



Fakultas Hukum Universitas Riau, Jalan Pattimura Nomor 9 Gobah, Kel. Cinta Raja, Kec. Sail, Pekanbaru, Riau,
Kode Pos 28127. Telp: (+62761)-22539, Fax : (+62761)-21695
E-mail: melayunesialaw@lecturer.unri.ac.id
Website: <https://myl.ejournal.unri.ac.id>

Equalization of accredited legal aid organizations in implementing legal assistance programs in Riau Province

Fahmi^a, Robert Libra^b, Rezmia Febrina^c

^a Law Faculty, Lancang Kuning University, Indonesia, Email: fahmihukum@unilak.ac.id

^b Law Faculty, Lancang Kuning University, Indonesia, Email: robertlibra87@gmail.com

^c Law Faculty, Lancang Kuning University, Indonesia, Email: febrinarezmia@gmail.com

Article Info

Article History:

Received : 30-03-2021

Revised : 09-04-2021

Accepted : 15-05-2021

Published : 25-06-2021

Keywords:

Legal Aid

Accreditation

Riau Province

Abstract

How to equalize accredited legal aid organizations in implementing legal assistance programs in Riau Province? For type of research used in this study is normative legal research. Equalization of accredited legal aid organizations in implementing legal assistance programs in Riau Province has been implemented by Ministry of law and human rights Riau region to achieve equalization in fulfilling access to justice by the presence of legal aid organizations in region where the existence of legal aid organizations is still absence, however the regional office can only propose, the final decision is still in the hand of national law development agency of the Republic Indonesia. Right now, there are 10 of legal aid organizations which accredited based on the verification results of national law development agency in Riau Province.

INTRODUCTION

Recognition and assurance of Equality before the Law principle is not only limited to political recognition. However, it prioritizes on concrete actions by the state. In providing assurances to public in gaining access to justice in order to fulfill basic human rights, and the actions should be taken to ensure the fulfillment of this state's obligations. According to Legal Aid Law, provision of legal aid is carried out by legal aid providers (legal aid organizations) that must fulfill the following requirements:

1. Legal entity;
2. Accredited;
3. Has permanent office and secretariat;
4. Has administrators;
5. Has legal assistance programs;

6. Has been certified.

Based on Decree of Minister of Law and Human Rights of the Republic of Indonesia number M.HH-01.HN.03.03 of 2016 concerning Legal Aid Organizations/Institutions that passed verification and accreditation as legal aid providers for period of 2016-2018¹. There are seven legal aid organizations which accredited based on the verification results of national law development agency in Riau Province in 2015-2018, they are:

1. Law Faculty legal aid, Lancang Kuning University; (located in Pekanbaru City)
2. Mahatva legal aid; (located in Rokan Hilir Regency)
3. Ananda legal aid; (located in Rokan Hilir Regency)
4. YLBHI Pekanbaru Legal aid; (located in Pekanbaru City)
5. KBH Riau legal aid; (located in Pekanbaru City)
6. Paham Riau legal aid; (located in Pekanbaru City)
7. Forum Masyarakat Madani Indonesia legal aid. (located in Pekanbaru City)

The right for legal assistance itself is a non derogable right, which is a right that cannot be reduced and suspended in under any circumstances. Therefore, legal assistance is basic human right, which is not given by the states and not the mercy of the state, but also a responsibility of state in realizing equality before the law, acces to justice, dan fair trial. This state's obligation is poured in Legal Aid Law. As a price of democracy that must be paid for, of course the implementation of this legal assistance should be escorted by all parties. Thus, access to justice for the poor can be fulfilled.²

Population of poor people (population below the poverty line) in Riau on September 2017 was 496.39 thousand people (7.41 percent)³. From that data of statistical center agency shows that there are huge amount of poor people in all of regencies in Riau Province. And if the poor have legal case, the only thing they can expect to help is legal protection through a government program which implemented by accredited legal aid organizations. In case of mapping the number of legal aid organizations is in the authority of regional office of Minister of Law and Human Rights.

