



The Effectiveness of Legal Aid Offices in Ensuring the Rights of Defendants in Court

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Abstract

The implementation of the Legal Aid Post (Pos Bantuan Hukum or Posbakum) at the Ambon District Court represents the fulfillment of every citizen's constitutional right to legal assistance a right grounded in the principles of the rule of law, equality before the law, and access to justice. This research aims to analyze the effectiveness of the Legal Aid Post in fulfilling defendants' rights to legal assistance and to examine the factors influencing its implementation. This is an empirical legal study employing statutory, conceptual, and sociological approaches. Data were gathered through both library and field research and analyzed using a descriptive-qualitative method. The findings indicate that the Legal Aid Post at the Ambon District Court has played a role in providing legal consultation, drafting legal documents, and facilitating legal representation for indigent defendants. However, its implementation has not been optimal due to resource limitations, low public legal awareness, and administrative obstacles in the provision of legal aid. Therefore, it is necessary to strengthen the Legal Aid Post institutionally, improve service quality, and foster synergy among the court, legal aid organizations, and law enforcement agencies to ensure that defendants' rights to legal assistance are fulfilled effectively, fairly, and with legal certainty.

INTRODUCTION

The State of Indonesia is a state of law, in accordance with the 1945 Constitution Article 1 paragraph (3), the State is based on the law, must be based on fair law without discrimination. A fair law without discrimination means that all citizens are equal in the eyes of the law, regardless of the social status of both the rich and the underprivileged. Unfair legal decisions will hurt the community's sense of justice.

Legal aid institutions that specifically serve the poor are the Legal Aid Post or known by the abbreviation POSBAKUM. The Court is a service formed by and exists in each court of first instance to provide legal services in the form of information, consultation, and legal advice, as well as the preparation of legal documents needed in accordance with the laws and regulations governing judicial power, general justice, religious courts, and state administrative courts. In accordance with Article 25 of the Supreme Court Circular Letter No. 10 of 2010.

The existence of Legal Aid Posts (Posbakum) in Indonesia is very important as a tangible manifestation of the state's presence in providing access to justice for the community, especially for those who are economically disadvantaged, since unequal access to justice among the poor is shaped not only by financial cost but also by individual preference and community infrastructure (Cuesta et al., 2018). Posbakum has several main roles, including providing legal information and consultation, assisting in the creation of legal documents, mediating disputes, and providing further legal references.

The provision of legal aid for suspects or defendants in criminal justice proceedings in Indonesia is one of the important aspects in the enforcement of human rights, and is one of the manifestations of the mandate of Article 28 paragraph (1) of the 1945 Constitution which states that:

"Everyone has the right to fair legal recognition, guarantee, protection, and certainty and equal treatment before the law".

Its fulfillment is very important and fundamental, because apart from being a form of protection and equality before the law, this principle is the main pillar in realizing a fair trial.

The implementation of the provision of legal aid to citizens is an effort to fulfill and implement the state of law that guarantees citizens' human rights to access justice and equality before the law. Legal aid or known as legal aid is a service of providing legal advice to people who are unable to obtain legal representation and access in court, both non-litigation and or fair litigation, and its effective delivery remains a persistent challenge in fulfilling the constitutional right to legal protection for the underprivileged in Indonesia (Angga & Arifin, 2019). Therefore for every legal action that is accused of the accused, it is also necessary to pay attention to his rights to truth and justice in accordance with the legal actions he takes without discrimination.

Regulations on legal aid are also regulated in Law Number 39 of 1999 concerning Human Rights in Article 18 paragraph (1) stating that:

"Every person who is arrested, detained, and prosecuted for allegedly committing a criminal act has the right not to be considered guilty, until proven guilty legally in a court hearing and given all the legal guarantees necessary for his defense, in accordance with the provisions of the law".

Law No. 39 of 1999 Article 18 paragraph (4) also states that every person who is examined is entitled to legal assistance from the time of the investigation until the court decision that has obtained permanent legal force.

The right to legal aid is regulated by Law No. 20 of 2025 concerning the Criminal Procedure Code (hereinafter abbreviated as the Criminal Procedure Code) in Article 154 which states that:

1. Legal Aid is provided for:
 - a. Suspect or Defendant; and
 - b. the complainant, complainant, witness, or victim, who is incapable at each stage of the examination.
2. The relevant official at each stage of the examination shall notify the right to obtain Legal Aid and appoint an Advocate or Legal Aid Provider for the Suspect, Defendant, Complainant, Witness, or Victim as intended in paragraph (1).
3. Advocates or Legal Aid Providers as intended in paragraphs (1) and (2) are obliged to provide Legal Aid.

