



POSBAKUM'S ROLE IN PROVIDING LEGAL ASSISTANCE TO UNDERCOMFORTABLE COMMUNITIES IN STATE STATE COURT

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ABSTRACT

Posbakum defends people who are less fortunate, whether because of limited information facilities or because some people still view law as a field of knowledge that is full of ins and outs and complexities so that it is difficult to learn, even though in law it applies that a person's ignorance of the law cannot be used as an excuse to free that person from legal demands. . The research method used is empirical research, field research at the Posbakum at the Stabat District Court and interviews with people who are deemed capable of answering questions relating to the problem of the role of the Posbakum in providing legal assistance to underprivileged communities. That in order to realize the idea of a rule of law, the State has an obligation to guarantee everyone's right to obtain justice. In other words, the State must guarantee the provision of legal aid for the underprivileged so that no one is denied access to justice as mandated by the constitution. In several cases handled by legal advice from the Posbakum of the Stabat District Court, the Posbakum of the Stabat District Court has had permanent legal force.

Keywords: *Posbakum, Legal Aid, Poor Communities*

1. INTRODUCTION

The law can be a shady umbrella where people take refuge from all forms of uncertainty, but on the other hand it can be a confusing jungle for those who do not understand the law. The dynamics of contemporary developments and the rapid needs of society encourage the formation of new laws and regulations and changes to them which are often not balanced with legal knowledge by the public, either because of limited information facilities or because some people still view law as a field of knowledge full of ins and outs. and complexity so that it is difficult to learn, even though in law it applies that a person's ignorance of the law cannot be used as an excuse to free that person from legal prosecution. Continuous development carried out to realize national goals as intended in the preamble to the 1945 Constitution has an impact, on the one hand, changes in people's lives, on the other hand it increasingly prioritizes the role of law. The increasingly active role of law in problems involving social change actually gives rise to problems that lead to the conscious and active use of law as a means to help shape the new order of life. This can be seen in terms of regulation by law, both from the aspect of its legitimacy and the aspect of the effectiveness of its implementation. The Indonesian nation has become aware of the concept of the rule of law as the ideal choice for the Indonesian state which was proclaimed one day earlier, namely on August 17 1945. This is evident from the explanation of the 1945 Constitution which states that "Indonesia is a country that based on law" (rechtsstaat). The Indonesian state is based on law, not based on mere power (machsstaat). Amendments to the 1945 Constitution of Indonesia must submit and comply with the law itself which aims to provide justice to citizens, maintain and create security and order in the midst of community life. As a rule of law, all citizens are equal before the law (Equality Before the Law), therefore everyone has the right to receive legal assistance in a fair and impartial trial (Fair and Impartial Court). This right is a basic right. every human. The inauguration of Indonesia as a rule of law state in article 1 paragraph (3) of the 1945 Constitution, conveys the message of a strong desire for the state to guarantee the implementation of equal standing under the law, marked, among other

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things, by regulating the rights of every person to receive equal treatment before the law, as well as guarantees for every person. to get justice (justice for all and access to justice). These rights are actually universal basic rights of every person.

2. FORMULATION OF THE PROBLEM

Based on the background above, the problem formulation in this research is:

1. What is the role of posbakum in providing legal aid services in stable district courts?
2. What are the obstacles faced by the Stabat District Court Post Bakum in assisting the implementation of legal aid for underprivileged communities?

3. RESEARCH METHODS

The author will test using two methods, namely by using library research and types of research. In this research, the author tries to present various data of a theoretical conception to support the subsequent discussion. This is done by studying various literature or reading lists that are related to the material for writing this journal. The type of research that the author uses is empirical legal research, namely research that focuses on field data as the main data source, such as the results of interviews and observations. Empirical research is used to analyze law which is seen as patterned social behavior in people's lives which always interact and relate in social aspects. The data sources used are primary and secondary data. The data collection procedure was carried out by interviews and recording which was then analyzed descriptively.

4. DISCUSSION

4.1 The Role of Posbakum in Providing Legal Aid Services in the Stabat District Court

In Regulation Number 48 of 2009 concerning Judicial Power ("UU 48/2009") and Law Number 2 of 1986 concerning General Courts as amended, most recently in Law Number 49 of 2009 concerning the Second Amendment to Law Number 2 of 1986 concerning General Courts ("UU 49/2009"), as well as Supreme Court Regulation Number 1 of 2014 concerning Guidelines for Providing Legal Services for Underprivileged Communities in Court ("MA Regulation 1/2014"). Providing Legal Services for Underprivileged People in Court. Basically, every person involved in a case has the right to receive legal assistance. The state bears legal costs for those seeking justice who cannot afford it. Parties who are unable must attach a certificate of incapacity from the sub-district where they domicile. Providing legal services for disadvantaged people in court includes:

- a. Court Fee Waiver Service
- b. Hearing Outside the Courthouse
- c. Posbakum Courts in the General Courts, Religious Courts and State Administrative Courts.

