

Effectiveness of the Role of Posbakum in Implementing Legal Assistance for Criminal Cases to Underprivileged Communities

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Abstract. *This research aims to determine the effectiveness of the role of posbakum in implementing legal assistance for criminal cases to underprivileged communities. The approach method used is the sociological juridical method. The results of the research show that the role of Posbakum in resolving criminal cases at the Pekalongan District Court is providing information, consultation or legal advice that does not reach the stage of accompanying or representing in the courtroom, making the documents needed for applicants for Posbakum services who cannot afford it and providing information on the list of legal aid organizations that can provide free legal aid (prodeo). The weaknesses of the Pekalongan District Court Posbakum are that the families of the defendants are difficult to find to ask for certificates of incapacity and the public's knowledge about legal aid facilities is still low. The effectiveness of the Posbakum at the Pekalongan District Court provides the mandate that carrying out the duties of the Posbakum at the Pekalongan District Court is sufficient to have good capacity.*

Keywords: *Community; Legal; Underprivileged.*

1. Introduction

The Criminal Procedure Code (KUHP) also briefly touches on legal assistance as regulated in Article 54 of the Criminal Procedure Code, which states that "For the purposes of defense, a suspect or defendant has the right to receive legal assistance from one or more legal advisors at any time and at any time." level of inspection, according to the procedures specified in this law". However, matters regarding legal aid regulated in the Criminal Procedure Code only concern the conditions for obtaining legal aid and do not explain clearly what is meant by

legal aid itself.

According to the Legal Aid Act, namely in the form of a state guarantee of the constitutional rights of every person to obtain recognition, guarantees, protection and certainty of fair law as well as equal treatment before the law as a means of protecting Human Rights (HAM) and the state is responsible for providing legal assistance to the poor as an embodiment access to justice. Legal aid in question is legal services or organizations that provide legal aid services free of charge (*prodeo*) to citizens who are undergoing legal proceedings (found in Article 1, Article 2 and Article 3 of Law no. 16 of 2011).

Article 12 and Article 13 in the law also state the rights and obligations of recipients of legal aid, namely that recipients of legal aid have the right to receive legal aid until the legal problem is resolved and/or the case has permanent legal force and recipients of legal aid are obliged to assist in the smooth provision of legal aid. . Meanwhile, legal aid providers are Legal Aid Institutions (LBH) or community organizations that provide legal aid services based on Law no. 16 of 2011 concerning Legal Aid.

One of the providers of legal assistance to people or groups who cannot afford it is an advocate. The profession of advocate is an honorable profession (*officium nobile*) because it devotes itself to the interests of society, not just to personal interests. In Article 22 of Law no. 18 of 2003 concerning Advocates states that Advocates are obliged to provide free legal assistance to citizens who cannot afford it, especially in providing legal services.

The legal services in question are services provided by Advocates in the form of providing legal consultations, legal assistance, exercising power of attorney, representing, assisting, defending and carrying out other legal actions for the legal interests faced by clients. The development of legal aid in Indonesia has approached a "legal industry", meaning that advocates are running a business rather than helping those seeking justice. Legal aid has developed into a large corporation involving practices in the form of units.

Legal services are seen as a product to be sold so that it is like a business. Apart from this, the provision of legal aid is increasingly being eroded because the struggle of Indonesian Advocates has long been lost with commercialism and consumerism. The cake of justice is given a "rate", depending on its size so that justice becomes a commodity whose price depends on supply and demand.

Based on the provisions of Article 22 paragraph (1) of Law no. 18 of 2003, free legal assistance must be provided by advocates to those seeking justice who cannot afford it. This article provides obligations or burdens for Advocates, however, Advocates do not automatically do so. Many advocates are reluctant

to provide legal assistance because there is no economic benefit. And even if it is implemented, Advocates do it only lightly.

