



USING RESEARCH INTO WOMEN'S EXPERIENCES OF THE LEGAL SYSTEM TO IMPROVE LEGAL RESPONSES TO DOMESTIC VIOLENCE

Nursyahbani Katjasungkana

National Coordinator

Indonesian Association of Legal Aid Societies for Women (Asosiasi
Perempuan Indonesia untuk Keadilan)

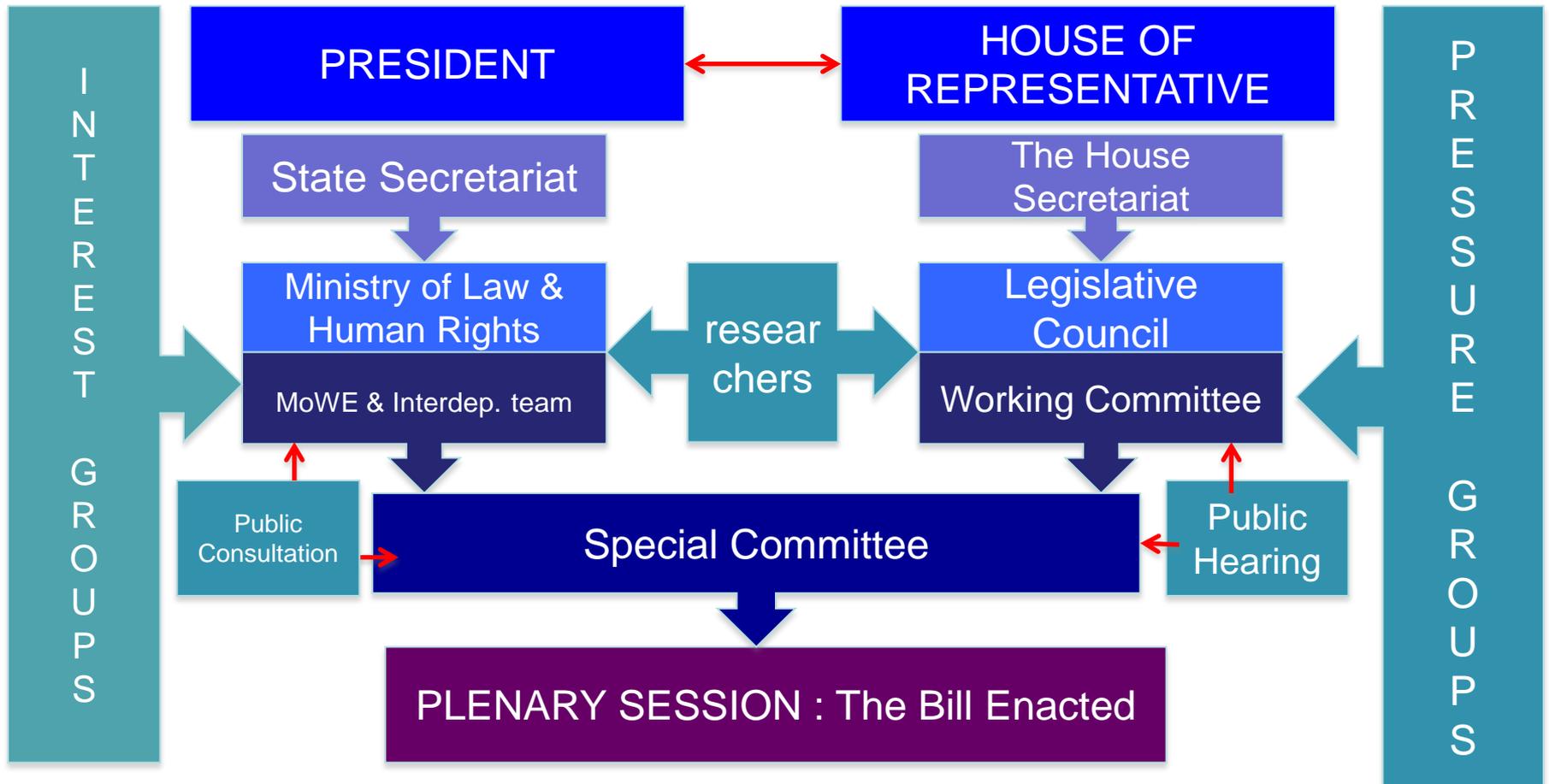
WHAT DID THE PREVIOUS RESEARCH AIM TO ACHIEVE?

