

LEGAL IMPLICATIONS OF PROVISION OF FUNDING ASSISTANCE ON THE OPERATIONALIZATION OF NON-ACREDITED LEGAL AID INSTITUTIONS WITHIN THE FRAMEWORK OF LAW NO. 16 OF 2011

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ABSTRACT

Legal Aid is one of the government's efforts to provide guaranteed protection for disadvantaged communities in accordance with Law Number 16 of 2011 concerning Legal Aid. The aim of this research is to find out the legal implications of providing financial assistance for legal aid provided by unaccredited Legal Aid Institutions. The writing method that the author uses in normative juridical research is that the study refers to legal norms contained in statutory regulations, court decisions and legal norms that exist in society. Using a normative juridical approach, this research assesses how regulations and funding practices influence the effectiveness and quality of legal services provided by these institutions. Analysis was carried out through reviewing legal documentation and interviews with legal experts and legal aid practitioners. The research results show that although the law has established strict accreditation and funding mechanisms, in practice there are still significant challenges, including limited resources and fund management. These findings suggest the need for stronger oversight and reform in the accreditation system to improve access to justice for the poor.

INTRODUCTION

Access to justice in a civilized society is one of the fundamental pillars that supports a just and equitable social order. The realities faced by poor communities, however, often place them at a disadvantage in accessing justice, primarily due to limited resources and legal knowledge. Social, cultural, financial and systemic barriers must be addressed to overcome impunity and strengthen justice, taking a human rights perspective on legal empowerment. This problem necessitates the need for legal assistance as a tool of empowerment that can ensure that every level of society, without exception, has the same opportunity to obtain justice. Legal aid, in this context, is not only a means of overcoming gaps in access to justice, but also a concrete manifestation of the state's commitment to guaranteeing the human rights of every citizen. Improving access to legal services and advice was a key part of the Access to Justice Act 1999, which explicitly considered workers' rights in the new welfare framework proposed by the UK government. Increasing access to justice, thus through legal empowerment, paves the way for strengthening social justice and reducing inequality.

Law Number 16 of 2011 concerning Legal Aid is one of the important legislative initiatives in Indonesia which aims to answer these challenges. This law recognizes the importance of legal aid as an integral part of a fair justice system and is a concrete step for the government to ensure access to justice for every citizen, especially for those who are economically disadvantaged. This law explicitly emphasizes that the provision of legal aid is not just the provision of legal services for those who cannot afford it, but is also an effort to strengthen the pillars of democracy, respect, protect and fulfill human rights and strengthen the principle of equality before the law, even though the assessment of service quality Legal aid shows very good results, there are still information aspects in litigation services and procedural aspects in non-litigation services that need attention to improve access to justice.

Regarding organizers, recipients and mechanisms for providing legal assistance, Law no. 16 of 2011 creates a comprehensive framework for the implementation of legal aid in Indonesia. This includes provisions regarding the accreditation of legal aid provider institutions, which aim to ensure the quality of legal services provided to poor communities meets established standards. Thus, this law does not only focus on legal aspects, but also on improving the quality of legal services and building capacity for verified legal aid providers and accreditation of legal aid institutions is a measure for Indonesia to fulfill its obligations in guaranteeing equal rights for everyone. Indonesian citizens. Outside the legislative framework, the implementation of Law no. 16 of 2011 faces a number of practical challenges, ranging from limited resources, information gaps, to challenges in ensuring the quality and availability of legal services for poor communities. Therefore, analysis of the implementation of this Law requires a comprehensive approach, not only from a legal perspective but also from social, economic and cultural aspects, to understand the dynamics of providing legal aid in Indonesia.

Diving deeper into the legal implications of providing funds to unaccredited legal aid institutions, this problem statement explores the fundamental question: How do the legal implications of providing funds to unaccredited legal aid institutions affect the quality and accessibility of the legal services they provide to poor communities? This question invites investigation into the dynamics of law, regulation and practice in the allocation and use of funds in the context of providing legal aid, and how this affects the legitimacy and effectiveness of these institutions in providing access to justice.