In each district court, a Legal Aid Post ("Posbakum") is established for justice seekers who are unable to obtain legal aid. Legal assistance is provided free of charge at all levels of justice until the decision on the case has obtained permanent legal force. Legal aid and legal aid posts are carried out in accordance with statutory provisions. Organizers of the provision of legal services for disadvantaged people in the Court are the Chief Justice, Registrar/Secretary, Court Posbakum Officer and other related Court staff. Court Legal Aid Post is a service established by and existing at each court of first instance to provide legal services in the form of information, consultation and legal advice, as well as the preparation of required legal documents in accordance with the laws and regulations governing Judicial Power, General Courts, Religious Courts, and State Administrative Courts. In each court a Court Posbakum is formed. The establishment of the Court Posbakum was carried out in stages. The Court provides and manages space and facilities/infrastructure for the Court Posbakum according to its capabilities, taking into account

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access for people with disabilities, women, children and the elderly. The Court must provide access for defendants who are being placed in the Court's detention room to access the Court's Posbakum services. For courts that do not yet have a budget to finance institutional cooperation in the context of organizing Court Posbakum, they are still obliged to provide Court Posbakum space. If necessary, the Court Posbakum can be carried out in an integrated manner with the hearing outside the Court Building. Postbakum

The court provides services in the form of:

1. providing information, consultation or legal advice.
2. assistance in preparing required legal documents.
3. providing information on the list of Legal Aid Organizations as intended in Law Number 16 of 2011 concerning Legal Aid or other legal aid organizations or advocates that can provide free legal aid.

The mechanism for requesting legal aid is that the applicant for legal aid services submits an application to Posbakum by attaching the requirements described above. There is no explicit mention of the legal assistance provided from the investigation to the court process. However, looking at the parties who need the Posbakum services mentioned above (plaintiff/petitioner, defendant/respondent, defendant, or witness), Posbakum is formed by and exists at every court of first instance, and legal assistance is provided at all levels of the judiciary until the decision on the case has obtained permanent legal force, that means the Posbakum service is carried out from the time the case enters the court of first instance until the decision on the case has obtained permanent legal force. That the Stabat District Court posbakum in terms of carrying out the provision of legal aid to underprivileged communities is in accordance with its role, namely providing legal aid services in the form of providing information, consultations, legal advice, and preparing documents required in cases. In fact, in several cases handled by legal advice from the Stabat District Court Posbakum, some have been decided and have permanent legal force. The process of providing legal assistance in the Stabat District Court Posbakum consists of 2 (two) parts, namely non-litigation and litigation, non-litigation in the form of consultation and litigation in the form of assistance at court level.

4.2 Obstacles faced by district court posts are stable in assisting the implementation of legal aid for underprivileged communities.

Whereas in the Stabat District Court it is still rather difficult to find in-depth special studies that can be used as a basis for making a systematic analysis of the content and formal meaning of a law that concerns problems of underprivileged people, and especially those related to the provision of legal services in the judicial process. Even though many parties from various circles share the belief that an ineffective legal system will be a very serious obstacle to the pace of development, the provision of legal services to poor people in the Stabat jurisdiction in particular will also help achieve efforts:

1. Building a single national legal system
2. Implementation of existing social welfare legislation, and which is intended to benefit disadvantaged groups in a more effective way.
3. Increased greater accountability of the people to the government and by all administrative apparatus.
4. Increasing community participation in every government process

Can strengthen the position of the legal profession. In a society with a social structure that contains conflict, a social structure with inequalities as is often revealed through sociological studies of law, the implementation of the law tends to be selective, and generally only people who have it can enjoy good legal services. , or in other words, the court is not intended for all levels of society. Meanwhile, if we examine that our society consists of social layers that are different from each other, so that in such circumstances an even distribution of life possibilities and opportunities for all members of society, is not very easy to do. We will always find groups that are in a more