- To demonstrate the legal system is not responsive to the needs and interests of female victims of domestic violence including marital rape (1995-1997)
- To produce an “Academic Paper” and draft Bill as lobbying documents for advocacy to reform article 356 of Criminal Code on assault against wife, child & parent
- To create a new law on Domestic Violence (1997-2004)
- Outcome: Domestic Violence Act enacted (2004)

WHO WERE INTENDED BENEFICIARIES?

- **Victims** of domestic violence
- **Family** including **domestic workers & other people who live at the same house** and **society at large**
- **Government of Indonesia** → improve their accountability: comply with the Constitution, CEDAW, UN Declaration on VAW, international treaties and other international consensus (i.e. Beijing Declaration and Plan of Action)

Taking a systems view



Applicable Model: Advocacy Coalition Framework :

- Study the policy context : combines stable and dynamic aspects as well as using research data and women's experiences in dealing with legal system
- Organized external interest groups/building advocacy coalitions
- Work with policy brokers and use public figures/religious leaders to reach consensus and influence public opinion
- Create communication thru media people & promote a media campaign (photo exhibitions, publish booklets/fact sheets, posters, articles)
- Engage law makers (parliament, ministry of law and human rights & ministry of women's empowerment) → legislative advocacy

SCOPING

- **Impunity** and **Failure** of legal authority and Ministry of Women affair to uphold the law while WB survey in Indonesia (2000) showed that 11 % of women and children experienced domestic violence
- Every body concerned could break the **culture of silence**
- **Support** available from International agency (funding etc.), feminist scholar (research), gender unit in Ministry of Religious affair, women's movement and human rights community, artists and media
- **Islamic teachings** and **patriarchal cultures** are the most contentious area

BOUNDARY SETTING

Problem: legal system especially article 356 of criminal code was not responsive to the needs & interests of woman, children, domestic worker and other people living in the household who experienced domestic violence

APIK feasibility: (in terms of available time, money & human resources): in the absence of comprehensive law on domestic violence, APIK could only **focus on the reform of article 356 of Criminal code** (legal content element) which is **limited intervention** on legal structure and legal culture problem

Family is the Heart of Democracy
(UN International Year of the Family, 1994)

FRAMING



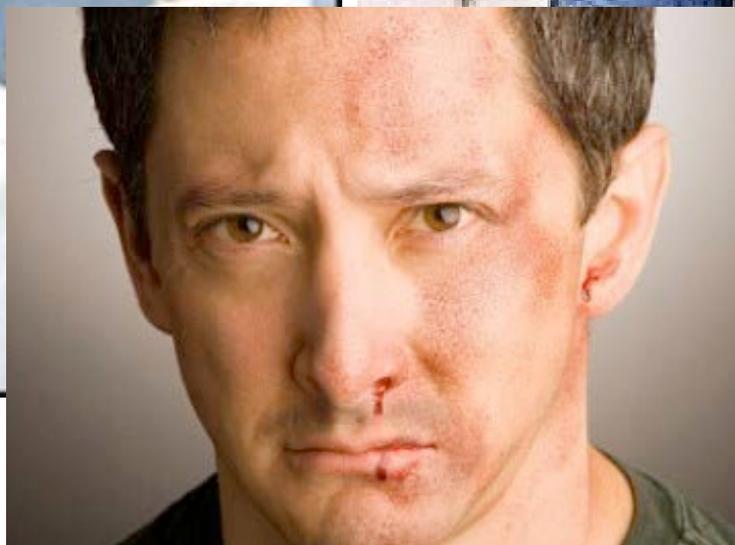
Women's Rights are
Human's Rights

Domestic Violence
Is a Crime : Stop It

Family is the
Fundamental
Institution of Human
Society (Indonesian
Day of The Family)

ASEAN VALUE :
FAMILY HARMONY

**DOMESTIC VIOLENCE
IS CRIME: STOP IT!**



Taking values into account

- Non-violent society & family harmony
- Man is leader and ruler of family and tribe
- Husband can beat his wife if she doesn't obey him (patriarchal Islamic teaching)
- Domestic violence is a private matter
- Law should stop at the bedroom door

Harnessing good differences

- Conducted seminar on “Socio-legal and Religious Responses to Domestic Violence” & building Advocacy Coalition as mandated by the participants
- Communicated and cultivating media on the need for new legislation on domestic violence and did media campaign/photo exhibition
- Conducted public hearing/consultation on the Bill on Domestic Violence Eradication and strengthened the Bill
- Engaged with Member of Parliament & Government’s team to negotiate the differences (weekly & tea time meetings)
- Created an effective communication with member of coalition/allies and public in general

Managing the bad differences

- Conducted public consultation, wrote articles, published booklets on the new interpretation of Quran/Hadith for special target groups (religious/community leaders, representatives from Ministry of Religious affair) & general public
- Used personal approach and “their” language.
- Drafted a lobbying document on particular issues that became “hot” debate” in parliament i.e. marital rape.