The aim of this research is to identify and comprehensively analyze the legal implications of providing funds to unaccredited legal aid institutions. This includes an evaluation of the existing legal framework, an analysis of how funds are allocated and used by these institutions, and the impact on their capacity to provide effective and accessible legal services to the poor. Apart from that, this research also aims to explore aspects of legality, accountability and transparency in the management of these funds.

The benefits of this research are expected to make a significant contribution to increasing the effectiveness of legal aid and access to justice for poor communities. By understanding the legal implications of providing funds to non-accredited institutions, it is hoped that policy recommendations can be developed that can strengthen the legal and regulatory framework, increase accountability and transparency in the management of funds, and ensure that these funds are used optimally to improve access to justice. Apart from that, this research is also expected to provide insight for legal aid institutions, the government and other stakeholders about the importance of accreditation and standardization in improving the quality of legal aid services, so that they can be more effective in meeting the legal needs of the poor.

As a rule of law, Indonesian legislation guarantees constitutional rights, meaning that all actions of the rule of law must be based on the constitution and laws which have the ultimate goal of people's welfare. Constitutionally, this is regulated in Article 27 paragraph (1) of the 1945 Constitution "which states that every citizen has the same position under the law and government and there are no exceptions." Providing legal aid is one manifestation of the mandate of Article 28D paragraph (1) of the Law The 1945 Constitution of the Republic of Indonesia The Second Amendment which states that every person has the right to recognition, guarantee, protection and fair legal certainty as well as equal treatment before the law. The 1945 Constitution of the Republic of Indonesia qualifies the right to recognition, guarantee, protection and fair legal certainty and equal treatment before the law as part of human rights.

Poverty is a very complex problem, which is not only limited to economic problems but is also related to problems in other fields. Government policies are urgently needed to help solve the problem of increasingly large differences in welfare between the rich and the poor. Poverty globally is defined as poverty within material limits, when poverty intersects with the legal field, then poverty has a meaning that is not only limited to the material side, but is also related to the limitations of society in gaining access to justice which in fact is their right. The *due process of law* that has existed so far is in fact not in accordance with the meaning of the term itself.

The state understands the problem when poverty intersects with the legal field, with the issuance of Law Number 16 of 2011 concerning Legal Aid as a concrete action in protecting the equal position of its citizens before the law. Law Number 16 of 2011 concerning Legal Aid

includes the availability of legal aid funds that can be accessed by advocates who have provided legal aid for poor people, as well as for legal aid institutions. Article 1 of Law Number 16 of 2011 concerning Legal Aid, explains that what is meant by Legal Aid is legal services provided by Legal Aid Providers free of charge to Legal Aid Recipients. Recipients of Legal Aid are poor people or groups of people. Legal Aid Providers are legal aid institutions or community organizations that provide Legal Aid services based on this Law.

In relation to legal aid for the poor, the government issued a regulation to realize these principles and objectives through Law 16 of 2011 concerning Legal Aid (hereinafter referred to as the Legal Aid Law). The substance of this law requires law enforcers, especially advocates as providers of legal aid, to provide free legal aid to poor people throughout the territory of the Unitary State of the Republic of Indonesia (NKRI) and this obligation is a normative obligation for advocates as *officium nobile* in accordance with what stated in Law Number 18 of 2003 concerning Advocates (hereinafter referred to as the Advocate Law) to provide legal assistance to every citizen when they face legal problems regardless of individual background, race, ethnicity, political beliefs, social strata, economics and gender.

