

The Role of LKBH in Accompaniing People Caught in Demonstrations

Azis Ichwan

Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,
E-mail: azis.ichwan57@gmail.com

Abstract. *Demonstrations are a form of public participation in voicing opinions which is guaranteed by Article 28E paragraph (3) of the 1945 Constitution. However, in practice, demonstrators often face repressive actions from "rogue" law enforcement officers. This study aims to analyze the role of the Garuda Yaksa Legal Consultation and Aid Institute (LKBH) in providing legal protection to demonstrators detained during the 2020 protests against the Omnibus Law in Semarang. LKBH Garuda Yaksa played a role in providing legal assistance, advocacy, and monitoring the rights of demonstrators to ensure they were protected according to legal provisions. This research uses a sociological juridical method with a descriptive analytical approach. Primary data were obtained from interviews with LKBH officials and demonstrators, while secondary data were obtained from legal literature and related legislation.*

Keywords: *Demonstrations; Human Rights; Legal Aid Institutions.*

1. Introduction

Demonstrations as a form of public participation in voicing aspirations have become an integral part of the journey of democracy in Indonesia. Demonstrations are a legitimate form of protest and are protected by law, specifically Article 28E paragraph (3) of the 1945 Constitution which stipulates that everyone has the right to freedom of association, assembly, and expression of opinion. The article states: "Everyone has the right to freedom of association, assembly, and expression of opinion."¹ From the explanation of this paragraph, it can be concluded that every Indonesian citizen has the right to freedom of association, assembly, and expression of opinion. As a country based on the rule of law, it is the government's obligation to respect, guarantee, and protect these freedoms for all its citizens. In addition, there is a more specific law regarding the right to freedom of expression in public, contained in Article 1 of Law Number 9 of 1998 concerning Freedom of Expression. In a democratic country, people have the right to voice their aspirations, one way being through demonstrations as a form of political participation and an effort to influence government policy. However, in practice, the exercise of these rights often faces various challenges, including repressive actions by certain law enforcement officials. One such incident which reflects the conflict between the right to demonstrate and repressive measures

The police 'rogue' was the 2020 Omnibus Law Rejection Action in Semarang, where the demonstration intended to voice the people's aspirations actually ended in the police detaining the demonstrators.² In 2020, Indonesia experienced significant social unrest related to the government's plan to pass the Job Creation Law, commonly known as the Omnibus Law. Rejection of this plan was expressed through demonstrations held in various regions, including the city of Semarang. These demonstrations against the Omnibus Law were attended by various elements of society, such as students, laborers, and activists, who felt that the law threatened workers' rights and damaged the environment. In Semarang, the demonstrations escalated significantly, marked by clashes between demonstrators and "rogue" police officers, which resulted in the arrest of several demonstrators.³ As reported by BBC News Indonesia, the Central Java Freedom of Expression Advocacy Team reported that at least 200 people, including schoolchildren, laborers, and university students, were arrested during a demonstration against the Job Creation Law at the Central Java Governor's office. Etik Oktaviani, a representative of the Advocacy Team, explained that before During the arrest, police officers used tear gas to disperse the crowd that had become chaotic after their demands were not responded to by the provincial government or the DPRD.

¹ 1945 Constitution, Article 28E paragraph (3).

As reported by Espos.id, Semarang City Police officers arrested 269 people during a demonstration against the ratification of the Job Creation Law in front of the Central Java Regional People's Representative Council (DPRD) building on Wednesday (October 7, 2020). Police suspect that the demonstrators were involved in vandalism and throwing blunt objects at the building and police officers. Of the 269 people arrested, 189 were released after questioning, while four remain in detention for further investigation. Semarang City Police Criminal Investigation Unit Head, AKBP Benny Setyowadi, stated that video and photographic evidence is being examined, but no suspects have been named yet.

During this demonstration, LKBH Garuda Yaksa provided legal assistance including advice, representation in court, and advocacy for the release of the detained demonstrators. In addition, the role of LKBH Garuda Yaksa is not only limited to legal assistance in court, but also includes efforts to prevent escalation of conflict between demonstrators and police officers through advocacy, negotiation, and mediation, which aims to create a conducive atmosphere and prevent actions that are detrimental to both parties. By raising the issue of the Action to Reject the Omnibus Law to the national level and collaborating with various civil society organizations, LKBH Garuda Yaksa also plays a role in broader policy advocacy, urging the government to conduct investigations into repressive actions by the authorities and strengthen legal protection for demonstrators, in order to prevent similar cases from recurring in the future.