Legal Aid is the right of suspects and defendants without exception, a guarantee that is consistent with international standards recognizing legal aid as an essential safeguard for parties facing proceedings before a court (Gruodytė & Kirchner, 2016). To guarantee this right, the state also provides free legal assistance, which is regulated in Article 155 of the Criminal Procedure Code paragraph (1) and paragraph (2) and paragraph (3) states that:

- (1) In the event that the Suspect or Defendant is suspected or charged with committing a criminal act threatened with the death penalty, life imprisonment, imprisonment of 15 (fifteen) years or more, the relevant official at all stages of the investigation shall appoint an Advocate for the Suspect or Defendant.
- (2) The suspect or defendant who is suspected or charged with committing a criminal act that is threatened with a penalty of 5 (five) years or more, but is incapable and does not have his own Advocate, the relevant official at all stages of examination is obliged to appoint an Advocate for the Suspect or Defendant.
- (3) Advocates or Legal Aid Providers as intended in paragraphs (1) and (2) are obliged to provide Legal Aid.

Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power, specifically in the chapter on legal aid, is contained in articles 56 and 57 which states that:

Article 56 :

- (1). Everyone involved in the case has the right to obtain legal assistance.
- (2). The state bears the cost of the case for incapable justice seekers.

Article 57 :

- (1). In each District Court, a Legal Aid Post is established for justice seekers who are unable to obtain legal aid.
- (2). Legal aid as intended in paragraph (1) shall be provided free of charge at all levels of the judiciary until the decision on the case has obtained permanent legal force.
- (3). Legal aid and Legal Aid Posts as intended in paragraph (1) shall be carried out in accordance with the provisions of laws and regulations."

Regulations on legal aid are contained in Law Number 16 of 2011 concerning Legal Aid. In Article 1 point 1 states that: Legal aid is legal services provided by the Legal Aid Provider free of charge to the Legal Aid Recipient, It is expected to protect the constitutional right of every individual to obtain legal aid, in addition to that, it is also expected to accommodate the protection of the underprivileged community in dealing with legal cases, although its optimal implementation still depends on adequate funding, competent human resources, and effective coordination among service providers (Gayo, 2020).

Posbakum operates based on legal bases such as Law Number 16 of 2011 concerning Legal Aid and Supreme Court Regulation (PERMA) Number 1 of 2014 concerning Guidelines for the Provision of Legal Aid for Underprivileged People in Court.

Legal aid is very important when a person in the process of examination faces legal officials in the criminal justice system. The law enforcement agencies are the Police, Prosecutors and Judges. A person who is dealing with the law needs legal assistance so that his position becomes balanced. If the position between the suspect or defendant and law enforcement is not balanced, it will result in the non-fulfillment of rights and obligations in the legal process. In fulfilling these rights and obligations, the suspect and defendant must obtain adequate legal assistance, since the presence of an advocate from the investigation stage helps ensure that examinations are conducted without coercion and that the suspect's procedural rights are respected (Martin et al., 2024).

The provision of legal aid to the underprivileged, in addition to empowering the existence of society and legal equality for all levels of society, also aims to arouse the awareness and legal compliance of the community, namely through the use of the rights provided by the state

in defending their legal interests in front of the courts, a role that has been shown to broaden poor communities' access to justice when legal aid is delivered consistently and accompanied by community legal education (Arliman, 2022).

The provision of legal aid by legal aid organizations has a very large role, namely to accompany the client so that he will not be treated arbitrarily by the authorities, as well as to defend in terms of material which here is expected to reach a verdict that is close to the sense of justice from the court, an approach that, when combined with non-litigation legal assistance rooted in local values, has been found to strengthen community access to justice (Firmansyah et al., 2022). The importance of providing legal aid to defendants who are threatened with criminal penalties of five years or more, the state provides free legal aid in its implementation, there are still several problems experienced by defendants in the examination of cases in court, defendants have rights regulated in laws and regulations that need to be considered and protected, the rights of defendants to obtain fair legal protection and certainty and equal treatment before the law in the examination process in court.

Posbakum has a crucial existence in handling cases in court as the front line of free legal aid for the underprivileged. This service includes providing information, consultation, legal advice, and making legal documents, ensuring access to justice for justice seekers who are economically unable to afford it from the time the case is registered until it has permanent legal force, a function that has become increasingly important as courts adapt their services to remote and digital modes of delivery (Albana & Alfi Syahr, 2022).