Based on Law Number 16 of 2011 concerning Legal Aid Article 8 paragraph 2, one of the requirements for providing legal aid is that it must be accredited based on this law. The researcher is interested in conducting research related to the problem of legal aid funds for the poor in one of the districts in West Java Province which is carried out by a Legal Aid Institute that is not accredited at the Ministry of Law and Human Rights of the Republic of Indonesia, as mandated by Law Number 16 of 2011 concerning Aid Law. In this regard, there are indications of misuse of procedures regarding the mechanism for disbursing funds related to legal aid for the poor, which is carried out through transfers and the work has not been implemented, referring to the provisions of West Java Provincial Regulation Number 14 of 2015 concerning legal aid, that the mechanism for disbursing legal aid funds for for the poor, this is done by *reimbursement* after the work is completed by including proof that the work has been completed.

Based on the description above, this study aims to understand how the legal implications relate to the mechanism for the distribution of legal aid funds, especially in the context of providing legal aid carried out by unaccredited Legal Aid Institutions.

RESEARCH METHODS

The writing method in this research uses a normative juridical method. The *normative juridical approach* to the study refers to the legal norms contained in statutory regulations, court decisions and legal norms that exist in society. This research was carried out using one stage of research, namely through secondary data in the form of tracing primary legal materials (legal materials consisting of statutory regulations, official minutes, court decisions and official state documents), secondary legal materials in the form of literature books and journals. -journals, and terseir legal materials obtained from dictionaries, the internet and interviews were conducted as supporting data in the research. Data collection techniques are carried out by collecting library data, namely by searching and analyzing library materials related to the problem being researched. The research data for this thesis is qualitative data, the data analysis was carried out using descriptive analysis.

RESULTS AND DISCUSSION

Analysis of Articles Related to Accreditation and Funding of Legal Aid Institutions

1. General Overview of Law no. 16 of 2011

Law no. 16 of 2011 concerning Legal Aid (hereinafter referred to as the Legal Aid Law) is a fundamental legal basis in the Indonesian justice system which aims to guarantee access to justice for economically disadvantaged people. This law recognizes that access to the courts is a human right that must be guaranteed by the state. In this context, the Legal Aid Law not only determines the mechanism for providing legal aid but also regulates the criteria and standards that must be met by institutions providing legal aid, including accreditation requirements and funding management.

While the impact of the implementation of the Legal Aid Law in Indonesia has provided a better framework in supporting access to justice, there are still significant obstacles in its implementation, such as limited funding and human resources. In addition, research by Hartini and Putra (2021) highlights that closer collaboration between government and non-government institutions is needed to increase the effectiveness of the legal assistance provided, especially in facing geographical and economic challenges in remote areas. The existence of laws such as the Legal Aid Law is important because it provides a formal framework that assists the state in fulfilling its commitment to ensure that every citizen, regardless of economic conditions, can access effective and quality legal services.

2. Analysis of Articles Related to Accreditation

The Legal Aid Law specifically regulates the accreditation of legal aid institutions in Articles 9 to 12. This accreditation is given as a form of recognition that the institution meets the standards that have been set in providing legal services to the poor. The accreditation process is regulated to ensure that operating legal aid institutions have the competence, transparency and accountability as expected by law. Verification and accreditation of legal aid institutions is the state's obligation to fulfill citizens' constitutional rights, ensuring equal treatment for every Indonesian citizen in accessing legal aid.

Further analysis of these articles shows that the Legal Aid Law places accreditation as an important requirement in the process of providing government funding to legal aid institutions. This shows that the government is very concerned about the quality and reliability of the institutions that will manage these funds for the benefit of the poor. In practice, this accreditation requirement can function as a control mechanism to avoid misuse of funds and ensure efficient and effective legal services as a form of strategy adopted by Legal Aid Organizations in Central Java and the Special Region of Yogyakarta in absorbing legal aid funds, which reflects active involvement government in supervising and improving the quality of legal aid services.

3. Analysis of articles related to funding of legal aid institutions

Funding for legal aid institutions is explicitly regulated in the Legal Aid Law, particularly in Articles 13 to 15. This law guides how funds must be allocated and managed properly to support the operations of legal aid institutions. These articles emphasize the importance of transparent and accountable fund management, and require institutions to report the use of these funds to the government. A study by Hakim (2018) highlights the strategies adopted by Legal Aid Organizations in Central Java and the Special Region of Yogyakarta in absorbing legal aid funds, indicating the government's active involvement in monitoring the use of these funds.

