affects their already low productivity and increases the burden of dependence on society. The population that is still below the poverty line includes those who have very low incomes, do not have a fixed income, or have no income at all. *See* Roy Marthen Moonti, Regional Autonomy in Realizing Good Governance, *Substantive Justice International Journal of Law,* Vol. 2 No. 1, pp.43-53.

[23] Diding Rahmat, Implementasi Kebijakan Program Bantuan Hukum Bagi Masyarakat Tidak Mampu di Kabupaten Kuningan, *Jurnal Unifikasi*, Vol. 4 No. 1, 2017, pp.35-42.

lawyers to assist the rights of the people who need legal aid services. The authors suggest that in order to protect the interests or rights of a client, the client needs an Advocate, because most of the Indonesian people are ordinary or law-blind communities. Therefore, when there is a conflict between positive law (legal certainty) with truth and justice, what must be prioritized is truth and justice because the main purpose of the law is actually for the creation of truth and justice.

E. Acknowledgments

Thank to Faculty of Law, University of Gorontalo, Indonesia, as well as Legal Aid Center and Law Clinics on University of Gorontalo. Author also would like to express the unvaluable thankfulness to Indonesian Journal of Advocacy and Legal Services, Faculty of Law Universitas Negeri Semarang, especially to Mr Ridwan Arifin for any comments and kind inputs.

F. Declaration of Conflicting Interests

The authors state that there is no potential conflict of interest in the research, authorship, and / or publication / publication of this article.

G. Funding

None

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QUOTE

Justice in the life and conduct of the State is possible only as first it resides in the hearts and souls of the citizens.

Plato, *Philosopher*

Indonesian Journal *of* Advocacy and Legal Services
ISSN: 2686-2085 (Print) ISSN: 2686-2611(Online)
Vol. 1 No. 2 (2020): 275-278 DOI: 10.15294/ijals.v1i2.34773

Submitted: 15 November 2019 **Revised**: 22 November 2019 **Accepted**: 6 December 2019

Book Review

How Parents Involved in Their Children's Trial? A Book Review 'Peranan Orang Tua dalam Proses Persidangan Tindak Pidana Perjudian yang Dilakukan oleh Anak', Lanka Asmar, 2017, CV Mandar Maju, Bandung, 181 Pages, ISBN: 978-979-538-460-1

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DATA OF BOOK

Title	: Peranan Orang Tua Dalam Proses Persidangan Tindak Pidana Perjudian Yang Dilakukan Oleh Anak
Author	: Lanka Asmar, S.HI., MH.
Language	: Bahasa Indonesia
Pages	: i-ix, 181
Publisher	: CV Mandar Maju
City of Publisher	: Bandung
ISBN	: 978-979-538-460-1

A. Introduction

The book 'Peranan Orang Tua dalam Proses Persidangan Tindak Pidana Perjudian Yang Dilakukan Oleh Anak' presents how parents deal with children who are dealing with the law and how the role of law enforcers, especially child judges, response to the presence of parents in the proceedings of children. The author will describe the factors that cause children's involvement in gambling cases, the importance of the role of parents in this case, and the judge's decision on the case that has occurred.

B. Review

In the first chapter (introduction), the author writes the background to the discussion of this book. The author defines gambling in general. that is a game, where players bet to choose one choice among several choices, where only one choice is correct and becomes the winner. Where the loser gives his bet to the winner. Rules and bets are determined before the game starts.

According to pathologists, gambling can be classified as addictive behavior even though it does not involve certain chemicals. The author also points out the factors that cause a person to gamble.

1. Cultural factors. Community that supports gambling activities.
2. Social learning factors. Learn or imitate others.
3. Personality factor of an individual.
4. Crisis and stress factors. Gambling as an attempt to solve the problem.
5. Leisure time factor. Gambling is used as an activity to fill spare time.

The author explains the minimum and maximum age limits of a child can be submitted to the trial of children in Indonesia, minimum age of 8 years and maximum age of 21 years. The presence of parents in a child's trial is very important, especially before the verdict. Explained in pasal 59 ayat 1 Undang-undang nomor 3 tahun 1997 about juvenile court,"before saying the verdict, the judge gives the opportunity for parents, guardians, or foster parents to express all matters that are beneficial to the child".

The juvenile justice system must prioritize the best interests of the child, this means that all decisions in the juvenile court must always consider the survival and development of the child now and in the future.