Community groups who come from various social strata have the potential to be involved in various legal problems, especially criminal acts, both as criminal perpetrators and victims of crime. On average, criminals have a low economic and educational background. The increasingly high cost of living demands and environmental factors force them to use all means to get money instantly in order to survive and to do inappropriate things, such as becoming drug dealers, committing sexual abuse and theft. Those involved in criminal acts will later face the law and if a suspect or defendant is sentenced to five years or more, they must be accompanied by an advocate to undergo a series of legal processes.

The results of the researcher's initial interview with one of the Judges at the Pekalongan District Court stated that in Pekalongan itself, the cases that were most received and handled by Advocates as providers of free legal assistance were cases of narcotics and sexual abuse. In accordance with Article 56 Paragraph (1) of the Criminal Procedure Code, it states that

"In the event that a suspect or defendant is suspected or accused of committing a criminal offense which is punishable by the death penalty or a sentence of fifteen years or more or for those who are incapacitated who are threatened with a sentence of five years or more who do not have their own legal advisor, the officials concerned at all levels of examination in the judicial process are obliged to appoint legal advisors for them." "This article is the basis for the appointment of Advocates at the Legal Aid Post (Posbakum) of the Pekalongan District Court in providing free legal aid to underprivileged people."

The Pekalongan Class IB District Court, which is located in the Pekalongan jurisdiction, is a place for the public to seek legal justice for those who are undergoing legal proceedings. The Pekalongan District Court provides legal service facilities for people who cannot afford it. One of the legal service facilities provided is the Legal Aid Post (Posbakum). Posbakum itself can be used by poor people who are entitled to free legal assistance with no court fees. 13

This research aims to: 1) To describe the role of Posbakum in handling criminal cases at the Pekalongan District Court. 2) To describe the weaknesses of Posbakum's role in handling criminal cases at the Pekalongan District Court and 3) To describe the effectiveness of Posbakum's role regarding handling criminal cases at the Pekalongan District Court in the future.

2. Research Methods

The approach method used in this research is sociological juridical research. Sociological juridical approach techniques are used to analyze and provide answers to legal problems in accordance with the intended target. 14 Juridical factors are based on applicable legal provisions relating to the effectiveness of Posbakum's role in implementing legal aid for criminal cases to underprivileged communities in Pekalongan

The specifications of this research use an analytical descriptive type, namely research that provides a description, writes and reports an object or event and draws general conclusions from the problem being discussed. The data collection method is primary data, obtained from personal interviews, namely by obtaining it directly from the authorities, namely advocates, in this case interviews regarding the effectiveness of the role of Posbakum in implementing legal assistance for criminal cases for underprivileged communities at the Pekalongan District Court. Meanwhile, secondary data is obtained by carrying out an inventory of literature books, documents, articles and various materials has been obtained, recorded and then studied based on its relevance to the main problem being researched which is then studied as a complete unit, as well as secondary data in the form of the number of disadvantaged people who have been given legal assistance in Pekalongan. The data obtained is then analyzed qualitatively, namely the analysis is carried out by understanding and assembling the data that has been obtained and arranged systematically, then conclusions are drawn. Conclusions are drawn using deductive thinking, namely by thinking based on general matters and then drawing specific conclusions.

3. Results and Discussion

3.1. The Role of Posbakum in Handling Criminal Cases in the Pekalongan District Court

The existence of posbakum is an implementation of Article 1 paragraph (9) of the Law on Advocates Number 18 of 2003 and the Legal Aid Law in Article 3 letters a and b, which states that the provision of legal aid aims to guarantee and fulfill the rights of legal aid recipients to gain access to justice.

Recipients of legal aid to gain access to justice. The legal aid post is operated at the Pekalongan District Court. This posbakum is held independently so it takes place outside the court. Posbakum at the Pekalongan District Court is a third party that is integrated with the court itself, where funding and budgeting are obtained from the court's DIPA (Budget Implementation Form). Posbakum provides services according to the working times and days of the Pekalongan District Court, namely 5 working days (Monday to Friday), Monday to Thursday the service time is 08.00-16.30 while on Friday it is 08.00-17.00 WIB. Procurement of this posbakum aims to help people who cannot afford legal

services such as writing lawsuit letters.