Previous research on Posbakum implementation in Indonesia has examined various aspects, with Hardianto (2020) finding that Posbakum in Palopo City provides consultation and document preparation but faces human resource and public awareness constraints, Wijaya (2012) concluding that Posbakum at Yogyakarta District Court is relatively effective in providing legal information yet requires better coordination with legal aid organizations, Putri and Kurniawan (2021) identifying administrative requirements and low public awareness as obstacles to free legal aid implementation, Perdana (2016) asserting that the state's obligation to provide legal aid remains inadequately fulfilled due to systemic barriers, Susilawati et al. (2023) showing that free legal aid for narcotics defendants at the Bukittinggi District Court Posbakum still faces procedural obstacles, and Utami et al. (2025) demonstrating that the supervision and quality assurance of state-funded legal aid organizations in Indonesia remain weaker than in comparable jurisdictions such as Malaysia. However, studies specifically examining Posbakum effectiveness across multiple district courts, particularly in Eastern Indonesia, remain limited, as most existing research focuses on individual locations or general policy analysis without comprehensively evaluating implementation factors across different court jurisdictions, creating a research gap that this study aims to fill by analyzing Posbakum effectiveness at the Ambon, Tual, and Saumlaki District Courts.

This research is grounded in several theoretical frameworks: the Theory of Access to Justice (Cappelletti & Garth, 1978) which emphasizes removing economic, social, and procedural barriers to fair legal remedies; the Theory of Legal Protection Rasjidi & Wysa Putra, (2003) which ensures that all citizens, particularly vulnerable groups, can exercise their legal rights; and the Principles of Due Process and Fair Trial as embedded in Article 54 of KUHAP, requiring fair hearings, legal representation, and adequate defense preparation. These frameworks are consistent with recent findings that vulnerable and marginalized groups

continue to require targeted institutional protection to obtain equal treatment before the law (Hijriani & Hasima, 2022). The integration of these frameworks provides a comprehensive lens for examining Posbakum effectiveness in fulfilling defendants' rights across institutional, procedural, and socio-economic dimensions.

Based on the background, The objectives of this study are to analyze the effectiveness of Posbakum in fulfilling defendants' rights to legal assistance and to examine the factors influencing its implementation. Theoretically, this research contributes to the body of knowledge in legal aid and access to justice by integrating the principles of legal protection and due process in the context of Posbakum services in Eastern Indonesia. Practically, the findings are expected to provide recommendations for strengthening Posbakum institutionally, improving service quality, and fostering synergy among the court, legal aid organizations, and law enforcement agencies to ensure that defendants' rights to legal assistance are fulfilled effectively, fairly, and with legal certainty.

METHOD

Research Type

The type of research used in this study was empirical/sociological juridical. According to Ronny Haniitijo Soemitro, Sociological Juridical is a type of research that aims to explain a statement that exists in the field based on legal principles, legal rules or applicable legislation and is related to the problems that occur.

Research Location

The location of this field research is located at the Ambon District Court, Tual District Court and Saumlaki District Court.

Population, Sample and Respondents

The population is the entire research unit that will be researched and then analyzed, namely: Ambon District Court, Tual Court and Saumlaki District Court

A sample is a set of parts or parts of a population. Sampling in this study was carried out by means of purposive sampling, which is the withdrawal of samples by taking subjects based on certain objectives. The samples in this study are the Ambon District Court Posbakum, Tual Posbakum and Saumlaki District Court Posbakum.

Respondents are people who answer questions asked by researchers for research purposes. The respondents in this study are: Chairman of the Ambon District Court Posbakum, Chairman of Tual Posbakum and Chairman of the Saumlaki District Court Posbakum.

Data Source

- Data Primer

Primary data is data obtained directly from the first source related to the problem to be discussed by conducting structured interviews with informants from the Chairman of the Ambon District Court Posbakum, the Chairman of the Tual Posbakum and the Chairman of the Saumlaki District Court Posbakum.

- Data Seconds

Secondary data was obtained by conducting literature research on the research materials used which included primary legal materials, secondary legal materials and tertiary legal materials, namely:

a. Primary Legal Material

Primary legal material is binding legal material, which includes laws and regulations related to the formulation of the problem discussed, namely:

1. Constitution of the Republic of Indonesia in 1945
2. Law of the Republic of Indonesia Number 8 of 1981 concerning the Criminal Procedure Code
3. Law Number 39 of 1999 concerning Human Rights
4. Law Number 48 of 2009 concerning Judicial Power
5. Law Number 16 of 2011 concerning Legal Aid
7. Law Number 18 of 2003 concerning Advocates
8. Law Number 20 of 2025 concerning the New Criminal Procedure Code (KUHP)
9. Supreme Court Regulation No. 1 of 2014 concerning Guidelines for Legal Provision for the Underprivileged in Court

b. Secondary Legal Materials

Secondary legal materials are non-binding legal materials that provide explanations of primary legal materials which are the result of the processed opinions or thoughts of experts or experts who study a certain field specifically that will provide guidance to the author including law books, legal materials sourced from literature, scientific journals and writings on the internet.