In the second chapter, the author sets out the principles of juvenile justice. Including age restrictions, the juvenile court checks children in a family setting, lighter criminal penalties than adults, parental presence required, and the presence of legal counsel. From one of these wishes, it was stated that the presence of parents in the juvenile court was necessary. this is in accordance with Pasal 55 Undang-undang nomor 3 tahun 1997 concerning juvenile justice. The article explains that parents are required to be present at the child's trial. the aim is to affirm that although in principle the crime is his own responsibility, but because the defendant is a child, so that the child's mentality is not disturbed, the presence of parents is required in the trial. The defendant must be accompanied by a parent or guardian during the trial. Likewise in the witness examination, the child's defendant's parents are required to attend, but the child's defendant is taken out of court to avoid things that affect the child's psychiatric.

According to Abintoro Prakoso, the presence of parents in a child's trial is very important, because with their presence it is expected that

children will be more open, honest, and convey their feelings without pressure. Parents are also expected to hear the child's complaints, burdens, and problems more closely.

Gambling prohibitions are now regulated in Article 303 of the Criminal Code, that is, they are threatened with a maximum imprisonment of ten years or a maximum fine of twenty-five million rupiah. There are several ways to deal with children involved in gambling, including:

1. Emergency action. For children who gamble for economic reasons, BLS (*Bantuan Langsung Sementara*) must be given.
2. Children must be fostered and given education.
3. Given special treatment. By giving full scholarships to attend education outside the area by living in a dormitory.

Psychologically, imprisonment will interfere with children's development, talents and interests of children also can not develop, teaching and learning activities in prisons are also not useful because the atmosphere of confinement in the sense of physical and mental.

Sociologically, imprisonment gives eternal labeling to children so that the child's mental recovery hopes are difficult to achieve and will harm children's mental development in the future.

Empirically, prison in Indonesia is not humane. Many children are jailed in adult prisons which allow senior crimes to occur in juniors in prison. The imprisonment process is considered to eliminate civil rights and even the rights of children's education. Child imprisonment should not hamper children's basic rights namely education.

Legally, imprisonment of children as much as possible prevented and avoided by providing alternative forms of action. The action was in the form of child development. The author describes several special treatments in juvenile court, from separating detention from adults to the matter of police and prosecutors who do not wear uniforms during child trials.

In the third chapter, the authors describe the legal policies against children as perpetrators of gambling crimes. Juvenile courts and other legal entities involved are required to guarantee that children are not severed from their parents, children's education must be guaranteed, children must obtain adequate living necessities, obtain health services, be free from violence and threats of violence, not cause psychological trauma to children, there should not be labeling of children, and there must be no publication regarding the child's identity.

In the fourth chapter, the author shows examples of the considerations and results of judges' decisions on child gambling crimes. Whether the judge considers the involvement of parents in the proceedings of the child or not.

The first example is case number 315/PID.A/2011/PN.Blg. The defendant in this case is a 17-year-old male, he was sentenced to two

months and two days in prison and paid a court fee of one thousand rupiah, the judge did not consider the involvement of parents at all in this child's trial process.

The second example is case number 272/PID.A/2010/PN.Blg. The defendant in this case is a 17-year-old male, he was sentenced to a prison sentence of one month and twenty days and paid a court fee of one thousand rupiah, the judge did not consider the involvement of parents at all in this child's trial process.

The third example is case number 96/PID.A/2012/PN.Blg. The defendant in this case is a 16-year-old male, he was sentenced to two months and fifteen days in prison and paid a court fee of one thousand rupiah, Judges' considerations regarding parental involvement are: Until the trial is determined, the defendant's parents are never present to hear their statements regarding the defendant, the defendant's parents' response was for the defendant to be acquitted by the judge.

The fourth example is case number 210/PID.A/2011/PN.Blg. The defendant in this case is a 17-year-old male, he was sentenced to two months and fifteen days in prison and paid a court fee of one thousand rupiah. Judges' considerations regarding parental involvement are: The defendant's parents stated that the defendant was a good child and intended to continue school, but asked for permission to work to collect school fees, the parents' response was so that the defendant's problem was quickly resolved. request that the defendant be returned to his parents or sentenced as light as possible.

In the concluding chapter, the authors conclude that there are still many differences in the judge's decision regarding the involvement of parents in the trial of gambling crimes.

