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Effectiveness of Legal Aid For The Poor Communities of Makassar City

Muhammad Rinaldy Bima¹

¹Faculty of Law, Indonesian Muslim University

Email : muhrinaldy.bima@umi.ac.id

Corresponding Author: muhrinaldy.bima@umi.ac.id

Abstract: *This research aims to find out and analyze what factors influence the implementation of legal assistance for the poor in the city of Makassar. This research uses empirical research methods using data collection methods and studying legal assistance. Then data is obtained from interviews and observations to produce what is expected and conclusions about the problem. The results of this research show that there are factors that influence the implementation of legal assistance for the poor in the city of Makassar. The legal factor itself (law) where the implementation of legal aid itself must be clear in accordance with applicable law. The factor of law enforcement officers/enforcers is very influential in the judicial process in order to assist in the process of implementing legal aid. Community factors in order to be able to help the community in legal aid as a system of institutions or apparatus/law enforcement should pay more attention to several things, for example: providing legal education to people who are not legally competent so that they know more, providing legal counseling*

Keywords: *Legal Aid; Poor Society.*

INTRODUCTION

The rule of law in the Indonesian constitutional system has been confirmed in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI1945) which reads "The Indonesian State is a state of law" which was stipulated on November 9 2001, a formulation like this also exists in the 1949 RIS Constitution and 1950 UUDS. (Asshiddiqie, 2003)

Legal aid is the constitutional right of every citizen to guarantee legal protection and guarantee equality before the law, as well as a means of recognizing human rights. Obtaining legal assistance for everyone is a manifestation of access to justice as an implementation of guaranteed legal protection. This is in accordance with the concept of a modern welfare state . Therefore, everyone has the right to receive legal assistance voluntarily if they are having a legal problem so they can get the services of an advocate to carry out legal defense without any costs. (Ramadhan & Suryaningsi, 2021)

The rule of law emphasizes that law is the highest authority in power, power must obey the law, not vice versa, and power can cancel the law. The law must be the 1945 Constitution

of the Republic of Indonesia guaranteeing equality before the law, as stated in Article 27 Paragraph 1, and the government must uphold the law and government without exception.

Citizens' constitutional rights to legal assistance are guaranteed by national and international laws which have become part of Indonesian law. Article 27 paragraph (1) and Article 28D paragraph (11) of the 1945 Constitution contain several constitutional provisions.

According to the 1945 Constitution, legal assistance must be provided. Legal aid is a constitutional requirement for access to justice. Law Number 8 of 1981 also regulates the Legal Code.

Because Constitutional Rights have not been fulfilled adequately, Law Number 16 of 2011 concerning Legal Aid (UUBH) is the basis for the state to guarantee access for citizens, especially the poor, to justice and equality before the law. In addition, Law Number 18 of 2003 concerning Advocates requires advocates and legal advisors to provide free legal assistance to poor people under certain conditions. If an advocate fails to help poor people, he will face legal punishment.

Law Number 8 of 1981 gives suspects and defendants the right to receive legal assistance in Article 50, Article 56, paragraph (1), and Article 114. The regional regulation on legal aid for the poor is expected to fulfill the public's high expectations regarding the resolution of legal aid . problems in Makassar, where there are still many people who lack access to legal aid. The government provides legal assistance to poor communities to fulfill and realize Indonesia as a legal state that recognizes, defends and guarantees citizens' human rights to justice and equality before the law. The state must protect the right to legal aid, especially for the poor. This is in accordance with the state's statement that "all citizens have the same position under the law and government and are obliged to uphold the law and government without exception." Then in Article 34 paragraph (11) of the 1945 Constitution, it is stated that "the poor and children *who abandoned is maintained by the state.*" This can be extensively interpreted to mean that the state is responsible for providing protection and recognition of the rights of the poor. (ADIYASA, 2014)

This principle is a derivative of the principle of the rule of law (*Rechtstaat*) and the principle of *equality before the law* in the 1945 Constitution, namely Article 27 paragraph (1) which states that every citizen is equal before the law with no exceptions, article 28 D paragraph (1) which reads "*everyone has the right to recognition, guarantee, protection and legal certainty that fair and equal treatment before the law.*" (Hadjon, 1987) Regional regulations regarding the provision of legal aid are the basis for regional governments to guarantee that citizens, especially poor people or groups of people, have access to justice and equality before the law. Regional regulations regarding the provision of legal aid impose an obligation on the government to allocate funds for providing legal aid in the APBD. However, it is realized that the funds allocated in the APBD will not be able to fulfill all requests for legal assistance submitted by the people of Kota Masyarakat who need legal assistance. For this reason, based on Article 19 of Law Number 16 of 2011 concerning Legal Aid, it is the basis for the Makassar City Government to allocate funds for providing legal aid for the poor in the APBD. The position of aid institutions is the main determinant of whether the Legal Aid Law is effective or not (Sutrisni, 2018)