Data Collection Techniques

The data in a study is the material that will be used in solving the problems that have been formulated in the research. Therefore, these data must be collected so that the problems in the research can be solved. In this study, the types of data collected are divided into two types of data, namely primary data and secondary data with the following data collection techniques:

1. Interview

Primary data or data obtained directly from data sources at research sites or field research are obtained through interviews and observations. An interview is a question-and-answer process, an interview and observation. An interview is a question-and-answer process in research that takes place orally in which two or more people face to face listen directly to information or information.

2. Documentation Study

To obtain secondary data in this study, it is carried out by studying and studying literature research materials in the form of legal materials, both primary secondary and tertiary legal materials.

Data Processing Techniques

Data processing techniques include:

1. Editing (Pemeriksaan Data)

Editing is researching the data that has been obtained, especially from the completeness of the answers, the readability of the writing, the clarity of the meaning of conformity and its relevance to other data.

2. Classifying

Classifying is the process of grouping all data, both from the results of interviews with research subjects, observation and direct recording in the field or observation. All the data

obtained is read and analyzed in depth, then classified as needed. This is done so that the data that has been obtained is easy to read and understand, and provides objective information needed by researchers. Then the data is sorted into parts that have similarities based on the data obtained during interviews and observations as well as data obtained from the document.

3. Verifying (Verifying)

Verifying is the process of examining data and information that has been obtained from the field so that the validity of data can be recognized and used in research.

4. Concluding (Kesimpulan)

Next is the conclusion, which is the last step in the data processing process. This conclusion will later become a data related to the researcher's research object. This is called the term concluding, which is the conclusion of the data processing process which consists of three previous processes: editing, classifying, and verifying.

Data Analysis

The data that has been collected through data collection activities has not provided any meaning for the purpose of a research. The research has not been able to draw conclusions for the purpose of the research, because the data is still raw data and it still requires effort or effort to process it. The process carried out is by examining the data that has been obtained to ensure whether the data can be accounted for in accordance with reality. After the data is collected completely and has been processed using narratives or tables, it is then analyzed qualitatively. Qualitative data analysis is a technique that describes and interprets the data that has been collected so as to obtain a general and comprehensive picture of the actual situation through the stages of conceptualization, categorization, relations and explanation.

RESULTS AND DISCUSSION

Service Delivery Mechanism at the Court Post

The Court Post is a service that is formed and exists in each Court of First Instance to provide legal services in the form of information, legal consultation and advice, as well as the preparation of legal documents needed in accordance with the laws and regulations governing Judicial Power, General Court, Religious Court, and State Administrative Court.

The purpose of establishing the posbakum based on Supreme Court Regulation No. 1 of 2014 concerning Guidelines for the Provision of Law for the Underprivileged in Court is to: This part must answer the hypothesis of the research stated in the Introduction.

Providing a high resolution of the figure is important to ensure the good quality of the manuscript. The figure and table must be supported by a caption. Refer to and/or cite figures and tables in-text by their full, spelled-out forms. For example:

The Court Legal Aid Post (Posbakum) aims to ease the financial burden borne by economically disadvantaged communities in accessing judicial services. It also seeks to improve access to justice for individuals who experience difficulties in reaching court facilities due to financial constraints, physical limitations, or geographical barriers. Furthermore, the Court Legal Aid Post provides opportunities for individuals who lack access to legal consultation services to obtain legal information, consultation, advice, and assistance in preparing legal documents required during judicial proceedings. Through these services, the Court Legal Aid Post contributes to increasing public legal awareness and knowledge by supporting the recognition, fulfillment, and protection of citizens' legal rights and obligations.

Ultimately, the establishment of the Court Legal Aid Post is intended to provide excellent and equitable services for all members of the community seeking justice.

Any individual or group of individuals who are economically disadvantaged and/or lack access to legal information and consultation services may obtain assistance from the Court Legal Aid Post. These services include the provision of legal information, consultation, legal advice, and assistance in preparing necessary legal documents. The services are available to parties who intend to or have already acted as plaintiffs/applicants or defendants/respondents in court proceedings. Economic incapacity may be demonstrated by submitting several types of supporting documents, including a Certificate of Incapacity (Surat Keterangan Tidak Mampu/SKTM) issued by the Head of Village, Head of Urban Village (Lurah), or an equivalent authority, confirming that the person concerned is unable to pay court fees. In addition, incapacity may be proven through social welfare documents, such as Poor Family Cards (Kartu Keluarga Miskin/KKM), Community Health Insurance Cards (Jamkesmas), Poor Rice Cards (Raskin), Family Hope Program Cards (PKH), Direct Cash Assistance Cards (BLT), Social Protection Cards (KPS), or other documents related to the government's integrated database of poor communities or documents issued by authorized institutions confirming economic inability. If applicants do not possess such documents, they may submit a statement of inability to pay advocate service fees, prepared and signed by the applicant and approved by the Court Legal Aid Post officer.