C. Criticism and Suggestions

In my opinion, the book "Peranan Orang Tua Dalam Proses Persidangan Tindak Pidana Perjudian Yang Dilakukan Oleh Anak" by lanka asmar is not suitable as a guide for parents in dealing with child trials. This book is more suitable to be read by people who have studied law, because the articles that accumulate and a brief explanation can be very confusing for people without a legal background.

Lanka Asmar also only took examples of cases from the Balige District Court, but surely there are still many similar cases in other areas that consider the role of parents in decision making. But surely there are still many similar cases in other areas that consider the role of parents to make judges' decisions.

Indonesian Journal *of* Advocacy and Legal Services
ISSN: 2686-2085 (Print) ISSN: 2686-2611(Online)
Vol. 1 No. 2 (2020): 279-282 DOI: 10.15294/ijals.v1i2.34780

Submitted: 15 November 2019 **Revised**: 22 November 2019 **Accepted**: 3 January 2019

Book Review

A Complex Condition of Justice in Indonesia: A Book Review 'Bring Back Justice: Refleksi Kritis atas Isu-Isu Politik, Hukum, dan Keamanan', M. Nasir Djamil, 2017, Merdeka Book, Jakarta, 224 Pages, ISBN 978-602-61116-2-3

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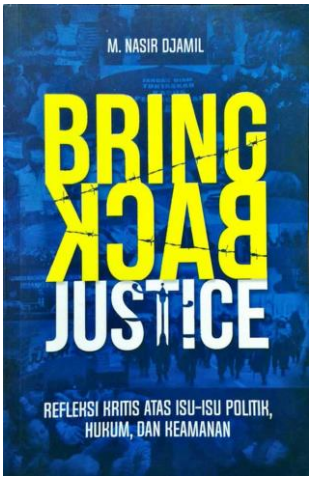
DATA OF BOOK



Title	: Bring Back Justice
Author	: M. Nasir Djamil
Published Year	: 2017
Language	: Indonesia, Bahasa
Publisher	: Merdeka Book
ISBN	: 978-602-61116-2-3
Page	: 224 pages

A. Introduction

The book that I read entitled Bring Back Justice written by M. Nasir Djamil in 2017. This book explains the writer's personal opinion about justice and law enforcement in Indonesia. Because justice is currently hard to get for the weak people and lack of legal certainty over the rights of the poor people who have been deprived. In addition, this book also discusses

about political issues in the State of Indonesia. The related institutions that were discussed in this book such as the KPK, DPR, judges, police and the Indonesian national army.

B. Review

Bring back justice book discusses about M. Nasir Djamil's personal opinion on problems in the State of Indonesia. The process of delivering his criticism is accompanied by examples of cases that have occurred in Indonesia. So what the writer said about the poor condition of various institutions in Indonesia is a fact. The existence of mini illustrations in the form of comics in each part becomes the main attraction as well as implicit criticism.

The discussion in this book is in the form of collection of author articles that have been published in printed media. The criticism conveyed was primarily directed at law enforcement officials. The nation hope is very great to have law enforcement officers who always uphold justice, so that there is no jiggle.

The *bring back justice* book is great to read for teenagers and adults. An open mind about the problems of Indonesia can be the main target of every discussion in this book. By reading this book we can realize how critical the country's problems are. Importance awareness of the state harmonization was also discussed by the authors.

In the bring back justice book, there are 6 sections related to justice, interests, and legal benefits in life. The first part discusses strengthening Indonesian national politics. Enforcement according to justice is the second discussion in this book. Then in the third part, the authors convey the issue of the eradication and prevention of criminal acts of corruption. Furthermore, in the fourth part contains the guarantee of human rights protection for citizens. After realizing human rights in life, the next step is to realize trusted security as stated in the fifth part. The last part of this book is about keeping the national faith and spirit.

In part one, the general topic is in strengthening the politics of Indonesian nationality. The political process that always have results in compromises as happened in the process of selecting prospective judges by the Judicial Commission and the People's Representative Council (DPR). Based on its policy, KY has the duty to select prospective judges through several stages and subsequently will be approved by the DPR. Compromise that often occurs is that the competency standards of prospective judges owned by Judicial Commission (KY) and DPR are different.

Furthermore, the roles of the Indonesian National Army (TNI), Police and the Government in launching disaster mitigation efforts are also discussed in part one. Such as the existence of disaster mitigation after the tsunami disaster in Aceh in 2004 called the Tsunami Early Warning System. The function of the apparatus is also to maintain social order and guarantee security for citizens from various conflicts. In this part the author expresses his opinion on the course of politics in Indonesia accompanied by examples of issues experienced by Indonesia.

