



Research proposal on the implementation of legal Aid to underprivileged communities (A research at the Pasaman district Legal Aid Institute West Sumatra province)

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Abstract

Law of the Republic of Indonesia Number 16 of 2011 concerning Legal Aid in Article 5 paragraph (1) concerns recipients of Legal Aid as referred to in Article 4 paragraph (1) includes any person or group of poor people who cannot fulfill basic rights properly and independently. (2) Basic rights as referred to in paragraph (1) include the rights to food, clothing, health services, education services, work and business, and/or housing. Legal aid is one of the efforts to fill human rights, especially for the poorest layers of society. Rich people often don't need legal help because basically the law is close to rich people. Wealth provides more secure legal protection, sometimes even perpetuating legal injustice. Law Number 16 of 2011 concerning Legal Aid, needs to establish Regional Regulations on the Implementation of Legal Aid, Pasaman Regency is one of the regions that issued a regent regulation (perbub) regarding Regional Regulations of Pasaman Regency based on Regional Regulation Number 2 of 2016 concerning the Implementation of Legal Aid which is intended to realize the constitutional rights of citizens in accordance with the principle of equality in law and ensure fulfillment The right of recipients of legal aid to obtain justice. The receipt of legal aid is intended for a group of poor people who need legal services to handle and solve their legal problems.

This research is a type of empirical juridical research, used to discuss the implementation of providing legal aid to underprivileged communities (a study at the Pasaman District Legal Aid Institute, West Sumatra province). In empirical juridical research, the approach used is legal sociology which aims to obtain legal knowledge empirically related to the implementation of providing legal aid to underprivileged communities (a research at the institution Legal Aid Pasaman District, West Sumatra province). by collecting the main data of the study through interviews and direct observation. Primary data is data obtained from interviews with respondents and informants. Secondary data is data in the form of primary legal material and secondary legal material.

The process of distributing legal aid to underprivileged communities in Pasaman Regency found that meeting the requirements to apply for legal aid was very difficult to obtain by people who needed legal assistance, especially in issuing underprivileged letters issued by wali nagari (Village Heads). In addition, based on observations made by the author during the study, poor people in Pasaman Regency in early 2021 to 2024 experienced an increase in the fulfillment of legal assistance for people in need, the Chairman of the District Court in this case is responsible for the implementation of legal services for indigent communities effectively and transparently according to the principle of purpose as referred to in Article 2 and Article 3 of Perma Number 1 of 2014 concerning Service Delivery Guidelines Law for the Indigent in Court. Unfortunately, this cannot be covered thoroughly because the process of submitting files requires a certificate of disability which is difficult to obtain due to several factors including the lack of updating data on underprivileged communities in Pasaman Regency as well as the lack of cases that require legal assistance and the lack of substantial litetatur to the procedure process that can be passed by legal aid applicants.

Keywords: Legal Aid Provision, Underprivileged Community

Introduction

Explained in Law of the Republic of Indonesia Number 16 of 2011 concerning Legal Aid in Article 5 paragraph (1) concerning recipients of Legal Aid as referred to in Article 4 paragraph (1) includes any person or group of poor people who cannot fulfill basic rights properly and independently. (2) Basic rights as referred to in paragraph (1) include the rights to food, clothing, health services, education services, work and business, and/or housing.

Legal aid is one of the efforts to fill human rights, especially for the poorest layers of society. Rich people often don't need legal help because basically the law is close to rich people. Wealth provides more secure legal protection, sometimes even perpetuating the injustice of punishment between the rich and poor ^[1]. However, there are two terms related to legal aid, namely *legal aid* and *legal assistance*. The term *legal aid* is usually used to indicate the definition

of legal aid in a narrow sense, namely the provision of services in the legal field to someone involved in a case free of charge, especially for those who cannot afford it. While the definition of *legal assistance* is used to show the definition of legal assistance in a broad sense, because in addition to legal assistance to those who cannot afford it, it is also the provision of legal assistance carried out by lawyers who use *honorarium* or get payment of a sum of money from clients ^[2].