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advantageous position, while on the other hand there are also layers of society that experience disadvantages. In relation to the existence and implementation of legal aid programs, this actually cannot be separated from the existing social system, which in practice also plays a role in determining the provision of legal aid to the community, especially to those who are classified as less fortunate. If this is the case, the law which was expected to be able to regulate fairly now turns out to have to face tasks that are immeasurably difficult, because after all the socio-economic conditions of members of society will greatly determine whether the facilities that must be provided by law can be utilized or not. Posbakum or legal aid for the community cannot yet be enjoyed equally, because it turns out that in society there are still gaps, where there are groups of people who can enjoy the results of development excessively, while on the other hand there are other groups of people who can enjoy the results of development to a lesser extent. excessively, while on the other hand, there are other groups of society who are able to enjoy the results of development to a small extent. Meanwhile, income disparities result in the increasing wealth of certain groups and the poverty of other groups. The inability experienced by a person or group of people has a huge impact on law enforcement, especially in relation to efforts to defend what is their right. This seems to be in line with the fact that disability itself has brought disaster to humanity. That not only economically, but also legally and politically. Meanwhile, those who are rich are usually more familiar with power and at the same time they easily translate that power into justice.

Maybe it has been history in human life, where power is always closer to wealth, and in reality this gives rise to a lot of injustice, and conversely the law must also be close to incapacity. Therefore, even someone who is poor in wealth, should still be rich with justice. The need for justice is one of the basic human needs that is always desired by everyone, both rich and less fortunate. However, sometimes it can happen that the rich, with their beliefs, can more easily obtain justice so that they can control the mechanisms by which the law operates, but unfortunately in this way it will oppress the less fortunate, which in turn will only give the impression that the law is only for the rich and not for the less fortunate. Justice is the main need in human life, and therefore it is natural that efforts are made to ensure equal distribution of justice. If so far the rich have experienced enough justice and the less fortunate have been far enough away from getting justice, then the time has come for such a situation to no longer happen. This means that justice has been implemented equally for all levels of society. In relation to the legal aid program, especially for the less fortunate, it is basically one way to pave the way towards equal distribution of justice. Based on this kind of thinking, in practice the concept of posbakum or legal aid in Indonesia, for example, there has been a shift from the concept of individual legal aid to the concept of structural legal aid which was developed mainly by Jakarta legal aid institutions, as described above. With such shifts and developments, it is hoped that the implementation of legal aid programs will have a wider reach to the community. Not only for criminal cases, but also for civil cases, even state administration cases. Especially for underprivileged and legally illiterate groups who are most often victims of arbitrariness by the rich, the existence of structural legal aid also involves the dimension of overcoming the problem of incapacity itself through legal channels, and more broadly, to restore and elevate dignity and dignity. humans, especially the less fortunate. Based on this phenomenon, legal aid organizations, especially those implementing the concept of structural legal aid, display several distinctive characteristics in their operational framework.

The organizational dynamics show that as a legal institution which is also a social institution, they have placed themselves in a clear position, namely on the one hand playing a role in the working framework of the national legal system, and on the other hand working to prioritize the values of justice and human rights as a legal operative fact. That the development of legal insight is no longer only about legal perspectives and paradigms, but also a holistic socio-legal insight. The attachment of the social function of control which is also a vehicle for the realization of justice. Therefore, if assessed from a constructive rational point of view with a more objective

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social insight, and by taking the example of the Stabat District Court post or legal aid institutions, then in fact their role and function mutually exclusive include:

1. Giving weight to the potential of law to grow as a means of social engineering, as well as a means of social emancipation in the context of protecting human rights, so that it is hoped that there will be harmony between the technocratic values of law which are often prioritized in the development process and cannot be separated from efforts to develop humans as a whole. .
2. Developing the role of law as an autonomous institution, so that legal sovereignty (in the context of the ideals of the Indonesian rule of law) can be realized in reality. The realization of the idea of independent judicial power is difficult to achieve without a functioning legal institution. Besides that, because some of the posbakum movements are in the lawyer movement, the posbakum is the officier of the court which has an integrative function, namely uniting the elements of the trial.
3. Accommodate legal disputes that have a structural dimension through institutional forms of resolution, so that they do not turn into unwanted social conflicts. This institutionalization directly or indirectly contributes to the process of law enforcement and reform.

The obstacles faced by Posbakum in providing legal assistance to underprivileged communities are:

1. Poor people's knowledge regarding the legal remedies that can be utilized and regarding the procedures that should be used to solve problems regarding use do not yet understand them.
2. people don't really understand the legal system.
3. Underprivileged communities, the perception of the underprivileged regarding the effectiveness of the legal system with the effectiveness of the system itself in reality. Perceptions of underprivileged communities regarding whether or not it is easy for the legal system to be entered and contacted to be utilized in efforts to solve legal problems on the effectiveness of the legal system.