The second part of this book discusses fair law enforcement. The author expresses his opinion regarding a number of formal deviations in the RKUHP such as the RKUHP which are still considered to be colonial, have not united the criminal system and overlapping criminal provisions, and uncertainty in the article.

The author criticizes the death penalty which is controversial because it feels contrary with the right to life. The purpose of death punishment is retaliation theory such as "blood paid with blood" or in the form of torture.

Naughty and cheating judges in the world of justice at this time are also become the subject of criticism by the author. Prevention of corruption crimes is to eliminate or reduce opportunities for corruption. Intelligence and courage are needed to solve corruption which is an obstacle to the development of the Indonesian State.

The existence of the KPK seems to only provide a guarantee of the completion of corruption cases. Cooperation between the KPK, the police and the prosecutor's office is also absolutely necessary because the handling of corruption has not been effective. The author considers that efforts to revise Law Number 30 of 2002 concerning the Corruption Eradication Commission seem to go back and forth.

According to M. Nasir Djamil, cases of past human rights violations are the State's debt to the people. However, the process of resolving past human rights violations is still experiencing a tug of war. Indonesia still faces a legacy of human rights violations left by the previous regime including violence that violates human rights from Aceh to Papua.

The importance of maintaining the security of the State so that every human right can be protected and upheld. For example, the prevention and eradication of terrorism. this is because terrorism is considered as a serious threat to the sovereignty of the State.

Broadly speaking, the purpose of the discussion of this book is to convey the aspirations of the author on legal issues, security and political issues within the Indonesian State. The discussion raised in this book entitled bring back justice is very interesting. The author use Sentences

that are easily discussed and presented are examples that have been published in Indonesia that are very supportive of the issues discussed. This book can be open our mind about cases that occur in Indonesia. Not only consider legal certainty as stated in the law, or justice that is deemed incompatible with certainty. However, we can also see the case with another perspective in the eyes of the law. The existence of advantages in this book certainly has disadvantages too. These deficiencies such as the existence of a number of non-standard sentences, discussion between one part with another part is not srelated and continuitas so it is a little confusing to the reader, and the selection of paper colors that are felt not interesting and not eye catching.

Indonesian Journal of Advocacy and Legal Services ■ Author Guidelines (2019 Version)

■ Author Guidelines

Indonesian Journal of Advocacy and Legal Services (IJALS) will publish the only paper strictly following IJALS guidelines and manuscript preparation. All submitted manuscripts are going through a double-blind peer review process.

The aims of this journal is to provide a venue for academicians, researchers and practitioners for publishing the original research articles or review articles. The scope of the articles published in this journal deal with a broad range of topics, including: Criminal Law; Civil Law; International Law; Constitutional Law; Administrative Law; Islamic Law; Economic Law; Medical Law; Customary Law; Environmental Law and another section related contemporary issues in law in the perspective of community services, community empowerment in law sectors.

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The word limit for the submission is 4000-10000 words (including of footnotes and abstract).

The sequence of manuscripts following: Title; Abstract; Keywords; Introduction; Method (for original research articles); Results and Discussion; Conclusion; and References.

Main Headings of Manuscripts. Following main headings should be provided in the manuscript while preparing. Main headings, sub-headings and sub-sub headings should be numbered in the manuscript with the following example:

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2.Main Heading
2.1. Sub-headings
2.1.1 Sub-sub headings

- **Title**

Title of articles are written with Californian FB (21 pt) and preferably not more than 14 words. Author(s) name, affiliations and e-mail.

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The abstract should be clear, concise, and descriptive. This abstract should provide a brief introduction to the problem, objective of paper, followed by a statement regarding the methodology and a brief summary of results. Font Californian FB (10 pt) *Italic* and preferably not more than 250 words.

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Keywords arranged by alphabetically and should have at least two keywords and maximum five keywords separated by a semicolon (;).

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The introduction should be clear and provide the issue to be discussed in the manuscript. At the end of the paragraph, the author/s should end with a comment on the significance concerning identification of the issue and the objective of research.

- **Method**

The method written in descriptive. This Method is optional, only for original research articles.

- **Result and Discussion**

This section is the most important section of your article. Contains the results of the object of study and should be clear and concise.