Referring to the understanding of the above regulations, it is clear that in this case the provider of legal aid is an Advocate. Advocates in this case must have the same goals as the philosophy of legal aid for the poor as mandated by Law No. 16 of 2011 concerning Legal Aid. Advocates as Legal Aid Providers from the beginning must have a commitment to provide Legal Aid to indigent people free of charge. This has been contained in Law No. 18 of 2013

concerning Advocates where based on Article 22 (1) Advocates are obliged to provide free legal assistance to indigent justice seekers, even though Article 21 paragraph 1 states that Advocates are entitled to receive Honorarium for Legal Services that have been provided to their clients. Meanwhile, in paragraph 2, the amount of Honorarium for Legal Services as referred to in paragraph (1) is determined reasonably based on the agreement of both parties. From the beginning it was designed to be a person who is a profession and advocate can be subject to action contained in Article 6, Article 7, and Article 8 and reported in Article 9, Article 10 and Article 11^[3].

Law Number 16 of 2011 concerning Legal Aid, needs to establish Regional Regulations on the Implementation of Legal Aid, Pasaman Regency is one of the regions that issued a regent regulation (perbub) regarding Regional Regulations of Pasaman Regency based on Regional Regulation Number 2 of 2016 concerning the Implementation of Legal Aid which is intended to realize the constitutional rights of citizens in accordance with the principle of equality in law and ensure fulfillment The right of recipients of legal aid to obtain justice. The receipt of legal aid is intended for a group of poor people who need legal services to handle and solve their legal problems. Regarding this matter, related regulations emerged that regulate the structure of distribution implemented by the Uncle Regency Government and gave birth to a Pasaman Regent Regulation (Perbub) Number 33 of 2017 concerning Procedures for Granting and Distributing Legal Aid Funds for the Community in Pasaman Regency based on the value of implementing Article 19 of Law Number 16 of 2011 concerning Legal Aid, need to establish Local Regulations on the Provision of Legal Aid.

In its implementation, the implementation of legal assistance available in the Pasaman Regency area of West Sumatra Province in the application for waiver of case fees for civil cases or applications, submitted by the plaintiff or applicant who is economically incapacitated through table I before the case is registered and registered, while for applications submitted by the Defendant / Respondent, it must be submitted before filing an answer.

Results and Discussion of Research on the Implementation of Legal Aid Provision to Underprivileged Communities (A Research at the Legal Aid Institute of Pasaman District, West Sumatra Province).

In accordance with Article 1 paragraph (4), which in defining legal assistance as legal assistance provided by the State through religious courts, both in civil cases where you are a plaintiff or complainant, or in civil cases where you are a defendant or defendant in law. It is stated that it is the provision of legal services only from lawyers^[4]. While legal aid is the provision of legal aid services (in the form of legal aid or representation in legal processes) to economically disadvantaged communities, it is also said that underprivileged people cannot afford to pay compensation for lawyer fees or defense lawyers^[5]. The definition of legal aid whose scope is rather narrow has been stated by the Attorney General of the Republic of Indonesia, which states that legal aid is a defense obtained by a defendant from a legal counsel when his case is examined in an examination in a preliminary examination or in the process of examining his case before the court^[6].

Law Number 16 of 2011 concerning Legal Aid clearly contains affirmations as indicated in Article 5, namely that recipients of legal aid are people or groups who cannot fulfill the rights to food, clothing, shelter, health services, education services, work, and cannot carry out a business activity. Then, Article 12 states the rights of recipients of legal aid in the form of assistance until the legal problem is resolved or has permanent legal force and obtain information and documents related to the legal problem. In the chapter Explanation of the Law on Legal Aid, it is also stated that the provision of legal aid has not covered many elderly groups, so it is difficult to access justice because economic factors are obstacles to realizing their constitutional rights.

The problem of legal aid in the above point aims to provide legal services to economically disadvantaged people in controversial cases in court, both civil and criminal cases in the District Court (District Court), civil and criminal cases in religious courts, and state administrative cases stated before the State Administrative Court^[7].

Legal aid is one of the efforts to fill human rights, especially for the poorest layers of society, there are two terms related to legal aid, namely *legal aid* and *legal assistance*. The term *legal aid* is usually used to indicate the definition of legal aid in a narrow sense, namely the provision of services in the legal field to someone involved in a case free of charge, especially for those who cannot afford it. While the definition of *legal assistance* is used to show the definition of legal assistance in a broad sense, because in addition to legal assistance to those who cannot afford it, it is also the provision of legal assistance carried out by lawyers who use *honorarium* or get payment of a sum of money from clients^[8].

