

Roles and Responsibilities of Institution Legal Assistance In The Process of Handling the Case of Crime(Case Study: Criminal Investigation in Directorate of Central Java Regional Police)

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Abstract. Legal aid is a legal service which aims to provide a defense against human rights. The method used in this study is juridical empirical sociological law research that examines the applicable law and what happens in reality in society. In this study, the law conceived as an empirical phenomenon that can be observed in real life. The theory used in this research is the theory of the rule of law, theory principle of legal certainty, fairness and legal benefit.

The study concluded that: 1) The role and responsibilities of legal aid refers to Article 1, Section 7, Article 8, Article 9, Article 10, Article 11, Article 13, Article 15, Article 20, Article 21 of Act Number 16 2011. 2) the obstacles faced by Legal aid Society in carrying out their roles and responsibilities are: a) the lack of continued patently victims and perpetrators of crime, b) lack of communication between legal aid providers with the investigator, c) attitude of investigators who sometimes covered with their view that a legal aid provider will impede the process of investigation, d) existence of different legal interpretations between Advocacy Legal aid to investigators about the conclusions and investigations. 3) Solutions related constraints faced by Legal Aid Society in carrying out their roles and responsibilities are: a) Government should give special warning to do the legal laid as Act Number 16 of 2011, b) Improve coordination between Police and Legal Laid Board connected with the Legal Laid, c) Followed investigator in socialization on law about legal laid.

Keywords: Legal Aid; Legal Aid Board; Crime.

1. Introduction

The development of legal aid also raises a Legal Aid as one of the legal aid movement in Indonesia because its characteristics are very dynamic and also the way management is also more professional than management bureaus legal consultation run by the faculty of law of either private or public³

The existence of Legal Aid is vital in the midst of the public to remember the principle of equality before the law. Moreover, with most members of our society are still living below the poverty line, and the lack of legal knowledge society is also a problem in applying the law in the society especially the legal culture and the level of public awareness of Indonesia is still low.⁴

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³Mulyana Kusuma 2008. *Perkembangan Kegiatan Bantuan Hukum, dalam LBH Memperdayakan Rakyat dan Membangun Demokrasi*, YLBHI. Jakarta, p. 13

⁴Mulya Lubis, 2000. *Bantuan Hukum dan Kemiskinan Struktural*, LP3ES. Jakarta, p. 15

Legal aid is a legal services provided by the provider of legal aid free of charge to the acceptance of legal aid who face legal issues and legal aid is a legal services (legal service) which aims to provide a defense against the rights of the suspect / defendant since he detained until obtaining court rulings remain.⁵The right to defense is a matter of human rights, every citizen is guaranteed in the Universal Declaration of Human Rights,⁶ *International Covenant on Civil and Political Right (ICCPR)*.⁷

Based on the above, the authors are interested in reviewing it deeper by doing research, to writing a thesis entitled "The Role and Responsibility of Legal Aid in Process Case Management Crime (Case Study: The Criminal Investigation in Directorate of Central Java Regional Police)" The formulation of the problem in this research: What is the role and responsibilities of legal aid to the victim and the offender during the process of handling lawsuits of pidana Ditreskrim Central Java Police? Constraints are facing legal aid agencies in carrying out their roles and responsibilities? How solusiterkait constraints faced by legal aid agencies to carry out roles and responsibilities jawabnyaselama criminal case handling process?

Research methods

Empirical juridical approach. Juridical (the law is seen as the norm or *das sollen*), because in this study to address issues using legal materials (both the written law and the unwritten law or legal material either primary or secondary law). Empirical approach (law as a social reality, cultural or *das sein*), because in this study used primary data obtained from the field.⁸ This type of research is used in completing this thesis is qualitative research, the research can be defined as research that is not as concerning⁹And described in the analysis and discussion.

The data used are primary and secondary data. To obtain primary data researchers refer to data or facts and case law directly obtained through research in the field, including a description of the respondents. While the secondary data is done by the study of literature

Data analysis method used is descriptive qualitative, ie the decomposition of data analysis that starts on information obtained from the respondents to achieve clarity issues to be discussed.¹⁰

⁵Sudikno Mertokusumo 2008. *Hukum Acara Perdata*, The fifth edition. Liberty. Yogyakarta, p. 16

⁶Universal Declaration of Human Rights, Article 6: "*Everyone has the right everywhere recognition as a person before the law*". The United Nations Department Of Public Information, 1998, hlm.5. In Frans Hendra, 2009. *probono Publico*. Jakarta: Gramedia Pustaka Utama, p. 4

⁷International Covenant on Civil and Political Rights, 1998, Article 16: "*Everyone shall have the right to everywhere recognition as a person before the law*". The United Nations Department of Public Information, p. 27. The ICCPR has been ratified by Law Number 12 in 2005.