The Court Legal Aid Post provides various forms of legal services, including the provision of legal information, consultation, and advice; assistance in preparing required legal documents; and information regarding the list of Legal Aid Organizations as regulated under Law Number 16 of 2011 concerning Legal Aid, as well as other legal aid organizations or advocates that provide free legal assistance. These services are designed to ensure that disadvantaged communities can understand their legal rights and obligations and receive appropriate assistance throughout the legal process.

The mechanism for obtaining services from the Court Legal Aid Post begins when an individual or group submits an application by completing the provided application form and fulfilling the required administrative requirements. Applicants who have completed the form and met the applicable requirements may directly receive services from the Court Legal Aid Post. The service provider is then responsible for compiling the case file of the service recipient as part of the court's documentation, which consists of the application form, supporting documents required under applicable regulations, case chronology including trial dates and agendas, legal documents prepared by the Court Legal Aid Post, and a statement of services provided signed by both the Court Legal Aid Post officer and the recipient of the service.

If a recipient of Court Legal Aid Post services is unable to pay court fees, the Court Legal Aid Post officer shall provide an application form for exemption from court fees to be submitted to the Chief Justice of the Court. Furthermore, if the recipient requires legal assistance in the form of representation or assistance during court hearings, the Court Legal Aid Post officer shall provide information regarding the procedures for obtaining legal aid and provide a list of Legal Aid Organizations as referred to in Law Number 16 of 2011 concerning Legal Aid, or other legal aid organizations and advocates that provide free legal assistance.

The obligations of Court Legal Aid Post service providers and officers include providing professional and responsible services. Professional service means that assistance must be

provided seriously and based on the expertise, competence, knowledge, and educational qualifications of the service provider, whether as an advocate or as a holder of a Bachelor of Law or Bachelor of Sharia degree. Responsibility means that services must be delivered based on legal knowledge, including both substantive and procedural law, with the willingness to bear responsibility for the implementation of the services provided.

In carrying out their duties, Court Legal Aid Post officers must provide clear, accurate, balanced, and comprehensive legal information and advice. Balanced legal advice means prioritizing the interests of the service recipient in achieving justice without degrading other parties or using methods that are not legally justified. Comprehensive legal advice requires consideration of all aspects of substantive and procedural law to ensure that the recipient can achieve the fairest possible outcome in handling their case.

Where a court cooperates with a Court Legal Aid Post service provider institution, the preparation of legal documents by a Bachelor of Law or Bachelor of Sharia graduate must obtain prior written approval from an advocate within the relevant Legal Aid Post institution before being submitted to the service recipient. In addition, service providers and officers are required to maintain confidentiality regarding all information obtained from recipients of Court Legal Aid Post services, implement protection principles for vulnerable groups such as persons with disabilities, women, children, and the elderly, and avoid conflicts of interest with service recipients.

Court Legal Aid Post service providers are also required to prepare reports and maintain documentation of service recipient files to be submitted to the Chief Justice. They must cooperate with court officers appointed by the Chief Justice in maintaining administrative order, management procedures, facilities, and infrastructure of the Court Legal Aid Post. The head of the Court Legal Aid Post service provider institution, together with the Chief Justice, is responsible for supervising the quality of services provided by Court Legal Aid Post officers from their institution. Through effective supervision and professional service implementation, the Court Legal Aid Post serves as an important instrument in realizing an inclusive, accessible, and fair judicial system for all members of society.

The implementation of Legal Aid Posts (Posbakum) in the District Court is explicitly explained by Government Regulation of the Republic of Indonesia Number 42 of 2013 concerning Terms and Procedures for the Provision of Legal Aid and the Distribution of Legal Aid and the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: M.HH- 03.HN.03.03 of 2013 concerning the Amount of Legal Aid Costs for Litigation and Non-Litigation. The Government Regulation of the Republic of Indonesia (PP) and the Regulation of the Supreme Court of the Republic of Indonesia (PERMA RI) are sensitive to public problems in the field of law and have a positive response as a follow-up to existing legislation, although prior research indicates that the practical delivery of legal aid to indigent defendants in criminal cases is frequently hindered by limited advocate availability and unclear coordination among institutions (Arif, 2015).

In Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power, in the provisions of Article 56 paragraph (2) jo Article 68 letter B paragraph (2) of Law of the Republic of Indonesia Number 49 of 2009 concerning the General Judiciary, it is stated that "the state bears the cost of the case for incapable justice seekers". Then in the provisions of Article 68 letter C paragraph (1) of Law Number 49 of 2009 jo Article 57 paragraph (1) of Law

of the Republic of Indonesia Number 48 of 2009 affirms "In each district court, a Legal Aid Post is established for justice seekers who are unable to obtain legal aid".