Legal aid is available at any time, not just in court. Legal assistance is available for criminal, civil, state administration, employment and other matters. Criminal cases can receive legal assistance after an investigative assessment is carried out (Indonesia, 2007). This caused the Indonesian government to issue Legal Aid Law Number 16 of 2011. Article 3 of Law Number 16 of 2011 states that the state must provide legal aid to poor people as a sign of access to justice, and these regulations must be oriented towards community welfare. change. social justice. This law defines legal aid as free legal services from legal aid providers. Poor communities or groups receive legal assistance. Legal aid providers are institutions or community organizations that provide legal aid based on Law Number 16 of 2011. Apart from

the APBN budget, several regions in Indonesia, starting from city or district governments, have provided legal aid using Regional Revenue and Expenditure Budget money.

In some of these places, regional regulations determine the rules and conditions for legal aid programs. The Legal Aid Law (UUBankum) states that the government issues derivative products, including regulations. Even though it has been in effect for more than nine years and there has been a request for a judicial review, he believes that there are several arguments that conflict with the 1945 NRI Law, including the definition of legal aid in the Legal Aid Law which has multiple interpretations and there is no clear definition of legal rights. provider of assistance.. (Fauzi & Ningtyas, 2018)

METHOD

This article uses an empirical research type, namely a legal research method that uses field data as the main data source, such as the results of interviews and observations. This type of empirical research is used to analyze law which is seen as patterned social behavior in people's lives which always interact and relate to social aspects.

RESULTS AND DISCUSSION

The state recognizes and protects the human rights of every individual, including the right to justice and equality before the law, in accordance with the rule of law. before the law). guarantee of rights so that the establishment of Law Number 16 of 2011 concerning Legal Aid (UUBH) became the basis for neara to guarantee citizens, especially poor people or groups of people, to gain access to justice and equality before the law. Legal aid is essentially a program that is not only a cultural action, but also a structural action aimed at changing an unjust social order towards a social order that is more able to provide a comfortable breath for the majority group. (FRIENDS, 2022) .

According to the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, the aim of the Indonesian State is to protect the entire nation and all of Indonesia's blood, promote general welfare, make the nation's life intelligent, and participate in implementing world order. based on freedom, eternal peace and social justice. . (Ohoiwutun et al., 2023)

In accordance with Minister of Law and Human Rights regulation No.66 of 2016 concerning Providing Legal Assistance in the Legal and Human Rights environment. Legal aid funds which were originally located in several government institutions were combined under one management under the Ministry of Law and Human Rights. The role of the Ministry of Law and Human Rights in this legal aid program broadly covers 3 (three) aspects, namely:

- a. Make technical rules for legal aid;
- b. Management of distribution of legal aid funds;
- c. Supervision and evaluation of legal aid funds;

The Republic of Indonesia Government Regulation No. 42 of 2013 concerning Conditions and Procedures for Providing Legal Aid and Distribution of Legal Aid Funds. Conditions for Providing Legal Aid Include:

- a. Incorporated.
- b. Accredited under this Act.
- c. Have a permanent office or secretariat.
- d. Has a Legal Aid Program.

Requirements and Procedures for Providing Legal Aid Submitting a written application for Legal Aid to Legal Aid must include:

- a. Photocopy of identity card or other document issued by the authorized agency.
- b. A certificate of poverty from the village head, village head, or official of the same level according to the domicile of the request for legal aid.
- c. Documents relating to the case.

d. Power of attorney, if the request is submitted by the family or the case.

The following is data on legal assistance for the poor in the city of Makassar by the South Sulawesi Regional Office of the Ministry of Law and Human Rights in 2021. The data obtained is data for the last 1 year, namely 2021, due to the 2019, 2020 registration data book. is no longer available and its existence is no longer known by the administration.

Table 1. Legal assistance for poor people in the city of Makassar

| NO. | OBH NAME | LAWYER | PARALEGAL | NUMBER OF LEGAL AID RECIPIENTS |
|--------|----------------|--------|-----------|--------------------------------|
| 1. | LBH-AKS | 30 | 21 | 37 |
| 2. | YLBH AMANAH | 8 | 22 | 32 |
| 3. | YLBHI-JUSTICE | 24 | 7 | 39 |
| 4. | YLBH Makassar | 7 | 10 | 35 |
| 5. | PKaBH-UMI | 23 | 10 | 29 |
| 6. | YLBH APIK | 11 | 8 | 33 |
| 7. | YLBHI Makassar | 12 | 20 | 8 |
| 8. | UKBH FH-UNHAS | 1 | 3 | 0 |
| AMOUNT | | 140 | 109 | 254 |

Source: South Sulawesi Regional Office of the Ministry of Law and Human Rights

The results of the author's research were conducted through interviews at the Regional Office of the Ministry of Law and Human Rights, South Sulawesi. According to: Fatimah Dwi, as one of the staff who handles the assistance management section of the South Sulawesi Regional Office of the Ministry of Law and Human Rights. Data obtained during 2021 included several cases, namely:

1. Drugs;
2. Divorce;
3. Obscenity;
4. Brawl;
5. Theft;

In 2021 the number of legal aid recipients with drug cases will be 50%, divorce cases will be 25%. molestation 15%, brawling 8%, theft 2%.