2. Research Methods

The type of research used is legal research, which is useful for examining the legal aspects in a factual and concrete manner, which is called empirical research, and also how law operates within society using a sociological approach. The data sources in this study are primary data, namely data obtained directly at the research site, followed by secondary data, namely legal literature, and the main source of legal material, namely primary laws and secondary legal material, namely official books.

This research was conducted at the Garuda Yaksa Legal Aid and Consultation Institute. The research used interview and literature review techniques. After obtaining the data, it was analyzed descriptively and qualitatively using inductive

² Ahmad Taufik Riharso, "*Pengaruh Amicus Curiae terhadap Putusan Pengadilan Negeri Semarang (Putusan Nomor 760/Pid.B/2020/PN.Smg)*", Skripsi, Fakultas Hukum Universitas Islam Indonesia; 2023, p. 10-11.

³ Nur Alfiyan Subha. *Tinjauan Yuridis pada Pengendalian Massa Unjuk Rasa Tolak Omnibus Law Ditinjau dari Hak Asasi Manusia (Studi Kasus Kota Semarang)*. Diss. UPT. Perpustakaan Undaris; 2024.

logic. The collected data, which is an analysis that describes the actual situation regarding certain facts, is then linked to legislation and expert theories.

3. Results and Discussion

3.1. What is the role of LKBH Garuda Yaksa in providing legal protection to demonstrators detained during the protest against the 2020 Omnibus Law in Semarang?

The Garuda Yaksa Legal Consultation and Aid Institute (LKBH) began its role in the 2020 Action to Reject the Omnibus Law when demonstrations in Semarang heated up, involving various elements of society such as students, workers, and activists. This action aimed to reject the Job Creation Bill, which was considered detrimental to workers' rights and the environment.⁴ In this situation, LKBH Garuda Yaksa took the initiative to provide legal assistance to the demonstrators, ensuring their rights were protected in accordance with applicable legal provisions.

When the demonstration resulted in the detention of several demonstrators by the police, LKBH Garuda Yaksa immediately moved to ensure that the detained demonstrators received their right to legal assistance as guaranteed by Article 54 of the Criminal Procedure Code. Article 54 of the Criminal Procedure Code states that, "For the purposes of defense, a suspect or defendant has the right to receive legal assistance from one or more legal advisors during and at every stage of the examination, *according to the procedures determined in this law*".⁵

Legal aid is a fundamental right guaranteed by the constitution for every Indonesian citizen. The enactment of the Law on Legal Aid is clear evidence that the state is responsible for providing access to justice to all citizens, including those who are less fortunate.⁶ This is mandated by various laws and regulations, such as the 1945 Constitution, Law No. 39 of 1999 concerning Human Rights, and the Criminal Procedure Code (KUHP). The following is the text mandated by several laws and regulations regarding the right to legal assistance:

⁴ Oktaviani, Rizka Dwi. *Partisipasi Politik Dan Gerakan Sosial (Studi Atas Partisipasi Mahasiswa Dalam Demo Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja Di Masa Pandemi Tahun 2020)*. BS thesis. Fakultas Ilmu Sosial dan Ilmu Politik Universitas Islam Negeri Syarif Hidayatullah Jakarta.

⁵ Law No. 8 of 1981, Criminal Procedure Code (KUHP), Article 54

⁶ Panjaitan, Budi Sastra. "Bantuan Hukum Sebagai Sarana dalam Mewujudkan Keadilan." *Doktrina: Journal Of Law* 2.1 (2019): 45-65.

1. The 1945 Constitution (UUD 1945)

- Article 28D paragraph (1): "Everyone has the right to recognition, guarantees, protection and fair legal certainty as well as equal treatment before the law."
- Article 28G paragraph (1): "Everyone has the right to protection of themselves, their family, their honor, their dignity and their property under their control, and has the right to a sense of security and protection from the threat of fear to do or not do something that is a basic human right."