The presence of Government Regulation of the Republic of Indonesia Number 42 of 2013 and Regulation of the Supreme Court of the Republic of Indonesia (Perms) Number 1 of 2014 was then clarified by the issuance of an implementation guide in the form of the Decree of the Director General of the General Judiciary Number: 52/DJU/SK/HK.006/5/Year 2014 dated May 30, 2014 concerning Guidelines for the Implementation of the Supreme Court of the Republic of Indonesia Regulation Number 1 of 2014 concerning Guidelines for the Provision of Legal Services for the Underprivileged in Court.

Referring to the provisions of Article 57 of the Republic Law Number 48 of 2009 and Article 60 of the Law of the Republic of Indonesia Number 50 of 2009, the Posbakum was established in each court to assist justice seekers who are unable to afford it. The legal aid is provided free of charge. Article 36 states that "in criminal cases, a suspect, especially from the time of arrest and/or detention, has the right to contact and ask for the assistance of legal counsel". Based on these two articles, everyone who has a case in a criminal case has the right to obtain legal assistance to contact and ask for the assistance of legal counsel.

The emergence of juridical problems actually began after the ratification of Law of the Republic of Indonesia Number 14 of 1970 at that time there were a lot of people who were unable to conduct hearings without a defender or legal advisor. Posbakum has the concept of instant defenders. This is different from the Legal Aid Institute (LBH) which has a rather few offices. Posbakum's operational funds used to be partly assisted by the Ministry of Justice, partly obtained from clients.

Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power, especially in the chapter on legal aid, there are several very striking changes, namely in Article 56 and Article 57 which states that:

- (1). Everyone involved in the case has the right to obtain legal assistance.
- (2). The state bears the cost of the case for incapable justice seekers.

Article 57 :

- (1). In each District Court, a Legal Aid Post is established for justice seekers who are unable to obtain legal aid.
- (2). Legal aid as intended in paragraph (1) shall be provided free of charge at all levels of the judiciary until the decision on the case has obtained permanent legal force.
- (3). Legal Aid and Legal Aid Post as intended in paragraph (1) shall be carried out in accordance with the provisions of laws and regulations.

In the treasure of the criminal procedure law there is an adagium that states "ubi jus ibiremedium" which means that where there is a right there is a possibility of claiming, obtaining it or correcting it if the right is violated, from this adage, for the existence or grant of these rights, if it cannot be prosecuted in fulfilling it, it will only make the right something useless.

Human rights, when viewed from the point of view of fulfillment, are divided into two types, namely negative right and positive right. The right to legal aid is a negative right, which must be striven to be fulfilled. It is different from the right to life which is included in the type of positive right, where the fulfillment of it does not need to be sought anymore, because the right to life has existed and has been inherent since a person is still in the womb. A citizen who

has committed wrongs against society and the state has the right to defend himself in a free court and an impartial judge.

Although the interests of society and the state must be guaranteed and protected, the interests or rights of the suspect or defendant as individuals must also not be sacrificed. With the weak position of the suspect or defendant, the state provides legal protection in the form of the right of the suspect or defendant to be accompanied by a legal advisor in undergoing the criminal justice process. With this right, it is hoped that there will be a balance in seeking justice. The existence of legal advisors as providers of legal assistance for suspects or defendants in the criminal trial process, not only functions or acts as a controller so that the verdict handed down by the judge to his client meets the sense of justice and impartiality. More than that, the existence of legal counsel in accompanying a suspect or defendant is also intended to ensure that the stages of criminal proceedings are passed in accordance with the applicable criminal procedure law. The second role of the legal advisor above is in line with the Law on Judicial Power which outlines that "in providing legal assistance, the legal advisor helps to smooth the explanation of the case by upholding Pancasila, law and justice.

According to Purnadi Purbacaraka and Ridwan A Halim, obligation is a necessity of a role in a certain matter that is indicated by the law or law, in the criminal procedure law, the right to obtain legal assistance for a suspect or defendant, is regulated through the provisions as outlined in Article 54 of the Criminal Code to Article 56 of the Criminal Code. Meanwhile, the rights of legal advisors to smoothly assist their clients are regulated in the provisions of Articles 69 to 74 of the Criminal Code.

Martiman Prodjohamidjojo explained that the assistance by legal advisors in his practice, based on his experience as a judge, is as follows. Assistance by legal counsel for the suspect, he may ask his legal advisor for explanations of a question asked from the investigator that he does not understand both the meaning and direction of the question in question. Even if there are questions that are entangled, then the legal advisor is obliged to warn the suspect of the existence of the entanglement.