What is meant by an underprivileged community is that they are incapable from an economic perspective or from an understanding of the law or in other words legally illiterate. The criteria for an underprivileged community can be seen from their economic capacity, such as being unable to pay court fees, in this case the community attaches an appropriate Poor Certificate. in PERMA No. 1 of 2014. People who are legally blind are people who don't know about how to make a lawsuit or petition and don't know how to proceed at trial.

With this Posbakum, it is hoped that it can help the community in litigating cases in court and to ease the burden of costs that must be borne by poor people. Apart from that, the Posbakum is also a place where people request legal consultation regarding the problems they face. The Pekalongan District Court Posbakum provides services including consultation, providing legal information in the form of case procedures and requirements that must be attached when submitting an application to the Posbakum, and preparing a letter of claim or application, as well as providing a form requesting a waiver of court fees to obtain free legal assistance. This is in accordance with PERMA No. 1 of 2014 that the court postbakum provides services in the form of providing information, consultation, or legal advice and assistance in preparing the required legal documents.

Providing information on the list of Legal Aid Organizations as intended in Law no. 16 of 2011 concerning Legal Aid or Legal Aid Organizations or other advocates who can provide free legal aid. The services provided by Posbakum to underprivileged people are aimed at fulfilling the rights of people who receive Posbakum services to get access to justice, realizing the constitutional rights of all citizens in accordance with the principle of equality under the law. This is in line with the interview conducted by the researcher with Sukanto, who said that: The services provided by Posbakum to underprivileged people in court are aimed at providing services in the form of legal aid so that their rights in contact with the law can be served optimally.

Based on a direct interview with the Pekalongan District Court Posbakum picket officer, he said that:

"Posbakum officers receive and consult with those who need Posbakum services regarding the conditions they are experiencing. If they come to complete identity repair matters, the Posbakum officers must also listen to complaints from those who come and ask for advice to direct their business in the future because they don't know the Posbakum service procedures".

The role of the Pekalongan Court Posbakum picket advocate in providing

consultation in resolving the case is only to provide legal opinions, as requested by the recipient of the Posbakum service, after which the decision regarding the resolution of the case will be taken by the litigants themselves. This is in line with interviews with Pekalongan posbakum officers, stating that:

"The formation of Posbakum aims to provide legal aid services for people seeking justice who are unable to obtain access to justice and equality before the law so that their rights can be fulfilled".

From this interview, it is known that the parties wishing to proceed will receive an explanation regarding the things they will experience when undergoing procedures before, during and after the trial. So officers from Posbakum cannot provide overall advice services, Posbakum officers cannot accompany or represent them when they are in the courtroom. So the advice service is only provided as an illustration of court procedures.

Accompaniment is carried out only if there is power of attorney from the recipient and there is an order from the court to be accompanied at trial and this only applies in criminal cases. This is also in accordance with the mandate conveyed in Article 56 of the Criminal Procedure Code. Further matters related to the role of advocates in providing advice in resolving civil cases, are explained in the results of interviews with Posbakum picket advocates, that:

In civil cases, if they need assistance, we will continue to accompany them, but only outside the court until the case is finished, if they are given authority directly from the court, but the assistance does not extend into the court room. The case also cannot be guaranteed to be completed because we have a work contract period with the court, as is known civil cases usually take years to be resolved..

From the results of the interview above, the author can conclude that in carrying out the role of Posbakum in resolving civil cases at the Pekalongan District Court in terms of providing legal advice, the Posbakum picket advocate cannot accompany community members who request assistance to be accompanied at the trial and if given direct authority from the party court then they can accompany. However, the picket advocate also considered certain cases that were considered difficult and time consuming years to complete whereas they have a limited working time period.