Regarding this matter, related regulations emerged that regulate the structure of distribution implemented by the Uncle Regency Government and gave birth to a Pasaman Regent Regulation (Perbub) Number 33 of 2017 concerning Procedures for Granting and Distributing Legal Aid Funds for the Community in Pasaman Regency based on the value of implementing Article 19 of Law Number 16 of 2011 concerning Legal Aid, need to establish Regional Regulations on the Implementation of Legal Aid

In its implementation, the implementation of legal assistance in the Pasaman Regency of West Sumatra Province in the application for waiver of case fees for civil cases or applications, submitted by the plaintiff or applicant who is economically incapacitated through table I before the case is registered and registered, while for applications submitted by the Defendant / Respondent, it must be submitted before filing an answer, by attaching

1. Certificate of Incapacity (SKTM) issued by the Village Head / Lurah / Head of the local area stating that it is true that the person concerned is unable to pay the costs of the case.
2. Certificate of other Social Benefits such as Poor Family Card (KKM), Public Health Insurance Card (Jamkesmas), Poor Rice Card (Raskin), Family Hope Program Card (PKH), Direct Cash Transfer Card (BLT), Social Protection Card (PPP), or other documents related to the list of poor people in the government's integrated database or issued by other agencies authorized to provide information on indigent.

3. Affidavit of incapacity made and signed by the Applicant and known to the Chief Justice of the District Court.

Obstacles and Solutions to the Implementation of Legal Aid Provision to Underprivileged Communities (A Research at the Legal Aid Institute of Pasaman District, West Sumatra Province)

The local government of Pasaman Regency can provide legal assistance for the people of Pasaman Regency as a form of justice, so the basis of the Pasaman Regency Regional Government is Regent Regulation Number 33 of 2017 concerning and referring to Law No. 16 of 2016 concerning Procedures for Granting and Distributing Legal Aid Funds for the Community in Pasaman Regency. Legal Assistance is through Advocates / Lawyers so that the People of Pasaman Regency can use it both at the level of the police, Prosecutor's Office and court where many people who do not understand the law accompanied by legal counsel can help the Community but for State Administration (TUN) cases.

Regarding the application of this provision refers to Article 14 paragraph (1) point c of Law Number 16 of 2011 and Article 3 point c of Government Regulation of the Republic of Indonesia Number 42 of 2013 which regulates poverty parameters based on the following: Proof of Poverty Determination for Legal Aid Recipients. Form of poor certificate issued by the sub-district/village. This can cause confusion regarding the definition of poverty categories, unclear limits on poverty category parameters in Law Number 16 of 2011 and its derivative regulations, and the possibility of confusion regarding the term "poverty". believe that it exists. This status is ensured only by an inadequate declaration form from the candidate's village or sub-district, and for legal aid recipients who are in the area but are not registered there, it becomes difficult to apply.

For the people of Pasaman regency of West Sumatra, which is a factor in the process of applying for legal aid by underprivileged communities, namely the difficulty of obtaining a certificate of indigent from the guardian of the nagari, in this case the guardian of the nagari needs to record the community to issue a certificate of incapacity. Where the guardian must ensure that the community is indeed receiving assistance from the Government such as Direct Cash Transfer (BLT) and to ensure that proof of assistance from the government is received and can be verified by the guardian also cannot be used in the long term, because BLT assistance is general assistance which is basically in the form of meeting daily needs, not as income let alone a benchmark in measuring the level of expenditure needs for The general public is down because their daily income varies every month as well as obstacles so far not updating the data of the beneficiaries from the center^[9].

For the Regional Government of Pasaman Regency of West Sumatra, the constraints experienced are limited budget provided by the Pasaman Regency Government. And in 2021 to 2023 there is no budget for legal aid due to the Covid-19 pandemic and the lack of budget provided, so the next problem is that the budget for legal aid allocated to the local Ministry of Law and Human Rights office is limited and in practice requires local government participation. The existing budget is limited and as mentioned in Article 19

paragraphs (1) and (2) of the Legal Aid Law, local governments are obliged to support the legal aid budget for those who cannot afford to be allocated to the APBD. Each region can provide legal aid funds in the Regional Budget in accordance with District Regulations^[10].