The funding regulated in this law aims to ensure that legal aid institutions can operate effectively in providing services to poor communities. Analysis of these provisions reveals that, although funds are available, the greatest challenge is in managing and distributing these funds in accordance with the objectives set out by the Legal Aid Law. As a form of funding, the effectiveness of this very much depends on the government's strict supervision and evaluation of the institutions that receive the funds.

Analysis of the articles of Law no. 16 of 2011 concerning Legal Aid, it is clear that this law provides a strong framework for the management and provision of legal aid in Indonesia. Accreditation and funding of legal aid institutions are two important aspects emphasized in this law to ensure that access to justice is not only a theoretical promise but also a practical reality that can be accessed by all levels of society, especially the economically disadvantaged. Through these provisions, the Legal Aid Law seeks to support the development of a fair and inclusive justice system in Indonesia.

Legal Implications of Funding for Non-Accredited Institutions

Providing funds to non-accredited legal aid organizations raises important legal and ethical questions. Law no. 16 of 2011 concerning Legal Aid (hereinafter referred to as the Legal Aid Law) provides a clear framework for the accreditation and funding of legal aid institutions, but the reality of implementation is often more complex than the written legal provisions.

In Indonesia, regarding funding for legal aid, there is a real challenge in ensuring that all legal aid institutions that receive government funding are truly accredited and meet the standards that have been set. Especially in terms of the availability of accredited institutions in several regions, which results in the allocation of funds not always reaching institutions that meet standards. This shows

the importance of improving the verification system and supervision of the accreditation process to ensure compliance with regulations and increase the effectiveness of providing legal assistance to people in need.

Providing funds to non-accredited institutions is theoretically contrary to the provisions of the Legal Aid Law. The legal implications of this practice may include potential lawsuits for misuse of funds or abuse of authority by officials providing funds. In a legal context, the provision of these funds can be seen as a violation of the principles of accountability and transparency which must be the basis for managing public funds. Practices like this can undermine public trust in the justice system and weaken the legitimacy of legal aid institutions as a whole. When institutions that do not meet standards continue to receive funding, this raises serious questions about the effectiveness and fairness of the legal aid system itself. Although the Legal Aid Law has good intentions, providing funds to institutions that have not been accredited can cause problems in implementation and compliance with existing laws, resulting in potential legal violations that could warrant legal action. In addition, although the government provides legal aid funds, implementation in the field is often not in accordance with the principles of accountability and transparency, which causes problems in providing effective justice to the poor. This suggests that there is a need for increased oversight and better assessment of funding awards to ensure that agencies receiving funding meet the standards set by the Legal Aid Act.

Non-accredited institutions may not have sufficient resources, capacity or expertise to provide effective legal services. This means that although the fund aims to improve access to justice, the results may not be optimal. The services provided by these institutions may not meet expected standards, thereby disappointing service recipients and leading to further injustice. As explained in several studies, unaccredited institutions can reduce the quality of legal services and access to justice by limiting options for individuals who already struggle to navigate the legal system due to financial constraints and ineligibility for assistance programs. Additionally, these shortages can hinder the utilization of critical resources such as legal academics and legal aid clinics, which can impact the quality of legal services and the speed of justice.

Research shows that unaccredited institutions can exacerbate inequality in accessing justice, especially for marginalized populations, thus hindering the realization of equal standing before the law and legal protection. These factors collectively contribute to a decline in the quality of legal services and hinder the achievement of social justice within the legal framework. Ethically, providing funding to non-accredited institutions can be seen as an attempt to address deficiencies in the provision of legal services. On the one hand, this reflects the reality that the need for legal aid often exceeds the capacity of accredited institutions. However, without close oversight, this practice risks creating more problems than it solves. The provision of free legal aid by unaccredited institutions is often carried out without adequate oversight, which can lead to unfairness in the judicial process and undermine public confidence in the justice system. And the existence of legal aid institutions without proper accreditation often does not cover all those who need it because the accreditation system is inflexible, making it difficult for those who need legal aid but are not categorized as poor.