From the data obtained, it is clear that the perpetrators of this case come from poor communities who need legal assistance from the government through OBH/LBH which has been accredited through the South Sulawesi Regional Office of the Ministry of Law and Human Rights so that they can help and accompany them when resolving disputes/cases faced through the courts .

LBH can be less effective if law enforcers are not yet aware of their true duties and obligations to the people. (Azalia, 2020) . Effectiveness is an ability to create or give birth to a situation or situation a situation required by law or expected by law. A product The implementation of the law is said to be effective if the legal product has been implemented or implemented in practice (Saputra & Hasbi, 2021)

The theory of legal effectiveness according to Soerjono Soekanto is that whether a law is effective or not is determined by 5 (five) factors, namely:

1. Legal Factors;
2. Law Enforcement Factors;
3. Facilities or facility factors;
4. Community factors;
5. Cultural factors;

The following will explain several things that influence the implementation of legal aid for the poor:

1. Legal Factors

The legal factor itself (Act) regarding the law or statute is based on the issuance of certain regulations which have been adapted to existing and clear requirements, namely:

- a. UU no. 16 of 2011 Providing Legal Aid Services.
- b. UU no. 42 of 2013 Requirements and Procedures for Providing Legal Aid and Counseling on Legal Aid Funds.
- c. UU no. 66 of 2016 Providing Legal Aid in the Legal and Human Rights Environment.
- d. UU no. 4 of 2021 Legal Aid Service Standards.

2. Law Enforcement Factors

Law enforcement factors, namely the parties who form and implement the law. Law enforcement is one of the factors that determines whether the performance of written laws is effective or not, namely law enforcement officers. In this case, it is based on the results of interview research between the author and Mr. Nasruddin as Legal Aid Management staff at the South Sulawesi Regional Office of the Ministry of Law and Human Rights. states that there are several things that are desired, namely:

- a. Reliable apparatus so that the apparatus can carry out its duties well;
- b. Officers are bound by statutory regulations in accordance with the existing articles of Law no. 66 of 2016 concerning Providing Legal Aid in the Legal and Human Rights Environment;
- c. Apart from that, the apparatus should also be able to set a good example for the community.

3. Facilities and Facility Factors

Facilities and facilities factor in the form of infrastructure for enforcement officers to carry out their duties and support law enforcement. Based on the results of interviews between the author and staff from the Ministry of Law and Human Rights named MAPraamodito, the Management A section for Legal Aid management stated that:

- a. Fund Budget;
- b. accredited OBH;
- c. Community knowledge;
- d. Cannot qualify as a recipient of legal aid;

4. Community Factors

Community Factors, namely the environment in which the law applies or is applied. There are several elements that can influence effectiveness depending on community conditions. From the results of an interview between the author and one of the Legal Aid Institutions named Andi Suwandi Arham, Director of LBH-AKS, he stated that ¹:

- a. There are many practices of case brokers that limit people from getting free legal aid services.
- b. Providers of free legal aid who are eligible to receive a grant budget to finance legal aid to the community are constrained by administrative requirements that must be met.

The results of interviews between the author and the community itself stated that:

- a. People do not know about the existence of free aid;
- b. The community experiences problems in processing the certificate of incapacity from the RT or local government.
- c. Lack of knowledge of the law.
- d. Limited access to information for the community regarding Legal Aid Institutions providing assistance.
- e. Many Legal Aid Institutions charge fees.

¹Andi Suwandi Arham. Recruited by LBH-AKS, Makassar, March 25 2022.

5. Cultural Factors

Cultural factors, namely as a result of work, creativity and feelings that are based on human intention within. Regarding culture as habits carried out by society regarding the treatment of rules that have become habits by society, whether good habits or those that conflict with the rules.

CONCLUSION

In the process of implementing legal aid objects, only considering the factors that influence legal aid for the poor in terms of statutory regulations, so that it is known that the implementation of legal aid in the city of Makassar can be effective.

In terms of implementing the provision of legal assistance, it is necessary to improve the quality of human resources and the professionalism of advocates in providing legal assistance. Apart from that, it is necessary to provide understanding to the public through socialization or providing information regarding the right to obtain legal aid, so that the bad paradigm regarding legal aid assistance can be minimized.

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