The lack of understanding of the Pasaman Regency Community regarding legal aid is in accordance with Perbup No. 33 of 2017 concerning procedures for providing and distributing legal aid funds for the Community in Pasaman Regency and Regional Regulation No. 2 of 2016 concerning the Implementation of Legal Aid gave birth to the cause of the lack of public interest in submitting requirements to get legal aid in Pasaman Regency, this obstacle arose due to the lack of socialization of the Pasaman Regency Regional Government to the Community, It is hoped that in the future the Pasaman Regency Government will conduct socialization to the community so that the community knows about it and it is difficult to get a certificate from the Nagri guardian in terms of issuing a certificate of incapacity (SKTM / poor)^[11]. The solution that can be done so that Pasaman Regent Regulation Number 33 of 2017 concerning Procedures for Granting and Distributing Legal Aid Funds for the Community in Pasaman Regency is reciprocally related and complementary to the Legal Aid Law Number 16 of 2011 so that it can be conveyed both in message and conceptually including by considering the following:

1. In resolving cases for those who receive legal assistance whose fees are from the Pasaman Regency Government, a check on the completeness of the requirements is feasible or not the person concerned receives legal assistance provided by the Pasaman Regency Government, whose eligibility benchmarks must be reviewed annually in order to adjust the law to the social community in law implementation.
2. In the future, the local government can facilitate the requirements for applying for legal aid for underprivileged people so that the legal aid can be utilized by the people of Pasaman district. One way is to update the central data regularly on the fulfillment of legal assistance for underprivileged communities, both in terms of data collection for underprivileged people, as well as other vulnerable communities who need to be provided legal assistance in cases that advocates should be involved in providing legal assistance.
3. Legal assistance for poor people whose budget is provided by the District Government. Pasaman has been effective, but not all legal aid proposals are accepted by the Pasaman Regency Government, perhaps this is due to the limited budget because for only 1 (one) case, the Pasaman Regency Government allocates a budget of Rp. 10,000,000.- (ten million rupiah). hopefully the Pasaman Regency Government in the future can budget more for cases provided legal assistance for underprivileged communities.
4. The requirements for poor people in requesting a certificate from the Pasaman Regency Government through social services or other authorized agencies can make it easier for guardians to update data that receive assistance from poor people such as poor family assistance (KKM), poor rice cards (Raskin) and others so as to make it easier for the guardian to check the data and publish the letter if the data is not updated Nagari

- did not dare to give the letter, thus harming the community who should get legal assistance.
5. Providing convenience for the guardian of the nagari in issuing a certificate of incapacity for the requirements to get legal assistance from the District court, so that after issuing the letter after checking whether there is a direct cash assistance (BLT) to the nagari which sometimes there are obstacles for those who do not receive direct cash assistance (BLT) such as poor family assistance and others, I am sometimes constrained to check the data because there is no in our system other than direct cash assistance (BLT).

9. Interview by Wali Nagari Lubuk Sikamping District, Pasaman Regency, West Sumatra on behalf of Murando. In March, 2024.
10. Interview by Wetsorizal and Yosy in Pasaman Regency, West Sumatra. In March, 2024.
11. Interview by Aia Manggih villager, Pasaman, West Sumatra, by Deby Prima and Ade.

Conclusion

In carrying out legal assistance to underprivileged communities based on Pasaman Regent Regulation Number 33 of 2017 concerning Procedures for Granting and Distributing Legal Aid Funds for Communities in Pasaman Regency To obtain legal assistance, the West Sumatra Pasaman Regency Government will carry out a verification process and legal aid providers are required to check the completeness of the requirements among the implementation mechanisms for legal aid providers.

The implementation of the process of applying for legal aid by underprivileged communities according to Pasaman Regent Regulation Number 33 of 2017 concerning Procedures for Granting and Distributing Legal Aid Funds for Communities in Pasaman Regency must meet the requirements which include completing files containing: Application letter, Identity, Certificate of poverty from jorong / wali nagari, Photo copy of power of attorney from the recipient of legal aid, Photo copy of the identity of the recipient of legal aid, Statement letter not receiving legal aid funds derived from the state budget and the Provincial Government APBD, Copy of the Decree of the Minister of Law and Human Rights as a criterion legal aid institution Management of legal aid institutions, Legal aid programs, Progress in handling cases, Brief description of the subject matter.

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