How did the research contribute to policy development and policy change?

Communication	Advocacy	Engagement
<ul style="list-style-type: none"> • APIK did research (life story method) and comparative policy studies & also used research done by student at Women's Studies Center of UI • Used research as a basis for drafting policy brief/academic paper and the bill & disseminated it thru seminar and media and as material of media campaigns, opinion building, publication (books, factsheets, posters, stickers, etc.) 	<ul style="list-style-type: none"> • Used research esp. life stories to advocate cases in the criminal court system • Used other strategies and tactics to harness the good and managing the bad differences through media events, public hearing, petition, photo exhibition, drawing competition, TV/Radio talk show, interviews and personal approach 	<ul style="list-style-type: none"> • Used Academic Paper and The Bill that based on research result as primary tool in engaging with law makers • Put the messages based on research results in an information kit and lobbying documents as a tool in engaging with legal institutions and law makers

WHO WAS THE RESEARCH TEAM?

- All lawyers in APIK were responsible to do research and writing the legal case studies
- Bolstered the case studies in the media and general public: published, discussed, put message into posters, stickers, fact sheets and called attention to the severity of the problem

WHEN THE RESEARCH USED?

- Research, then communication, advocacy and engagement activities were conducted to support the prosecution of cases in the criminal justice system as well as throughout the legislative advocacy work on the Bill of Domestic Violence until the Bill was enacted.

Overall Context

- The majority of the Indonesian population is Muslim with 300 indigenous groups, with their own local spiritual traditions and customs. Many of them share the notion of the subordination of women.
- Violence against women (VAW) is widely spread in Indonesia, with domestic violence as the largest form (11%) of VAW (WB Survey, 2000)
- Indonesia inherited the Dutch colonial legal system in which women are severely disadvantaged.
- After the military dictator General Suharto stepped down in 1998, the country entered a period of democratization and reform, freedom of speech, critical constitutional and legal reforms.
- Impunity by legal authority

Authorization

- APIK was established by 7 women human rights lawyers with long-standing experiences & commitment for change; 3 of them were MPs, one of them visited Australia in 1993 for legal observation program especially to visit domestic violence resource center in 3 countries.
- APIK was the only legal aid body that provided free legal assistance for poor women as well as doing legal reform
- We did legal awareness program for the overall community
- We had evidence-based research
- Secured funding for doing the legal reform and legislative advocacy activities on marriage law and domestic violence legislation reform
- Funding support came from NOVIB, Ford Foundation, USAID, Swiss Embassy, Asia Foundation, UNFPA, AusAid.

Organizational Facilitators and Barriers

Facilitators

- Led by committed women human rights lawyers with a key person who has a long experiences in leading the legal aid organization, 3 of founder were MPs
- Had a strategic planning, work plan, values and clear working mechanism (SOP) that created a good corporate culture
- Newly established organization with fresh graduate staff and fresh idea in doing policy change
- Got support from NC on VAW (They were member of Coalition and I was founder & member of NC)

Barriers

- Lack of capacity in doing legislative advocacy
- Lack of capacity in doing research and policy studies
- No funding support to improve the organization and staff capacity
- At the coalition level: most of the member did not have legislative advocacy program (no funding or expertise contributed to the Coalition)

Other contextual factors

- Domestic violence is a **global issue** on UN and UNFPA agendas
- **Family as the most important social unit in the society is embedded in the belief system**
- Growing **Islamic fundamentalism & revivalism of customs** in the community and political level
- Growing **expertise on gender & Islam** in Islamic Universities
- **Growing number of reported cases** as reported by the media and NC on VAW & crisis center

OUTCOME

New Law on Domestic Violence
(2004)



IMPACT

The law is not having a good
impact as expected



**POOR
IMPLEMENTATION**
(failure of legal
authority and
Ministry of Women
Affair to uphold the
law)



NOTHING IS
IMPOSSIBLE,
THE WORD
ITSELF SAYS
“I’M POSSIBLE”!