To overcome this problem, stricter supervision is needed on institutions that receive funds, both accredited and not. The government must improve audit and evaluation mechanisms for the use of funds, as well as strengthen the accreditation process to ensure that all institutions receiving funds meet expected standards. In addition, efforts must be made to increase the number of accredited institutions so that the need for legal aid can be met more effectively and efficiently

Analysis of the legal implications and practices of providing funding to non-accredited legal aid organizations shows that there is an urgent need to review existing policies and practices. Increasing transparency, accountability and effectiveness in the management of legal aid funds is key to ensuring that all people can access fair and quality legal services, in line with the spirit of Law no. 16 of 2011 concerning Legal Aid.

Facing challenges arising from the implementation of Law no. 16 of 2011 concerning Legal Aid, a series of solutions and recommendations are needed that focus on improving existing regulations and practices. The following are suggestions formulated based on a normative analysis of applicable regulations and practices that have been observed in this research. This research shows that the accreditation process of legal aid institutions is often inconsistent or less effective in

ensuring the quality of services provided. Therefore, it is necessary to strengthen the accreditation mechanism which includes increasing the standards that must be met by these institutions. How important it is that strict and clear standards are in the accreditation process to ensure the integrity and quality of legal services.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

This research has in-depth analyzed the legal implications of providing funding to non-accredited legal aid institutions under Law no. 16 of 2011 concerning Legal Aid. The following is a summary of the main findings and answers to the problem statements identified in the research:

1. Accreditation and Funding: Law no. 16 of 2011 explicitly regulates accreditation and funding as two crucial components in the provision of legal aid. Research shows that these provisions serve the purpose of ensuring that legal aid institutions that meet certain standards are eligible to receive government funding. However, in practice, there are still unaccredited institutions that receive funding due to various practical factors and urgent needs.
2. Providing funds to unaccredited institutions presents legal and ethical challenges. Findings show that this can create a risk of misuse of funds, reduce the quality of legal services, and reduce public trust in the justice system and government.
3. The effectiveness of legal services provided by non-accredited institutions often does not meet expectations. Deficiencies in resources, expertise, and internal management are some of the factors that hinder their ability to provide adequate services.
4. The research findings underscore the urgent need for reform in the accreditation and funding systems of legal aid institutions in Indonesia, to ensure that only institutions that meet standards can receive and use these funds effectively.

Suggestion

Based on the research results, the following are suggestions directed to policy makers and legal aid institutions to increase effectiveness and integrity in the provision of legal aid:

1. The government must strengthen the accreditation system with stricter and more transparent criteria. This process should involve ongoing audit and evaluation to ensure legal aid institutions meet expected standards.
2. Reform of funding mechanisms is needed to ensure more accurate and fair allocation of funds. Stricter supervision and clear reporting mechanisms must be implemented to prevent misuse of funds.
3. Legal aid institutions need to build their internal capacity through training, continuing education and technical support. This will enhance their ability to provide effective legal services.
4. Policymakers should encourage collaboration between legal aid agencies and legal education institutions as well as non-governmental organizations, to share resources and knowledge. This partnership can enrich practical and theoretical experience, increasing innovation in the provision of legal services.
5. Policy implementation should be followed by ongoing evaluation and assessment to measure the effectiveness of interventions and make adjustments when necessary. This approach will help in responding to the changing dynamics and legal needs of society.

By implementing these suggestions, it is hoped that the legal aid system in Indonesia will become more fair, effective and reliable, in line with the spirit of Law no. 16 of 2011. Through improved regulations and practices, better access to justice can become a reality for all levels of society, especially those who need it most.

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