In his welcome speech, the Chief Justice of the Supreme Court of the Republic of Indonesia, R Soebekti, at the closing of the IV Peradin Congress in 1973 regarding the importance of the presence of legal counsel, stated that the principle of "fair trial" will not find its intended target if there is no defense in the Court session who can provide the best assistance to the accused. And I think the judge will be more satisfied with his decision if the legal defense has been fully given to the accused and the defendant.

In contrast to the assistance in the pre-adjudication stage where the assistance by the legal advisor is passive, at the stage of examining the defendant before the District Court trial, the legal advisor has been able to follow the course of the examination in an active manner, a distinction that matters considerably given findings that defendants examined without the accompaniment of legal counsel are more prone to procedural irregularities and diminished defense rights (Fadhil & Ghiffary, 2019), where the legal advisor can use his rights as possessed by the judge and the public prosecutor, namely the right to question and answer, including cross examination, the right to present evidence, both mitigating witnesses and other documents and evidence, the right to present a defense (pledoi) and others. Only at this stage can the defendant and the legal counsel stand upright as parties at the same position before the law facing the public prosecutor under the discretion of the judge.

In the examination at the court session, the defendant has the same rights as the public prosecutor, while the judge is above both parties. In this examination, the principle of presumption of innocence must be put forward so that the defendant in this case is in the position of a subject who is facing the public prosecutor who is also a subject of law, a principle that exists precisely to protect the rights of suspects and defendants throughout the criminal justice process (Sirait & Layang, 2024) and that is grounded in the broader human-rights perspective safeguarding every person from premature judgments of guilt (Saroinsong et al., 2023). Defendants who are accompanied by legal counsel have the same rights as public prosecutors. Although the suspect gets the opportunity to exercise his rights (pledooi, duplicate) after the public prosecutor (indictment, requisitor).

Assistance by legal counsel for suspects or defendants is the main pillar in supporting and supporting the fulfillment of the rights of suspects or other defendants. So that the right to be accompanied by legal counsel is closely related to the protection of the rights of suspects or other defendants provided by the Criminal Code.

The relationship between these rights includes:

The Relationship of the Right to Be Accompanied by a Legal Advisor with the Provisions of Article 50 of the Criminal Code.

It is difficult for a suspect or defendant who does not understand the law to get a fast, simple and uncomplicated trial if he has to deal alone with law enforcement officials who are very familiar with the intricacies of the law. The promptness of the suspect or defendant to be tried as affirmed in the provisions of Article 50 of the Criminal Code, is in order to uphold human rights values. The urgency of this trial is to provide legal certainty so that a suspect or defendant is not trapped and feels swayed in uncertain uncertainty about his legal status.

Although the Criminal Procedure Code has not provided a deadline for when a case must be resolved in the criminal justice process, this desire has been more or less accommodated in several provisions regarding the time limit, such as the time limit for arrest and detention and the deadline for filing an appeal or cassation. The application of Article 50 of the Criminal Code will be difficult to implement if in a criminal justice process, the legal advisor is not present to assist the suspect or defendant in informing the right to be tried immediately.

The Relationship of the Right to Be Accompanied by a Legal Advisor with the Provisions of Article 52 jo Article 66 of the Criminal Procedure Code.

In giving a statement, a suspect must feel free from fear so that the actual results of the information will be obtained and do not deviate from the truth, therefore it is mandatory to prevent coercion or pressure⁷³ on the suspect or defendant in an examination at the investigation level (explanation of Article 52 of the Criminal Code jo Article 117 paragraph (1) of the Criminal Code).

At the level of examination in the court session, the Presiding Judge is also obliged to ensure that questions are not asked that result in the defendant or witness giving answers unfreely, for violations of this matter will result in the nullity of the decision for the sake of the law (Article 153 paragraph (2) letters b and (4)) The non-freedom of the suspect or defendant in giving information at the investigation level will have an impact on the Investigation Minutes that are not in accordance with what is then revealed in the trial, even though in fact only the defendant's testimony in the trial is valid evidence based on Article 184 of the Criminal Code jo Article 189⁷⁵ of the Criminal Code. The freedom of a suspect or defendant from fear of

coercion by investigators in giving a statement is difficult to be fulfilled in the examination at the investigation level. This is considering that at the investigation level, the examination process carried out is closed, unlike at the level of examination in a court hearing, where the trial is open to the public (Article 64 jo Article 153 paragraph (3) of the Criminal Code).

To ensure the right of suspects or defendants to provide information freely as stipulated in Article 52 of the Criminal Code, it is important to have the presence of legal advisors in providing legal assistance for a suspect or defendant in the criminal justice process, especially assistance at the investigation stage. This is where the right to be accompanied by a legal advisor is closely related to the right under Article 52 of the Criminal Code. In order to avoid the suspect or defendant from being extorted from his or her testimony in obtaining a guilty statement, the Criminal Procedure Code in Article 66 outlines that "the suspect or defendant is not burdened with the burden of proof". This has implications for the position of the Public Prosecutor who is obliged to prove his accusation of the guilt of a defendant whom he accuses in the indictment.