⁸Soerjono Soekanto & Sri Mamudji 2001. *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*, Rajawali Pers. Jakarta, p. 13-14

⁹Ediwarman 2010. *Monograf, Metodologi Penelitian Hukum*, Terrain: Graduate Univ. Muhammadiyah North Sumatra, Medan, p. 24

¹⁰Afifuddin, et al, 2009. *Metodologi Penelitian Kualitatif*. Faithful Reader. Bandung, p. 15

2. Results and Discussion

2.1. Roles and Responsibilities of Legal Aid to Victims and Perpetrators of Crime for Case Management Process in Central Java Police Ditreskrim

Basically, the process of granting legal aid is not clearly stated in Article 56 of the Criminal Procedure Code. This law describes only the rights of criminals who received legal aid free of charge, while in the Criminal Code has not been set for the protection of victims, as for the protection of witnesses or victims found in Article 4 of Act Number 13 of 2006 on the Protection of Witnesses and Victims protection of witnesses or victims aimed at providing security to witnesses or victims in gave the information on any criminal proceedings¹¹ For the concept and idea of the task and the role of Legal Aid who take the role of legal aid provided for in Article 1, Section 7, Article 8, Article 9, Article 10, Article 11, Article 13, Article 15, Article 20, Article 21 Law Number 16 Of 2011 on Legal Aid¹² Miranda Rule in Indonesia principles set out in Articles 54, 55, 56 Paragraph (1) and Article 114 of the Code of Criminal Procedure (Criminal Procedure Code). Miranda Rule in Indonesia is the adoption of the United States, but in practice it is not fully applied the principle of Miranda Rule in the United States also fully applied in Indonesia. In particular the principle of Miranda Rule in Indonesia contained in Article 56 paragraph (1) Criminal Procedure Code.

2.2. Obstacles Faced Legal Aid In Running Roles and Responsibilities

The cause of a constraint in the implementation of legal aid to the poor class in a case, if examined in the theory of legal systems that affect law enforcement is divided into three factors, factors substance law (legal substance), legal structures (legal structure), and culture law (legal culture), community factors¹³ In the opinion of Iptu. Heru Prasetyo, SH, investigators *Ditreskrim* Central Java Police the other inhibitors of the law enforcement apparatus in terms of the external show that, many advocates have never provided legal assistance on the grounds that there is no call or no contact from investigators in the police or the court to advocates are concerned, as the procedure of mutual legal assistance. In general, in the Central Java Police there is no list of names of lawyers who can be contacted to provide legal assistance. Investigators appoint an advocate to provide legal assistance only by a factor of friendship between the investigator to advocate, so that the information and coordination between investigators with other advocates have not been able to walk properly, so that the appointment of an advocate is uneven and appointed advocate is the same advocate and impressed that's it. This shows a lack of coordination between the investigator to advocate and also between courts to advocate the appointment¹⁴.

¹¹Results of interviews with Joko Suwarno, S.Ag., Legal Aid Society of Central Java, on the date of August 31, 2019

¹²*ibid*

¹³Results of interviews with Nurjanah, SH, Legal Aid Foundation of Central Java on August 31, 2019

¹⁴The interview with the Inspector. Heru Prasetyo, SH, *Ditreskrim* Investigator Police Central Java on August 19, 2019

2.3. Obstacles Faced Related Solutions Legal Aid in the Run Role And Responsibilities The answer for Crime Case Management Process

Solutions related constraints faced by Legal Aid Society in carrying out their roles and responsibilities during the process of handling the criminal case is to increase the number of Advocates on issues of increasing the number of Advocates to face problems of legal aid as seen in the first verification in 2013, BPHN begin to implement the registration process and verification of legal aid organizations in all provinces in Indonesia. When the registration process is done there are a number of 579 legal aid organizations have signed up to be verified by BPHN, but of that number, there are only about 310 Legal Aid organization that pass the verification process to the value of accreditation as much as 10 Legal Aid organization, the value of accreditation B were 21 Legal Aid organization and the value of accreditation C 279 Legal Aid organization. 310 of the Legal Aid Organization, there are about 44% of the Legal Aid Organization that operates in Java and 26% in Sumatra, while the remaining 30% spread in many other regions. Then, in the second verification process for fiscal of 2016-2018, the number of legal aid providers increased to 405 Verified Legal Aid organization with accreditation as much as 13 Legal Aid Organization, as many as 61 accredited B Legal Aid organization and accreditation C as much as 331 Legal Aid Organization¹⁵

3. Closing

3.1. Conclusion

- The roles and responsibilities of legal institutions to the victims and perpetrators of criminal acts *Ditreskrim* Central Java Police refers to Article 1, Section 7, Article 8, Article 9, Article 10, Article 11, Article 13, Article 15, Article 20, Article 21 of the Act number 16 of 2011 on Legal Aid. In the process of judicial roles and responsibilities of legal aid organizations have current stage of settlement to the case.
- The obstacles faced by the Legal Aid Institute to carry out roles and responsibilities are:
 - The lack of honesty outright and there are no victims or suspects in providing the chronological case.
 - The lack of communication between legal aid providers with the investigator that time to settle the case to be blocked.
 - The attitude of the investigator, sometimes covered with their view that a legal aid provider will impede the process of investigation.
 - The existence of different legal interpretation of Advocacy Legal Aid to investigators about the conclusions and investigations that would be wrong in applying the provisions of the protection of the victim and the legal provisions for the accused.

¹⁵Minister of Justice and Human Rights, Number M.HH-01.HN.03.03 OF 2016 About the Institution / Organization Legal Aid That Passed Verification and Accreditation For Legal Aid Period 2016 to 2018.

- Related Solutions constraints faced by Legal Aid Society in carrying out the roles and responsibilities during the process of handling the criminal case is:
 - The government needs to give special attention to the implementation of legal aid according to Law Number 16 Of 2011
 - Improve coordination between the police with Legal Aid relating to the availability of legal aid providers.
 - To involve the police as investigators in socialization or legal counseling on legal aid.

3.2. Suggestion

- The governments should provide support, both moral and material such as providing Human Resources assistance or funding to Legal Aid Institutions, that advocates are not overwhelmed provide legal assistance to those seeking justice.
- The police need to improve the provision of information related to their legal aid to victims and perpetrators of criminal acts through Legal Aid in Central Java.

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