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Conclusion contains a description that should answer the objectives of research. Do not repeat the Abstract or simply describe the results of the research. Give a clear explanation regarding the possible application and/or suggestions related to the research findings.

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References at the end of the manuscript should be written in *APA (American Psycho-logical Association)* Citation Style. Please use Reference Manager Applications like EndNote, Mendeley, Zotero, etc. (we suggest Mendeley). All publications cited in the text should be included as a list of Bibliography, arranged alphabetically by author.

Books with an author:

Achmad Ali. (2012). *Menguak Teori Hukum (Le-gal Theory) dan Teori Peradilan (Judicialpru-dence) Termasuk Interpretasi Undang-Undang (Legisprudence)*. Jakarta: Kencana.

Books with an editor:

Sulistyowati Irianto (ed). (2009). *Hukum Yang Bergerak; Tinjauan Antropologi Hukum.* Jakar-ta: Yayasan Obor Indonesia.

Journal articles:

Irwansyah. (2013). "Jejak Demokrasi Lingkungan dalam Undang-Undang Nomor 32 Tahun 2009" *Jurnal Ilmu Hukum Amanna Gappa*, 21(2): 121-131.

World Wide Web:

British Broadcasting Corporation. (2012). *Noken Papua Mendapat Pengakuan UNESCO.* Avail-able from: *http://www.bbc.co.uk/indonesia/ber-ita_indonesia/2012/12/121205_noken_unesco.* [Accessed May 16, 2015].

● Footnotes

Bibliography citations are provided in foot-notes with format:

Books:

Werner Menski, 2000, *Comparative Law in a Global Context, The Legal Systems of Asia and Africa.* London, Platinum Publishing Ltd, p. 16

Section from a book:

Eddy O.S. Hiariej. "Pemilukada Kini dan Masa Datang Perspektif Hukum Pidana" on Achmad D. Haryadi (ed), 2012, *Demokrasi Lokal: Evaluasi Pemilukada di Indonesia.* Jakarta, Konstitusi Press, p.182

Journal articles:
Arie Afriansyah. (2015). "Foreigners Land Rights Regulations: Indonesia's Practice". *Jurnal Mimbar Hukum*, 27(1): 98-116

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  The figures should be clearly readable and at least have a resolution of 300 DPI (Dots Per Inch) for good printing quality.

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  Table made with the open model (without the vertical lines).

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- Niravita is not preferred. The full name, Aprila Niravita is required (this will enhance the 'findability' of your publication).

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Research articles must have the main text prefaced by an abstract of no more than 250 words summarising the main arguments and conclusions of the article. Abstract should be consisted of: short background, research purposes or aims of programs, method, result and findings, and conclusion. Abstract should be stands alone, meaning that there is must not citation in the Abstract. This must have the heading 'Abstract' and be easily identified from the start of the main text.

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All references cited within the submission must be listed at the end of the main text file. References should be in line with ***APA Citation Style*** and Author is encouraged to use a proper and valid sources, *references used are not less than 15 national and international journal articles.* All sources cited must be included in the reference section and vice versa

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Spelling
The US English spelling is used in the *Indonesian Journal of Advocacy and Legal Services*. Thus, please be aware of differences in US spelling and the British spelling. Some examples follow:

analyse vs analyse
authorise vs authorize
cancelled vs canceled
centre vs center
defence vs defense
labour vs labor
organisation vs organization

An exception to using British spelling would be merited if, for instance, the proper name of something uses the American spelling (for example, Organization of American States).

Acronyms and Abbreviations

Do not put full stops in acronyms. For example, US and UK.
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Case names should be italicized. Do not put a full stop after 'v'.
e.g. A case which highlights the overtly pro foreign investor stance of Chapter 11 is *Loewen Group, Inc v United States*.
Of note, there should not be a full stop after abbreviations, such as 'Inc', 'Corp', or 'Co', in case names.

Commas

Do not put a comma before 'and' if it's ending a list (a list for example: bananas, kiwis **and** strawberries). (The exception to this would be if removing the comma would cause confusion.)
e.g. *According to Guild and others, this is especially true for **the EU Home Affairs agencies, Frontex, Europol and EASO**, due to their experimental governance strategies and their areas of intervention.52*

Capitalised Words

The word 'State' in noun form should be capitalised. There will situations where the word 'State' is part of another word and will not be capitalised. Additionally, when the noun 'state' is referring to states within the United States, the 's' should not be capitalised.

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