As Maria Farida Indrianti said that a legal norm can be a single legal norm and can also take the form of a paired legal norm, a single legal norm is an instruction about how a person should act or behave, The relationship between the right to be accompanied by a legal advisor and Article 66 of the Criminal Procedure Code, lies in the balance that can be provided by a legal advisor in helping a judge to find the material truth in a trial. This is where the role of legal advisors is in providing protection so that suspects or defendants are not used as objects of examination by law enforcement officials.

The Relationship of the Right to Be Accompanied by a Legal Advisor with the Provisions of Article 65 of the Criminal Procedure Code in conjunction with Article 116 Paragraphs (3) and (4) of the Criminal Procedure Code

The suspect in the investigation stage is given the right to submit witnesses that are favorable or mitigating for him and it is also an obligation for the investigator to summon and examine the witness (Article 65 jo Article 116 paragraphs (3) and (4) of the Criminal Code. The granting of this right is closely related to the existence of legal counsel as a party who can assess whether a discharge witness is indeed appropriate to be submitted as a mitigating witness. The legal advisor here can sort out which witnesses are indeed needed in the context of his defense, considering that the provisions of Article 116 of the Criminal Code do not provide a limit on how many witnesses a discharge may be submitted. This assistance is important in supporting simple, fast and uncomplicated justice.

The Relationship Between the Right to Be Accompanied by a Legal Advisor and Article 69 of the Criminal Code jo Article 70 of the Criminal Code

The position of a legal advisor in accompanying a suspect or defendant, in addition to carrying out his function as a legal expert, but more than that, a legal advisor is expected to provide moral support. To provide moral support and protection, the Criminal Procedure Code through Article 69 jo Article 70 provides opportunities at any time for legal advisors to contact suspects or defendants.

In line with the legal protection of the rights of the defendant, according to Lili Rasjidi and I. B. Wisa Putra, the law is functioned to realize protection that is not only adaptive and flexible, but also predictive and anticipative, legal protection is an illustration of the work of legal functions to realize legal objectives, namely justice, usefulness and legal certainty. Legal

protection is a protection given to legal subjects in accordance with the rule of law, both preventive and in a repressive form, both in writing and unwritten in order to enforce legal regulations.

Legal Protection for defendants in legal proceedings must provide protection to Human Rights that are harmed by others and such protection is given to people who are unable to seek justice so that they can enjoy all the rights granted by the law, a form of protection that empirical studies confirm remains inconsistently realized in the actual handling of criminal cases at the district court level (Mozin, 2024), or in other words, Legal Protection is a variety of legal remedies that must be provided by the court to provide a sense of security, both mentally and physically from disturbances and various threats from any party. Basically, legal protection does not discriminate between men and women. Indonesia as a country of law based on Pancasila must provide legal protection to its citizens, therefore this legal protection will give birth to the recognition and protection of human rights in its form as individual and social beings in a unitary state that upholds the spirit of kinship in order to achieve common prosperity.

Posbakum is an institution for providing legal services facilitated by the state through the courts, tasked with providing free legal assistance to people seeking justice who are unable to afford it, an institutional model that mirrors comparative experience showing that dedicated legal aid centers can meaningfully widen access to justice when adequately publicized and resourced (GurMESSA, 2018), but the existence of posbakum is not widely known by the public as a justice seeker who has legal proceedings in court so that posbakum has a duty Including exercising power, accompanying, representing, defending, and/or carrying out other legal actions for the legal interests of legal aid recipients, which aims to guarantee and fulfill the rights of legal aid recipients to have access to justice and ensure that the rights of defendants in the stage of case examination in court have not functioned properly.

The role of the court is needed to provide information about the existence of the posbakum to the community so that the community knows the existence of the posbakum to provide protection and fulfillment of the rights of the community as seekers of justice and the court should cooperate with advocates who have provided Legal Aid Posts (Posbakum) for justice-seeking people who do not know the process of litigation and who are unable to carry out legal proceedings in the Court.

CONCLUSION

The effectiveness of the Legal Aid Post in fulfilling the rights of the defendant in the Court. Legal Aid Posts (Posbakum) in the courts are quite effective in facilitating the rights of indigent defendants, especially in providing free consultation, advice, and the preparation of legal documents. Posbakum improves access to justice, smoothens the trial process, and ensures that the right to defense is fulfilled in accordance with the principles of due process of law. However, its effectiveness is still constrained by administrative problems, such as difficulties in obtaining a certificate of inability and low public awareness.

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