¹ Decree of Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-01.HN.03.03 of 2016 on Legal aid organizations that passed the verification and accredited as legal aid providers in period of 2016-2018.

² Situmorang, Mosgan. *Jurnal Recthsinding Media Pembinaan Hukum Nasional* 2, no. 1 (2013).

³ <https://pekanbarukota.bps.go.id/> accessed on February 18th 2018 at 20.00Wib

If seen from the location of legal aid organizations only Pekanbaru City and Rokan Hilir Regency whom have the accredited legal aid organizations in Riau Province, while the number of the poor who need this legal assistance is huge. These are the Regencies that don't have Legal aid organizations:

1. Bengkalis Regency, (No accredited legal aid organization)
2. Indragiri Hilir Regency, (No accredited legal aid organization)
3. Indragiri Hulu Regency, (No accredited legal aid organization)
4. Kepulauan Meranti Regency, (No accredited legal aid organization)
5. Kuantan Singingi Regency, (No accredited legal aid organization)
6. Dumai City, (No accredited legal aid organization).

Uneven mapping of legal aid organizations in Riau Province becomes a problem that should be addressed regarding its obstacles and constraints, while the legal need for the poor in Riau Province is huge. Based on that reason, authors are interested in taking title: Equalization of Accredited Legal Aid Organizations in Implementing Legal assistance programs in Riau Province

Related on the background above, then the formulation of the problem in this study is: How to equalize accredited legal aid organization in implementing legal assistance program in Riau Province? For type of research used in this study is normative legal research. Access to justice for the poor who involved in legal case, in its implementation is not maximal, because there are several regencies in Riau Province, where the poor still find difficulties in searching for available legal assistance that willing to help them without asking for rewards.

HOW TO EQUALIZE ACCREDITED LEGAL AID ORGANIZATIONS IN IMPLEMENTING LEGAL ASSISTANCE PROGRAM IN RIAU PROVINCE

Access to justice for the poor who involved in legal case, in its implementation is not maximal, because there are several regencies in Riau Province, where the poor find difficulties in searching for available legal assistance that willing to help them when facing litigation and non-litigation law.

Next is, obstacles and efforts to overcome them, which are. The first problem is regencies and cities in Riau Provinces have not yet completed regional regulation on legal aid

and to overcome this, the government of regencies and cities has to prioritize discussion on regional regulations on legal aid so the legal assistance programs can be implemented well. Second problem is, there is absence of technical instructions about the standardization of price for the implementation of legal assistance in regencies/cities region and to overcome this, regional office of Minister of Law and Human Rights has to have employees in legal drafter department to assist in the preparation of regional regulations on legal aid. Third problem is, the uneven distribution of accredited legal aid organizations in Riau Province, those legal aid organizations mostly located in big cities, which makes the access to help for the poor in other regencies becomes difficult and to overcome this, government through Minister of Law and Human Rights should conduct verification process to accredit legal aid organizations by prioritizing regencies that do not yet to have accredited legal aid organization, then conduct the verification process for legal aid organizations at least once a year.

Based on authors' observations, equalizations of accredited legal aid organizations in implementing legal assistance program in Riau Province has been implemented by Ministry of law and human rights Riau region to achieve equalization in fulfilling access to justice by the presence of legal aid organizations in region where the existence of legal aid organizations is still absence, however the regional office can only propose, the final decision is still in the hand of national law development agency of the Republic Indonesia. There are 10 of legal aid organizations which accredited based on the verification results of national law development agency in Riau Province in 2019, those 10 are:

1. Mahatva legal aid (Located in Rokan Hilir Regency)
2. Ananda legal aid (Located in Rokan Hilir Regency)
3. YLBHI Pekanbaru legal aid (Located in Pekanbaru City)
4. Posbakummadin Siak legal aid (Located in Siak Regency)
5. Paham Riau legal aid (Located in Pekanbaru City)
6. Forum Masyarakat Madani Indonesia legal aid (Located in Pekanbaru City)
7. Law Faculty of legal aid, Lancang Kuning University (Located in Pekanbaru City)
8. Tuah Negeri Nusantara legal aid (Located in Pekanbaru City)
9. Paham Riau legal aid (Located in Pekanbaru City)

10. Rokan Hulu legal aid (Located in Rokan Hulu Regency)⁴

Next, if seen from locations of legal aid organizations in Riau Province in 2019-2021 then:

- a. Bengkalis Regency, (No accredited legal aid organization)
- b. Indragiri Hilir Regency, (No accredited legal aid organization)
- c. Indragiri Hulu Regency, (No accredited legal aid organization)
- d. Kepulauan Meranti Regency, (No accredited legal aid organization)
- e. Kuantan Singingi Regency, (No accredited legal aid organization)
- f. Dumai City, (No accredited legal aid organization).

There is uneven distribution of accredited legal aid organizations in Riau Province, and there are 7 regencies in Riau Province that do not have accredited legal aid organizations. If we look from cities and regencies that already have regional regulations on legal aids for the poor are:

1. Pekanbaru City (already has regional regulations on legal aid)
2. Bengkalis Regency (no regional regulations on legal aid yet)
3. Rokan Hulu Regency (already has regional regulations on legal aid)
4. Indragiri Hilir Regency (no regional regulations on legal aid yet)
5. Indragiri Hulu Regency (no regional regulations on legal aid yet)
6. Kepulauan Meranti Regency (no regional regulations on legal aid yet)
7. Kuantan Singingi Regency (no regional regulations on legal aid yet)
8. Pelalawan Regency (no regional regulations on accredited legal aid yet)
9. Siak Regency (already has regional regulations on legal aid)
10. Dumai City (already has regional regulations on legal aid)
11. Rokan Hilir Regency (already has regional regulations on legal aid)
12. Siak Regency (already has regional regulations on legal aid)

In establishing legislations in this case regional regulations on legal aid should be done based on the principles of the establishment of good regulations, including clarity of the objectives, institutions or appropriate forming officials and conformity between types, hierarchies, and workable material content and usefulness and usability, clarity of formulation and openness. In addition, the content material contained in legislations should reflect

⁴ Decree of Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-01.HH.07.02 of 2018 on organization that passed the verification and accreditation as legal aid provider in period of 2019-2021.

principles of guardianship, humanity, and nationality as well as kinship, Unity in Diversity (Bhinneka Tunggal Ika), justice and equal position in law and government, order and certainty in law, and balance and harmony. The principles of establishing legislations above reflect the good form of law and regulations. If it is applied in legislation, then good legislation will be formed in accordance with principles stated in law without abandoning principle of justice.

Principles of establishing legislations can be divided into two principles, which are formal principle and material principle. Formal principles include principles of clarity of the objectives for justice, principles of proper institutions to form laws, principles of regulatory needs, principles of implementation, and principles of consensus. Meanwhile, material principles cover principles of correct terminology and systematics, principles of recognition, principles of equal treatment in law, principles of legal certainty, and principles of law enforcement in accordance with individual circumstances. The establishment of good Indonesian legislations must prioritize the ideals of Indonesian law in taking the idea for the realization of equitable certainty. In addition, the principle of state based on law is a proper basis for the creation of good legislation. As a legal state that has a legal level, we should prioritize the hierarchy of legislation in establishing legislations, especially the constitution as the highest law.

In Law Number 16 of 2011 on Legal aid there is no obligation for regions to establish regional regulations on legal, in this law there is a usage of words ‘can be’, that the regions could make regional regulations on legal aid. Actually, the word ‘can be’ written in Law Number 16 of 2011 on legal aid indirectly provide opportunities for regional government to help its poor in dealing with legal cases.