3.2. Weaknesses in the Role of Posbakum in Handling Criminal Cases in the Pekalongan District Court

The weakness encountered in the legal aid service at the legal aid post at the Pekalongan District Court as an effort to guarantee the right to resolve cases

lies in the fact that the party who wants to obtain free legal aid does not know the rights and obligations of someone who needs legal aid services. The public Those who need legal assistance do not have the knowledge to obtain free legal assistance, so it is also hampered by providing free legal assistance at the Pekalongan District Court. The way out of this obstacle is to first fulfill the requirements that will be submitted, in order to smooth the process of obtaining free legal assistance from the legal aid post as an effort to guarantee the right to resolve cases at the Pekalongan District Court.

The 1945 Constitution Article 28 D paragraph 1 states that every person has the right to recognition, guaranteed protection and certainty. It is on this basis that the State provides guarantees to people or groups to obtain the right to legal assistance as stated in Article 2 letter b of Law Number 16 In 2011, there was the principle of equality in law. The concept of poor people according to Law Number 16 of 2011 concerning Legal Aid is every person or group of people who cannot fulfill their basic rights properly and independently. What is meant by basic rights in law are the rights to food, clothing, health services, educational services, employment and business or housing. As we all know in the previous description, to date, the implementation of providing legal aid at the Pekalongan District Court has not been carried out effectively due to several factors, both internal and external. As a corrective step in order to increase the quality of providing legal aid, an effort is needed to increase the effectiveness of legal aid organizations in providing legal aid to people or groups.

One of the factors that become obstacles faced by Legal Aid Institutions in providing legal assistance is the legal substance factor. The laws governing legal aid, one of which is Law Number 16 of 2011 concerning Legal Aid, still contains weaknesses. In this law, legal aid recipients, which are only aimed at poor people or groups of people, need to be further developed. The arrangements regarding funding in this law also need to be reviewed. The reporting mechanism that must be carried out to obtain a legal aid budget (funding) also makes it difficult to undergo verification, accreditation which goes through a long, less efficient process is not very necessary, and it is hoped that there will be an increase or intensity of implementation of legal aid from year to year. In the Criminal Procedure Code, it is limitedly stated that for underprivileged people, the State provides legal assistance at every level, starting from investigation, prosecution and the process before the trial.

The legal assistance provided is a form of respect for human rights by the state for every underprivileged citizen. In the field, the term "prodeo" is commonly used. In other terms, the term "probono" is often used. Increasing the availability of legal aid providers for suspects who are poor (poor) in order to increase the availability of legal aid providers for suspects who are poor (poor),

namely, increasing coordination between the police and legal aid institutions. 20 By carrying out this collaboration, the need for legal aid providers to accompany suspects who are unable (poor) to fulfill and become balanced. Improving coordination with legal aid institutions has also been carried out by communicating about free legal aid for poor people. One way is to socialize Law Number 16 of 2011 concerning Legal Aid to enforcement officers and legal advisors.

3.3. The Effectiveness of the Role of Posbakum Regarding the Handling of Criminal Cases in the Pekalongan District Court in the Future

Criminal cases within the scope of providing services to underprivileged people which fall under the authority of the Pekalongan District Court Posbakum can be filed, namely ordinary criminal cases such as theft, fraud, gambling, assault, and other criminal cases which are punishable by a criminal sentence of five years or more, and also especially for children's cases that require assistance from an advocate. Plaintiffs/applicants and suspects/defendants have the right to receive free legal services related to the provision of Pekalongan District Court Posbakum services related to cases submitted by each applicant for legal aid, whether in civil cases or criminal cases, especially for people who cannot afford it. 21 The civil cases that can be served by Posbakum include divorce claims for non-Muslims, debt claims, land claims, name change requests, child adoption requests, etc.

The author interviewed a Pekalongan Posbakum picket advocate to find out his response regarding the mechanisms that justice seekers who want to use Posbakum services need to know, he said that:

"In civil cases, if they need assistance, we will continue to accompany them, but only outside the court until the case is finished, if they are given authority directly from the court, but the assistance does not extend into the court room. The case cannot be guaranteed to be completed because we have a work contract period with the court, as is known civil cases usually take years to be resolved."