2. Law no. 39 of 1999 concerning Human Rights

- Article 17: "Everyone, without discrimination, has the right to obtain justice by submitting applications, complaints and lawsuits, whether in criminal, civil or administrative cases and to be tried through a free and impartial judicial process, in accordance with procedural law that guarantees an objective examination by an honest and fair judge to obtain a just and correct decision."
- Article 18 paragraph (1): "Every person who is investigated, arrested, detained, prosecuted or brought before a court has the right to obtain legal assistance from the time of the investigation until a court decision has permanent legal force."
- Article 18 paragraph (4): "Any person who is arrested, detained and/or prosecuted because he is suspected of committing a crime has the right to be considered innocent until a court decision declares his guilt and has permanent legal force."

3. Criminal Procedure Code (KUHAP)

- Article 54: "For the purposes of defense, a suspect or defendant has the right to receive legal assistance from a lawyer. or more legal advisors during the time and at each level of the examination, according to the procedures determined in this law."
- Article 56 paragraph (1): "In the event that a suspect or defendant is suspected or accused of committing a crime which is punishable by a prison sentence of fifteen years or more or for those who are unable to pay who are punished by a prison sentence of five years or more and do not have their own legal counsel, the relevant official at all levels of examination in the judicial process is obliged to appoint a legal counsel for them."
- Article 56 paragraph (2): "Every legal advisor appointed to act as referred to in paragraph (1) provides his assistance free of charge."

Garuda Yaksa Legal Consultation and Aid Institute is one of the legal aid organizations that provides legal aid services in accordance with the mandate of

the law, such as holding counseling, consultations, and other activities related to law, as well as legal aid, which helps the community in enforcing the law which is the community's right to receive legal aid as regulated by law.

Soerjono Soekanto, stated that providing legal information, providing legal advice, providing legal services, guidance, is a form of legal assistance, which provides services periodically, as an intermediary and becomes the power of the community inside or outside the court (Handayani, 2016). If we look at the provisions and theories above and then relate them to the role of the Garuda Yaksa Legal Consultation and Aid Institute in handling these problems in the Central Java region, it can be said that the Garuda Yaksa Legal Consultation and Aid Institute has carried out its role well enough.

4. Conclusion

LKBH Garuda Yaksa plays a crucial role in providing legal protection to protesters detained during the 2020 Omnibus Law protests in Semarang. LKBH provides legal assistance, including legal advice, court representation, and monitoring of the legal process. They are also active in ensuring that protesters' rights are protected during detention and police interrogation. In many cases, LKBH Garuda Yaksa acts as a liaison between underprivileged communities and the justice system, ensuring that every detained individual is treated fairly. The right to a fair trial. Furthermore, LKBH plays a role in protecting the human rights of demonstrators by highlighting any violations that occur during protests and pressuring the government to conduct further investigations into repressive actions by security forces. The Garuda Yaksa Legal Consultation and Aid Institute (LKBH) has demonstrated a significant role in providing legal protection to detained protesters. To strengthen this role, it is crucial for LKBH to continue developing its capacity, both in terms of the number of legal personnel and advocacy capabilities. Improving human resources through regular training on human rights and the latest regulatory developments will strengthen the quality of legal assistance services provided to the community.

5. References

Journals:

Panjaitan, Budi Sastra. "Bantuan Hukum Sebagai Sarana dalam Mewujudkan Keadilan." *Doktrina: Journal Of Law* 2.1 (2019): 45-65.

Books:

Ahmad Taufik Riharso, "*Pengaruh Amicus Curiae terhadap Putusan Pengadilan Negeri Semarang (Putusan Nomor 760/Pid.B/2020/PN.Smg)*", Skripsi, Fakultas Hukum Universitas Islam Indonesia; 2023.

Nur Alfiyan Subha. *Tinjauan Yuridis pada Pengendalian Massa Unjuk Rasa Tolak Omnibus Law Ditinjau dari Hak Asasi Manusia (Studi Kasus Kota Semarang)*. Diss. UPT. Perpustakaan Undaris; 2024.

Oktaviani, Rizka Dwi. *Partisipasi Politik Dan Gerakan Sosial (Studi Atas Partisipasi Mahasiswa Dalam Demo Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja Di Masa Pandemi Tahun 2020)*. BS thesis. Fakultas Ilmu Sosial dan Ilmu Politik Universitas Islam Negeri Syarif Hidayatullah Jakarta.

Regulation:

1945 Constitution, Article 28E paragraph (3).

Law No. 8 of 1981, Criminal Procedure Code (KUHP), Article 54