Regional law products beside provincial regional regulation and regency/city regional regulations also include regulations stipulated by Provincial regional House of Representative, Governor, Regency/City regional House of Representative, Regent/Mayor, Chief of Village or equivalent. That regional regulations can also be revoked which regulated in Law Number 12 of 2011 on Establishment of Legislations, the mechanism of revocation / cancellation of regional regulations, Regional Head Regulations, and decision of Regional Head which stipulated in Law Number 23 of 2014 on Regional Government as amended by Law Number 9 of 2015 on Second Amendment to law Number 23 of 2014 on Regional Government. Regional

regulations and Regional Head regulations are prohibited to contradict the provisions of higher laws and regulations, public interest, and / or morality, which are:

- a) Disturbing the harmony between community members;
- b) Disturbing the access to public service;
- c) Disturbing the peace and public order;
- d) Disturbing the economic activity to improve community welfare; and/or
- e) Discrimination against ethnicity, race, religion, belief, and gender.

Provincial regional regulations and Governor regulations which contradict with the provisions of higher law, public interest, and/or morality can be revoked by Minister of Law and Human Rights. Regency/City regional regulations and Regent/Mayor regulations which contradict with the provisions of the higher law, public interest, and/or morality can be revoked by Governor as the representative of central government. In case of governor as representative of central government does not revoke regency/city regional regulations and/or regent/mayor regulations which contradict with higher law, public interest and/or morality, then minister can pass over governor's authority to revoke that regulations. Cancellation of provincial regional regulations and governor regulations is stipulated in Decree of minister and cancellation of Regency/City regional regulations and regent/mayor regulations is stipulated by governor decision as the representative of central government. At the latest of 7 (seven) days after the cancellation decision, regional head should stop the implementation of regional regulations and next Regional House of Representatives together with Regional Head revoke that said regulation. At the latest of 7 (seven) days after the cancellation decision, Regional head should stop the implementation of Regional Head Regulations and next the Regional Head invokes that said regulations. In the case where the administrators of the provincial Regional Government cannot accept the decision to cancel the Provincial Regional Regulation and the governor cannot accept the decision to cancel the governor's regulation on grounds that can be justified by the provisions of the laws and regulations, the governor can file an objection to the President no later than 14 (fourteen) days after the cancellation decision. It is also the same with cancellation of regent/city regional regulations.

CONCLUSION

Access to justice for the poor who involved in legal case in Riau Province in its implementation is not maximal, because there are several regencies in Riau Province where the poor finds difficult to search for legal assistance provider that can help them in legal cases and the reason for that is the uneven distribution of legal accredited legal aid organizations in Riau Province.

BIBLIOGRAPHY

1945 Constitution of the Republic of Indonesia.

Annual report of Ministry of Law and Human Rights of Republic of Indonesia, dated on July 26th 2013.

Government Regulation Number 42 of 2013 on Terms and Procedures in Giving Legal Assistance.

Law Number 12 of 2011 on Establishment of Laws and Regulations.

Law Number 16 of 2011 on Legal Aid.

Nasution, Adnan Buyung. *Bantuan Hukum di Indonesia*, Jakarta: LP3ES, 1981.

Situmorang, Mosgan. "Membangun Akuntabilitas Organisasi Bantuan Hukum", *Jurnal Recthsinding Media Pembinaan Hukum Nasional* 2, num. 1, (2013).

Soeprapto, Maria Farida Indrati. *Ilmu Perundangundangan, Jenis Fungsi dan Materi Muatan*, Yogyakarta: Kanisius, 2010.

Study of legal needs of the poor in cities conducted by LBH Jakarta. Research team of LBH Jakarta, *Neraca Timbang Bagi Si Miskin, Penelitian Skema dan Penyaluran Dana Bantuan Hukum di Lima Wilayah di Indonesia*, Jakarta, 2013.

Sunggono, Bambang and Aries Harianto, *Bantuan Hukum dan Hak Asasi Manusia*, Bandung: CV. Mandar Maju, 1994.