This means that people who come to Posbakum are not immediately served, but they must fulfill several conditions to use the services of Posbakum officers to provide excellent service to the community. The procedure for providing legal aid is that accessing Posbakum is very easy with the space provided in one of the Pekalongan District Court rooms. This will make Posbakum closer to access by the parties who come, by entering the room provided and waiting for the parties. Posbakum officers were on duty that day but before they were asked what the purpose of their visit to Posbakum was. Furthermore, parties who wish to receive Posbakum services will be given a form that has been

provided and informed that they can receive Posbakum services, by submitting the necessary requirements such as a certificate of incapacity (SKTM) from the Subdistrict Office or Village Office, or other certificates such as social benefits. which has been mentioned in Article 22 paragraph (2) of Supreme Court Regulation Number 1 of 2014. Then the Posbakum officer will ask or ask for other information regarding the chronology of the case at hand, after that the recipient of the Posbakum service will fill out a statement that they have received the service from the Posbakum officer, then the officer Posbakum collects case files of recipients of Posbakum services as documentation to be submitted to the Court.

If the service recipient wishes to have the court fee waived because he or she is unable to pay either the lawsuit or petition case, the Posbakum officer will provide a request form for the case fee waiver.

In general, every Posbakum is very helpful, especially in providing legal services to both people who can afford it and those who cannot afford it. Likewise, the Pekalongan District Court Posbakum is very helpful to the community both in terms of providing advice and consultations as well as preparing other documents needed for recipients of legal aid services. The Pekalongan District Court Posbakum is really needed to help people who cannot afford the services of advocates or lawyers and people who still have minimal legal knowledge. Another benefit was also conveyed by the Posbakum picket advocate regarding Posbakum, he stated that:

"With the existence of Posbakum, it not only helps the community but also helps the District Court, which was previously done by the court or employees of the Pekalongan District Court, is now handed over to Posbakum officers, especially in providing consultation advice and making the necessary letters as well as making other documents."

As the author also interviewed one of the recipients of Posbakum legal services with the initials DA, he said that:

"I was really helped by this Posbakum, because I came here not understanding what I had to do, luckily the information officer told me to go to Posbakum, there I was helped and given information regarding what I would do later, such as submitting my letter to registered."

A similar thing was also found when interviewing one of the recipients of legal aid services at Posbakum with the initials BA who said that just by knocking on the door of Posbakum they would be served by officers at Posbakum:

"After we fill in the attendance list, we can get Posbakum services. Bahroni further said that: The existence of Posbakum really helps people like me. With a low educational background, I was confused about what to do at the district court later, even though I had a problem that had to be resolved before the court, after I was told by the information officer to visit Posbakum then I feel relieved because they have been helped to complete my case submission in court."

Based on this, thenThe applicative effectiveness of the Pekalongan District Court's Posbakum provides a mandate in carrying out the duties of the Pekalongan District Court. Posbakum has sufficient capacity in 2022. This is proven by the satisfaction of the people who come to ask for help from Posbakum at the Pekalongan District Court for its role in providing legal aid services.

4. Conclusion

The role of Posbakum in resolving criminal cases at the Pekalongan District Court is providing information, consultation or legal advice that does not reach the stage of accompanying or representing in the courtroom, making the documents needed for applicants for Posbakum services who are unable to do so as well as providing information on a list of aid organizations. law that can provide free legal assistance (prodeo). The weakness that is often faced by the Assistance Post (Posbakum) is from the defendant himself, namely that the family of the defendant is difficult to find to ask for a certificate of incapacity, apart from that, generally the obstacles faced by the legal aid post in implementing the provision of legal aid services are still low public knowledge regarding legal aid facilities. Applicatively, the effectiveness of the Posbakum at the Pekalongan District Court in providing the mandate in carrying out the duties of the Posbakum at the Pekalongan District Court is sufficient to have good capacity. This is proven by the satisfaction of the people who come to ask for help from Posbakum at the Pekalongan District Court for its role in providing legal aid services. Even though Posbakum already exists and is used to help resolve cases free of charge, its benefits have not been fully felt by the community.

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