The basic pictures that will later be revealed and can be explained in these studies in turn do not rule out the possibility of being a valuable source of thought for development planners to be more concerned about the existence of underprivileged communities in carrying out crimes, which are sustainable with efforts to help problems. disability itself, through the distribution of justice and especially as reflected and operationalized through legal aid programs. Not many people know that legal aid is part of the lawyer profession. The advocate profession is known as a noble profession, because it requires defending everyone without distinguishing between race, skin color, religion, culture, socio-economic, rich/poor, beliefs, politics, gender and ideology. Eight out of ten Indonesians, when asked about legal aid, cannot differentiate it from the advocate profession. However, the obligation to defend underprivileged communities in the lawyer profession is in line with the principle of justice for all, making this legal profession popular in the international community, but not in Indonesia. The role and institutional function of the Stabat District Court Posbakum in such legal assistance is very important in order to be able to accommodate the vortex of increasingly diverse legal problems that arise, as well as the increasing legal needs of society and increasingly widespread demands for obtaining justice through the law. Meanwhile, conditionally legal aid services still show the following things:

1. Posbakum services by legal aid organizations are still focused mainly on city residents and have not reached a wide enough community in suburban and rural areas.
2. Selection based on incompetence and ignorance of legal rights and procedures in selecting clients served by legal aid organizations does not appear to be too strict, so that the socio-economic characteristics of justice seekers who are served still vary and often revolve around relatively well-off groups.
3. Bearing in mind that the hope of the role of justice seekers towards the posbakum or legal aid organization cannot only be limited to providing consultation and legal assistance to them, but furthermore also hopes to resolve the legal problems they face in accordance with

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their sense of justice. This expectation is often difficult to fulfill due to the internal and external conditions of the legal aid organization itself. Cases involving collective interests, for example land acquisition, often encounter obstacles because the legal aid provider conflicts with dominant interests, both economic and bureaucratic.

In the context of cultural engineering to increase control of community legal resources, the effectiveness of legal aid organizations is still questionable. So far, non-formal education organized by legal aid organizations still uses conventional methods with limited material. Legal counseling, for example, is carried out on community groups en masse, more as an initial communication effort with symbols or legal procedures that tends to be one-way and without being preceded by studies regarding the legal needs of the target group. If this is the case then studies regarding the legal needs of the target group, namely those who are classified as underprivileged and legally illiterate, should be aimed at identifying and detecting needs that are actually felt to exist. And also to determine the urgency or seriousness of each legal need. Such studies are certainly important for the development of the concept and implementation of legal aid, and at least in this way they will track:

1. Categories of problems of underprivileged people that can be seen as legal problems.
2. The limits to what extent those who are classified as underprivileged can obtain assistance from defenders or legal advisors and what the results will be.
3. The categories of problems faced by the underprivileged are not seen as legal problems, but which can actually be solved through the use of the legal system.
4. The knowledge and perception of those who are less fortunate regarding the rights and legal procedures relevant to the specific problems they are facing.
5. *Perception* those who are less fortunate regarding other alternatives, the effectiveness of the efforts of legal advisors and defenders to fight for the specific interests of less fortunate people.
6. Perceptions of those who are less well off regarding other alternatives outside of legal methods and procedures that could also be used to solve the specific problems they face.

Studies on the matters mentioned above will not only be useful for tracking or tracing legal needs issues, but will also be useful for revealing a basic picture of the possible existence of various related problems.

5. CLOSING

Based on the description that the researcher described above, it can be concluded as follows:

1. The Stabat District Court Posbakum in terms of providing legal aid to poor or disadvantaged people is in accordance with its role, namely providing legal aid services in the form of providing information, consultation, legal advice, and preparing documents needed in cases. In fact, in several cases handled by legal advice from the Stabat District Court Posbakum, some have been decided and have permanent legal force. The process of providing legal assistance in the Stabat District Court Posbakum consists of 2 (two) parts, namely non-litigation and litigation, non-litigation in the form of consultation and litigation in the form of assistance at court level.
2. The poor people's knowledge regarding legal remedies that can be utilized and regarding procedures that should be used to solve problems regarding use do not yet understand it and the perception of the less fortunate regarding whether or not it is easy for the legal system to be entered and contacted to be utilized in efforts to solve legal problems on the effectiveness of the legal system. .

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